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# Senate

*(Legislative day of Monday, June 5, 1995)*

The Senate met at 9:15 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:

Almighty God, we praise You that it is Your will to give good things to those who ask You. You give strength and power to Your people when we seek You above anything else. You guide the humble and teach them Your way. Help us to humble ourselves as we begin this day so that there will be no need for life to humiliate us because of any vestige of arrogance in us. We ask for the true humility of total dependence on You.

You know what we need before we ask You, and yet, encourage us to seek, knock, and ask in our prayers. When we truly seek You and really desire Your will, You do guide us in what to ask. We ask for Your indwelling Spirit to empower us.

Our day is filled with challenges and decisions beyond our own knowledge and experience. We dare not press ahead on our own resources. In the quiet of this magnificent moment of conversation with You we commit this day. We want to live it to Your glory. We ask for the wisdom of Your Holy Spirit for the decisions of this day.

Make us maximum by Your Spirit for the demanding responsibilities and relationships of this day. We say with the Psalmist, ''Blessed be the Lord, who daily loads us with benefits, the God of our salvation!''—Psalm 68:19. Lord, anoint our minds with the benefits of vision and discernment. Thank You in advance for these blessings. Amen.

## RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. LOTT. Mr. President, this morning the leader time has been reserved, and there will be a period for morning business until the hour of 9:45 a.m. At 9:45, the Senate will immediately resume consideration of S. 652, the telecommunications bill.

Under the order, the Senate will vote on the motion to table the Dorgan amendment at 12:30 today. Following that vote, the Senate will stand in recess until the hour of 2:15 for the weekly policy luncheons to meet. Also, Senators should be reminded that under the provisions of rule XXII, Members have until 1 p.m. today to file first-degree amendments.

I yield the floor.

## MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond the hour of 9:45 a.m. with Senators permitted to speak therein for 5 minutes each.

Mr. BYRD addressed the Chair.

The PRESIDENT pro tempore. The distinguished Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, I only need about 10 minutes for my remarks. Would the distinguished Senator from Wyoming be using more than 5 minutes? If not, I will be glad to yield and let him proceed ahead of me.

Mr. THOMAS. I expect to use 5 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that I may follow the Senator from Wyoming and that I may proceed for 10 minutes.

Mrs. BOXER. Reserving the right to object, and I will not object. I wonder if we can amend that so that I can have 7 minutes following the Senator from West Virginia in morning business.

The PRESIDING OFFICER (Mr. CAMPBELL). Will the Senator from West Virginia amend his request?

Mr. THURMOND. Reserving the right to object. I would like 5 minutes following the Senator from California.

The PRESIDING OFFICER. Does the Senator from West Virginia amend his request?

Mr. BYRD. Yes, I so amend it.

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

## SETTING PRIORITIES

Mr. THOMAS. Mr. President, let me move quickly into what I thought might be appropriate. I, of course, spent my time at home during the Memorial Day recess, and I returned again to Wyoming this weekend. I would just like to comment very briefly on my impression of what we are doing here, after having been here nearly 6 months, and the impression that I received from those at home.

First of all, let me say that I think there is an anxiousness in the electorate for the Congress to move forward. I wish, for example, and I want to just observe things as they occurred in 6 months from some previous experiences in the House.

It seems to me we have a difficulty in setting priorities. It is too bad. There are some things surely most Members would agree are more important than others. It would seem we really do not have a set of priorities. I wish we could do that. Priorities on issues are fairly well-defined in the country, not certainly so well-defined here.

It seems to me we ought to be able to manage time better than we do. Time, after all, is the resource that we have here, and certainly we consume too much doing many things. Time becomes sort of a political strategy, not particularly useful in debate, but rather being used to posture ourselves one way or the other.

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



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The balanced budget debate, for example, and certainly the issues, were exhausted relatively early, but the decisions did not come until the Members were exhausted. Perhaps that is the way it works. It does not seem like a good use of time.

I suspect there is a great deal of posturing for the media. I have a hunch, and of course I was not here before the activities of the floor were shown on TV, but I suspect the conversations were somewhat shorter than they are now.

It is difficult, and this is an irony, I do not know what we do about it. We have a better opportunity to communicate much more quickly than we have had in the history. Captain O'Grady shows up, and everyone knows about it 10 minutes afterward. That is wonderful, and that is the kind of communication we have. Yet we still seem to communicate in sound bites, where people really do not know the facts. That is too bad.

I happened to see the Chief of Staff of the White House on ''Meet the Press'' the other day. It is almost as if a robot pushed a button and the same thing came forward time after time.

I think it is exciting that we have an opportunity. I think there are issues out there. People are still concerned about taxes and spending. They think this Government is too big and costs too much.

I think people sincerely want a balanced budget although there will be some pain. I think people are willing to undertake that pain, to be responsible in a financial area.

I think regulatory relief is something that almost everyone would agree with. Most anyone would say we are overregulated in this country and we need to move more quickly to do something about that.

Real tort reform. We have played with that some. It is not true yet, but it is real tort reform on the edges. We need to do something. Our folks say we need to do something about that.

Welfare reform, I understand, will come next. I am pleased for that. It is something that surely needs to happen.

Health care has moved off of the highest level of visibility, but it does not mean we do not have to do something. It does not mean that health care does not need some restructuring. We ought to have a chance to do that.

States rights. Everyone understands that, if we can move Government a little closer to people, we will have better decisions, Mr. President.

Those are, I believe, clearly the agenda of people in this country. I think the agenda of this body and the agenda of the Congress ought to more properly reflect that.

I am a little discouraged. We have lots of efforts to block what is going on simply for the purpose of blocking. I am discouraged we do not have more leadership from the White House in terms of issues we are working on.

I am encouraged, on the other hand, that there is a willingness to change. There is a willingness to move forward, particularly, I think, on the part of new Members. I think there is a willingness to make fundamental changes in the way the Government works and, for the first time in a very long time, to analyze some of the programs and say, is there a better way? Can we do it? Indeed, does it need to be done by the Federal Government?

Mr. President, that is a quick, personal analysis of where we are. Obviously, it is thrilling and exciting to be here. I think this session has new opportunities to look at things.

I urge that we do set a priority. I urge we do move forward with full debate, but not skidding our feet and trying to stop things from happening. People expect more of Government than that. I think the real measure of good Government is responding to what the voters have said.

Mr. President, I look forward to the next 6 months. I hope it is at least as productive, and hopefully more productive, than the past. I yield the floor.

Mr. BYRD. Mr. President, under the order I was to be recognized at this point for 10 minutes. The distinguished President pro tempore has an appointment, and I ask unanimous consent that he may precede me, and I may then follow.

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

## CONCERNING THE RESCUE OF CAPT. SCOTT O'GRADY

Mr. THURMOND. Mr. President, I wish to thank the able and distinguished Senator from West Virginia for his courtesy and kindness.

Mr. President, I do not think it is an exaggeration to say that each of us breathed a sigh of relief when we learned last Friday of the rescue of Air Force Capt. Scott O'Grady, whose F–16 was shot down over war-torn Bosnia earlier this month.

Probably no one was more relieved by the rescue of Captain O'Grady than the young pilot himself. After spending 6 days eluding hostile forces, enduring the wicked weather of the rugged Bosnian mountains, and surviving on bugs, rainwater, and vegetation, Captain O'Grady summed up his feelings when he yelled to his rescuers, ''I'm ready to get the Hell out of here.'' I am confident that was a sentiment that would be shared by anyone else who went through the experience Captain O'Grady did.

Six days in the woods, hiding from enemy soldiers and surviving on things that you or I would rake up out of our garden or spray to exterminate is certainly an amazing feat. It is primarily thanks to the skills and knowledge that Captain O'Grady learned through Air Force escape and evasion training that he was able to come through this experience alive and unharmed.

At every step of Captain O'Grady's 6 day ordeal, training was key. It was training that allowed Captain O'Grady to beat the Serbs in a high-stakes match of hide and seek; it was training that taught Captain O'Grady how to survive the elements with only the clothes he wore when he ejected from his plane; and it was training in tactical operations that allowed the U.S. Marines to fly into hostile territory and pull Captain O'Grady out of the reach of the Bosnian Serbs. If nothing else, this ordeal has hammered home the maxim ''train hard in peace to avoid mistakes in combat.''

Mr. President, let me change tack just for a moment to praise the efforts of all the individuals involved in this rescue operation, especially those of the U.S. Marines. Though each of the services have their own special operations forces, each with their important and vital missions, the Marines have once again demonstrated their worth as a force capable of going anywhere at anytime. I have no doubt that Captain O'Grady now has a special understanding of just what exactly the phrase, ''The Marines have landed,'' means.

In many ways, what has transpired over the last week is a testament to the investment the United States has made in its Armed Forces, beginning about 15 years ago. Captain O'Grady's survival efforts were aided by the fact that he wore clothing designed to help withstand the harshest elements and he carried sophisticated communications and homing equipment that aided those searching for the captain in finding him. Had O'Grady actually had to defend himself against the enemy, he was carrying a modern sidearm that packs more than a dozen rounds in its magazine, a far cry from the .38 pistol that pilots of just a generation ago relied on as a survival and defense tool. Perhaps most impressive is that with a minimal amount of preparation and planning time, a rescue operation was mounted that required the combined efforts of at least the Marines, Navy, and Air Force. Such interservice cooperation and efficiency was not in existence just 12 years ago when the United States intervened in Grenada.

Regrettably, all the things that we have worked so hard to achieve—a professional, well educated, well equipped military—that worked so well in Panama, Desert Storm, and now in Bosnia, are being threatened by those who would cut the defense budget. This is simply unacceptable, the United States needs a strong military that is ready and capable of meeting any enemy, anytime, anywhere.

Let us hope that there is one more happy circumstance to come out of Captain O'Grady's survival and rescue—that President Clinton realizes we must keep defense spending at a level which ensures we maintain the best military forces ever known to man. That is the only appropriate course of action for our Nation to pursue.

The PRESIDING OFFICER. The Senator from West Virginia.

THE LINE-ITEM VETO

Mr. BYRD. Mr. President, I noted with interest an article in the June 7th issue of the Washington Times entitled ''GOP Puts Line-Item Veto on Slow Track.''

The first paragraph of the article reads as follows:

> Republicans are waiting until fall to enact a line-item veto out of concern that President Clinton might try to use it as leverage to reshape the GOP's tax-cut and balanced budget legislation.

As Senators might expect, I was amazed to learn that apparently some Republicans, who have so often in the past urged the Senate to enact a line-item veto, have now decided to withhold its enactment until after Congress completes work on a tax cut and balanced-budget legislation. In other words, the Republican plan is apparently to hold off on final passage of the line-item veto until after completion of congressional action on this year's massive reconciliation bill, which will contain changes in entitlement spending, and on the 13 annual appropriation bills for fiscal year 1996, which will total around $540 billion; and, if the Republicans have their way, on a major tax cut for the Nation's wealthiest individuals and corporations.

The article then quotes two of the Senate's leading proponents of line-item veto as to why it is that Republicans want to deny this deficit-reducing tool to President Clinton.

''There is a great concern in the Senate. We see this as a once-in-a-generation opportunity to put forward a balanced budget. We would hate to have it threatened for political reasons,'' said one Republican Senator.

Lo, and behold, we have here a direct quote from a Republican Senator which tells us, in effect, that if President Clinton is given the authority to line out items in appropriation and tax bills, he might use that authority to threaten these Republican bills ''for political reasons.'' Can you imagine that?

The quote goes on to tell us that,

> There is a concern that the veto might be used not for its intended purpose, which is to delete extraneous pork-barrel spending from appropriations bills, but used instead to redefine the meaning of tax cuts.

The Senator who has been quoted has put his finger on a problem which I have pointed out to the Senate on a number of occasions in the past; namely, that Presidents will invariably use the line-item veto to affect policy. They will line out items and language in bills which do not comport with their policies and, in so doing, will be able to delete such items from tax, appropriation, and other measures. Under both the House-passed enhanced rescissions bill and the Senate-passed separate enrollment bill, Congress will then have the burden of reenacting items which a President rejects, by a two-thirds vote of both Houses.

The fact that the quoted Senator believes that this authority should only be used for its intended purpose, which, in his words, ''is to delete extraneous pork-barrel spending from appropriations bills'' is of no consequence. Once we give any President—not just this President but including this President—such authority, it will be used by that President to its fullest extent in ways that will thwart the will of Congress and will enhance that President's agenda. This is precisely the reason why I have so strenuously opposed both enhanced rescissions and item veto bills, such as the Senate-passed separate enrollment bill.

The Washington Times article gives further support to my concerns by quoting another Senator as follows:

> Many don't want the line-item veto because it represents the biggest shift of power in this century.

Indeed it does, Mr. President. Precisely. And to give to any President—any President—such a massive increase in authority over spending bills would be a grave mistake. The system of checks and balances and the separation of powers set forth in the Constitution have proved over and over again the wisdom of our Founding Fathers. There is no compelling case to overturn their judgment by handing over to the Executive the power to excise items from appropriations bills, and, in so doing, require a two-thirds override vote of both Houses in order to secure spending decisions approved by Congress.

This is not to say that there are not improvements that could be made in the existing rescissions process. We could, for example, enact legislation that will ensure that Presidents get a vote on their proposed rescissions. We should also broaden the rescission process to include not only appropriations spending, but all spending, whether it is contained in tax bills, or in entitlement legislation. Surely all Senators know by now that the major cause of the deficits is not the appropriations bills. It is the growth in tax expenditures and in entitlement spending. That is what has to be cut if we are to have any real chance of balancing the Federal budget. And yet, nothing in any line-item veto or enhanced rescissions or expedited rescissions or separate enrollment bills would contain the growth in entitlements. Furthermore, and just as importantly, nothing in any of these quick fixes would cut one thin dime from the more than $450 billion in tax breaks that are already in the Tax Code—many of them have been there for decades—and which will continue to exist and to grow until we have the courage to reexamine each of them, and to cut back and eliminate those which no longer can be justified.

I can certainly understand why any President would want line-item veto authority. It gives a President a club which he can wield to beat Members of Congress into submission in support of administration policies. Therein lies the danger in the power shift that is talked about in the Washington Times article.

Be that as it may, developments in the line-item veto saga have certainly taken a strange turn in recent days. On May 8, 1995, President Clinton wrote to the Speaker of the House urging that Congress quickly complete work on the line-item veto legislation, and especially citing the need for the ''* * * authority to eliminate special interest provisions, such as the tax benefits that were targeted to individual businesses earlier this year in H.R. 831.'' The President was apparently referring to a provision of that bill which enabled a very wealthy individual, Rupert Murdoch, to sell a television station to a minority-owned firm and to defer paying any capital gains taxes on that sale.

More recently in the debate on the budget resolution, we heard a lot of sound and fury from the White House about the unfairness of savaging Medicare and Medicaid while building in tax breaks for the rich in the name of deficit reduction.

Lo, and behold, just last week, I was provided with a copy of a letter dated June 7, 1995, wherein the President pledges to the Senate majority leader that he will not use the line-item veto authority on tax expenditures in this year's budget.

Apparently, suddenly those tax breaks for the wealthy, that we have heard so much about, are really not so unfair after all—at least not this year.

Mr. President, I am extremely dismayed with this sudden reversal by the White House.

A 180-degree turn of this sort by the White House on matters which are purported to be of utmost importance to the Democratic Party and to the American people in terms of fairness, good policy, and deficit reduction should leave all thinking Members of Congress and the public wondering just why this administration is willing to make such an outrageous pledge in order to get this new item veto authority in its House-passed form.

What is suddenly so sacrosanct about tax expenditures? Why in the world would this President make such an unwise and damaging pledge to the majority leader of the Senate?

This President campaigned on the need to beef up infrastructure. What is infrastructure? It comes from that portion of the budget which is called nondefense discretionary spending and it is contained in annual appropriations acts. It is that portion of the budget which funds not only roads, bridges, airports, sewer projects, water projects, and all the things that keep American commerce flowing, and promotes the well-being of communities and individuals.

It is also education. It is all the investments we make in our own people. Let us remember that this President just vetoed a rescissions bill because education funding, he said, was cut too much. Now we have this preposterous

pledge by the White House, by the President, to use the line-item veto only to cut spending and not to eliminate tax giveaways to the rich. And one can only assume that the President is referring to domestic discretionary spending, since he has ruled Pentagon spending completely out of bounds, off limits and to be sacred from the budget knife. I see that the President has even referred to all congressional spending as ''pork'' in his unfortunate letter to the majority leader. Apparently there is not one single morsel of ''pork'' in the military budget, even though a Washington Post story of a few weeks ago reported gross waste, mismanagement, and extreme sloppiness at the Pentagon in handling the people's tax dollars.

Mr. President, over the past 15 years, with the exception of 3 years following the 1990 budget summit, the discretionary portion of the Federal budget has suffered drastic cuts. Yet, under the budget resolution which recently passed the Senate, non-defense discretionary spending will be further decimated. In fact, under the Senate-passed budget resolution, non-defense discretionary spending over the next 7 years will be cut $190 billion below a 1995 freeze; that is the equivalent of a $300 billion cut below the levels in the President's budget. By the year 2002, nondefense discretionary spending will have been cut by nearly one-third, declining to 2.5 percent of GDP, a record low. Surely the President understands that this will mean that we will have no option but to cut infrastructure spending in all areas and cut it to the bone. Whether it is education, child care, veterans benefits, environmental cleanup, transportation infrastructure, or any other infrastructure investments—they will all—all—suffer wholesale cuts. Certainly these vital investments in our own people cannot all be simply labeled as ''pork'' and put on the chopping block to protect tax goodies for the rich.

Tax expenditures can certainly be branded with the ''pork'' label as well. In many cases, tax loopholes are nothing more than ''pork'' for the rich. And to make matters worse, each tax break for the well-to-do means that other Americans must pay a little more in taxes to make up the lost revenue. Furthermore, every time we give the wealthy individuals or the big corporations a tax break, infrastructure investments that benefit us all have to be cut in order to meet deficit reduction targets.

How can the President capitulate on the matter of tax expenditures after a debate like the one we just had on the budget resolution which highlighted the unfairness of granting tax breaks at the expense of Medicare as a national policy? What could possibly be the motive behind such a direct flip-flop by this administration? I submit that it could only be a burning desire to get the line item veto authority, and especially the authority to cut, to use as a weapon to gain political advantage.

To all Members of Congress regardless of party, I say, read the tea leaves and know that we are about to make a fundamental, monumental mistake by giving this President, or any President, line-item veto in the form in which the House has passed it. It would be an evisceration of the people's power through their elected representatives. It would be a violation of our oath of office to support and defend this Constitution. It would be a world-class blunder and a colossal mistake.

Mr. President, it is not too late for the Senate to come to its senses and to realize the vastness of the mistake it will make should it agree to the enactment of any legislation to give a President the ability to veto spending items and, thereby, to require a two-thirds supermajority of both Houses to ensure that Congress' spending decisions are carried out. If we do so, I fear that we will have started down an inexorable path that will ultimately lead to the destruction of our Republican system of government which our forefathers so wisely and carefully crafted for this great Nation.

Mr. President, I ask unanimous consent that the Washington Post article be printed in the RECORD, and such other material as I will supply.

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

[From the Washington Times, June 7, 1995]

GOP PUTS LINE-ITEM VETO ON SLOW TRACK

(By Patrice Hill)

Republicans are waiting until fall to enact a line-item veto out of concern that President Clinton might try to use it as leverage to reshape the GOP's tax-cut and balanced-budget legislation.

''There is a great concern in the Senate. We see this as a once-in-a-generation opportunity to put forward a balanced budget. We would hate to have it threatened for political reasons,'' said Sen. Daniel R. Coats, Indiana Republican and co-author of the Senate version of the line-item veto bill.

''This year is unique,'' Mr. Coats said, because of the extraordinary number of major tax and spending overhaul bills going through Congress, including the House's $354 billion tax-cut bill, $540 billion in appropriation bills and about $650 billion in bills reforming Medicare, Medicaid, welfare and other entitlement programs.

''There is a concern that the veto might be used not for its intended purpose, which is to delete extraneous pork-barrel spending from appropriations bills, but used instead to redefine the meaning of tax cuts,'' he said.

Sen. John McCain, Arizona Republican and co-author of the line-item veto proposal, confirmed that Congress will put off the legislation until it completes work on this year's massive balanced-budget legislation.

''Many don't want the line-item veto because it represents the biggest shift of power in this century,'' he said.

Their comments were greeted with surprise and dismay at the White House and by some House Republicans, who in January listed the line-item veto as one of three top items in their ''Contract With America'' that they hoped to place on Mr. Clinton's desk by his State of the Union address.

The House passed its version of the line-item veto on Feb. 6, but it got stalled in the Senate, where it was substantially rewritten and did not pass until March 23. House and Senate leaders still have not appointed conferees to iron out the differences between the two versions.

Since then, Mr. Clinton has adopted a ''veto strategy'' against key GOP legislation, including Congress' $16.4 billion spending-cut bill, with veiled or explicit veto threats hanging over the House's tax-cut and welfare-reform bills as well.

''I don't agree'' that line-item veto power should be withheld from President Clinton, said Rep. Gerald B.H. Solomon, New York Republican and a House sponsor of the legislation. ''I think whoever the president is, we ought to give him this power.''

But he agreed that the legislation should be delayed until fall, contending that time will not permit the House and Senate to resolve their differences now.

''Perhaps the best thing is to wait until fall when the budget is finished. There is no sense in going through it now,'' he said. ''They don't have the votes in the Senate for the House bill, and we won't accept their watered-down version.''

One White House official said Republican leaders are reneging on their promise to pass the bill.

''We have taken it on good faith that the congressional leadership wanted to pass line-item veto legislation so it could be used as soon as possible,'' the official said. ''It's hard to believe that supporters of the line-item veto are saying it makes sense for every president but a Democratic president. . . . [The Republicans are] delaying the bill for partisan reasons.''

''They must be planning a lot of tax loopholes,'' said Sen. Bill Bradley, New Jersey Democrat. He says he supports the line-item veto because ''the one thing it does is allow the President to shine the light on something that's indefensible.''

In a letter last month urging House and Senate leaders to move quickly on the legislation, Mr. Clinton cited tax breaks for minority-owned broadcasters as the kind of special-interest tax item he would target for a veto. ''The job is not complete until a bill is sent to my desk,'' he wrote.

Mr. Clinton's emphasis on using the veto authority to eliminate tax preferences, and his enforcement of the House bill as ''stronger and more workable'' than the Senate bill, many have swayed some in favor of delaying the legislation.

Republicans on Capital Hill have been reeling from Democratic charges that they are cutting spending on welfare, Medicaid and other programs benefiting the poor and the middle class to pay for tax cuts that largely help the wealthy.

Tony Blankley, spokesman for House Speaker Newt Gingrich, Georgia Republican, denied that Republicans are thinking of delaying the line-item veto because of the differences between the parties on tax and spending priorities.

''We have been moving along on front-burner items. The budget has naturally had precedence,'' Mr. Blankley said, ''My suspicion is we haven't focused on going to closure because we've been focusing on the balanced budget.''

He wasn't surprised that some Senators were talking abut delay. ''The natural instinct for the Senate is to delay,'' he said.

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THE WHITE HOUSE,
*Washington, May 8, 1995.*

Hon. NEWT GINGRICH,
*Speaker of the House of Representatives,*
*Washington, DC.*

DEAR MR. SPEAKER: I am writing to urge that Congress quickly complete work on line-item veto legislation so I can use it—

this year—to curb wasteful tax and spending provisions.

We must not let another year go by without the President having authority to eliminate special interest provisions, such as the tax benefits that were targeted to individual businesses earlier this year in H.R. 831.

I am disappointed that six weeks after the Senate passed its version of line-item veto legislation, neither body has appointed conferees. As you may recall, I commended the House and the Senate last month for passing line-item veto legislation. However, the job is not complete until a bill is sent to my desk that provides strong line-item veto authority that can be used this year.

I have consistently urged the Congress to pass the strongest possible line-item veto. While both the House and Senate versions would provide authority to eliminate wasteful spending and tax provisions, the House-passed bill is much stronger—and more workable.

I appreciate your making passage of line-item veto legislation a priority. I look forward to working with the Congress to enact the line-item veto quickly.

Sincerely,

BILL CLINTON.

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THE WHITE HOUSE,
*Washington, June 7, 1995.*

Hon. ROBERT DOLE,
*Majority Leader, U.S. Senate, Washington, DC.*

DEAR MR. LEADER: I am deeply alarmed by today's press report that some Republicans in the House and Senate want to continue to hold back the line-item veto so that I don't have it during this year's budget process. The line-item veto is a vital tool to cut pork from the budget. If this Congress is serious about deficit reduction, it must pass the strongest possible line-item veto immediately, and send it to my desk so I can sign it right away.

This is not a partisan issue. Presidents Reagans and Bush asked Congress for it time and again, and so have I. It was part of the Republican Contract with America. It has strong support from members of Congress in both parties and both houses. No matter what party the President belongs to or what party has a majority in Congress, the line-item veto would be good for America.

If Congress will send me the line-item veto immediately, I am willing to pledge that this year, I will use it only to cut spending, not on tax expenditures in this year's budget. I have already put you on notice that I will veto any budget that is loaded with excessive tax breaks for the wealthy. But I need the line-item veto now to hold the line against pork in every bill the Congress sends me.

The American people have waited long enough. Congress should give them and the Presidency the line-item veto without further delay.

Sincerely,

BILL CLINTON.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the Senator from Washington be given 7 minutes.

The PRESIDING OFFICER. In addition to the Senator from California's 7 minutes?

Is there objection? Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from California is recognized for 7 minutes.

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

## THE NOMINATION OF DR. HENRY FOSTER

Mrs. BOXER. Mr. President, as my mother always told me when I was growing up—as a matter of fact, until I was very grown up—if you have your health you have everything. She said you can face anything, whatever the problem, if you have your health. You can handle it, and you can give it your best. I do not think that anyone disagrees with that, and I think it applies to our country as well. Clearly, if we, as Americans, live longer with a better quality of life, if we have children who are born healthy, who are born wanted, who are born loved, if our work force is healthy, we are more productive and our people can truly enjoy the blessings of liberty.

I do not think there would be much argument with that, even in this Senate where we argue about everything. I really do believe people would agree with that. If America is healthier, America is stronger, more productive.

So let us for the sake of debate agree on that point and move on. And I would think if we were to agree on that point, we would agree that it is time to vote on the Surgeon General, that it would be a good idea to confirm the one person who really is charged with guarding the Nation's health. That person is Dr. Henry Foster, President Clinton's nominee for Surgeon General. Dr. Henry Foster was nominated by President Clinton on February 2. He sent the nomination formally to the Senate on February 28. On May 2 and May 3, the hearings on Dr. Foster's nomination were held in the Senate Labor and Human Resources Committee, and on May 26 the committee favorably reported out the nomination by a vote of 9 to 7. Now it is June 13. This man was sent forward in February. It is June 13. We do not have a Surgeon General. We do not have a No. 1 doctor looking out for the health of this the greatest Nation of all. It is time to bring the nomination forward.

I do wish the majority leader were on the floor now because I had planned to ask him what his plans are for bringing the nomination forward. There have been some confusing signals. Sometimes I think it is going to come forward, and sometimes I am not so sure.

Dr. Henry Foster deserves a vote. It is the American way. We believe in fairness in our Nation. The bar was set very high for Dr. Foster. Why? Because he is an OB–GYN, an obstetrician/ gynecologist and, therefore, yes, he has treated his patients as a good doctor would in this country, respecting their right to choose, guaranteeing their health, bringing thousands of babies into the world. And, yes, a very small percent of his practice involved a woman's right to choose.

Are we going to punish him because he is an OB–GYN? Are we going to be afraid of a few in this country who have tried to destroy Dr. Foster? This is the time to stand up and be counted. Whether you are for a woman's right to choose or not, you do not punish a fine man like this who has brought thousands of babies into the world, who has helped countless people, many too poor to afford to pay.

Now, the majority leader sent out a proposed schedule from May to August. I have it here. I ask unanimous consent that it be printed in the RECORD.

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

PROPOSED SCHEDULE, MAY–AUGUST 4

MAY

Budget resolution.
Supplemental—Rescission conference report.
Anti-terrorism bill.

JUNE

Telecommunications.
Welfare reform.
Regulatory reform.
Defense authorization.
Foreign operations authorization.
State reorganization/reauthorization.
Gift ban.
Appropriations—as available.
[Term Limits?].

JULY

Reconciliation.
Farm bill.
Crime bill.
Securities litigation reform.
Highway bill/Davis-Bacon repeal.
Appropriations—as available.

Mrs. BOXER. We have many things that we have to do, and they are all very important. But, my goodness, May, June, July, and nothing here about a vote on Dr. Foster. Are things so wonderful in our Nation in terms of our health that we can afford to go without a Surgeon General? I think my friend from Washington, immediately following my remarks, is going to show the problems that we face in this Nation in terms of our health.

Have we solved the problem of teen pregnancy—the epidemic, I should say, of teen pregnancy? Clearly not. Have we solved the problem of the resurgence of tuberculosis? Clearly not. Have we solved the problem of the AIDS epidemic? Alzheimer's? Lung cancer? Breast cancer? Parkinson's? Ovarian cancer? Heart disease? I am just naming a few.

Clearly, we have not solved those problems. In many of those areas, they are getting worse. And we deserve a Surgeon General to look after those problems day after day and hour after hour.

We face thousands of issues, you and I, Mr. President, from parks and open space to flood control to crime to foreign policy. The Surgeon General will look after the health of America 24 hours a day. We have a man who is up to the job and has shown his courage and his leadership. Standing up to the harshest and most unfair attacks, he came out of the committee on a 9-to-7 vote.

Why are we not taking up this nomination? I will tell you why. It is politics. It is Presidential politics. And that is wrong. We have lots of time for that. We have terrific candidates, and

we have a great President, and it is going to be a great campaign, but we should not bring it to this floor and hold up the nomination of the Surgeon General because everyone is going after some block of voters to prove that they can be more antichoice than the next candidate. That is wrong. A woman has a right to choose in this country.

The fact is we have a Surgeon General nominee who has the greatest record in stopping teen pregnancy.

Mr. President, there are those who say: What does the Surgeon General do anyway? I am going to go through a little of this, and if my time runs out, I will be back tomorrow. I am going to be back every day, every day, asking where is this nomination. It is not the American way to keep a kind and decent man waiting like this since February. We have had Surgeon Generals who have done some incredibly important things in terms of the fight against smoking, syphilis, AIDS—it goes on. I will save that for another time.

So in my remaining moments here, Mr. President, I will summarize in this way. There is no reason not to schedule this vote. This man passed out of the committee on a 9-to-7 vote. He is fully qualified. He has met every test. And, yes, he is an OB–GYN. And I say to my friends, it is about time we had someone with that kind of experience of bringing babies into the world and taking care of women's health in the position of Surgeon General.

I yield the floor.

Mrs. MURRAY addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington, Mrs. MURRAY, is recognized for 7 minutes.

Mrs. MURRAY. I thank the Chair.

## THE CLOCK IS TICKING

Mrs. MURRAY. Mr. President, I, too, today rise to urge the majority leader to bring the nomination of Dr. Henry Foster, Jr., for U.S. Surgeon General to the Senate floor for a vote.

I am very excited about the nomination of Dr. Foster to be U.S. Surgeon General. Dr. Foster is an OB-GYN, and I appreciate the importance of his practice area to families and children. For far too long in this Nation, women's health concerns have been neglected by our Government. One example tells a whole story.

A National Heart, Lung, and Blood Institute study of 22,000 physicians begun in 1981 found that men who took aspirin every other day reduced their incidence of heart attacks. The Institute claimed that women were not included in the study because to do so would have increased the cost. As a result, today we do not know whether this prevention strategy would help women, harm them, or have no effect.

Gender equity in medical research has received increased attention over the past few years. We no longer will tolerate a Government-funded heart disease study which includes 22,000 men and excludes women altogether. Given that heart disease is the No. 1 killer of women, we expect women to be included in clinical trials.

We still have a long way to go. Women are the fastest growing demographic group among those diagnosed with HIV. We suffer from clinical depression at rates twice that of men. And we frequently are the victims of domestic violence.

It is imperative that the leading public health official in our Nation be a forceful spokesperson on these issues.

Everyone agrees we need to reduce teen pregnancy because it is a national priority. We need a Surgeon General who understands the link between sexual abuse, adolescent pregnancy, and building self-esteem among at-risk youth.

Dr. Foster has experience in reducing teen pregnancy. His ''I Have a Future'' program was named a ''Point of Light'' by President Bush because of its pioneering work. Dr. Foster has successfully demonstrated his ideas about public health strategies that can greatly benefit our Nation. He has focused not only on preventing teen pregnancy but on preventing drug abuse, reducing infant mortality and ending smoking by children. He is a physician with vision, and he is a caring and honorable man.

When I first met with him a few months ago, he mentioned the opening lecture he gives to medical students. He spoke passionately about the importance of obstetrics and gynecology. He told me he reminds new OB-GYN's that without their work there would be no art or architecture; without healthy women and children there would be nothing.

Some politicians would have the Senate exclude Dr. Foster from consideration because he has performed abortions. I disagree. Abortion should not be the determining factor in the selection of a Surgeon General. Let us not tolerate the disqualification of this candidate because of his basic practice area. Dr. Foster has dedicated his life to women's health, the welfare of children, and the well-being of families.

Meanwhile, the clock is ticking. Dr. Joycelyn Elders resigned her post, as was stated, on December 9, 1994. This nomination was sent to the Senate on February 2, the nomination papers were filed February 28, and the committee voted this out on May 26, 1995. Our Nation has now gone 6 months without a Surgeon General, and the clock is ticking.

Every 15 seconds a woman is battered. And that is not all. Let me share with my colleagues that the clock is ticking and every 59 seconds a baby is born to a teen mother. Every year, alcohol causes the death of nearly 20,000 Americans. Every 17 minutes, AIDS takes another American life. Every year, over 144,000 Americans will suffer a stroke. We need a national public health spokesperson, and we need a Surgeon General.

This year alone, 95,400 men will die of lung cancer; 62,000 women will die of lung cancer; 51,000 Americans will die of AIDS; 46,000 women will die of breast cancer; 40,000 men will die of prostate cancer; and 14,500 women will die of ovarian cancer.

Mr. President, we need a national public health spokesperson. We need a Surgeon General, and we need a vote in the Chamber of the Senate on the nomination of Surgeon General.

I, too, will be back on this floor reminding my colleagues it has been 6 months and the clock keeps ticking. We want a vote.

I yield the floor.

## TRIBUTE TO W.W. ''SON'' WEATHERFORD

Mr. HEFLIN. Mr. President, we were greatly saddened on May 24 by the death of W.W. Weatherford. At 81 years of age, ''Son,'' as he was widely know, had lived a life in which he devoted much of his time and energy to his local community.

Son Weatherford served others just by carrying out the activities of his day-to-day life. He ran the family business—the Weatherford Store, in Vina, AL, and was a member of the First Baptist Church of Russellville, serving as both a deacon and a Sunday School teacher.

Son improved his community through the offices he held and the organizations to which he belonged. He was probate judge for Franklin County, eventually becoming president of the Alabama Probate Judges Association. He was the chairman of the Franklin County, Commission, president of the Alabama Association of County Commissioners, and served as State director of the State Mental Health Board. He fought for his country in World War II and became a member of the American Veterans Association and the Red Bay American Legion. Son was also a Mason and a charter member of the Bear Creek Watershed Association. He was president of the Russellville Chamber of Commerce and was once recognized by that community as its Outstanding Citizen of the Year.

W.W. ''Son'' Weatherford will be sorely missed by the people of the town to which he devoted so much of his energy, the family that he leaves behind, and all those fortunate enough to have known him over the years. I offer my condolences to his wife, Iva Jo, and their entire family in the wake of this tremendous loss.

## TRIBUTE TO COMDR. ROBERT MEISSNER, USN

MR. BINGAMAN. Mr. President, I rise to recognize the dedication, public service, and patriotism of Comdr. Robert M. Meissner, U.S. Navy, on the occasion of his retirement after 20 years of faithful service to our Nation.

Today Commander Meissner, a 1975 graduate of the U.S. Naval Academy, is

serving his last day of a 12-month assignment as the Director of Senate Affairs for the Secretary of Defense. During this and previous assignments over the past decade in the legislative affairs offices of the Department of the Navy and the Office of the Secretary of Defense [OSD] and in Senator GRAMM's office, many of us have come to know Bob Meissner well and he has earned the admiration and respect of Members on both sides of the aisle.

Legislative liaison is often a thankless job. Interpreting the Pentagon to the Congress and the Congress to the Pentagon is certainly no easy task. There is a well-known tendency in Washington to shoot messengers of bad tidings. Commander Meissner has had to convey bad news both to Members of Congress and to senior Department of Defense officials on many occasions. The fact that he has survived to his retirement, and not only survived, but thrived and continually advanced in responsibility, is testament to his grace, skill, honesty, and strong commitment to excellence in carrying out his duties.

Commander Meissner also brought a keen sense of humor to the job, which is probably an essential qualification for any legislative liaison officer. I am sure that many of my colleagues would join me in saying that Commander Bob Meissner represents the epitome of the Pentagon legislative liaison officer and we will miss his contributions to our joint effort with the Pentagon to advance our Nation's security.

Let me briefly now summarize Commander Meissner's career as a Naval officer.

Commander Meissner holds a master's degree in government with distinction, from Georgetown University, and is a graduate of Harvard's John F. Kennedy School of Government's Senior Officials in National Security Program. His military experience includes four operational carrier deployments, two with an air antisubmarine squadron and two as a strike operations officer with the ship's company, a staff assignment as aide and executive assistant, post graduate studies, and several joint duty staff assignments. He is an antisubmarine warfare mission commander in the S–3A aircraft and qualified as an underway command duty officer.

In October 1983, as the U.S. task force's only on-scene strike operations officer, Commander Meissner singularly scheduled and planned the weapons for all Navy tactical combat air missions during the first 5 days of the successful Grenada Operation Urgent Fury. Two months later he was cited for his extraordinary contribution in the successful execution of the December 1983 retaliatory air strike over Beirut and the Bekaa Valley. In March 1985, Commander Meissner reported to the Navy's Office of Legislative Affairs as a Senate liaison officer, where he assisted the Office of the Secretary of the Navy on political and legislative issues before the U.S. Senate. In early 1987, he was selected to serve on the Secretary of Defense's Legislative Affairs staff as an Assistant, responsible for weapon systems' procurement legislation.

After the U.S.S. *Stark* was attacked in the Persian Gulf in May 1987, Commander Meissner became Secretary of Defense Weinberger's legislative point of contact to Congress on the Kuwaiti reflagging and escort issue. Within 9 months, he coordinated over 50 congressional briefings and hearings, made 10 trips to the region with 28 Members of Congress, and was cited by Congressmen, U.S. State Department officials, and Middle East foreign leaders for his efforts in promoting the administration's successful Persian Gulf policy. He assisted in writing a section of the Persian Gulf chapter of former Secretary of Defense Weinberger's book, *Fighting for Peace*.

In March 1988, he was selected by the Secretary of Navy as the first naval officer to receive a LEGIS congressional fellowship. He was assigned to the personal staff of Senator PHIL GRAMM, then the ranking member on the Armed Services Defense Industry and Technology Subcommittee, and served as his senior defense advisor and National Security Affairs legislative assistant. Upon completion of his fellowship, Commander Meissner returned to OSD [Legislative Affairs], where he assumed the responsibilities of the assistant for research, development, test and evaluation.

In June 1990, he was promoted to Director for House Affairs, where he provided direct liaison between the Secretary of Defense and the U.S. House of Representatives. In early 1991, Commander Meissner left the OSD staff and reported to the President's General Advisory Committee on Arms Control and Disarmament as its Executive Director. Commander Meissner returned to OSD [Legislative Affairs] in January 1993 and assumed responsibility for the Research and Technology legislative portfolio with particular emphasis on representing the Advanced Research Projects Agency [ARPA] and the administration's dual-use and technology reinvestment programs.

In May 1994, Commander Meissner assumed his current position as the Director of Senate Affairs for the Department of Defense. Commander Meissner has lectured at the Naval Postgraduate School and the Defense System's Management College on civil-military affairs and congressional relations.

His military awards include the Defense Superior Service Medal, the Defense Meritorious Service Medal, the Navy Meritorious Service Medal, the Navy Commendation Medal [fourth award], and several unit commendations, expeditionary, and service ribbons. Bob is married and resides with his wife, Denise, in Falls Church, VA.

Our Nation, the U.S. Navy, the Department of Defense as a whole, and especially his wife, Denise, can truly be proud of Commander Meissner's many accomplishments. A man of his extraordinary talent and integrity is rare indeed. While his honorable service will be genuinely missed in the Department of Defense and here in the Senate, it gives me great pleasure to recognize Comdr. Bob Meissner before my colleagues and send him all of our best wishes in his new and exciting career.

## WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, the skyrocketing Federal debt, which long ago soared into the stratosphere, is in a category like the weather—everybody talks about it but scarcely anybody had undertaken the responsibility of trying to do anything about it. That is, not until immediately following the elections last November.

When the 104th Congress convened in January, the U.S. House of Representatives approved a balanced budget amendment. In the Senate only one of the Senate's 54 Republicans opposed the balanced budget amendment; only 13 Democrats supported it. Thus, the balanced budget amendment failed by just one vote. There'll be another vote later this year or next year.

As of the close of business yesterday, Monday, June 13, the Federal debt stood—down to the penny—at exactly $4,901,416,297,287.27 or $18,605.86 for every man, woman, and child on a per capita basis.

## COL. THOMAS W. SHUBERT

Mr. THURMOND. Mr. President, I rise today to recognize Col. Thomas W. Shubert, a man many of us know through his duties working in the Office of the Secretary of the Air Force, Legislative Liaison, Congressional Inquiry Division.

During his tour in the Congressional Inquiry Division, Colonel Shubert established a reputation for dependability and professionalism, and was firmly committed to helping us resolve issues involving our constituents and the Air Force. Additionally, Colonel Shubert lent support to many Members of both Houses on fact finding trips throughout the world.

Mr. President, Colonel Shubert is an individual who reflects the highest standards of the Air Force and I am confident that he will distinguish himself in his new post as the Senior Military Advisor and Air Attache to Denmark.

## COL. MICHAEL V. HARPER

Mr. THURMOND. Mr. President, I rise to recognize the career and accomplishments of Col. Michael V. Harper, who is retiring after 26 years of distinguished service to the Army and the Nation.

Colonel Harper began his career as a Distinguished Military Graduate when

he graduated from the Virginia Military Institute in 1969 and was commissioned a second lieutenant of infantry. In the months following his graduation from Infantry Officers Basic School, Lieutenant Harper earned two of the Army's most cherished qualification badges, airborne wings and a Ranger tab. After a tour with America's famed Honor Guard, the 82d Airborne Division, Colonel Harper was ordered to the Republic of Vietnam where he was assigned to the 1st Battalion (Airmobile), 327th Infantry, setting in motion a career that would bring him many commands and responsibilities.

Among his many assignments over the next two decades, the colonel served as: commander, A Company, 18th Infantry; Executive Officer, 1st Battalion (Mechanized) 36th Infantry at Friedberg, Federal Republic of Germany; and, he commanded the 2d Battalion (Mechanized), 16th Infantry at Fort Riley, KS. In addition to his troop leading time, Colonel Harper attended the Command and General Staff College and the Naval War College; served as a staff officer and Chief of the War Plans Division; and finally, as Director of the Chief of Staff of the Army's personal staff group. In his capacity as General Sullivan's staff director, Colonel Harper helped the Chief of Staff transform the Army from a Cold War, forward deployed force into a power projection force ready to defend the Nation anywhere. Colonel Harper's keen insight, sound judgment, and able intellect have made a lasting contribution to the future of the Army and the continued security of the Nation.

Mr. President, Colonel Harper has been a model soldier throughout his career. He embodies the traits that the military expects of those who choose to serve: integrity; loyalty, selfless service: and, concern for soldiers. He is a man who has served the Nation well and he has our appreciation for his dedication and sacrifices over the past 26 years, I join his friends and colleagues in wishing him good health and great success in the years to come.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

## TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The PRESIDING OFFICER (Mr. DEWINE). Under the previous order, the Senate will now resume consideration of S. 652, the telecommunications bill, which the clerk will report.

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:

(1) Dorgan modified amendment No. 1264, to require Department of Justice approval for regional Bell operating company entry into long distance services, based on the VIII(c) standard.

(2) Thurmond modified amendment No. 1265 (to amendment No. 1264) to provide for the review by the Attorney General of the United States of the entry of the Bell operating companies into interexchange telecommunications and manufacturing markets.

Subsequently, the amendment was modified further.

(3) Feinstein-Kempthorne amendment No. 1270, to strike the authority of the Federal Communications Commission to preempt State or local regulations that establish barriers to entry for interstate or intrastate telecommunications services.

Mr. PRESSLER. Mr. President, I believe the Senator from Mississippi is waiting to speak, and I have some business to take care of, which we are going to make some corrections on. I urge all my colleagues to bring their amendments to the floor. We are trying to move this bill forward. We are trying to get agreement on a lot of the amendments, and we are working feverishly on several amendments that we hope we can get agreements on. Those Senators who wish to speak or offer amendments, I hope they will bring them to the floor.

We do have the vote on the underlying Dorgan amendment at 12:30 p.m. and we will be looking forward to having several stacked votes later in the afternoon.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

AMENDMENT NO. 1265, AS MODIFIED

Mr. LOTT. Mr. President, I rise to speak in opposition to the Dorgan-Thurmond amendment that would put the Department of Justice into the middle of this telecommunications entry question. This issue really is being pushed primarily by the Department of Justice but, of course, a number of long distance companies are very much interested in it, and they are asking that the Justice Department be given a decisionmaking role in the process of reviewing applications for the Bell company entry into the long distance telephone service.

A grant of that type of authority to the Justice Department, in my opinion, is unprecedented. It goes far beyond the historical responsibility of Justice. It is a significant expansion of the Department's current authority under the MFJ, and it raises constitutional questions of due process and separation of powers. In short, I think it is a bad idea.

Who among us thinks that after all the other things that we have put in this telecommunications bill that we should have one more extremely high hurdle, and that is the Antitrust Division of the Justice Department, which would clearly complicate and certainly delay the very delicately balanced entry arrangement that is included in this bill, and that is the purpose of the amendment. It is one more dilatory hurdle that should not be included.

The Antitrust Division of the Justice Department has one duty, and that is to enforce the antitrust laws, primarily the Sherman and Clayton Acts. It has never had a decisionmaking role in connection with regulated industries. The Department has always been required to initiate a lawsuit in the event it concluded that the antitrust laws had been violated. It has no power to disapprove transactions or issue orders on its own.

While the U.S. district court has used the Department of Justice to review requests for waivers of the MFJ, the Department has no independent decisionmaking authority. That authority remains with the courts. In transportation, in energy, in financial services and other regulated businesses, Congress has delegated decisionmaking authority for approval of transactions that could have competitive implications with the agency of expertise; in this case, the FCC.

The Congress has typically directed the agency to consider factors broader than simply the impact upon competition in making determinations. This approach has worked well. Why do we want to change it? It contrasts with the role Justice seeks with regard to telecommunications and the telephone entry. Telecommunications is not the only industrial sector to have a specific group at the Justice Department. It has antitrust activity in a transportation, energy and agriculture section, a computers and finance section, a foreign commerce section and a professions and intellectual property section.

The size of the staff devoted to some of these sections is roughly equivalent to that devoted to telecommunications and, I might add, it is too many in every case. If we want to do a favor to the American people, we should move half the lawyers in the Justice Department out of the city and put them out in the real world where they belong, working in the U.S. attorneys' offices fighting real crime. But, no, we have them piled up over in these various sections and, in many cases, in my opinion, not being helpful; in fact, being harmful.

If the Department has special expertise in telecommunications such that it should be given a decisionmaking role in the regulatory process, does it not also have a special expertise in other fields as well? Today's computer, financial services, transportation, energy and telecommunications industries are far too complex and too important to our Nation's economy to elevate antitrust policy above all other considerations in regulatory decisions.

The Justice Department, in requesting a decisionmaking role in reviewing Bell company applications, for entry into long distance telephone service, seeks to assume for itself the role currently performed by U.S. District

Judge Harold Greene. It does so without defining by whom and under what standards its actions should be reviewed.

Typically, as a prosecutorial law enforcement agency, actions by the Department of Justice have largely been free of judicial review. In this case, the Department also seeks a decision-making role. As a decisionmaker, would the Antitrust Division's determinations be subject to the procedural protections and administrative due process safeguards of the Administrative Procedures Act? I do not know what the answer is to that question, but it is an important one.

What does this do to the Department's ability to function as a prosecutorial agency? Should one agency be both prosecutor and tribunal? That is what they are trying to do here. This is a power grab. We should not do this. Congress should reject the idea of giving the Justice Department a decision-making role in reviewing Bell company applications to enter the long distance telephone business. It is bad policy, bad procedure and clearly a bad precedent.

Mr. President, as Senator EXON of Nebraska very eloquently explained last Friday—I believe it was in the afternoon—Congress has passed many deregulation measures—airlines, trucking, railroads, buses, natural gas, banking, and finance. None of those measures was given executive department coequal status with regulators. What the Justice Department is seeking here is essentially a front-line role with ad hoc veto powers. Justice would be converted from a law enforcement to a regulatory agency, and it should not be. They would end up focusing chiefly on just this sector of the economy. We just do not need to create the equivalent of a whole new bureaucracy and regulatory agency just for telecommunications.

Let us look at the nearly two dozen existing safeguards that are already contemplated and required by this bill. Some people say, ''Wait a minute, you were looking at some things like this last year,'' the VIII(c) test. That was a year ago, and it did not get through. It is a different world. The committee has continued to work with all parties involved, the experts in the field, and we have laboriously come up with what I think is an understandable and fair process to open up these telephone markets.

First of all, a comprehensive, competitive checklist with 14 separate compliance points, including interconnection, unbundling, number portability. That is the heart of what we would do in the entry test.

It also has the requirement that State regulators certify compliance. There is the requirement that the Federal Communications Commission make an affirmative public interest finding. We have already fought this battle. We had an amendment to knock out the public interest requirements and, quite frankly, that was a tough one for me. I really understand that there is some ambiguity and some concern about what is this public interest test. But we have the hurdle of the checklist, we have the State regulators and we also have the public interest test. So that is three hurdles already.

There is the requirement that the Bell companies comply with separate subsidiary requirements. We want some protections, some firewalls, if you will. So there would be this separate subsidiary requirement. There is the requirement that the FCC allow for full public comment and participation, including full participation by the Antitrust Division of the Justice Department and all of its various proceedings. They are not excluded, they have a consultative role. They will be involved, but they just are not going to be a regulator under this interest test.

There is the requirement that the Bell companies comply with all existing FCC rules and regulations that are already on the books, including annual attestation, which is very rigorous in its auditing procedures; second, an elaborate cost-accounting manual and procedure; computer assisted reporting and analysis systems; and all of the existing tariff and pricing rules. There is also still the full participation of the Sherman Antitrust Act and the Clayton Act regarding mergers.

There is the full application of the Hart-Scott-Rodino Prenotification Act, which requires Justice clearance of most acquisitions. So Justice will be involved under the Hart-Scott-Rodino Act. Also the full application of the Hobbs Civil Appeals Act of the Communications Act, which makes the Antitrust Division automatically an independent party in every FCC common carrier and rulemaking appeal.

The approach in this bill was hammered out in the most bipartisan possible way, with great effort by the distinguished chairman and the distinguished ranking member, and it involved give and take. It was not easy. I think the thing that makes me realize it is probably the best test we can probably have is that nobody is perfectly happy with it. Everybody is a little unhappy with it, showing to me that it is probably fair. After all, as I said in my opening speech on this subject, what we are dealing with here is an effort by everybody to get just a fair advantage. Everybody just wants a little edge on the other one. We have tried to say, no, we are going to have a clear understanding here. Here is the checklist, the public interest tests, and all these FCC and Justice Department involvements. This is fair to both sides. And now they want to add one more long jump to the process—to put the Justice Department in a regulatory role. Big mistake. This has strong support on both sides of the aisle. It is not partisan whatsoever.

Let us use our common sense here. You know, that is a unique thing. Let us try to apply some common sense to this law and what we are trying to accomplish. Let us go with the Commerce Committee experts who drafted this bipartisan legislation. There are more than enough safeguards already in this bill and in existing law. Congress is also going to move this slowly. These changes will not happen overnight. It will take a while. And we will find some points that probably need to be addressed later on. We can still do that.

If any competitive challenges arise because the Antitrust Division is not allowed to convert itself into a telecommunications regulatory agency, then Congress can come back and revisit the issue. We are not finishing this once and for all.

I just want to say that of all the bad ideas I have seen around here this year, the idea that we come in here and put the Justice Department in a regulatory role is the worst one I have seen. It attacks the core, the center of this bill. We have addressed the questions of broadcasting and cable and fairness in radio, television, as well as the Bells and the long distance companies. This is a broad, massive bill. But the core of it all is the entry test. If we pull that thread loose, this whole thing comes undone.

Also, I want to say that I am convinced that the leaders of this committee will continue to move it forward in good faith. If we find there are some problems, or if we find when we get into conference that the House has a better idea on some of these things, there will be give and take. But this is the critical amendment.

I urge my colleagues to vote against the Dorgan amendment, vote to table the Dorgan amendment, and do not be confused by the Thurmond second-degree amendment, because it is a smaller version of the Dorgan amendment. It is the old camel nose under the tent. We should not start down that trail at this point.

Mr. HOLLINGS. If the Senator will yield. The distinguished Senator from Mississippi is really analyzing in a most cogent fashion what discourages this Senator even further. I wondered if the Senator from Mississippi agrees that it will not only bring in the Department of Justice in a regulatory fashion and responsibility, but they actually eliminate the Federal Communications Commission measuring of market competition. Listening to the language: ''In making its determination whether the requested authorization is consistent with the public interest, convenience, and necessity, the Commission shall not consider the antitrust effects of such authorization in any market for which authorization is sought.''

So when they say antitrust, that means competitive effects. They lock out the word on competition, but that is the intent. You can see how it has been drawn. ''* * * shall not consider the * * * effects of such authorization'' on competition.

So they insert the word ''antitrust'' and do not put in ''competition''. But that is the intent. So where you have the most recent and leading decision here, the U.S. Court of Appeals in Warner versus Federal Communications Commission, where they stated right to the point, ''The Commission struck an appropriate balance between the competing interests of the cable companies and their subscribers,'' giving the good government award to the FCC on measuring market competition.

You see, the thrust of this amendment, where they get this idea, is that somehow the expertise is over in the Department of Justice, and none whatever, no experience or track record whatever in the Federal Communications Commission, which is totally false. They have been doing it. I listed numerous competitive initiatives by the FCC in the past 10 years. And right to the point here, when we told them, look, in regulating the cable TV folks, find out whether or not effective competition has developed within the market. Once the market is permeated with effective competition, no longer is regulation necessary.

So my question is not just the matter of putting the nose of the camel under the tent, he is putting the whole blooming camel in and crowds out the FCC. It said, look, we do not want the FCC measuring competition and the market. ''Shall not.'' Now, say I am a communications lawyer, so I read that and I say, the FCC is doing it, but the law says, by the Congress, you have this betwixt and between. It is really confusion. Do you not see it a danger to the fundamental authority and responsibility of the FCC?

Mr. LOTT. Absolutely, I think you put your finger right on it. In that amendment, they not only want to add Justice Department, they want to supplant the FCC role here. And that, to me, again, as I have said in my remarks, is unprecedented. I think that the FCC clearly is an agency where the expertise exists. We have tried to make this bill as deregulatory and competitive as possible. But as we move toward this more competitive arena, we must have some process to look and see that the requirements of the bill have been met. The FCC is the one that should do that, not the Justice Department. So I thank the former chairman for his comments in this regard.

Mr. PRESSLER. If my friend will yield for a question, my question is, does this go to the very nature of the role of the Justice Department?

It is my understanding that the enabling act that created the Department of Justice, and the enabling legislation that created the Antitrust Subdivision of the Department of Justice, has them as the enforcer of antitrust law, and the Justice Department is the enforcer of law. They have a prosecutorial capability. And under the Administrative Procedures Act, if you go before the FCC, you have certain rights. The FCC has to be open. The FCC gives certain ex parte rights. The Justice Department can operate in secret because it is a prosecutorial agency. The Administrative Procedures Act does not fully apply. So the nature of the two agencies is different.

But, for the first time, under the Dorgan amendment, we would be creating a regulatory role, permanently. Granted, the district court judge, Judge Greene, made a regulatory role for some Justice Department lawyers who actually worked for him, by his orders. But this would be the first time as far as our research can find, that the Justice Department has been given a permanent regulatory decisionmaking role. So does not this go to the very nature of the division of power to the very nature of the Justice Department?

Mr. LOTT. I think it clearly does. I think it clearly is unprecedented. It would give this regulatory authority to an agency that has not been and should not be a regulatory agency. I think there is clearly a conflict here.

For those who do feel like the Justice Department must be involved, for those on the Judiciary Committee that worry about this sort of thing—and I am not one of them, thank goodness, I want to emphasize—this does not take away the existing law.

The Justice Department will have a consultant role. They will have rights under the antitrust laws. The Sherman Act will still be in place, as the Clayton Act will be in place, the Administrative Procedures Act will be in place, the Hobbs will be applicable and the Hart-Scott-Rodino will be in place. All will be there.

The Justice Department will be able to perform its normal role that it performs in all other areas where we have moved toward deregulation. That is what their role should be. Not this new added power.

Just in conclusion, Mr. President, I urge, again, our colleagues to support the chairman's motion to table the Dorgan amendment. That will occur at 12:30.

Mr. PRESSLER. If I could ask a quick question of my colleague. The Justice Department, under the Hobbs Appeal Act, any time somebody goes to the FCC and they get a decision that they do not like and they appeal it, the Justice Department can be a party to that right now and under our legislation. So the Justice Department is a very active participant in every FCC case.

In fact, our legislation requires consultation between the FCC and the Attorney General. But aside from that, is it not true that they have an active, aggressive role in what they are supposed to be, the legal agency of the Government, under the Hobbs Act in appeals so they can be involved as an independent party in every appeal? And just the threat of that would be very great, would it not?

Mr. LOTT. Certainly that threat would be very great.

Here is my question beyond what the Senator is saying. How would the Antitrust Division of the Justice Department handle that Hobbs Civil Appeals Act appeal by the Antitrust Division?

They are automatically an independent party. However, under this amendment, they will have already ruled in a regulatory way. How will they do that? How can you rule in a regulatory decision and then be an independent party under the Hobbs Civil Appeals Act? Would they be acting against themselves? I do not see how we make that work.

I thank my colleague on the committee for the question. I yield the floor.

Mr. PRESSLER. Mr. President, I want to take a few minutes, and if other Senators wish to speak, I will yield immediately. If other Senators wish to come to the floor to offer amendments or to speak, I will eagerly yield. We are trying to move this bill forward.

I know there are some events this morning that have detained some Senators, and there is the Les Aspin memorial service this afternoon that will detain some of our Members.

We are trying to move the tortuous Senate process forward at a faster rate.

I want to take a few minutes to discuss yet another example of why the Justice Department should not be given the burden to carry out the intent of the amendment offered by Senator DORGAN.

I have previously established a clear, unequivocal record. DOJ does not act in a timely manner. Last night I had several charts here showing how the Department, although it was asked to do things within a 30-day period, has dragged things out over 3 years or more.

Additionally and importantly, the Department cannot be trusted to enforce the standard of review. Currently, the DOJ and the court, under the MFJ, are to apply an VIII(c) test. That is also the standard in the Dorgan amendment. The recent Ameritech plan changes the VIII(c) test.

Now, the Department has announced a plan to delay new competition in long distance until the Department's blueprint for local telephone markets has been implemented. The plan is styled as an agreement with Ameritech.

According to the New York Times, the announcement on Monday is clearly timed to coincide with events in Congress. Perhaps most important from a political standpoint, the Justice Department wants to preserve an important role in determining when the Bells should win freedom—this, according to an article by Edmund Andrews in the New York Times, April 2, 1995.

I think that goes to the heart of it. The Justice Department is trying to preserve a role here. For the first time in my years up here, I see a major Department seeking and demanding a role and lobbying for it. That troubles me a great deal.

Despite its length and complexity, many key details of the blueprint await further Department review and approval. This is the Ameritech agreement. The Department has rushed the announcement prior to the completion of the period for public comments on the plan in an effort to derail legislation pending in Congress that would limit the Department's role in regulating the telecommunications industry.

I see a colleague has arrived. I will yield to any Senator who has an amendment or a speech. We are trying to move this bill forward. I am delighted to yield the floor.

Mr. McCAIN. I will have an amendment in a minute to bring to the floor. I am very pleased that the Senator from South Dakota, the distinguished chairman of the committee, solicits a speech from me. It is not very often. It must be an ample indication of the boredom that has set in here on the floor.

While I am waiting to propose the amendment, I would like to reiterate my appreciation for the enormous effort expended by the chairman of the committee who has done just a superhuman job of trying to shepherd this extremely complex and difficult piece of legislation through this body.

Again, I want to thank him for all of the cooperation and courtesy that he has shown me and other Members of this body as we have gone through this effort. I hope that there is light at the end of the tunnel, to borrow an old Vietnam phrase, that we are nearing the end of the consideration of this very important legislation.

Mr. President, I ask unanimous consent that the pending amendment be set aside.

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

AMENDMENT NO. 1276

(Purpose: To require a voucher system to provide for payment of universal service)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona, [Mr. McCAIN], proposes an amendment numbered 1276.

Mr. McCAIN. Mr. President, I ask unanimous consent further reading be dispensed with.

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

The amendment is as follows:

On page 43, strike out line 2 and insert in lieu thereof the following: Act.

''(k) TRANSITION TO ALTERNATIVE SUPPORT SYSTEM.—Notwithstanding any other provision of this Act, beginning 2 years after the date of the enactment the Telecommunications Act of 1995, support payments for universal service under this Act shall occur in accordance with the provisions of subsection (l) rather than any other provisions of this Act.

''(l) VOUCHER SYSTEM.—

''(1) IN GENERAL.—Not later than 2 years after the date of the enactment of the Telecommunications Act of 1995, the Commission shall prescribe regulations to provide for the payment of support payments for universal service through a voucher system under this subsection.

''(2) INDIVIDUALS ELIGIBLE TO MAKE PAYMENTS BY VOUCHER.—Payment of support payments for universal service by voucher under this subsection may be made only by individuals—

''(A) who are customers of telecommunications carriers described in paragraph (3); and

''(B) whose income in the preceding year was an amount equal to or less than the amount equal to 200 percent of the poverty level for that year.

''(3) CARRIERS ELIGIBLE TO RECEIVE VOUCHERS.—Telecommunications carriers eligible to receive support payments for universal service by voucher under this subsection are telecommunications carriers designated as essential telecommunications carriers in accordance with subsection (f).

''(4) VOUCHERS.—

''(A) IN GENERAL.—The Commission shall provide in the regulations under this subsection for the distribution to individuals described in paragraph (2) of vouchers that may be used by such individuals as payment for telecommunications services received by such individuals from telecommunications carriers described in paragraph (3).

''(B) VALUE OF VOUCHERS.—The Commission shall determine the value of vouchers distributed under this paragraph.

''(C) USE OF VOUCHERS.—Individuals to whom vouchers are distributed under this paragraph may utilize such vouchers as payment for the charges for telecommunications services that are imposed on such persons by telecommunications carriers referred to in subparagraph (A).

''(D) ACCEPTANCE OF VOUCHERS.—Each telecommunications carrier referred to in subparagraph (A) shall accept vouchers under this paragraph as payment for charges for telecommunications services that are imposed by the telecommunications carrier on individuals described in paragraph (2).

''(E) REIMBURSEMENT.—The Commission shall, upon submittal of vouchers by a telecommunications carrier, reimburse the telecommunications carrier in an amount equal to the value of the vouchers submitted. Amounts necessary for reimbursements under this subparagraph shall be derived from contributions for universal support under subsection (c).''.

Mr. McCAIN. Mr. President, at the outset, I have no illusions about the ability to adopt this amendment. I do not think it will be adopted. I do, however, think that it is a defining issue in how we view the role of Government and the role of our regulatory bodies.

In an attempt to deregulate telecommunications in America, and I think it is a defining issue very frankly, in whether we want to continue the complex, myriad, incomprehensible method that we are using today to try to attempt to provide access by all Americans to telecommunications facility.

Right now, I do not know of anyone who knows how we subsidize, exactly, people who are in need of the basic telecommunications services in this country. This amendment would make it very clear and very simple. It would be the provision of vouchers for those who need those services. It would replace the current telecommunications subsidy scheme.

Mr. President, both the current system and that envisioned by the pending legislation mandates subsidy flows from company to company. As one former council to the FCC stated, ''From one rich person to another rich person.''

This amendment would fundamentally change that system.

Sixty-one years ago, the Congress passed the Communications Act of 1934. The Act mandated that every American, regardless of where they lived, receive basic telephone service at approximately the same rate. Therefore, individuals whether they live in urban America or rural America would pay the same rate for telephone service, regardless of disparities in cost of supplying such service.

This concept of urban-rural equality known as ''universal service'' was predicated on the agrarian/rural based demographics of our Nation at that time. Poorer rural areas required urban subsidies to meet the goal of universal service. However, demographics have changed since 1934. Today, the majority of Americans now live in urban settings. Telecommunications subsidy schemes, however, have not changed and the urban poor are being unfairly forced to pay for telephone service for those who can much better afford it.

It is simply not fair for those living at the poverty level in the inner city to have to pay for telephone service to the ultra wealthy with second homes in places such as Telluride, Vail, Martha's Vineyard, and the Boulders Resort Area of Arizona.

It is time for a fresh look. As we debate communications law reform, we must step back and ask who is paying for what services. The answer is that those who live in urban areas, as envisioned in 1934, are subsidizing telephone services for those who live in rural areas.

The belief that a universal service subsidy mechanism designed in the 1930's is relevant today and must continue is preposterous. Not only does it unfairly punish lower income, inner city Americans, but it discourages future competition in the local loop.

Vigorous competition with its many benefits to the consumer will only flourish in a free market environment in which entrepreneurs believe they can enter a line of business and make a profit. However, since the current telephone subsidy scheme gives all benefits to the incumbent company, the question arises: What smart businessman or women would want to compete against the entrenched existing company? The answer is none. Thus, if we truly believe in competition for telephone services, we should advocate an end to subsidies.

We should consider a phase out of existing cross-subsidy mechanisms, including long-distance access charges, subsidization of residential rates by business rates, subsidization of rural rates by urban rates, and other rate

averaging mechanisms in order to ensure that market prices accurately reflect the true cost of providing service. Eliminating these barriers to the free market will enhance competition and experience has proven that competition causes prices to fall and improves customer service. When as many subsidies as possible are eliminated, when free market economics has substantially replaced depression-era subsidies, the universal service goal that is contained in existing law could be achieved by instituting a means-tested voucher system to ensure that everyone has the ability to receive telephone service.

Under a voucher system, any household, regardless of where they live, who earns under 200 percent of the poverty level would be eligible for telephone vouchers. Recipients could use the vouchers to pay for any local telephone service they desired, including cellular or in the near future, satellite communications systems such as PCS. The States, not the Federal Government should administer the voucher system because they can best respond to local priorities and needs.

Vouchers could be reclaimed for dollars by local telephone companies chosen by the consumer to provide service. Therefore, the economic viability of companies who have benefits from the current subsidy scheme will only be in jeopardy if their customers decide they no longer like their current phone company and seek a new provider, in other words free-market economics at work.

Mr. President, I recognize that a voucher system may not be immediately embraced by small rural telephone companies. They are happy with the status quo that ensures them a steady revenue stream. A voucher system does not recognize incumbency, it recognizes merit.

Reality tells us that the elimination of subsidies and the creation of a voucher system would not only empower individuals but would encourage telephone companies to compete more for local business. A voucher system is still a subsidy, but it is a much more benign subsidy then the anticompetitive one which currently exists.

Although the food stamp program is not embraced by all, it is important to note that we do not send money directly to the local Safeway, telling them to bag a government proscribed list of groceries, and then to deliver them to everyone in a certain neighborhood, regardless of income. However, that is precisely what we do with local telephone service. There is simply no logic in today's society for continuation of the current subsidy mechanisms.

Last, it is important to note that while 99 percent of Americans have purchased televisions without the benefit of a subsidy, only 93 percent of all households have telephones. Perhaps due to the empowerment of individuals that a voucher system would perpetuate, as many American will have telephones as have televisions.

Mr. President, this amendment is a radical change from the status quo, and therefore I am under no allusion that it will pass today. I do believe it lays the groundwork for the future and should be supported by the Senate.

There have been a number of interesting articles written about the voucher system and the present system. One of them was in the Wall Street Journal last January 20. It is by Mr. Adam Thierer, who is an analyst with the Heritage Foundation in Washington.

I would like to quote from some of this article, because I think it frames the issue pretty well. It begins by saying:

Republicans in Congress will soon introduce deregulatory legislation that could revolutionize the way America's telecommunications sector works. An outline of the proposed legislation in the Senate reveals that Republicans plan to eliminate remaining barriers to market entry * * * the Republican plan at least starts off on the right foot.

Yet it is evident from the outline that Republicans are no different from Democrats when it comes to the Holy Grail of telecommunications—universal service. The GOP lawmaker's plan for universal service may place everything else they hope to accomplish at risk.

The desire to create a ubiquitous telecommunications system is indeed noble. The problem is that, by mandating universal telephone service, policy makers effectively required that a monopolistic system be developed to deliver service to all. That meant devising a crazy-quilt of internal industry taxes that force low-cost providers to cross-subsidize high-cost providers. Hence, billions of dollars of subsidies now flow from long-distance to local providers, from businesses to residences, and from urban to rural users.

But, despite these bountiful subsidies, roughly one American out of every 17 still does not have a telephone in his home.

* * * * *

Worse yet, by arbitrarily averaging rates across the nation, policy makers have unintentionally created a remarkably regressive tax. Hence, a poor single mother on welfare in the inner city is often paying artificially high rates to help subsidize service to wealthy families who live in nearby rural areas. There is nothing equitable about a system that arbitrarily assesses billions of dollars of internal industry taxes on consumers while failing to provide service to all.

Yet policy makers continue to support the current cross-subsidy taxes in the mistaken belief that they encourage ever-increasing subscribership levels. Economists David Kaserman and John Mayo have appropriately labeled this belief a ''fairy tale,'' since no causal relationship exists between subsidies and subscribership levels. In fact, the exact opposite is the case. The 1980s saw decreased subsidies and increased subscribership levels.

* * * * *

If a free-market approach is unpalatable, Republicans should consider means-tested telecom vouchers. State and local governments, not the feds, could simply offer poor residents a voucher to purchase service from a provider of their choice. Make no mistake, this is still a subsidy, but at least it is one that will not discourage competitive entry. It would be funded through general tax revenues, to encourage legislators to target the subsidy as narrowly as possible.

One GOP staffer recently told me this approach is ''ahead of its time.'' In fact, this idea is somewhat behind the times, but it is still the only solution that could co-exist with a competitive marketplace. Free markets, open access, and consumer choice are the better guarantors of innovative goods, lower prices, and true universal service. If policy makers instead continue to place faith in the fairy tale of mandated universal service, they will still be discussing how to create a competitive marketplace at the turn of the century.

I am afraid that Mr. Thierer's prediction is, unfortunately, all too true. On January 11, 1995, in the Investors Business Daily, there was an article that I think has some interesting facts in it.

About 6% of all American homes are still without telephones. But the U.S. Census Bureau reports 99% own radios, 98% have televisions and 75% video cassette recorders—a technology barely 20 years old.

Discounting the implied subsidies of free airwaves for broadcasters, radios and TVs haven't been bolstered by anything like the complex web of subsidies and regulations created over the years to foster universal telephone service.

Several federal agencies manage about $1 billion in payments made by big phone companies and put in the pockets of small ones. But the phone companies themselves set aside and transfer funds, as required by federal rules, to subsidize service to the needy and rural communities.

These subsidies, which total billions of dollars, come from three sources: business users, long distance calls and urban customers, including residential. They are used to artificially reduce the cost of serving rural areas, and to provide below-cost service to poorer households.

But analysts say the administrators of universal service funds, whether at federal agencies or in phone companies, do little to assess the need for assistance. And rate averaging, used by large phone companies, often forces the poorest inner-city households to subsidize rural service for even the richest gentlemen farmers and jet-setting skiers.

''The telecommunications welfare state has been a disaster,'' asserted Heritage Foundation analyst Adam Thierer in a study published recently. ''The regulatory model of the past six decades has failed.''

In a study released Jan. 5, for instance, Wayne Leighton of the Center for Market Processes in Fairfax, Va., and Citizens for a Sound Economy in Washington, describes how the tiny resort community of Bretton Woods, N.H., received $22,153 in subsidies last year, because its remote location on the shoulders of the White Mountains makes it a ''high-cost'' area to serve. That equates to $82 for each of the community's 269 phone lines—many of which serve luxury hotels.

''High-cost is not the same as high need,'' Leighton said.

''Indeed,'' Leighton added, ''poor inner-city residents rarely benefit from these programs, since their telephone companies spread costs over a great many users. . . . The result is subsidies often help middle- and upper-class subscribers lower their monthly phone bills.''

The giant regional telephone monopolies, which want to be allowed to compete with long-distance and cable television companies in those markets, say universal service subsidies cost about $20 billion a year.

Leighton, citing a study by the Telecommunications Industries Analysis Project, estimates the net transfer from urban customers to rural at $9.3 billion a year.

WHO PAYS?

''A lot of money can be pulled from an urban area, without regarding who it's being pulled from,'' noted Heritage's Thierer.

To see the effects of subsidies, compare the annual average household cost for telephone service in rural and urban areas. According to a Federal Communications Commission study published in July 1994, the average ''rural'' household spent $549 in 1990, while in big cities like New York, Chicago and Los Angeles, the comparable figures were $770, $660 and $748, respectively.

Interestingly, a majority of the residents in all three of these major cities are either black or Hispanic. In other major cities with large minority populations, like Detroit, Atlanta, Washington and Houston, the pattern is similar—all had substantially higher average household phone bills than did rural households.

I do not understand how we defend a system that charges higher rates for some of the poorest people in America and minorities. We are having a great debate and we are going to continue to have a great debate over affirmative action. But it seems to me that at least we ought to cure what is clearly reverse affirmation actions.

Consider just the poorest Americans, who presumably would qualify for subsidized rates as low as $6 a month. The fact that only 73% of households with annual incomes of less than $5,000 had phones in 1993 again suggests that the subsidies do not reach their intended targets.

Let me point out again that 73 percent of households in America with annual incomes of less than $5,000 had phones in 1993.

* * * But by one government estimate, 91% of all ''poor'' households owned color televisions by 1990.

The FCC data also show that between 1984 and 1992, America's black households on average spent between 12% and 23% more on phone services each month than did white households.

And according to 1990 census data, 68% of all blacks lived in the nation's 75 largest urban areas—traditionally the source of most phone company revenues.

Broken down by race, 77% of white households in the poorest segment had phones, while just 65% of blacks did. In the next highest income group, from $5,000 to $7,499, the percentages rose to 86% of whites and 78% of blacks.

The sole reason telecommunications is not as competitive as these other high-technology sectors is that, unlike them, it is not governed primarily by consumer choice.

* * * * *

''There are other options,'' Thierer observed, ''but we're just so scared about letting go of the past.''

But so much has changed, critics of the current system point out that a wealth of new technologies makes the old ways completely obsolete. Today, cable television, electric power and wireless systems can all compete with telephone networks.

Free-market reformers could grow more optimistic, if they listen to House Speaker Newt Gingrich, R–Ga. In recent testimony to the House Ways and Means Committee, Gingrich suggested new policies should reflect thinking ''beyond the norm.''

Mr. President, I am first to admit that a system of vouchers would be clearly beyond the norm.

Mr. President, I received a study called ''Local Competition and Universal Service, New Solutions and Old Myths.''

The mechanism that they propose to address any such ''market failure'' would be:

. . . an explicit, market-compatible subsidy system with three primary components. (1) universal service subsidies should be provided directly to end users, (2) all subsidies must be clearly defined and designed to terminate over time, and (3) all funding must be raised explicitly as a telephone subsidy.

On the issue of furnishing the subsidy to end users:

There are numerous advantages to this approach. Combined with means testing, it would ensure that only those customers in need of a subsidy would receive money. Therefore, to minimize market interference, subsidies should be provided directly to the end users—in the form of telephone stamps—who are the intended beneficiaries of the subsidy. This is a three-step process: identify end users who cannot afford service; calculate the differential between what they can afford and the price of service; then provide an appropriate amount of subsidy directly to the consumer. Carefully tailored means testing should minimize any abuse of the program.

This approach reduces marketplace interference by permitting the customers to choose how they spend their ''telephone stamps.'' For example, some urban customers might choose among competitively-priced alternatives such as cellular or PCS service rather than ordinary wireline service as better suiting their multiple-job lifestyles, while still being available for use at home. Rural residents individually might also prefer a wireless to a wired service, or might collectively for their region obtain bids from multiple providers of multiple technologies.

And this mechanism of distributing funds directly to end users also avoids the pre-selection of a particular provider. Since customers can spend their ''telephone stamps'' as they wish, they will choose the technology and provider who best matches their needs and budget. It may be that in some locations, only one provider makes service available; in that case that provider will receive all the subsidy money, but by operation of the marketplace rather than by regulatory fiat. But it may also be that the availability of the pool of money represented by the sum of all the ''telephone stamps'' acts as an incentive to draw alternative providers and alternative technologies into the area.

The most difficult problem facing direct user subsidization is the design of an appropriately tailored mechanism for distribution which will take many forms such as tax breaks, telephone stamps, or service credits. These credits should be awarded on a needs basis as determined through some more means testing, perhaps by tying it to other means-tested assistance programs in the State; that is, anyone who qualifies for any program on the State's list of means-tested programs also qualifies for a preset level of telephone assistance set to enable them to obtain basic telephone access.

There would be no need to create a separate bureaucracy. Similarly, the State agency that currently issues assistance, such as food stamps, can also issue the telephone stamps. The consumer could use the equivalent telephone stamps to purchase network service capability if they want by mailing in the stamps with their bill.

As competition drives down the price of technological alternatives, consumers could choose from an expanding array of network alternatives. This would allow customers to maximize the use of the network by placing at their disposal the technology best suited to their means, lifestyles, and location. The providers cash in telephone stamps just as grocery stores do with food stamps.

Mr. President, universal service historically has been the subject of more assumptions than studies and discussions of the issue and have generated more heat than light.

The presumptions of the past have governed the debate for far too long. Rethinking these assumptions clears the way and focuses the discussion on the issues that face telecommunications today. The issue today is not the creation of universal service but its preservation. Services are available today to most Americans. The remaining issue is service activation and affordability. Open competition among fully inoperative networks for local service priced at its true cost, combined with our proposed explicit and targeted approach to any necessary subsidies, is the best way to maintain universal service while bringing the benefits of a competitive marketplace to all telephone customers.

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

The PRESIDING OFFICER. Is there a sufficient second?

The yeas and nays have been requested. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

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

The PRESIDING OFFICER. Who seeks recognition?

Mr. GORTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The pending business is the McCain amendment, which is No. 1276.

Mr. GORTON. Mr. President, I ask unanimous consent that we return to the Feinstein-Kempthorne amendment.

Mr. McCAIN. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I just proposed an amendment. I had anticipated that we would debate the amendment and vote on it at an appropriate time.

Mr. GORTON. I hope that the Senator will not object. The Senate has almost completed its debate on a Feinstein-Kempthorne amendment which was proposed last night. I have a second-degree amendment for that which I would like to get in so that the body

will understand exactly what it is going to be voting on on that issue.

Mr. McCAIN. Let me say to my friend, I was over in a hearing. The request was to come over and propose amendments because amendments were needed in the Chamber. I then left the hearing. I came over here with my amendment, asked that the pending amendment be set aside at the request of the distinguished chairman, proposed the amendment, and fully anticipated debate and a vote on that amendment.

Mr. PRESSLER. If my colleague will yield, we are going to accommodate. The problem, I am told this morning, is that one of our Members is at a Vietnam veterans ceremony. We are going to try to stack the votes, if we could have the vote at 4 o'clock. That is what the leadership tells me, they are going to try to stack votes; that we have votes after the Les Aspin memorial service this afternoon.

I did not create these things, but that is the situation we are in.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. McCAIN. Who has the floor, Mr. President?

The PRESIDING OFFICER. The Senator from Washington has the floor.

Mr. GORTON. I made a unanimous consent request and the Senator from Arizona objected.

Mr. McCAIN. I object.

Mr. GORTON. I would like to continue with the consideration of the amendment.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. 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. GORTON. 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. GORTON. Mr. President, I ask unanimous consent that we return to the Feinstein-Kempthorne amendment.

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

AMENDMENT NO. 1277 TO AMENDMENT NO. 1270

(Purpose: To limit, rather than strike, the preemption language)

Mr. GORTON. Mr. President, I send a second-degree amendment to the Feinstein-Kempthorne amendment to the desk and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Washington [Mr. GORTON] proposes an amendment numbered 1277 to amendment No. 1270.

In the matter proposed to be stricken, strike ''or is inconsistent with this section, the Commission shall promptly'' and insert ''subsection (a) or (b), the Commission shall''.

Mr. GORTON. Mr. President, last night, our distinguished colleagues from California and Idaho proposed an amendment with respect to a section entitled ''Removal of Barriers to Entry.'' That section in toto says that the States and local communities cannot impose State or local requirements that may prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications services.

Mr. President, that, of course, is a very, very broad prohibition against State and local activities. And so thereafter there follow two subsections that attempt to carve out reasonable exemptions to that State and local authority. One has to do specifically with telecommunications providers themselves and speaks in the general term of allowing States to preserve and advance universal service, protect the public safety and welfare, ensure the continued quality of telecommunications services, and safeguard the rights of consumers, which are, of course, the precise goals of this Federal statute itself.

However, the third exception is ''Local Government Authority.'' That local government authority relates to the right of local governments to manage public rights-of-way, require fair and reasonable compensation to telecommunications providers, the use of public rights-of-way on a nondiscriminatory basis, and so on.

Then the final subsection is a preemptive subsection, Mr. President, and it reads:

If, after notice and an opportunity for public comment, the Commission determines that a State or local government has permitted or imposed any statute, regulation, or legal requirement that violates or is inconsistent with this section, the Commission shall immediately preempt the enforcement of such statute, regulation, or legal requirement to the extent necessary to correct such violation or inconsistency.

Now, our two distinguished colleagues said that that preemption was much too broad, that its effect would be to say to a major telecommunications provider or utility all you have to do, if the city of San Francisco or the city of Boise attempts to tell you what hours you can dig in the city streets or how much noise you can make or how you have to reimburse the city for the damage to its public rights-of-way, that all that the utility would have to do would be to appeal to the Federal Communications Commission in Washington, DC, and thereby remove what is primarily a local question and make a Federal question out of it which had to be decided in Washington, DC, by the Federal Communications Commission. And so the Feinstein-Kempthorne amendment strikes this entire preemption section.

Now, the Senator from California I think very properly tells us what the impact of that will be. It does not impact the substance of the first three subsections of this section at all, but it does shift the forum in which a question about those three subsections is decided. Instead of being the Federal Communications Commission with an appeal to a Federal court here in the District of Columbia, those controversies will be decided by the various district courts of the United States from one part of this country across to every other single one.

Now, Mr. President, in the view of this Senator, there is real justification in the argument for both sides of this question. The argument in favor of the section as it has been reported by the Commerce Committee is that we are talking about the promotion of competition. We are talking about a nationwide telecommunications system.

There ought to be one center place where these questions are appropriately decided by one Federal entity which recognizes the impact of these rules from one part of the country to another and one Federal court of appeals.

On the other hand, the localism argument that cities, counties, local communities should control the use of their own streets and should not be required to come to Washington, DC, to defend a permit action for digging up a street, for improving or building a new utility also has great force and effect, Mr. President. I think it is a persuasive argument.

So in order to try to balance the general authority of a single Federal Communications Commission against the specific authority of local communities, I have offered a second-degree amendment to the Feinstein-Kempthorne amendment. I hope that the sponsors of the amendment will consider it to be a friendly one.

More often than not in this body, second-degree amendments are designed to totally subvert first-degree amendments to move in a completely different direction, sometimes to save Members from embarrassing votes. This is not such a case.

I have read the arguments that were made by the two Senators who sponsored the first-degree amendment. I agree with them, but almost without exception, their arguments speak about the control by cities and other local communities over their own rights of way, an area in which their authority should clearly be preserved, a field in which they should not be required to have to come to Washington, DC, in order to defend their local permitting or ordinance-setting actions.

I agree with those two Senators in that respect, but I do not agree that we should sweep away all of the preemption from an entire section, which is entitled ''Removal of Barriers to Entry''; that fundamental removal to those barriers, an action by a State or a city which says only one telephone company can operate in a given field, for example, or only one cable system can operate in a given field, should not be exempted from a preemption and from a national policy set by the Federal Communications Commission.

So this amendment does two things, both significant. The first is that it narrows the preemption by striking the phrase ''is inconsistent with'' so that it now allows for a preemption only for a requirement that violates the section. And second, it changes it by limiting the preemption section to the first two subsections of new section 254; that is, the general statement and the State control over utilities.

There is no preemption, even if my second-degree amendment is adopted, Mr. President, for subsection (c) which is entitled, ''Local Government Authority,'' and which is the subsection which preserves to local governments control over their public rights of way. It accepts the proposition from those two Senators that these local powers should be retained locally, that any challenge to them take place in the Federal district court in that locality and that the Federal Communications Commission not be able to preempt such actions.

So I hope that it is a way out of the dilemma in which we find ourselves, the preservation of that local authority without subverting what ought to be nationwide authority. It will be a while, I think, before this comes to a vote. I commend this middle ground to both the managers of the bill and the sponsors of the amendment. I hope that they will accept it.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER (Mr. FRIST). The Senator from North Dakota.

Mr. DORGAN. Mr. President, I ask unanimous consent that the pending amendment be set aside so that I may offer another amendment.

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

AMENDMENT NO. 1278

(Purpose: To provide for Federal Communications Commission review of television broadcast ownership restrictions)

Mr. DORGAN. Mr. President, I have an amendment at the desk. I offer a first-degree amendment on the issue of broadcast ownership restrictions.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. HELMS and Mr. KERREY, proposes an amendment numbered 1278.

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

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

The amendment is as follows:

Strike paragraph (1) of subsection (b) of Section (207) and insert in lieu thereof the following:

''(b) REVIEW AND MODIFICATION OF BROADCAST RULES.—The Commission shall:

''(1) modify or remove such national and local ownership rules on radio and television broadcasters as are necessary to ensure that broadcasters are able to compete fairly with other media providers while ensuring that the public receives information from a diversity of media sources and localism and service in the public interest is protected, taking into consideration the economic dominance of providers in a market and

''(2) review the ownership restriction in section 613(a)(1).''

Mr. DORGAN. Mr. President, I am scheduled to testify before a base closing hearing in the Cannon Building in a matter of minutes, so I must leave the floor. I did want to offer this first-degree amendment. It would essentially eliminate two provisions, the provisions in the underlying bill that now abolish the current ownership restrictions on television stations.

We currently have a 12-station ownership limitation on television stations and a 25-percent-of-the-national-audience cap. I believe we ought to restore that and provide the authority to the FCC to make those determinations. I think it makes no sense to include in this bill a provision that simply withdraws those restrictions on ownership.

This bill talks about competition. If we allow this to continue in this bill, we will see a greater concentration of television ownership in this country, and we will end up with a half a dozen companies controlling virtually all the television stations in America. I do not think anybody can honestly disagree that that is the result of the provision in the underlying bill.

I think we ought to restore the 12-station limit and the 25-percent-national-audience cap and give the FCC the authority to make its own judgment and evaluate what kind of competition exists and what is in the public interest with respect to this competition. This provision makes no sense at all in the underlying bill.

I will ask for the yeas and nays at an appropriate point. I must leave to testify before the Base Closing Commission, and then I will return to debate this legislation. My understanding is the Senator from Nebraska, Senator KERREY, wants to speak on this. I am pleased he will do so while I am absent from the Chamber.

Mr. KERREY. Mr. President, I ask unanimous consent to be added as a cosponsor of this amendment.

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

Mr. KERREY. Mr. President, before the Senator from North Dakota leaves, it is my intent, unless he objects now, after making my comments to ask for the yeas and nays on this amendment, unless the Senator will object to my asking at the end of my remarks.

Mr. DORGAN. I believe Senator HELMS wants to speak on it and probably Senator SIMON as well. The Senator can ask for the yeas and nays, sure.

Mr. KERREY. Mr. President, first, let me say that the central point of this whole legislation has been that we are trying to create a regulatory environment where competition can produce lower prices and higher quality service for the American consumer. The service that is being sold is information. Unlike many other commodities that we buy—natural gas, for example, transportation, and so forth—this is a very unusual commodity that we are buying, information, although maybe commodity is not exactly the precise words like you are buying hardware and other sorts of things.

It really is an issue of giving power to somebody to control to a very great extent the information that we get.

You say, ''Well, I have community standards in place.'' That is true, the FCC does have control over community standards, and there are lots of other regulatory determinations that could be made by the FCC, but it is the power to broadcast, the power to publish, the power to transmit information. It is the word, Mr. President. Unlike other commodities, I have only 24 hours in the day in which I can process this information, in which I can either listen to the radio or watch television or read a newspaper, or go on-line, or call my kids, or listen to my kids, or engage in some manner, shape, or form in purchasing or using the information services or equipment that this $800 to $900 billion industry is out there manufacturing and producing and trying to get me to buy. So I have 24 hours a day. That is all anybody has.

What we have, over the years, understood is that the person who controls that information very often controls a great deal more than just the right to sell to you. The person who controls the right to own a station, radio or television, or who controls the newspaper, who controls some other information source, they are in control of much more than just the right to sell you some product. In fact, rarely—I am not sure I can even cite an owner that does not respect that they have more than just a fiduciary responsibility to shareholders. They understand that they have a responsibility that is larger than that.

This amendment, I believe, maintains what we have traditionally done, and that is to say you can get all the competition you want with 12 stations and all the competition you want with 25 percent—25 percent ownership in a service area. That has worked. Again, I have not heard consumers come to me on this one and say, gee, could you lift the ownership restrictions because we are not getting the kind of quality service we want, and we believe that if we have 35 percent ownership of our television and radio stations in a service area, that that will improve the quality of our product, and if we concentrate this industry even more, we are going to get improved quality of product.

I believe that the amendment before us illustrates this issue that I have been raising a time or two on the floor, which is that at stake here is the power of a business or an individual to do something—the power of an individual or a corporation, mostly, to do something that they are currently prohibited from doing. A corporation that

owns radio or television stations currently has certain restrictions placed on them, and the bill, as currently described, would lift a number of those restrictions.

Mr. President, I ask unanimous consent that an article in this morning's Washington Post by Tom Shales be printed in the RECORD at this time.

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 create huge new concentrations 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 gobbledygook'' 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 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 do. 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 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.

Mr. KERREY. The headline of this article says, ''Fat Cat Broadcast Bonanza.''

I admit that is a useful headline for me to make my point, but listen to the argument here.

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 . . .

The House, by the way, goes to 50 percent versus the 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 5-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.

Mr. President, I believe that those, like myself, who want a competitive environment in telecommunications, who want to support a bill that moves us from a monopoly at the local level to a competitive environment, who believe that you can get benefits from competition, that consumers, taxpayers, and citizens, will say, Senator, I am glad you voted for that bill. I believe we can get that kind of competition without changing the ownership rules for our broadcasters. I just do not see a compelling reason for it. I do not see, indeed, increased competition. I think an argument can be made, in fact, that it is moving in the wrong direction, much more toward a concentration and less competition, and thus I support the Dorgan amendment before us now.

I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I wish to continue the speech that I began regarding the standard of review in the Justice Department. If other Senators wish to offer amendments—I see that my colleague from Missouri has arrived. If he wishes to speak, I will yield the floor.

Mr. ASHCROFT. Thank you. I would be pleased to speak, but I would like to gather my thoughts.

Mr. PRESSLER. I ask unanimous consent that the speech I am giving will continue at the point I broke off to yield to other Senators.

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

AMENDMENT NO. 1265, AS MODIFIED

Mr. PRESSLER. Mr. President, I am speaking about the role of the Department of Justice. The Department of Justice seems to be seeking a regulatory role, which is unnecessary in this bill—a role that the FCC plays. When we table the Dorgan-Thurmond amendment at 12:30, it will be because of some of the problems. I am citing the Ameritech experience, and I cited an article in the New York Times that said that it appears that the Justice Department is determined to win a permanent role in determining when the Bells should win freedom.

Ameritech may have thought that it had no choice but to accept the deal that was offered. But the Department's ability to force its will upon one company does not render the so-called Ameritech plan a model for the industry. Indeed the plan simply highlights that the 1982 AT&T consent decree has broken down. It is time to return regulation of telephone markets to Congress, the FCC, and the States.

The Ameritech plan, which was agreed to about 2 months ago, has been touted as opening markets, both local and long distance, to increased competition. What it is, in fact, is a sketchy proposal for a complete restructuring of how local telephone service is provided and billed. If it is ever implemented, it will bring about a massive shift of power from State and Federal regulators and the decreeing court to the Department of Justice. At the very least, the plan would compel local telephone companies to change to usage-sensitive billing of the kind that Ameritech has already implemented in Chicago. In other words, all residential subscribers would end up paying a flat up-front fee for every local call they make, plus additional measured charges for every minute of local usage. Ameritech has been filing tariffs since 1992 to move in this direction. Those tariffs have been accepted in Illinois but nowhere else.

Most States and most residential consumers will find this repudiation of price-averaging and universal service wholly unacceptable. What the Department hopes to do is to force these other States, against their better judgment, to go along with its sketchy proposal as the price of ensuring that their local telephone companies are able to provide a full range of services. While the plan may or may not be workable in parts of Ameritech's service area, it would upset the fundamental regulatory schemes of most States if applied more broadly, leading to dramatically higher prices for many residential customers.

Moreover, even after implementing the mandates of the Department, Ameritech will not get long distance relief until the Department of Justice, in its discretion, decides it should. Thus, the Department of Justice will become the Federal regulator, State regulator, and judge, all rolled into one.

For some reason, that seems to be what the Department of Justice wants. It wants to take on this regulating role, which is not in its enabling statute. Its enabling statute is that it is supposed to be an enforcer of law. It is no small wonder the Department favors the plan and strongly favors a similar role under the proposed amendment before us today. Yet, it is the Department itself that is the greatest obstacle to progress under the current decree, and the least capable of taking on such regulatory responsibilities. All requests for waivers of the decree must be processed by the Department before they are presented to the district court. The Department has proven completely incapable of performing that function. Delays of 3 to 5 years in the processing of even simple waivers are commonplace. Yet, the Department is now trying for greatly increased powers and vastly expanded responsibilities.

The Department's new plan, in fact, constitutes a repudiation of the basic tests for relief contained in the AT&T consent decree. Instead of simply demonstrating to the court that it cannot impede competition in the market it seeks to enter—which is all the decree requires—Ameritech must first implement a series of changes in its local telephone operations, all of which are outside of the scope of the decree.

This is a betrayal of the bargain reached in 1982.

The Department, in attempting to take on the roles of State public utility commission, FCC, and decree court, is guilty of gross overreaching. It is also playing into the hands of those who hope to kill the legislation and further delay the opening of telecommunications markets to genuine competition.

It also clearly demonstrates that debate over this amendment is not about the appropriate standard for review, but whether any DOJ role is appropriate given the poor track record at Justice.

Now, the proposed order is a blueprint for additional proposed orders. The order that the Department is proposing for Judge Greene's signature is a long, rambling, and almost impenetrable legal document. It is also not self-effectuating.

Even if Judge Greene signed the order today, nothing would happen. Ameritech would not be permitted to enter any interexchange market. There is no deadline for when it comes.

The order demands many further layers of review by the Department and permits the possibility of Bell having long distance at uncertain future dates at two areas that serve 1.2 percent of the population. The order is 39 pages long and contains 50 main paragraphs.

This decree, the Ameritech decree, is twice as long as the consent decree that broke up the old Bell system in 1984. That is a reflection of lawyers at work, I suppose.

The proposed order is being described as one that will permit a Bell company to enter the long distance market. The order contains no such permission. It

does not grant Ameritech the right to provide interexchange services in the temporary waiver territory.

All the order itself achieves is a wholesale transfer of power from Judge Greene to the Department of Justice. If the order is entered, it will be up to the Department in the exercise of its discretion to determine when, if ever, Ameritech will be allowed to provide long distance service in any market.

The order has this effect because key conditions on Ameritech's entry are undefinable, indeed, so vague as to be undefinable, because the order asked the district court simply to let the Department declare when the conditions have been met.

Paragraph 9, for example, states that Ameritech shall not offer interexchange telecommunications pursuant to this order until the Department has approved the offering of such telecommunications pursuant to the standard set forth in paragraph 11.

Paragraph 11, however, simply describes an open-ended process of further review. Among other things, the order empowers the Department to hire experts to review Ameritech's future proposals and declares Ameritech must pay for them. The Department, it appears, expects to spend not only time but significant sums of money in evaluating Ameritech's proposals when they are finally put forward.

The order also allows the Department, in its sole discretion, to condition relief upon any other terms that may be appropriate. When and if some Ameritech plan is ultimately approved and put into effect, the Department retains authority to terminate at will by sending a letter to Ameritech telling them to stop. Ameritech will be permitted to petition Judge Greene for review, a right it already has today.

The proposed order is reflective of nothing so much as the Department's desire to micromanage all aspects of the telecommunications industry.

It seems inconceivable that Judge Greene will approve or could lawfully approve such a wholesale transfer of power from his courtroom to the Department's Assistant Attorney General for antitrust. Under both the standard provisions of district court jurisdiction and express jurisdictional terms, the divestiture decree, the Bell companies are entitled to timely district court review of motions for relief from the line-of-business restrictions.

A district court has a general duty under the Federal rules of civil procedure to entertain motions of parties and rule on them in an orderly and timely fashion. This is clearly a serious and important responsibility, particularly in a case such as this one that has remained under the district court's jurisdiction for 21 years. It is not a duty that can be delegated to anyone else.

I see my friend from Missouri is prepared to speak. I yield the floor.

Mr. ASHCROFT. Mr. President, I rise to oppose the amendment which would place the Department in the process of authorizing the entry by the Bell operating companies into the long distance markets.

Senate bill 652, which was the study result of much activity in committee and a long period of investigation, places the responsibility for making that judgment in the FCC. It is important to understand what the Federal Communication Commission is, how it is composed, why it is the appropriate agency to make those kinds of decisions.

The Federal Communications Commission is a quasi-judicial body not affected by politics. Appointees are appointed for an extended period. There are longer periods of appointments than the President's term is. It is designed to be insulated from politics, to make professional judgments that are technical and appropriate to the field that the Federal Communications Commission oversees, and is technically competent and expert in the area of communications.

The amendment which we are considering now and upon which the Senate of the United States will act at 12:30 today is an amendment which would have the Department come in and second-guess the judgment of the Federal Communications Commission by adding a Department-consent requirement before these companies could move on to compete and extend and enhance the competition in the long-distance market.

I do not believe that kind of layering of the bureaucracies, I do not believe that kind of additional Federal and governmental involvement, would promote competition.

As a matter of fact, that kind of bureaucratic involvement very frequently does the opposite of promoting competition. The more bureaucracy that is involved, frequently the more difficult it is for enterprises to have the kind of flexibility that we really want enterprise to have to be competitive in an international marketplace which demands higher and higher levels of productivity.

Now, the bill as presented to this body by the committee, S. 652, is very clear about the way it expects the decision to be made regarding the entry of these competitors into the long-distance marketplace. As a matter of fact, it says to the FCC that there is a list, a specific recipe of conditions, that have to be met. In addition to the 14 or so conditions that are listed in the bill, there is another interest that is charged to the FCC that they must consider. It is the public interest.

Here what we have in the bill is a governmental body, a quasi-judicial body, the regulatory commission called the FCC, the Federal Communications Commission. The Congress in this body is telling them specifically to make the decision based on these criteria and adds to the 14 criteria the public interest.

Now, that ought to be enough governmental involvement to assure that we make good decisions and the right decisions. However, the amendment which is now being considered would add the Department in a totally new and different and unprecedented role for the Department, one in which they have not been involved before. The Department would be asked to implement a supervisory authority here and to make a final decision about whether these companies could enter the long-distance competitive marketplace.

That final decision is something they have never exercised before. Even under the court orders relating to the divestiture from AT&T of the Bell companies and setting up the Bell operating companies around the country, the regional Bell companies, the Department did not have final authority. The Department went before a judicial decisionmaker and advocated a position.

Now, the Department should not be given a decisionmaking authority in this matter because the decisionmaking authority is given to the FCC. The Department should be given an advisory role just like it has an advisory or advocacy role in the current situation.

One important thing to remember is that Senate bill 652 does, in fact, provide for an advisory role for the Department. The FCC, in making its final determination about whether or not it will release the regional Bell operating companies to participate in the competition of the long-distance markets, the FCC is directed to consult with and to seek the advice of the Justice Department. But, it would be unprecedented for us to move beyond that traditional role of the Justice Department to ask the Justice Department to be making final decisions. Because, as a matter of fact, that has never been its role in any previous situation and should not be its role now. The FCC is that Commission that is a quasi-judicial body that can make those decisions, is trained to make them, is expert in the communications industry, and ought to be the final authority.

So it is pretty clear to me, and I believe it ought to be clear to the U.S. Senate, that the FCC should retain that final authority and that the Department of Justice be maintained in its advisory authority that the bill, S. 652, provides. The amendment which would enhance the advisory authority is unnecessary and would be counterproductive.

The PRESIDING OFFICER. The Senator should be advised that we have controlled debate beginning at the hour of 11:30.

Under the previous order, the hour of 11:30 having arrived, the Senate will now resume consideration of the Dorgan and Thurmond amendments, with 1 hour equally divided prior to a motion to table.

Mr. PRESSLER. Parliamentary inquiry, who controls the time?

The PRESIDING OFFICER. The time is controlled by the two managers of the bill.

Mr. ASHCROFT. Mr. President, I ask unanimous consent for an additional 5 minutes to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. PRESSLER. Mr. President, I believe under the unanimous-consent agreement I will have to yield 5 minutes off the amendment's time, from what I understand of the parliamentary situation. I am prepared to yield 5 minutes, but I make it clear I will reserve the last 15 minutes for managers of the bill to speak. I believe we should reserve about 15 minutes for Senators DORGAN and THURMOND to speak, if they come to the floor.

So I yield 5 minutes to my friend from Missouri.

Mr. ASHCROFT. In that event, I withdraw my request for unanimous consent to speak as in morning business and ask the Chair to inform me when 5 minutes has expired.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. ASHCROFT. Mr. President, there has been quite a bit of debate on this issue. It has been suggested that those of us who oppose the Department of Justice having a special and unprecedented role of final decisionmaking in this arena do not trust the Department of Justice.

We trust the Department of Justice. But we trust it to maintain its traditional role. We trust it to be a law enforcement agency and an advisor as it relates to legality and propriety of measures that relate to the law. But we do not trust it to do something totally new, something different, nor do we trust it to second-guess an administrative agency that has expertise in this area, the Federal Communications Commission.

So, this is not a question about whether the Department of Justice will have a role. That question was laid to rest long ago. The FCC is required to consult, according to the language of the bill, with the Attorney General regarding the application during the 90-day period. The Attorney General may analyze a Bell operating company's application under any legal standard, including the Clayton Act, the Sherman Act, and other antitrust laws, and those standards of the Clayton Act and the Sherman Act are the kinds of standards that are suggested by the amendment.

The difference between the bill, this bill, and the amendment which is proposed, is whether or not the Justice Department would have final decisionmaking authority. All of its ability to advise and to argue and to participate by virtue of supplying its views are preserved and protected under this bill. But to say the Department of Justice has separate veto authority over the agency of expertise here would be to inject the Department of Justice at a policymaking level never before provided for the Department of Justice, not only in this arena but in other arenas as well.

I just suggest that we do not need to change the character of the Justice Department from an enforcement arena and prosecutorial arena to a policymaking arena. The policy should be judged by the Congress of the United States and the policy is set forth clearly here, in the kind of guidelines that we would seek to suggest for the Federal Communications Commission. This amendment will make a mandate of the advisory role of the Department of Justice, a mandated final decisionmaking role, and it will provide for confusion with two Federal agencies seeking to make final decisions instead of one.

The Federal Communications Commission is a professional, quasi-judicial organization with 5-year terms. The Department of Justice is an appointed position, appointed by the President of the United States. It has all the benefits of political involvement and has the drawbacks of political involvement. I do not believe we want political decisions to be made, the influence or contamination of politics to find their way into this particular set of decisions.

I believe it is important for us to reject this overlapping, doubling up of enforcement at the Federal level, the duplication of decisionmaking. The professional, trained, expert Federal Communications Commission can make this decision with the advice of the Department of Justice. For us to try to have redundant and duplicative Federal control here is for us to reject the promise of the future. Some look into the future and shrink back in fear. I think this is a great opportunity.

In closing, I would say I do not think the competitors of the United States, as they are working on a framework for operations for telecommunications, are going to be thinking about how many layers of regulation they can place on top of this industry. I do not think they are going to think about how much duplicative and redundant control, or whether they are going to convert what had otherwise been law enforcement agencies into policymaking agencies and to have a tug of war between two agencies of the Federal Government which would stymie expansion and development and growth in the industry.

I think our competitors around the world are going to try to seize and regain the advantage that America currently has in telecommunications. For us to add the Department of Justice, not as an adviser—that is already in the bill—but as a final decisionmaker to compete with another agency trained to get this job done would be unwise.

So I urge the rejection of the amendment which would make the Department of Justice a final decisionmaker in this matter.

The PRESIDING OFFICER. The time of the Senator has expired. Who yields time?

Mr. HOLLINGS. Mr. President, as I understand it, time is divided between the two managers. I take it on this side we would manage the 30 minutes for the proponents. In no way do I propose this amendment. I hope to kill it. But I yield such time as the Senator wishes.

Mr. KERREY. I appreciate the kindness.

I can read the handwriting on the wall, Mr. President. The majority leader opposes this amendment, the Democratic leader opposes it, the Democratic whip, the Republican whip, the manager of the bill, the Republican chairman, the Democratic ranking member—all oppose this amendment.

So what I find interesting is the hyperbole that gets layered upon the argument against that the Department of Justice is overreaching, that they are incompetent. That is an argument that I just heard the Senator from South Dakota use against the Department to demonstrate that they are incompetent. It takes a long time, 1,500 days I heard from the Senator from South Dakota say.

Let me give my colleagues an example of the reason it takes a long time. Maybe the Senator from South Dakota thinks the Department of Justice should have this waiver. In 1994, Southwestern Bell and three other RBOC's filed a request to vacate the final modified judgment to simply completely eliminate its restrictions without replacing those restrictions with any consumer safeguard, with any requirement such as those contained in S. 652. That was the waiver application. The Senator from South Dakota and the Senator from Missouri talk about all this overreaching regulation. Perhaps they would like to have the Department of Justice approve this waiver, get it out of the way in a hurry.

Is that what the Senator from South Dakota has been arguing for when he talks about delays? Is this the sort of thing he wants them to approve? Let us not come to the floor and talk about 1,500-day delays. It is being delayed because of this kind of thing. Nobody, I do not believe anybody; maybe there is; maybe someone down here says what we should have had was the Department of Justice approving this kind of waiver. Then S. 652 would not be necessary. Maybe that is the feeling here, we do not want any consumer protection. We do not care if there is local competition. Forget the checklist. Forget the VIII(c) test, and all that nonsense. Let these guys go out and have at it, take their monopoly and run with it, and use the power in any fashion they want.

I do not think so. I think the structure of this bill implies that we are concerned about this monopoly power and that we want some restraint as we move to a competitive environment. And the Department of Justice has been attempting to measure that as

they evaluate these waivers. My colleagues will come down and say, ''Oh, no. Another layer of bureaucracy.''

Let us not repeat the mistakes of the past. I call my colleagues' attention to the last major deregulation action in airlines when the Department of Justice again was given a consultative role. They basically had the opportunity to file a brief. They would just as well write their opinion on the wall of a bathroom for all the impact it has.

Now we have in this case the airlines being deregulated. Now comes TWA and a hub in St. Louis wanting to acquire Ozark Airlines. The Department of Transportation gets the application as the FCC would in this case. Now we have Northwest Airlines trying to acquire Republic Airlines in the hub serving Minneapolis. The Department of Justice said: In our opinion, you will get less competition. That is our opinion. That is all the law allows, just an expression of their opinion. They vigorously, in fact, said you are going to get less competition. The Department of Transportation says your opinion is as good as anybody else's. We ignore it. Guess what? There is less competition and higher prices in both of those hubs as a consequence of those actions.

We are not talking about another layer of regulation. The Department of Justice is not asking to intervene and get involved in something about which they know nothing.

We are asking with this amendment, which is obviously going to get defeated—the opponents of this deal are lined up, in effect. We have been working long and hard, and are likely to get 40 votes for this thing. But I will stand here and predict that the Department of Justice is going to issue an opinion on an action taken by a local telephone company that the consumers are going to get less competition, not more. They are going to get less competition. They are going to file an opinion. That opinion will be ignored by the FCC, and Members will be up here saying, ''Gee, that was not quite what we had in mind.''

So we are not asking for increased regulatory authority. Please do not talk about the delays unless you are prepared to identify a specific waiver that you think should be approved. Let us talk about the waiver. I alert my colleagues that we will have an opportunity on additional amendments to revisit this issue.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER. Mr. President, I yield 5 minutes to my friend from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Mr. President, I thank the managers of the bill, and I also thank the chairman of the full Commerce Committee, who has really done a marvelous job, along with the ranking member and former chairman, Senator HOLLINGS.

We are not newcomers to this issue. I do not doubt for a minute the dedication that the Senator from Nebraska has in modernizing telecommunications, because we have been on panels together and we have been to different places together, and understand in his State, where distance learning and telemedicine is becoming very, very important, and also the new technology and the policy it is going to take to force that new technology into the rural areas. That is where our first love lies. I think the same could be said about South Carolina and the same could be said about South Dakota. But S. 652 already gives the Justice Department a role. It is spelled out clearly.

It says, before making any determination:

> The Commission shall consult the Attorney General regarding the application. In consulting with the Commission, the Attorney General may apply any appropriate standard.

That is the language that is in this bill. Do we start talking about those who have the expertise in regulating or do we talk about an organization that has the expertise in litigating? What is the primary purpose of the Department of Justice? I would say if the administration in their view thinks that some Federal law has been broken, they advise the Department of Justice to look into it. The same with the Congress. That is what the Department of Justice does. They are not in the process of rulemaking. I think that is left to the FCC and, of course, those of us who want to take the responsibility of setting policy where it should be set, here in this body, and not shirk our responsibilities or our duties in order to set that policy.

The Senator from Nebraska says that there should be a larger role. That is what he is advocating. All we have to do is look back at the modified final judgment. How is it being administered today? It is being administered by the court, by Judge Greene, who has done an admirable job? Nobody can criticize Judge Greene. But the U.S. district court retains jurisdiction over those companies that were party to the MFJ. The court then asked the Justice Department, the Antitrust Division, to assume postdecree duties—''post,'' after it is all over, it is asked to do those duties. The antitrust division provides Judge Harold Greene of the district court with the recommendations regarding waivers and other matters regarding the administration of MFJ.

Before we can do anything to deal with new technology, to force those new technologies and those tools out to the American people, yes, there have to be rules of entry. But we do not have to add layer upon layer of bureaucracy. If there is one thing that is being talked about around this town right now, it is the budget and spending. What do we spend our money for? It is my determination, after being here about 6 years, that if there is one thing that absolutely costs the taxpayers more money and the waste of money in Government, it is not that they are not doing a good job. It is called redundancy. Everybody wants to do the same thing. Everybody wants their finger in the same pie. Just look at the Department of the Interior. It is probably the greatest example. Every Department has a wildlife biologist. Wildlife biologists, by the way, are kind of like attorneys. If you get three of them together, you are not going to get an agreement. Everybody has a different approach.

So basically what my position and my opinion is is that this is just another layer, another hoop to jump through before we finally deregulate. We want to be regulatory in nature and not more regulation or redundancy.

Mr. President, I ask that this amendment be defeated. I thank the Chair.

The PRESIDING OFFICER. The Senator from South Dakota has 18 minutes.

Who yields time?

Mr. HOLLINGS. Mr. President, I ask unanimous consent that the time for the proponents be managed by the distinguished Senator from North Dakota and the Senator from South Carolina, Senator THURMOND. They are the proponents.

The PRESIDING OFFICER. The Senator has the right to designate the manager.

Who yields time?

Mr. KERREY. Mr. President, will the Senator from North Dakota yield to me 15 seconds to correct a statement?

Mr. DORGAN. I am happy to yield.

Mr. KERREY. Earlier I said that the opponents of this included the Democratic leader. The Democratic leader is on our side. He is against the law in its current form, and is in support of the Dorgan-Thurmond amendment.

Mr. DORGAN. Mr. President, I yield myself such time as I may consume, and I might say that when Senator THURMOND comes, he will want to be able to speak. So I will speak for 5 minutes.

Mr. PRESSLER. Mr. President, how much time does each side have?

The PRESIDING OFFICER. The Senator from South Dakota has 18½ minutes. The Senator from North Dakota has 23 minutes.

Mr. DORGAN. Mr. President, a lot of statements have been made in this debate about the role of the Justice Department. Many of the statements that were made were surprising to me.

Let us back up just for a moment and ask ourselves who investigated and sued to break up the Bell system monopoly which resulted in the very competition that is extolled here on the floor of the Senate as driving down prices in the long distance market? Who did that? It was the Justice Department that did that. Yet, we are confronted with the debate today that says, ''Gee, the Justice Department is a roadblock. The Justice Department is a problem. We are talking about layers

of bureaucracy and layers of complexity.''

If you stand here and extol the virtues of competition in long distance and talk about the fact there are now over 500 companies from which you can choose to get long distance service and therefore lower prices because there is such robust competition, you must, it seems to me, recognize we got to that point because of the Justice Department. And if you recognize we got there because of the Justice Department, you cannot stand on this amendment and say somehow the Justice Department is a roadblock. I am telling you it is interesting to me to hear people preach about competition but then not be willing to vote for the things that promote the very competition they preach about.

Competition works when you have many competitors in a competitive environment with the price as the mechanism for competition. Competition works in a free market when the market is free. But competition does not work when you have concentrations such that some can begin to control portions of the marketplace.

Now, all we are asking in this amendment that is now a second-degree amendment supported by Senator THURMOND, myself, Senator DEWINE, Senator KERREY, and others, is that the Justice Department have a role to play on the issue of antitrust, on the Clayton 7 standard, and we have delineated the difference between the FCC role and the Justice role.

Next time somebody stands up and says there is overlapping responsibilities, that is nonsense, total nonsense. There is not an overlap here. It is precisely the purpose of this amendment. So it just does not work to claim that this is overlap and complexity. It is not true. It is not the case. But you cannot preach about competition and then indicate that you support taking the agency out of this process that is the agency which evaluates competition and makes sure there is competition in the marketplace. It just does not square with good logic that if you are a friend of the free marketplace you would not support the things that are necessary and important to keep the marketplace free.

I offered an amendment earlier, and I was not benefited by hearing the Senator from Nebraska speak on it. I am sure he says it was wonderful and eloquent, and I am sure that may well have been the case, but I missed it, nonetheless. It is likely he will repeat it, I am sure, so I will probably have the benefit of hearing it in the future. But I offered the amendment on broadcast ownership, and it is exactly the same principle as the issue of the Justice Department. Those who say let us have robust competition in telecommunications and then say, by the way, we are going to eliminate the ownership restrictions—you can go out and buy 85 television stations if you like; it does not matter to us what kind of concentration exists—well, they are no friend of competition. That is not being a friend of the free marketplace.

I am just saying on these amendments, especially this Justice amendment but also, when that is done, the amendment on broadcast ownership, if you really believe—and I do—in the free marketplace, then you have to be a shepherd out here making sure that the marketplace remains free. There are all kinds of natural economic circumstances that move to attempt to impinge on the free marketplace. Concentration, concentration of assets and concentration of ownership is always, I repeat always, a circumstance where you see less competition and a marketplace that is less free. Concentration is, in my judgment, the kind of circumstance that tends to erode free markets and tends to undermine competition. The underlying amendment that we are going to discuss and vote on as the Justice Department amendment is simply an amendment that says when you are evaluating when there is competition in the local exchanges so then that the regional Bell operating companies are free to go compete in long distance, we want the Justice Department to have a role in that evaluation because they are the experts in antitrust. That is the issue here.

Now, one can vote against this amendment, I suppose, and claim, well, this bill is a free market bill that frees the free market forces; it stokes the juices of competition; it is going to be wonderful for the American people; it is nirvana in the future.

It is nonsense. It is all doubletalk if one does not support the basic tenets of keeping the free market free. And one of those basic tenets, in my judgment, is to make sure that the Justice Department has a role in this circumstance.

So I have been involved in these discussions before, as has the Senator from Nebraska, and others in this Chamber about deregulation. ''Deregulation,'' they just chant that. They ought to wear robes and chant it around here—deregulation, deregulation.

So we deregulated airlines. Guess what, we deregulated the airlines. Wonderful. I said it before. If you are from Chicago, God bless you; you sure got the benefits from deregulation. If your cousin lives in Los Angeles, boy, you got a great deal. If you go out of O'Hare and fly to Los Angeles, you get dirt cheap prices. You have all kinds of carriers competing. That is competition. But go to Nebraska and see what you get from deregulation of airline service, or go to North Dakota and see what you get, or go to South Dakota and see what you get from deregulation of the airline service. It is not pretty. You do not have robust competition. You do not have prices, a competitive allocatur here. What you have is less service and higher costs.

And in the airline deregulation, it is interesting; we have, in my judgment, a parallel because in airline deregulation, when we talk about whether airlines should be allowed to merge and whether we should have these concentrations, the issue was should the Department of Transportation allow the merger to happen. And the Department of Justice was asked in a consultative role.

Well, what we see as a result of airline deregulation is that big airlines have gotten much, much bigger. How? They have gotten bigger by buying all of their regional competitors, and the Department of Justice in some of those cases said it is not in the public interest. And the Department of Transportation said tough luck; we are going to allow the merger anyway.

We have experience directly on this point, and if in the rush to deregulation we do not have the kind of care and patience to make certain that the free market is free and that robust competition exists, we will do the consumers of this country no favor, I guarantee you. We will have had a lot of dialog; we will have used a lot of slogans; and we will have waved our hankies around talking about competition and all the wonderful words that have been focus grouped and tested, and so on, but all of them will not be worth a pile of refuse if we do not do the right thing to make sure that competition exists.

You cannot preach competition and then be unwilling to practice it in terms of the safeguards that are necessary to assure that free markets are free, and that is the purpose of this amendment. I hope those who care about real competition and care about real free markets and those who are willing to make sure the guardians of free markets are able to have a role here, I hope they will come and vote yes on the Thurmond-Dorgan second-degree amendment. I understand the motion will be to table, so I guess in that case I will hope that they will come and oppose the motion to table so that we can pass our amendment.

Mr. President, I reserve the remainder of the time, and I understand Senator THURMOND will wish to access some of the time when he arrives in the Chamber.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER. Mr. President, I ask unanimous consent that, notwithstanding the previous order, at 12:30 I be recognized to make a motion to table the Thurmond amendment 1265, as modified and, if the amendment is tabled, amendment 1264 be automatically withdrawn.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object, I did not understand the last portion of the unanimous consent request.

Mr. PRESSLER. Amendment 1264 be automatically withdrawn. That will be the Senator's underlying amendment.

Mr. DORGAN. The Senator is talking about if the motion to table prevails.

Mr. PRESSLER. That is correct. I ask unanimous consent that notwithstanding the previous order, at 12:30 I be recognized to make a motion to table the Thurmond amendment, as modified and, if the amendment is tabled, amendment 1264 be automatically withdrawn.

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

Mr. PRESSLER. Mr. President, this has been a long debate and many speakers have come to the floor on each side. I strongly believe that we should vote to table the Thurmond amendment because it creates a new role, an unprecedented, unnecessary role for the Department of Justice.

Presently, there are many safeguards to consumers and to companies and to the public built into this legislation. This legislation was the result of meeting after meeting for over 3 months, every night and Saturday and Sunday among Republicans and Democrats, to come together to reach a bipartisan bill. We came up with a plan that the regulatory agency, the FCC, would be the decisionmaker while the Justice Department would still be involved.

In the first step, when a company is applying, the State certifies compliance with a market-opening requirement. So that is a safeguard. Second, the FCC affirms public interest, necessity, and convenience.

We had a vote here the other day on this floor preserving public interest, so the FCC can use the public interest standard.

Third of all, the FCC certifies compliance with a 14-point checklist. I have the 14 points listed here in another chart. The point is that in the bipartisan meetings and building on the legislation of last year and building on efforts of many Senators—indeed, all 100 Senators were consulted during this process leading up to the markup in the Senate Commerce Committee—there was a question: Shall we use the VIII(c) test, which is a complicated test, or shall we use the Clayton 7 test, and we decided to come up with a checklist, a competitive checklist.

Mr. DORGAN. Mr. President, will the Senator from South Dakota yield for one quick moment?

Mr. PRESSLER. Yes.

Mr. DORGAN. I shall not interrupt at length. I did want to point out the Senator from South Dakota is correct, an enormous amount of work went into the construct of the compromise. It is also true, is it not, that the Commerce Committee held this legislation up? The intent was to want to move this along quickly, and many of us were cooperative with that. But we at the committee hearing indicated that we were uncomfortable with several of these provisions and intended to deal with them on the floor of the Senate. So these issues, many of them, were raised in the markup of the Commerce Committee and only with the cooperation of Members who decided to raise the issues on the floor rather than in the committee was the bill able to be brought to the floor.

(Mr. ASHCROFT assumed the Chair.)

Mr. PRESSLER. That is correct. I welcome amendments. I welcome this amendment. I am giving a history of how we came to this checklist. I think the point I am making is that we have had a very bipartisan effort here, and we welcomed amendments there in the committee, and we welcome amendments here. Obviously, every member of every committee can bring something to the floor. But this checklist was worked out an a bipartisan basis. Before the local Bell company can be declared as having an open market, it has to interconnect. That is the first point. That is, they have to open up their wires so others can come in. They have to show the capability to exchange telecommunications between Bell customers and competitor's customers, access to poles, ducts, conduits and rights-of-way; the three unbundling standards, where they have to unbundle the system so other people can get in; access to 911 and enhanced 911; directory assistance and operator call completion services; white pages directory listing; access to telephone number assignment; access to data bases and network signaling; number portability; local dialing parity; reciprocal compensation, and the resale rules.

That is a checklist that the FCC must go through to determine if the Bell company has opened up its business so other competitors have a fair opportunity to compete in the local telephone business. I have not heard anyone criticize this checklist. It seems to be universally accepted. Also, the Bells have additional requirements on them to open their markets. This is done at the FCC level and not Justice, and the Bells must comply with a separate subsidiary requirement, nondiscrimination requirement and a cross-subsidization ban. The FCC must allow the Department of Justice full participation in all of its proceedings. So the Department of Justice is already present without the Thurmond amendment.

Now, the Bells must comply with existing FCC rules and rigorous annual audits, elaborate cost accounting, computer-assisted reporting, and special pricing rules. So there is much involvement. The Sherman Antitrust Act is in place. The Clayton Act is in place. The Hart-Scott-Rodino Act is in place. So the Justice Department has plenty to do. I find this debate very unusual because it implies we are going to get the Justice Department involved. They are involved at every stage. In addition, under the Hobbs Civil Appeals Act, the Department of Justice is involved as an independent party in all FCC appeals.

The Justice Department is involved every step of the way. If there is disagreement and there is an appeal, the Justice Department can be a party to that.

Mr. President, the Justice Department is meant to be, under its enabling legislation, an enforcer of law. It is trying to become a Government regulation agency. Now, it did become that to some extent under Judge Greene's 1982 order. That order arose because Congress failed to act. Congress failed to do what we are trying to do now. Congress failed to require that the local exchanges be opened up, as the checklist requires. But we are doing that now in this legislation. We are finally doing it. Meanwhile the Department of Justice is very much intent, it seems, upon becoming a regulatory agency.

I have pointed out the length of time it takes the Department of Justice to get these things done. Judge Greene suggested 30 days. They are up to almost 3 years. I know they have given this excuse or that excuse, but the point is that Judge Greene thought it could be done in 30 days, originally, in 1982. A bureaucracy such as that will take a long time to produce a piece of paper. That will slow down the process and hurt consumers.

It is my feeling that if we can pass this bill in a deregulatory fashion, it will cause an explosion of new investment in activities and devices. I frequently have compared it to the Oklahoma Land Rush—if we can pass it. Right now, our companies are investing overseas, and they are not investing here.

People are trying to say this is anticonsumer. That is nonsense. Look at what happened when competition opened up the market for cellular phones. The price has dropped. Look at what happened when we deregulated natural gas. Prices have dropped. It is my opinion that a long distance call should cost only a few cents. It is my opinion that cable television rates should drop when there is more competition from DBS and video dial tone. If we get yet another regulatory agency involved, we can delay this thing 2 or 3 years. In fact, based on the Justice Department's performance, it will delay this whole operation for 2 to 3 years before we have competition and deregulation.

This is a deregulatory, procompetitive bill. We are trying to put everybody into everybody else's business. Mr. President, there has been a lot of talk about corporate activity on these bills. There is an implication that the Commerce Committee bill has a lot of corporate input. But I say to you, read the newspapers of the last 3 weeks, and you will see all those full-page ads. They are paid for by corporations, and I admire them. They are fine corporations, members of the so-called Competitive Long Distance Coalition, which is headed by a person whom I respect very much, a former leader of this body, with whom I disagree on this matter. A vast amount of the corporate advertising in the last month has been

by corporations opposed to my position. I point that out because there seems to be some suggestion that S. 652 simply represents corporate thinking. Well, all the ads I have seen in the papers—the full-page ads—have been run by corporations that oppose my position and want the extra Justice Department role. That is because some corporations want to use Government regulation against competition. That is what is going on here.

I think that we should defeat the Thurmond amendment because it is, as my colleague from South Carolina said, not only the camel's nose under the tent, it is the whole camel under the tent, so-to-speak, because once the Justice Department gets in, they will try to expand their regulatory role, as in the Ameritech case. I cited specifically the regulatory approach they have taken in that case. They want to have people over there writing telephone books—literally writing telephone books. They are supposed to be lawyers enforcing the antitrust laws in the Justice Department.

So I hope that we defeat this amendment. I reserve the remainder of my time.

Mr. THURMOND addressed the Chair.

Mr. THURMOND. Mr. President, how much time do the proponents have?

The PRESIDING OFFICER. The Senator from South Carolina has 13 minutes 10 seconds.

Mr. THURMOND. I yield 5 minutes to the distinguished Senator from Ohio, Senator DEWINE.

Mr. DEWINE. Mr. President, it has been argued on this floor time and time again that, under this bill, the Department of Justice could still enforce the antitrust laws. That is true. That is technically true.

But the facts are that under the bill, the Department could still enforce the antitrust laws after—after—the phone companies move into the new markets.

That is the problem. That is exactly the problem. It is like, Mr. President, enforcing the law after the fox has been allowed to guard the chicken coop. At that point, the damage is done. The fox has already eaten the chickens. We can stop the fox, but we cannot get the chickens back. It is too late.

In this particular case, we would be enforcing the law after competition has been driven out, after choices have been eliminated. So while the argument is technically true, it certainly falls short and does not disclose the full story.

Mr. President, we should enforce the law and ensure competition before competition is driven out.

I rise today, Mr. President, in support of the Thurmond second-degree amendment. The goal of the bill we are considering today is to promote competition in the telecommunications industry. The Thurmond amendment is an attempt to make sure that we use the most effective means toward this end.

Mr. President, the American people know when we have competition two good things happen: consumers have more choice, prices go down. This is as true in telecommunications as in any other sector of the economy.

What we are really debating today is how best to make competition take root in the telecommunications industry. The question is, what agency is best equipped to undertake the task of policing competition in these markets?

It is my belief, Mr. President, that the Thurmond amendment offers the most logical answer to that question.

Under this amendment, two agencies of Government play a role. Each of the agencies is to play an important role, a role for which it is extremely well suited and in which it has a great deal of relevant expertise. The Federal Communications Commission sets communications policy. That is what the FCC does best. That is what they know how to do.

Under the Thurmond amendment, that is what they will be doing. The Antitrust Division of the U.S. Department of Justice enforces competition. That is what the Justice Department does. That is what they will do under the Thurmond amendment. The Thurmond amendment makes the best possible use of each of these agencies. We do not need the FCC to hire a new staff of antitrust lawyers, a new layer of bureaucracy, to do something the Justice Department is already equipped to do. We need to liberate the FCC to do what it does best. That is what the Thurmond amendment does.

Equally important, Mr. President, in my opinion, is what the Thurmond amendment does not do. It does not duplicate functions of Government. It is emphatically not a question of simply adding the Justice Department on top of the FCC. The FCC has a role. The Justice Department, under the Thurmond amendment, has another distinctive, different role, not duplicating.

The system envisioned under the Thurmond amendment, Mr. President, will not cause delays in the licensing process. We have heard that time and time again. From the moment an application is made under the Thurmond amendment, both the FCC and the Justice Department will have exactly 90 days, according to law, to make their ruling. These 90-day periods will run concurrently, not sequentially.

The Department has experience in this area. They do it for a period of time. The Clayton Act sets a 30-day limit. They hit that timeframe. Under this amendment, no layering of bureaucracies, no delays, just an intelligent division of labor in U.S. telecommunications policy.

In conclusion, Mr. President, that is what the Thurmond amendment will accomplish. I thank the Senator from South Carolina for his bold leadership in this area with this specific amendment. I urge the adoption of the amendment.

Mr. WELLSTONE. Mr. President, I wish to speak today in support of the Dorgan amendment, an amendment, I firmly believe, that is so key for the protection of consumers that frankly I must wonder how this bill got out of committee without its inclusion.

Now Mr. President, on the substance of the amendment, I could do no better than to defer to the comments already made on this issue by my two colleagues, the distinguished Senators from Nebraska and North Dakota, both of whom demonstrate a penetrating understanding of this very difficult topic. I would, however, like to take a moment to address this amendment from a perspective we've only occasionally heard in the debate on this bill—that of telephone and cable-TV rate-payers, both in my State of Minnesota and across this Nation.

I would hazard a guess that all of my colleagues would join with me in supporting the stated goal of this legislation: increasing competition in local phone service as well as cable TV. All of us likely agree that if competition is allowed to flourish, the biggest winners will be the consumers, the ratepayers, the millions of citizens who power the entire industry.

But, and here's where some of my colleagues and I part company, not all of us are ready simply to throw our trust to the companies that stand to profit from deregulation. Competition doesn't just happen, sometimes it must be nurtured to protect consumers against monopoly control. The Dorgan amendment, by providing a role for the Department of Justice, recognizes this economic fact: this amendment is nothing more than a circuit breaker which will trip only if—let me repeat, only if—it is found that it would not be in the consumer's interest for a local phone company to begin to expand its service. That's all that it is.

Mr. President, the need for the continuation of consumer protections and antitrust circuit breakers is clear. With every passing day, we see more integration in the telecommunications and information marketplace. On Sunday, Mr. President, we saw the Lotus Corp. agree to a friendly takeover by IBM. AT&T and McCaw Cellular will be joining forces, as will other companies, in preparing for this newly de-regulated telecommunications environment.

This integration at the top corporate level and the market position of many of these companies demands that consumers be given a voice—a trusted voice—to speak for them in the coming years. No more trusted voice could be found on this subject than that of the Department of Justice. It was through that Department's courageous leadership that the old AT&T Ma Bell monopoly of old was broken apart—it was a long, tough fight, but this experience gained by the DOJ has been invaluable in guiding the breakup of the Bell system, and the development of competition in long distance and other services. It only makes sense that we allow the DOJ to put this experience to use

again as we move into an exciting, but potentially risky, new market.

The Dorgan amendment, as modified by the Thurmond second-degree amendment, prescribes how this experience will be put to use. The amendment uses the expertise of both the FCC and the DOJ to their best advantage. Under the amendment, the FCC will conduct a more focused public interest test to review whether the Bell companies face competition and adequately meet the checklist of services called for in this bill—topics the FCC is well accustomed to dealing with. The DOJ will conduct an analysis to ensure that a monopoly will not be created—again, a task that the DOJ is particularly qualified for. In this way, responsibilities are clarified and redundancies between the FCC and the DOJ are elminated, and the consumer is protected.

Now for those who say this is a partisan issue, or those who would charge that such protections are no longer needed, Mr. President I turn to the comments of Judge Robert Bork, a distinguished jurist and conservative commentator of the highest regard. Mr. President, Judge Bork writes:

> These restrictions [on the Bell companies] are still supported by antitrust law and economic theory and should be retained. The Bell companies' argument is that the decree's line-of-business restrictions are relics of the 1970's, the industry has changed dramatically, and the restrictions are the product of outmoded thinking. To the contrary, the basic facts of the industry that required the decree in the first place, basically the monopolies of local service held by the Bell companies, have not changed at all.

Without this amendment, Mr. President, this bill asks the Senate to announce the equivalent of unilateral disarmament—the disarmament of the consumer. As it stands right now, this bill says: Mr. and Ms. Consumer, you should give up the rate protections you've had over the years, you should give up any Department of Justice role in this process, you should give up the years of antitrust experience built by those who slew the multitentacled AT&T monopoly in the first place. And what are we going to replace them with? The promise made to consumers by all these unregulated, multinational, multibillion-dollar corporations, that they will do what's in your best interest. A promise that the monopolies of old will behave. A promise that consumers will be protected, that service will be good and that rates will be reasonable.

Mr. President, I don't buy it. Without this amendment, the public will be stripped of one of the key consumer protections they will ever have in the coming years—the voice of the Department of Justice.

Mr. FEINGOLD. Mr. President, I rise in support of the amendment offered by Senators THURMOND and DORGAN. I applaud them for their leadership in the effort to provide the Department of Justice with a strong decisionmaking role in the approval of regional bell operating company entry into long-distance telephony.

The importance of this amendment is underscored by the fact that S. 652 terminates the modified final judgment which settled an antitrust case against AT&T. The MFJ provided a framework by which the regional bell operating companies could enter alternative lines of business. The Department of Justice has had an integral role in protecting consumers by applying the 8(c) test to the RBOC application for a waiver to enter into restricted lines of business. The Department of Justice has ensured that the RBOC's could not use their monopoly power to impinge upon the competition that has developed in long distance. However, S. 652 vitiates the MFJ without providing any substantial safeguards for consumers.

Had it not been for the antitrust efforts of the Department of Justice, which have been consistent through both Republican and Democratic administrations over the last 25 years, we would not have the competitive environment which exists today in long distance. DOJ has been the watchdog for consumers in telecommunications and that is because antitrust laws are intended to be pro-competition and pro-consumer. I urge my colleagues to keep in mind that antitrust laws exist not for the benefit of the competitors but for the benefits which true competition yields to consumers.

Now, as Congress is working toward deregulating telecommunications markets we must keep in mind that true competition will not prevail if one group of players hold all the cards. 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. As we speak of competition, we must keep in mind that competition cannot exist in markets in which one player has a substantially better hand than his rivals—particularly when those trump cards have been provided by the Federal Government in the form of regulated monopolies.

The Department of Justice is the proper agency to make sure that the deck is not stacked against those attempting to compete fairly in the markets—that is to be sure that RBOC entry into long distance will not substantially lessen competition or tend to create a monopoly in any line of commerce in any section of the country. This test, as contained in section 7 of the Clayton Act, is one that has withstood the test of 80 years of antitrust law. While it is not as strong as the test currently used by the Department of Justice which I would have preferred, known as the 8(c) test, it is a sound test to determine the appropriateness of RBOC entry into long distance.

Mr. President, this compromise amendment offered by my colleagues addresses many of the concerns which have been raised by the opponents of a decisionmaking role for the Department of Justice. First, by requiring the Department of Justice to complete their review and make their recommendation in 90 days from receipt of the application, the RBOC's will be assured of an expeditious review of their request. That should alleviate the concerns of those who fear that DOJ will drag their feet and impede the advancement of competitive telecommunications markets. It will also provide the RBOC's with an incentive not to submit overly broad applications that would not likely be approved.

Second, by narrowing slightly the breadth of the public interest test to be conducted by the Federal Communications Commission, the amendment offered by Senators THURMOND and DORGAN should also assuage the concerns of the RBOC's who claim that a Department of Justice would only duplicate the efforts of FCC.

Mr. President, I also reject the notion that the Department of Justice should only become involved after the damage has been done. Some contend that the appropriate role of the Department of Justice is only to take antitrust actions against those engaging in anticompetitive behavior. That is, we should have more litigation tying up the resources of our Federal courts. I find that argument astonishing in a year in which so many of my colleagues are seeking legislation which attempt to reduce unnecessary litigation. Mr. President, if litigation resulting from inadequate preventative measures is not unnecessary litigation I don't know what types of lawsuits might be categorized unnecessary.

Mr. President, I continue to support the initial amendment offered by my colleagues from North Dakota which would have used a stronger test to ensure there is no possibility that a monopolists could use its power to impede competition in the market it seeks to enter. However, the compromise they have presented is a far more appealing than S. 652 in its current form which reverse the progress we have made toward greater competition in long distance over the last 25 years. The amendment before us employs a time-tested standard from the Clayton Act which should ensure that consumers are protected while RBOC's receive the expeditious review they seek without unnecessary duplication of the functions of the FCC.

I ask unanimous consent that a letter from the Wisconsin's attorney general, James Doyle, supporting a decisionmaking role for the Department of Justice be printed in the RECORD.

Mr. President, this is a sound compromise and I urge my colleagues to support it.

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

STATE OF WISCONSIN,
DEPARTMENT OF JUSTICE,
*Madison, WI, May 3, 1995.*

Hon. RUSSELL D. FEINGOLD,
*U.S. Senator, Hart Senate Office Building, Washington, DC.*

DEAR SENATOR FEINGOLD: I understand that the antitrust subcommittee of the Senate Judiciary Committee today is considering S. 652, Senator Pressler's bill that would lift the court-ordered restrictions that are currently in place on the Regional Bell Operating Companies, allowing RBOC's to enter the fields of long distance services and equipment manufacturing at such time as sufficient local competition exists in their service areas.

Several antitrust issues loom large in S. 652. For one thing, despite (or, perhaps, because of) its unmatched skill and expertise in evaluating competition in the telecommunications field, the U.S. Department of Justice is given no role whatsoever under S. 652 in assessing in advance whether local competition exists in each region of the country sufficient to, in turn, give the go ahead to the relevant RBOC to enter the markets for long distance services and equipment manufacturing. Moreover, the Pressler bill repeals the current restriction on cross-ownership of cable and telephone companies in the same service area by permitting telephone companies to buy out local cable companies, their most likely competitor, thereby allowing movement to a ''one-wire world'' with only antitrust litigation to prevent it. In addition, the bill would preempt states from ordering 1+ intraLATA dialing parity until such time as an RBOC was permitted to enter the interLATA long distance market.

I am not alone in strongly opposing these features of the bill. For example, a letter dated April 5, 1995, from Congressman Henry Hyde, Chairman of the House Judiciary Committee, to Congressman Thomas Bliley, Jr., chairman of the House Committee on Commerce, stresses the need for a strong role for the Antitrust Division of the U.S. Department of Justice in any telecommunications legislation:

''[L]egislation directed at changing or replacing an antitrust consent decree, needs to encompass an antitrust law, competition perspective as well as a communications law, regulatory perspective.

''[T]here will * * * have to be an evaluation of marketplace conditions on a case-by-case basis. That is, the actual and potential state of competition—in individual states, metropolitan areas and rural areas—will have to be analyzed.

''Using relevant factors as an administrative checklist [as proposed in S. 652] makes sense, but the key will be the decision-making mechanism regarding whether these conditions are actually present in a particular case. This review should be undertaken simultaneously by both the Justice Department and FCC, with DOJ applying an antitrust standard and FCC applying a communications law test. The statute should contain firm deadlines for review by both agencies.

''DOJ is far less likely to challenge Bell entry if they are involved in the decision-making process leading up to Bell entry.''

Significantly, on April 3, Ameritech, the U.S. Department of Justice, AT&T, MCI and the Consumer's Union announced that they had all agreed (subject, of course, to approval by Judge Greene) to a waiver of the Modified Final Judgment allowing two Ameritech local service areas—Chicago, Illinois, and Grand Rapids, Michigan, to be used as ''test sites.'' At such time as the U.S. Department of Justice determines that actual competition exists in those areas, Ameritech may then enter the market for long distance services originating from those areas. Significantly, both of these developments—the Hyde letter and the Ameritech agreement—occurred in the few days immediately following the Senate Commerce Committee's March 31 action on S. 652.

The April 3 agreement demonstrates that the most forward-thinking of the RBOC's, Ameritech (branded a ''traitor'' by its fellow RBOC's, all adamantly opposed to a ''gate keeper'' role for the U.S. Department of Justice), appreciates the importance of a meaningful U.S. Department of Justice role in the decision-making process leading to the opening of new telecommunications markets.

In my opinion, S. 652 is flawed in certain other respects, not relating to competition law, and I will comment on those features of the bill in due course. Because, however, S. 652 is before your antitrust subcommittee today, I wish to be on record as opposing those features of the bill that offend sound antitrust principles: the elimination of any decision-making role for the U.S. Department of Justice; the repeal of the prohibition against mergers of telephone companies and cable television companies located in the same service areas, and preemption of the state's ability to order 1+ intraLATA dialing party in appropriate cases.

It is critical that federal law ensure a competitive environment in telecommunications for the good of the public. Responsibility for making determinations of sufficient competition should remain in the hands of the Antitrust Division of the U.S. Department of Justice.

Sincerely,

JAMES E. DOYLE,
*Attorney General.*

Mr. CRAIG. Mr. President, at a time when we are trying to address the deregulation of the telecommunications industry, to further enhance the role of the Department of Justice would be counterproductive.

The Federal Communications Commission [FCC] regulates the communications industry. The Department of Justice [DOJ] enforces antitrust laws.

The pending legislation, S. 652, supersedes the provisions of modification of final judgment [MFJ], that govern Bell Co. entry into businesses now prohibited to them. Once legislation is signed into law, a continued DOJ role in telecommunications policy is no longer necessary except in the area of enforcing the law.

The Department of Justice does not need an ongoing regulatory role as part of an update of our Nation's communications policy. Actual regulatory oversight is not what DOJ is equipped to provide.

DOJ's claim that ''it alone among government agencies understands marketplace issues as opposed to regulatory issues,'' is inaccurate. The FCC has a long history of reviewing and analyzing communications markets. Besides, S. 652 already gives the Justice Department a role which is clearly defined in the language of the bill.

S. 652 states that:

Before making any determination, the Commission shall consult with the Attorney General regarding the application. In consulting with the Commission, the Attorney General may apply any appropriate standard.

Dual DOJ and FCC bureaucracies to regulate the communications industry delays the benefits competition brings consumers. if we are going to strengthen the role of DOJ, why even bother trying to reform the 1934 act? After all, one of the main purposes for passing telecommunications reform legislation is to establish a national policy so that the MFJ can be phased out.

Mr. President, providing this authority to the Justice Department is unprecedented. The Antitrust Division of the Justice Department has never had decision-making authority over regulated industries—or any industry. In addition, assigning a decision-making role to the Department of Justice establishes a dangerous precedent that could be expanded to other industries.

Mr. President, more regulation is not what this bill needs. Again, dual roles for the DOJ and FCC will only delay competition. It will only delay the benefits of competition such as: Lower prices, new services, and more choice for communications services and new jobs. The only jobs that this amendment will provide is new jobs for lawyers at the Department of Justice.

For those who may consider this necessary, let's briefly take a look at the job the DOJ has done in administering the MFJ. It is important to note that the Antitrust Division at Justice does not currently have decision-making authority over the MFJ. That sole authority is held in the U.S. District Court, in the person of Judge Harold Greene. The Antitrust Division essentially serves to staff Judge Greene on the MFJ, providing him with recommendations on waivers and other matters under the administration of the MFJ.

In 1984, the average age of waiver requests pending at year end was a little under 2 months. By the end of 1993, the average age of pending waivers had grown to 3 years. Delays such as these are simply inconsistent with an evolving competitive market.

In addition, the Justice Department is responsible for conducting reviews every 3 years, known as the triennial review, at which recommendations to the court are made regarding the continued need for restrictions implemented under the MFJ.

These reviews were to provide the parties to the MFJ a benchmark by which they could gain relief.

Mr. President, since 1982, only one triennial review has been conducted.

In short, Mr. President, the Department of Justice's track record in fulfilling its obligations under the MFJ is poor. Therefore, I would question the advisability of giving the DOJ an unprecedented role, above and beyond what they currently have under the MFJ.

Mr. President, S. 652 contains clear congressional policy. There is no reason why two Federal entities should have independent authority over determining whether that policy has been met. Again, let us not lose sight of what we are trying to achieve here.

The ultimate goal of reforming the 1934 act should be to establish a national policy framework that will accelerate the private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, which will create jobs, increase productivity, and provide better services at a lower cost to consumers.

Mr. THURMOND. Mr. President, I yield myself such time as may be required.

Mr. President, I rise today in opposition to the motion to table the Thurmond-D'Amato-DeWine-Inhofe second degree amendment.

Many things have been stated in this Chamber over the last several days about my amendment to protect competition and consumers by providing that antitrust principles will be applied by the Department of Justice in determining when Bell operating companies should be allowed to enter long distance. Now that we are about to vote on a motion to table, it is my belief that we must focus on just three basic points in deciding how to proceed on this pivotal issue.

First, the opponents of my amendment assert that I am trying to add a second agency into the antitrust analysis of Bell entry. In fact, just the opposite is true—my amendment removes an agency. S. 652 currently provides that the FCC shall determine the public interest in consultation with the Justice Department. FCC consideration of the public interest requires antitrust analysis, as indicated by the courts and reiterated by FCC Chairman Hundt in testimony last month before the Congress.

As drafted, therefore, S. 652 already requires antitrust analysis by both the FCC and Department of Justice. My amendment will reduce this redundancy, by prohibiting the FCC from conducting an antitrust analysis when determining the public interest. Instead, the antitrust analysis will be conducted exclusively by the Department of Justice, the antitrust agency with great expertise and specialization in analyzing competition.

Second, the antitrust role of the Justice Department in analyzing entry under my amendment is in no way unusual or inappropriate. It is the same analysis that the Justice Department conducts routinely in determining whether companies should be able to proceed into new lines of business through mergers and acquisitions. Even the standard—section 7 of the Clayton Act—is identical. Considering whether entry will ''substantially reduce competition'' prior to any harm occurring is equally important here as in other section 7 cases involving a merger or acquisition. This process protects competition and the American public from harm which can be avoided.

Mr. President, we all strongly support competition. The question we are resolving today is whether we will continue to rely on antitrust law administered by the expert agency to protect competition, as we have since the early part of this century. I fear that failure to support my amendment will harm competition, which ultimately harms our constituents.

These issues are critically important, and I believe that it is highly desirable to have an up or down vote on my modified second degree amendment. For all of these reasons, I urge my colleagues to vote against the motion to table.

I reserve the remainder of my time.

How much time is remaining?

The PRESIDING OFFICER. The Senator has 4 minutes 10 seconds remaining.

Mr. PRESSLER. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Dakota has 6 minutes 32 seconds.

Mr. PRESSLER. I yield 3 minutes to the Senator from Texas.

Mrs. HUTCHISON. Thank you, Mr. President. I appreciate so much the Senator from South Carolina. I hate to differ with him, but on this issue I do.

The reason is because I sat on the committee and I saw how difficult it was to get to the goal of deregulation and to try to take the harassment off the businesses that we are trying to encourage to come into the marketplace rather than add yet another hurdle that they must jump before they can get into the marketplace to provide the competition that gives the consumers the best choices for the lowest prices.

This amendment is a gutting amendment. That is why I think it is so important that we stick with the FCC and not add one more layer of the Department. We have made the decision that the FCC is the one that must protect the diversity of voices in the market. We have said the FCC can be the one that knows when there is competition at the local level so that we can go into long distance. It is that agency that has the expertise, that we have given the expertise. There is no reason to come in and add another layer.

Antitrust will be taken care of if we increase competition. That is what this amendment will stop from happening.

The committee labored not hours, not days, not weeks; the committee has labored for years to try to level the playing field among all the competitors that want to be in the telecommunications business. What we have found are some very strong competitive companies that want to jump into local service, to long distance service.

We are trying to create that level playing field. We are trying to take the regulators out of the process so that our companies can compete and give consumers the best prices and the best service.

If we stick with the committee, that is what we will have: more competition, easier to get into the competition. We will not put up more hurdles in the process. This is a deregulation bill, not a reregulation bill.

That is why it is very important for my colleagues, as they look at these choices, to know that the committee has done the work, the committee has worked for years to try to create this level playing field.

I have voted for the long distance companies in some instances. I have voted for the Bells in some instances, to try to make sure that that balance is there.

The committee has struck the balance. I thank the Senators who have worked so hard, the distinguished chairman of the committee, the distinguished ranking member. On this one, I think we must stick with the committee that has done so much work.

Thank you, Mr. President.

Mr. THURMOND. Mr. President, I yield 3 minutes to the distinguished Senator from Nebraska.

Mr. KERREY. Mr. President, the choice before Members on the tabling motion will be: Trust the 14-point checklist, basically, that the committee has offered as an indication; or do we want, in a parallel process, the Department to make a determination as to whether or not competition exists at the local level. That is all we are discussing and debating. I believe we want the Department of Justice to make that determination. I do not have the confidence in the 14-point checklist that others do. It is as simple as that.

Many of the statements that have been made about what this amendment attempts to do have simply not been true. Many of the statements that have been made about what the Department of Justice is trying to accomplish here simply are not true. We are simply saying, with this amendment, to Members of Congress, the Department of Justice should have a determination role. They should say, ''We have determined that there is competition,'' or ''We have determined that there is not competition.''

I will cite, in a repetitive example, two instances that ought to give, I think, Members of Congress a pause. The Senator from South Dakota gets up and says all these delays occur. I cited an application for a waiver of the MFJ that was made in 1994 by Southwestern Bell. I ask the Senator from South Dakota, did he wish that would have been approved in 30 days? That waiver application would strike all the MFJ requirements, strike all the restrictions with no determination of local competition whatsoever. Perhaps the Senator from South Dakota does not like that delay. Perhaps the Senator from South Dakota and other Members would like to have a situation where there is no determination being made by the Department of Justice. If that is the case, vote to table.

But if you want the Department of Justice to have the determination role rather than just ''Here is our opinion about this proposal,'' then you have to vote for this amendment.

I believe if you do vote for this amendment, you will be happy you did. At the end of the day you do not want to just try to make sure these folks are happy who are outside the hallway out here, adding up votes trying to figure whether this amendment is going to pass or fail. You want the consumers and the citizens and the taxpayers and the voters of your State to be happy. And the only way they are going to be happy, the only way they are going to say this thing works, is if we get real competition at the local level. With real competition at the local level, there will be choice and there will be decreases in price and increases in quality. And that is the only way in my judgment that S. 652 is going to produce the benefits that have been promised.

Mr. PRESSLER. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from South Dakota controls 3½ minutes.

Mr. PRESSLER. Mr. President, I yield myself 2½ minutes. I yield the last minute to the Senator from Alaska.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I conclude this by saying I love my colleague from South Carolina, Senator THURMOND. This appears to be a difference over jurisdiction. I plead with my colleagues, do vote this amendment down. It is a gutting amendment. It will add more bureaucracy. It goes against the procompetitive, deregulatory nature of the bill.

I respect my colleague from South Carolina so much, but I see this as a jurisdictional difference. On this occasion I will have to vote to table the Thurmond amendment and continue to love the senior Senator from South Carolina.

I yield to the Senator from Alaska for the last word.

Mr. STEVENS. Mr. President, I believe this is a balanced bill we have here now. The Department of Justice has a statutory consultative role. If it has concerns, the FCC will hear those concerns. The basic thing about this bill is it gets the telecommunications policy out of the courts and out of the Department of Justice and back to the FCC to one area. We hope to transition sometime so we do not even have them involved.

I oppose striking the public interest section because it upsets the balance we have worked out. It upsets the balance in favor of the wrong parties.

I urge support of this motion of the chairman to table.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The proponents of the amendment have a minute and 35 seconds. The opponents of the amendment have a minute and 58 seconds.

Mr. THURMOND. I will use 30 seconds. The Senator can take the rest.

Mr. DORGAN. Mr. President, if I might take just 1 minute and ask unanimous consent Senator FEINGOLD be added as a cosponsor to the Thurmond-Dorgan second-degree amendment.

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

Mr. DORGAN. Mr. President, let me again say, those who say this upsets the balance, this adds layers of bureaucracy, this adds complexity—in my judgment, respectful judgment, they are just wrong. They are just wrong.

This does not have balance unless it has balance in the public interest on behalf of the American consumer making certain the free market is free. Free market and competition are wonderful to talk about but you have to be stewards, it seems to me, to make sure the free market is free. The only way to do that is to vote for this amendment.

So vote against tabling the Thurmond-Dorgan amendment and give the Justice Department the role they should have to do what should be done for the consumers of this country.

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

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Mr. President, I want to say to the Senate this. This amendment protects consumers and enhances competition. It does not gut this bill. That is an error. It provides for the Department of Justice to carry out the antitrust analysis of Bell company applications to enter long distance. This is the special expertise of the Department of Justice. My amendment limits the FCC to reviewing other areas and not duplicating DOJ. I am confident that this will reduce bureaucracy and eliminate redundancy of Government between roles of the DOJ and FCC. In other words, it leaves with the FCC to determine issues in which they have expertise. It leaves to the Justice Department determinations in which they have expertise. And that is the way it ought to be.

The PRESIDING OFFICER. The Senator from South Dakota has 2 minutes—a minute and 58 seconds.

Mr. PRESSLER. Mr. President, I yield the remainder of my time.

Mr. THURMOND. Mr. President, I yield any time I have left.

Mr. PRESSLER. Mr. President, I make a motion to table the Thurmond amendment, No. 1265.

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 question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

The result was announced—yeas 57, nays 43, as follows:

[Rollcall Vote No. 250 Leg.]

YEAS—57

| | | |
|---|---|---|
| Abraham | Faircloth | Lott |
| Ashcroft | Ford | Lugar |
| Baucus | Frist | Mack |
| Bennett | Gorton | McCain |
| Biden | Gramm | McConnell |
| Breaux | Grams | Moynihan |
| Brown | Gregg | Murkowski |
| Bryan | Hatch | Murray |
| Burns | Hatfield | Nickles |
| Byrd | Heflin | Nunn |
| Campbell | Helms | Packwood |
| Chafee | Hollings | Pressler |
| Coats | Hutchison | Roth |
| Cochran | Jeffords | Santorum |
| Coverdell | Johnston | Simpson |
| Craig | Kassebaum | Smith |
| Dole | Kempthorne | Stevens |
| Domenici | Kerry | Thomas |
| Exon | Kyl | Warner |

NAYS—43

| | | |
|---|---|---|
| Akaka | Glenn | Pell |
| Bingaman | Graham | Pryor |
| Bond | Grassley | Reid |
| Boxer | Harkin | Robb |
| Bradley | Inhofe | Rockefeller |
| Bumpers | Inouye | Sarbanes |
| Cohen | Kennedy | Shelby |
| Conrad | Kerrey | Simon |
| D'Amato | Kohl | Snowe |
| Daschle | Lautenberg | Specter |
| DeWine | Leahy | Thompson |
| Dodd | Levin | Thurmond |
| Dorgan | Lieberman | Wellstone |
| Feingold | Mikulski | |
| Feinstein | Moseley-Braun | |

So the motion to lay on the table the amendment (No. 1265), as modified, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. THURMOND addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. THURMOND. Although my amendment was tabled, we will be back. It is very important to have an up and down vote on this amendment. I have filed my amendment at the desk, and it will be in order after cloture. We will then get to the direct vote on this important amendment.

AMENDMENT NO. 1264 WITHDRAWN

The PRESIDING OFFICER. Under the previous order, the underlying amendment has been withdrawn.

## RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until 2:15 p.m.

Thereupon, at 12:55 p.m., the Senate recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KYL).

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

AMENDMENT NO. 1275

(Purpose: To provide means of limiting the exposure of children to violent programming on television, and for other purposes)

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

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. CONRAD] proposes an amendment numbered 1275.

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

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

The amendment is as follows:

On page 146, below line 14, add the following:

TITLE V—MISCELLANEOUS

**SEC. 501. SHORT TITLE.**

This title may be cited as the ''Parental Choice in Television Act of 1995''.

**SEC. 502. FINDINGS.**

Congress makes the following findings:

(1) On average, a child in the United States is exposed to 27 hours of television each week and some children are exposed to as much as 11 hours of television each day.

(2) The average American child watches 8,000 murders and 100,000 acts of other violence on television by the time the child completes elementary school.

(3) By the age of 18 years, the average American teenager has watched 200,000 acts of violence on television, including 40,000 murders.

(4) On several occasions since 1975, The Journal of the American Medical Association has alerted the medical community to the adverse effects of televised violence on child development, including an increase in the level of aggressive behavior and violent behavior among children who view it.

(5) The National Commission on Children recommended in 1991 that producers of television programs exercise greater restraint in the content of programming for children.

(6) A report of the Harry Frank Guggenheim Foundation, dated May 1993, indicates that there is an irrefutable connection between the amount of violence depicted in the television programs watched by children and increased aggressive behavior among children.

(7) It is a compelling National interest that parents be empowered with the technology to block the viewing by their children of television programs whose content is overly violent or objectionable for other reasons.

(8) Technology currently exists to permit the manufacture of television receivers that are capable of permitting parents to block television programs having violent or otherwise objectionable content.

**SEC. 503. ESTABLISHMENT OF TELEVISION VIOLENCE RATING CODE.**

(a) IN GENERAL.—Section 303 (47 U.S.C. 303) is amended by adding at the end the following:

''(v) Prescribe, in consultation with television broadcasters, cable operators, appropriate public interest groups, and interested individuals from the private sector, rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

''(1) signals containing ratings of the level of violence or objectionable content in such programming; and

''(2) signals containing specifications for blocking such programming.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act, but only if the Commission determines, in consultation with appropriate public interest groups and interested individuals from the private sector, on that date that television broadcast stations and cable systems have not—

(1) established voluntarily rules for rating the level of violence or other objectionable content in television programming which rules are acceptable to the Commission; and

(2) agreed voluntarily to broadcast signals that contain ratings of the level of violence or objectionable content in such programming.

**SEC. 504. REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.**

(a) REQUIREMENT.—Section 303 (47 U.S.C. 303), as amended by this Act, is further amended by adding at the end the following:

''(w) Require, in the case of apparatus designed to receive television signals that are manufactured in the United States or imported for use in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus—

''(1) be equipped with circuitry designed to enable viewers to block the display of channels during particular time slots; and

''(2) enable viewers to block display of all programs with a common rating.''.

(b) IMPLEMENTATION.—In adopting the requirement set forth in section 303(w) of the Communications Act of 1934, as added by subsection (a), the Federal Communications Commission, in consultation with the television receiver manufacturing industry, shall determine a date for the applicability of the requirement to the apparatus covered by that section.

**SEC. 505. SHIPPING OR IMPORTING OF TELEVISIONS THAT BLOCK PROGRAMS.**

(a) REGULATIONS.—Section 330 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

''(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(w) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

''(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading it.

''(3) The rules prescribed by the Commission under this subsection shall provide performance standards for blocking technology. Such rules shall require that all such apparatus be able to receive transmitted rating signals which conform to the signal and blocking specifications established by the Commission.

''(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers.''.

(b) CONFORMING AMENDMENT.—Section 330(d), as redesignated by subsection (a)(1), is amended by striking ''section 303(s), and section 303(u)'' and inserting in lieu thereof ''and sections 303(s), 303(u), and 303(w)''.

Mr. CONRAD. Mr. President, I rise today to offer an amendment to the telecommunications bill, which is a bill that is designed to do two things. One, it is designed to empower parents to help make the choices of what their children see on television coming into their homes.

Mr. President, several years ago, I became very involved in the issue of violence in the media, because I became convinced that violence in the media is contributing to violence in society; it is contributing to violence on the streets of America. So I worked to form a national organization, which is now some 37 national organizations, all involved in an attempt to reduce violence in the media. This is a national coalition that involves organizations like the American Medical Association, the PTA, the National Council of Churches, the sheriffs, police chiefs, the school psychologists, the school principals, the National Education Association—37 national organizations who are committed to reducing violence in the media.

It is for that reason that I offer what I call the Parental Choice and Television Act of 1995.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

AMENDMENT NO. 1347 TO AMENDMENT NO. 1275

(Purpose: To revise the provisions relating to the establishment of a system for rating violence and other objectionable content on television)

Mr. LIEBERMAN. Mr. President, I send a second-degree amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN] proposes an amendment numbered 1347 to amendment No. 1275.

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

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

The amendment is as follows:

On page 3, strike out line 12 and all that follows through page 4, line 16, and insert in lieu thereof the following:

**SEC. 503. RATING CODE FOR VIOLENCE AND OTHER OBJECTIONABLE CONTENT ON TELEVISION.**

(a) SENSE OF CONGRESS ON VOLUNTARY ESTABLISHMENT OF RATING CODE.—It is the sense of Congress—

(1) to encourage appropriate representatives of the broadcast television industry and the cable television industry to establish in a voluntary manner rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming;

(2) to encourage such representatives to establish such rules in consultation with appropriate public interest groups and interested individuals from the private sector; and

(3) to encourage television broadcasters and cable operators to comply voluntarily with such rules upon the establishment of such rules.

(b) REQUIREMENT FOR ESTABLISHMENT OF RATING CODE.—

(1) IN GENERAL.—If the representatives of the broadcast television industry and the cable television industry do not establish the rules referred to in subsection (a)(1) by the end of the 1-year period beginning on the date of the enactment of this Act, there shall be established on the day following the end

of that period a commission to be known as the Television Rating Commission (hereafter in this section referred to as the ''Television Commission''). The Television Commission shall be an independent establishment in the executive branch as defined under section 104 of title 5, United States Code.

(2) MEMBERS.—

(A) IN GENERAL.—The Television Commission shall be composed of 5 members, of whom—

(i) three shall be appointed by the President, as representatives of the public by and with the advice and consent of the Senate; and

(ii) two shall be appointed by the President, as representatives of the broadcast television industry and the cable television industry, by and with the advice and consent of the Senate;

(B) NOMINATION.—Individuals shall be nominated for appointment under subparagraph (A)(i) not later than 60 days after the date of the establishment of the Television Commission.

(D) TERMS.—Each member of the Television Commission shall serve until the termination of the commission.

(E) VACANCIES.—A vacancy on the Television Commission shall be filled in the same manner as the original appointment.

(2) DUTIES OF TELEVISION COMMISSION.—The Television Commission shall establish rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming.

(3) COMPENSATION OF MEMBERS.—

(A) CHAIRMAN.—The Chairman of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the Chairman is engaged in the performance of duties vested in the commission.

(B) OTHER MEMBERS.—Except for the Chairman who shall be paid as provided under subparagraph (A), each member of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level V of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the commission.

(4) STAFF.—

(A) IN GENERAL.—The Chairman of the Television Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the commission to perform its duties. The employment of an executive director shall be subject to confirmation by the commission.

(B) COMPENSATION.—The Chairman of the Television Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(5) CONSULTANTS.—The Television Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Code. The commission shall give public notice of any such contract before entering into such contract.

(6) FUNDING.—Funds for the activities of the Television Commission shall be derived from fees imposed upon and collected from television broadcast stations and cable systems by the Federal Communications Commission. The Federal Communications Commission shall determine the amount of such fees in order to ensure that sufficient funds are available to the Television Commission to support the activities of the Television Commission under this subsection.

Mr. LIEBERMAN. Mr. President, at this point, I will yield the floor and look forward to hearing the remainder of the statement of my friend and colleague from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. CONRAD. I thank my friend. He has an amendment he is offering in the second degree to refine my amendment. We have worked closely together on the underlying amendment. I appreciate very much the second-degree amendment he is offering to make a further refinement that I think will improve the underlying amendment. I greatly appreciate the hard work the Senator from Connecticut has put forward on this issue.

As I was saying, several years ago, I became deeply involved in this subject. Frankly, I became involved because of an incident involving my wife when she was attacked outside of our home here in Washington, DC.

At that time, I concluded that I ought to do everything I can do to help reduce violence in society. There are many things that contribute to violence in this country—drugs, gangs, and a whole series of issues that relate to people that do not have an economic chance. Also, we have to get tough on crime in this country. We have to insist that those who commit crimes do their time. They have to be punished. They have to know they are going to be punished and that punishment ought to be swift and severe.

In addition to all of those things, I also am persuaded that violence in the media is contributing to violence in our society. That is not just my conclusion, that is the conclusion of the vast majority of people in this country. That is the conclusion of the American Medical Association, who, as I indicated earlier, is one of the charter members of the national coalition I have put together on this question of violence in the media.

Mr. President, what this amendment does is really two things. It provides that television manufacturers will include in new television sets, at a time that they, in consultation with the FCC, determine is the workable time, to require a choice chip in the televisions. Just as we have chips in the television now that provide for closed captioning, we would provide choice chips in new televisions, which would be able to empower parents to exclude programming that comes into their homes, programming that they find objectionable—not any Member of Congress, not the FCC, not anybody else, but what parents find objectionable or something they do not want to come into their homes. These choice chips that are now under development—in some cases, already well-developed—would enable parents to be involved in their children's viewing habits.

As we know, children are watching, in some cases, 27 hours of television a week—27 hours of television a week. And all too often they are seeing things that their parents find objectionable. They are watching things that their parents would like to prevent them from watching.

Mr. President, many of us believe that parents ought to have that right. They ought to be able to determine what comes into their homes. They ought to be able to determine what their kids are watching. They ought to be able to determine what they find objectionable, not any Government censor—what the parents find objectionable.

So this legislation would create that opportunity. I just point to this USA Weekend Poll that was done from June 2 through June 4. These survey results are very interesting. Ninety-six percent are very or somewhat concerned about sex on TV; 97 percent are very or somewhat concerned about violence on television. When it comes to the two issues included in this amendment, overwhelmingly, they say: Let us do it. Let us have a choice chip in the television set at a cost of less than $5 per television set. In fact, we have just been told that when it is in mass production, it may cost as little as 18 cents per television set.

Should V-chips or choice chips be installed in TV sets so parents could easily block violent programming? That was a question in the USA Today poll. The American people responded ''yes'' 90 percent. Mr. President, 90 percent want to have the opportunity to choose what comes into their homes.

On the second matter that is in this amendment, that is the creation of a rating system so that parents can have some idea before the programming airs what the programming includes, the question was asked: Do you favor a rating system similar to that used for movies? Yes, 83 percent; no, 17 percent.

Overwhelmingly, the American people want choice chips in television, and they want a rating system.

Mr. President, we heard objections from some that the rating system ought not to be something determined in the first instance by Government. The Government should not make this decision. We have heard that complaint. We have heard that criticism. We heard that suggestion.

In the amendment that I am offering, we give the industry, working with all interested parties, parent-teacher groups, school administers, other interested parties, churches, and others, a 1-

year window of opportunity to make a decision on what that rating system ought to be. We give the industry, working with all interested parties, a chance, a 1-year chance. Let them decide what the rating system should look like.

I might just say, Mr. President, we gave another industry a chance to do that. We gave the recreational software industry a chance to create a rating system. They went out and did it.

Here is the rating system they came up with. On violence, their advisory has a thermometer with a 1, 2, 3, 4 scale. We can tell what is the level of violence in that program. We can tell on nudity/sex in the same way. That is the rating. And the same way with respect to language that is used.

In Canada, the industry, on a voluntary basis, established a rating system. They did it. It is in place. It is working. We should give our industry, working in cooperation and in conjunction with all other interested parties—with the parents, with the church leaders, with all others in the community who are interested—a chance to establish a rating system so that parents and other viewers have a chance to know just what is this program going to be like with respect to violence? What is it going to be like with respect to sexual activity? What is it going to be like with respect to language?

Then let the viewers decide what it is they want to watch. Let the parents decide what the children are going to be exposed to.

Mr. President, I believe this is an important question and an important issue. When I started on this in North Dakota, I called the first meeting, and I was expecting 10 or 15 people to show up. The place was packed. We had every kind of organization represented there in my hometown of Bismarck, ND.

One of the things they decided to do was have a national petition drive, to send to the leaders of the media a request that they tone down the violence that is in the media, that is in television, that is on the movies. Overwhelmingly at that meeting, individual after individual, stood up and said, ''You know, I am absolutely persuaded that violence in the media is contributing to violence on our streets.''

I remember very well a school principal standing up in that meeting. He had been a school principal for 20 years in North Dakota. He said, ''Senator CONRAD, I have seen a dramatic change in what our children write about when we ask them to do an essay.'' He said, ''It is so different now than when I started in schools 20 years ago. Twenty years ago people would write about their experiences on the farm; they would write about their experiences in a summer job; they would talk about going to camp in the summer. Today when you ask them to write an essay, they write about what they have seen on television. All too often, the images are images of violence and brutality.'' He said, ''Senator, this is affecting our children. It is affecting the way they see life.''

We, as adults, ought to do something about it. So the question comes before the Senate, what do we do? Do we have censors? Do we set up a censorship system? Not in America. That violates the first amendment. That is not in tune with American values.

What we can do, what we should do, what we must do, is empower parents, give them a chance to intercept this process, give them a chance to decide what their kids are going to be exposed to. We already know the children in this country, by the time they are 12 years old, have witnessed 8,000 murders, have witnessed 100,000 assaults. Everyone knows that has an effect on those children.

Mr. President, we have gone to great lengths to make sure that what we are offering here today is a voluntary system, voluntary in the sense that we give the industry a chance to establish that rating system, voluntary in the sense that the parents are the ones to decide what comes into their homes for viewing by their children.

Again, I ask unanimous consent to have printed for the RECORD a series of letters from organizations supporting this legislation: the National Foundation to Improve Television; the American Academy of Pediatrics, the American Medical Association Alliance, the National Alliance for Nonviolent Programming, the National Coalition on Television Violence, the National Association of Secondary School Principals, Parent Action, the National Association for the Education of Young Children, the National Association of Elementary School Principals, the American Academy of Child and Adolescent Psychiatry. All of these organizations are supporting this amendment.

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

NATIONAL FOUNDATION
TO IMPROVE TELEVISION,
*Boston, MA.*

STATEMENT OF WILLIAM S. ABBOTT, PRESIDENT OF NATIONAL FOUNDATION TO IMPROVE TELEVISION, IN SUPPORT OF SENATOR CONRAD'S PARENTAL ''CHOICE CHIP'' AMENDMENT, JUNE 12, 1995

I am the president of the National Foundation to Improve Television—a nonprofit educational foundation with an exclusive focus on remedies to the problem of television violence. We have worked for 25 years to alleviate the impact that television violence has on young people. On behalf of the millions of children and parents who are desperately calling for help to rid their homes of brutalizing images of murder and mayhem, we applaud Senator Conrad's introduction of this amendment.

The introduction of this amendment is an important step in empowering parents with the help they need to protect their children from the scientifically proven harmful effects of television violence. This amendment does not signal that the government is becoming involved in dictating program content. This amendment does not tell the entertainment industry what kinds of stories they can and cannot tell nor does it trample on anyone's First Amendment rights or creative freedoms.

Senator Conrad's amendment requires the installation of a ''choice chip'' in all television sets. While its critics in the TV industry have labelled it a ''blocking chip'', it is important to remember that this chip merely identifies a program as containing harmful violence. It is the individual parent who must actually elect to block violent programs from coming into their home. The introduction of this ''choice chip''—and the development of an accompanying ''violent program ratings system'' devised by the television industry—will be a big step forward for two reasons. First, it will give all parents—including those who must work long hours outside the home and, therefore, cannot constantly supervise their children's viewing—the assistance they need to shield their children from harmful programming, in effect a long-overdue right of self-defense. A concerned parent need only activate the ''choice chip'' and he or she can be certain that the television will no longer assault their children with images of ''Dirty Harry'', ''The Terminator'' and the like. Second, it will unquestionably result in many advertisers pulling their advertising budget from programs with glamorized or excessive violence. Few advertisers will spend their precious dollars running commercials on programs which millions of Americans will have elected to tune out of their homes.

The introduction of this new parental choice technology is not revolutionary. It is simply an extension of the current opportunities many parents and viewers have to use their television's cable converter to block out particular cable channels either completely or during a particular time of the day. With this new capability, parents would simply be further empowered to block out all programming which the industry has determined contain harmful depictions of violence. This violence-specific blocking capability, rather than channel-specific capability, is essential when we recognize that in a very short time parents will be confronted with 500 or more channels entering their homes.

The industry's response, in order to stave off this new form of parental empowerment which will cost it advertising dollars if they continue to program glamorized violence, will be that such a system is too rigid, that it will impact programs ranging from ''Texas Chainsaw Massacre'' to ''Roots''. This is, of course, not the case. This plan leaves it to the industry to determine which programs would be tagged with the violence signal. We would trust that the industry would exercise its good judgment in attaching such signal. ''I Spit on Your Grave'' will warrant the signal, which the ''Civil War'' documentary, for example, will not. The television industry is currently placing violence warnings on particular programs which it judges to contain excessive or otherwise harmful violence, so it is clear that it can exercise this kind of judgment if it so chooses.

It has been reported that this new technology would add as little as $5 to the price of a new television set. Thus, it is empowerment affordable by all. Properly publicized through an ongoing nationwide public service announcement and parental notification campaign, the technology will become increasingly popular over time. Since television has long contended that the ''public interest'' is simply what interests the public, and that the ultimate responsibility for children's viewing lies with the parents, it should have no quarrel with a mechanism which gives parents the unprecedented opportunity to supervise effectively their children's viewing.

For the last 30 years, the American public has told the television industry to lead, follow or get out of the way with regard to reducing the level of glamorized and excessive violence on television. To date, they have certainly not led the way toward resolving the problem. They clearly haven't followed either—as they continue to program high levels of violence despite growing public anger with the amount of violence on television. Through their overwhelming support for Senator Conrad's parental empowerment proposal, the American people are effectively telling the television industry ''Get out of the way''—we're ready to address their problem ourselves. Give us the tools and, with the industry's cooperation, we'll do the job.

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AMERICAN ACADEMY OF PEDIATRICS,
601 THIRTEENTH STREET, NW.,
*Washington, DC, June 13, 1995.*

Hon. KENT CONRAD,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR CONRAD: On behalf of the American Academy of Pediatrics, whose 49,000 members are dedicated to promoting the health, safety, and well-being of infants, children, adolescents and young adults, I want to commend you for your strong leadership in the area of children's television. Pediatricians have long been concerned about the effects of television on children—from the lack of educational programs, to the high level of violence which we clearly believe has a role in aggression in children, as well as the continual bombardment of advertisements aimed at them. Children are fortunate to have you working so diligently on their behalf.

While we don't believe that television is solely responsible for all the violence in our society, we do believe that violent programs contribute to the violence in our society. In our practices, pediatricians observe firsthand that such programming tends to make children more aggressive and more apt to imitate the actions they view.

Parents should be responsible for monitoring what their children are viewing. However, over the past years a dramatic alteration of the American family portrait has taken place. To assist families in determining appropriate television programming, we strongly support installation of a microchip in all new televisions to allow parents to block violent programs. This provision will allow parents some degree of control of the programs their children watch—an important option for today's programming environment.

Thank you again for your staunch advocacy in creating a better television environment for America's children. We look forward to working with you on this important legislation.

Sincerely yours,
GEORGE D. COMERCI, M.D.,
*President.*

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AMERICAN MEDICAL ASSOCIATION
ALLIANCE, INC.,
*Chicago, IL, June 12, 1995.*

The American Medical Association Alliance, Inc., is pleased to join the AMA and other members of the Citizens' Task Force Against TV Violence in wholeheartedly supporting the parental choice amendment to the Telecommunications Competition and De-regulation Act of 1995 (S. 652).

As a national organization of more than 60,000 physicians' spouses, the AMA Alliance fully supports v-chip technology allowing parents and other adults to block programs they deem objectionable, and arming them with a standard violence rating system by which they can make those choices.

As a member of the Citizens' Task Force Against TV Violence, the AMA Alliance is committed to curbing the effects of violence in the media as one dimension of its nationwide SAVE Program to Stop America's Violence Everywhere.

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NATIONAL ALLIANCE FOR NON-VIOLENT PROGRAMMING SUPPORTS CONRAD AMENDMENT

The National Alliance for Non-Violent Programming, a network of national women's organizations comprising more than 2700 chapters and 400,000 women, works at the grassroots to counter the impact of media violence without invasion of First Amendment rights. The Alliance's approach, media literacy education as violence prevention, is collaborative and non-partisan. The Alliance lends strong support to the Parental ''Choice Chip'' Amendment to the Telecommunications Act S 652 to be introduced by Senator Kent Conrad of North Dakota.

Rapidly developing technologies are ensuring greater and greater access to all forms of electronic media. A non-censorial solution to the widely-acknowledged problem of the influence of television violence, Senator Conrad's amendment would provide parents and caregivers with the information to make responsible decisions about children's television viewing and the technology to block programming they consider objectionable.

The Conrad amendment calls on the FCC to act in conjunction with the networks, cable operators, consumer groups and parents to establish a system to rate the level of violence on television. The process itself is therefore inclusive and educational. As consumers informed about what is coming into their homes then utilize circuitry to block out the programs they consider objectionable, parents and caregivers will be able to exercise responsibility rather than feeling uninformed or powerless to bring about positive change.

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NCTV SUPPORTS CONRAD AMENDMENT

WASHINGTON, DC.—The National Coalition on Television Violence [NCTV] strongly supports the Parental ''Choice Chip'' Amendment to the Telecommunications Act to be introduced by Senator Kent Conrad of North Dakota.

Dr. Robert Gould, psychiatrist and president of NCTV, commented about the amendment: ''The technological explosion has made it impossible for parents to keep abreast of the media: music, movies and television.''

With this in mind, Senator Conrad has taken the leadership in the question of Children's Television, especially the effect of violence on our young people. He has worked long and hard to seek reasonable solutions to this pressing problem. He has pulled together an impressive task force of national organizations from which he has sought information and input to a problem which lends itself to wild rhetoric but no action. The amendment that he proposes is both effective and in no way impinges on anyone's freedom of speech as protected by the First Amendment.

Senator Conrad's amendment effectively addresses two of the most pressing problems a parent faces, i.e. how to turn off objectional programming, and how to know what to turn off. A rating system established by the FCC in conjunction with the TV networks, cable operators, consumer groups and parents will give parents necessary information to make informed judgments as to what is appropriate for their children. The technological equipment will allow parents, in their homes, to choose what they wish their children to watch. Technology will finally allow parents to ''If you don't like it, turn it off,'' as has been smugly suggested by the industry for years. The Parental ''Choice Chip'' will make this a real possibility.

In supporting this amendment, NCTV draws on years of experience monitoring television violence. While there has been, of late, recognition of the influences of television violence, there is still a serious attempt by the broadcast industry to exempt cartoon violence from the discussion. As a last line of defense, the happy violence of cartoons is still deemed by the broadcast industry as not affecting our children. Now, with the passage of this amendment, we do not have to wait for the broadcast industry to clean up their act in regard to cartoons. Parents who understand and see the effects of cartoon violence will be able to simply block out the offending programs.

Dr. Gould further states, ''The rating system is a means of informing parents about what is coming into their homes and the Parental ''Choice Chip'' empowers them to fulfill their proper role as parents.''

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THE NATIONAL ASSOCIATION OF
SECONDARY SCHOOL PRINCIPALS,
*Reston, VA, June 12, 1995.*

Hon. KENT CONRAD,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR CONRAD: The National Association of Secondary School Principals [NASSP] and its 42,000 members strongly supports your parental ''choice chip'' amendment to S. 652, the Telecommunications Competition and Deregulation Act of 1995. Your amendment would greatly enhance the national movement to monitor and ultimately decrease violence in television by:

Enabling parents to program their television sets to block out objectional or violent television shows; and

Calling on the Federal Communications Commission (FCC) to work with television networks, cable operators, consumer groups, parents, and others to establish a system to rate the level of violence.

Our nation is experiencing an unrivaled period of juvenile violent crime perpetrated by youths from all races, social classes, and lifestyles. Without question, the entertainment industry plays a role in fostering this anti-social behavior by promoting instant gratification, glorifying casual sex, and encouraging the use of profanity, nudity, violence, killing, and racial and sexual stereotyping.

NASSP urges Congress to support the parental ''choice chip'' amendment, and commends you, Senator Conrad, for your efforts to protect our children and youth from unnecessary exposure to violence in television and the media.

Sincerely,
DR. TIMOTHY J. DYER,
*Executive Director.*

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PARENT ACTION,
*Baltimore, MD, June 12, 1995.*

Hon. KENT CONRAD,
*U.S. Senator,*
*Washington, DC.*

DEAR SENATOR CONRAD: Parent Action of Maryland, a statewide grassroots organization dedicated to helping parents raise families, endorses your Parental Choice and Television amendment to the Telecommunications Act (S. 652).

Our children are bombarded with negative and violent images giving them a disturbing view of the world in which we live. By the time a child leaves school, he or she will have witnessed more than 8,000 murders and 100,000 acts of violence on television. This unceasing and relentless barrage of violence serves only to inure our children to the results of violence, hinder their ability to

learn and teach them that conflicts can be solved by violence.

Parents, concerned about the effects of television violence on their children, are looking for ways in which they can make good programming choices for their children. Your amendment makes important strides in that direction.

A rating system would provide parents with the information they need to make informed choices of whether a program is appropriate for their children. Installation of a ''Choice Chip'' in television sets then would allow parents block out the programming they find objectionable. The beauty of your amendment is that it protects the First Amendment and gives parents real power at the same time.

If we truly believe that our children are America's most valuable resource, then we must begin valuing them. We must treasure and respect their minds and development—not assault them with gratuitous violent images.

Sincerely,

K.C. BURTON,
*Executive Director.*

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NATIONAL ASSOCIATION OF
ELEMENTARY SCHOOL PRINCIPALS,
*Alexandria, VA, June 12, 1995.*

Hon. KENT CONRAD,
*U.S. Senate,*
*Washington, DC*

DEAR SENATOR CONRAD: The National Association of Elementary School Principals, representing 26,000 elementary and middle school principals nationwide and overseas, is pleased to endorse your Parental Choice Amendment to the Senate telecommunications bill, S. 652.

NAESP supports the effort to create a procedure for establishing a ratings system that involves input from interested parties in the public and private sectors. The violence rating code will help parents to gauge the content of individual television programs and thus make informed decisions about which shows they allow their children to see.

The requirement that a ''choice chip'' be installed in most new televisions is also an excellent idea. This device will enable parents to have more control over their impressionable children's viewing habits when the parents are unable to monitor television watching directly.

Thank you for your ongoing efforts on this important matter.

Sincerely,

SALLY N. MCCONNELL,
*Director of Government Relations.*

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NAEYC SUPPORTS CONRAD AMENDMENT TO PROMOTE PARENTAL CHOICE IN CHILDREN'S TELEVISION VIEWING

The National Association of Young Children [NAEYC] strongly supports Senator Kent Conrad's amendment to the telecommunications bill to reduce children's exposure to media violence. The amendment would require television sets to be equipped with technology (V-chip) that allows parents to block objectionable programming and establish a violence rating code. These steps are valuable tools that provide parents greater power in controlling the nature of television programs to which their children are exposed.

The negative impact of media violence on children's development and aggressive behavior is clear. Research consistently identifies three problems associated with repeated viewing of television violence:

1. Children are more likely to behave in aggressive or harmful ways towards others.

2. Children may become less sensitive to the pain and suffering of others.

3. Children may become more fearful of the world around them.

In addition, more subtle effects of overexposure to television violence can be seen. Repeated viewing of media violence reinforces antisocial behavior and limits children's imaginations. Violent programming typically presents limited models of language development that narrow the range and originality of children's verbal expression at a time when the development of language is critically important.

Of all of the sources and manifestations of violence in children's lives, media violence is perhaps the most easily corrected. NAEYC believes that the Conrad amendment is an important step—long overdue—to reduce children's exposure to media violence, and it does so by empowering parents. We strongly urge passage of this amendment.

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AMERICAN ACADEMY OF CHILD
AND ADOLESCENT PSYCHIATRY,
*Washington, DC, June 12, 1995.*

Senator KENT CONRAD,
*U.S. Senate,*
*Washington, DC.*

DEAR SENATOR CONRAD: The American Academy of Child and Adolescent Psychiatry is pleased to endorse your telecommunications bill amendment providing for new television sets being required to contain a v-chip that would permit parents to block television programming that includes programming not suitable to their family. The harmful effects of media violence on children and adolescents have been established, and this amendment will empower parents, whether they are at home or not, to monitor and control access to programs. This is one amendment among many, but it is an important commitment by legislators to parents and to child advocates.

WILLIAM H. AYRES, M.D.,
*President.*

Mr. CONRAD. Mr. President, I would like to add Senator MIKULSKI as a cosponsor of the amendment.

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

Mr. CONRAD. We will be happy to debate this issue and answer questions.

I want to summarize and say this amendment does two things: It provides for the parental choice chips to be in all new televisions, after the FCC and the industry consult on when is the appropriate time for that requirement to go into effect.

Second, we provide for the establishment of a rating system so that parents and other consumers have a chance to know what the programming contains before they watch it. Again, we do that on the basis of allowing the industry, in consultation with all other interested parties, to establish that rating system within 1 year. If they fail to do it within 1 year, we would ask the FCC to become involved in that process. We see no reason that the industry in 1 year could not arrive, on a voluntary basis, at an appropriate rating system.

Mr. President, I thank my colleagues, Senator MIKULSKI and Senator LIEBERMAN, who have worked with me on this issue.

Senator LIEBERMAN now would like to discuss his second-degree amendment.

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

Again, I want to thank my friend and colleague from North Dakota, Senator CONRAD, for his leadership on this matter and to tell him how pleased I am to join with him in this effort.

This is a complicated problem, to which there is not a clear, perfect solution. What we know is that the values of our society, of our children, are being threatened, and that the entertainment media too often have sent messages to our kids that are different than what we as parents are trying to send.

I think Senator CONRAD has taken a real leadership role here and stepped out, stepped forward, with a response that will force this Senate, I hope the television industry, and indeed the country, to face the reality of what we and our kids are watching over television and what we can do about it.

Mr. President, the growing public debate over the entertainment industry's contribution to the degradation of our culture could not have come at a more fortuitous time for the Senate Calendar. We are in the process here of considering the most comprehensive rewrite of the Nation's telecommunications law in 60 years. We are making some pivotal decisions about the future of a most powerful force in American culture. That is television.

Up to this point in the floor debate, we have heard mostly about the wonders of the new technology that will be at our disposal, who will control it, and how much it will cost. What has not been heard that much in all the talk about the wiring, however, is discussion of what exactly those wires are going to carry into our homes. Few questions have been asked about the substance of the programs that will be shown over the proverbial 500 channels we expect once the road map of American telecommunications has been digitized. Even fewer questions have been asked about the quality of programs, of products, to which we will be exposing our children.

Now, in many ways, that is understandable. We, as elected officials, are traditionally and understandably reluctant to set limits of any kind on broadcasters, out of deference to their first amendment freedoms we all are committed to.

That is as it should be. Legislators should make laws, not programming decisions. But we also must remember that we are leaders as well as lawmakers, and we must lead in dealing with America's problems. That is why, again, I commend my colleague, Senator CONRAD, for forcing this body to consider and weigh carefully the ramifications of this legislation for America's families and for our moral health.

Why is this so important now? Because at the very moment that new technologies are exploding through the roof, the standards of television programmers are heading for the floor dropping with the velocity of a safe dropped off a cliff in a vintage Road Runner cartoon. Except, instead of

Wile E. Coyote, it is the values and sensibilities of our children that are put in peril.

More and more these days, the television aimed at our sons and daughters either numbs their minds or thumbs its nose at the values most parents are trying to instill in them. Turn on the TV at night, and it's hard to avoid the gratuitous sex and violence that has become the bread and butter of prime time television. The Wall Street Journal recently carried a report detailing how even the 8 p.m. timeslot, once the last bastion of family-oriented shows, has become a hotbed of sex and other spicy fare. That is all the more disturbing when you realize that 35 percent of all American children ages 2 to 11 are watching during that hour.

If you tune in after school, you have your pick of the parade of talk shows edging ever closer toward pornography, often dwelling on abnormality, perversion. On Saturday morning, you will be treated to a litany of glossy toy commercials masquerading as real programming. The industry's regard for children and families has grown so low that one network, it happened to be ABC, recently announced that it was adding a cartoon version of the movie ''Dumb and Dumber'' to its Saturday morning lineup. Television has now officially, with this act, crossed the threshold from covertly encouraging thoughtless behavior to openly celebrating it.

Given the direction television is heading, and given the overwhelming evidence showing that TV's affinity for violence is a real threat to the development of our children, I think we, as Members of the U.S. Senate, should be seriously concerned with where these new technologies will take us. Do we, as a nation, really want to invest billions into building an information superhighway only to turn it into a cybernetic garbage disposal? Are we making progress if we offer consumers 500 different talk shows rather than just a few dozen? Do we not owe our children and our country more than that?

These are questions we, as a society, must address as we try to make sense of the ongoing information revolution, and as we try to deal with the decline in values in our country and our culture. Technology is not a good in itself, but a tool. The information superhighway could potentially help speed the recovery of America's public education system. It could help elevate our culture and our values. But it also could help accelerate the moral breakdown of our society, and that is something I believe we need to talk about openly as we go about reforming of our telecommunications laws.

I recognize that the issue of content, especially as it relates to television, is a difficult one. In this case, we are faced with contradictory goals—protecting the right of the media to speak freely and independently, and allowing the community to influence them when they go too far. In the past, we have erred on the side of free speech, which is a testament to our commitment to the first amendment.

But in a great constitutional irony, our determination to avoid any hint of censorship has been so great that we have effectively chilled the discussion about how we might properly, hopefully working with the television industry, improve the quality of television programming. That neglect has come at a heavy cost to society, for we have opened the door to an anything-goes mentality that is contributing significantly to the crisis of values this country is experiencing.

There is no better—or worse, shall I say—example of this mentality than the proliferating legion of sensationalistic talk shows. They are on the air constantly—by my staff's count there were 23 separate hour-long offering on Washington-area stations in one 9-hour period.

You can see this for yourself, Mr. President, on this chart, with the boxes colored in with the yellow or orange, however it looks from your vantage point, being hour-long talk shows. For the most part, if you turn your TV on to these shows you are not going to find wholesome family fare that you would like your kids to watch.

I should point out, in an expression of appreciation of my staff, that ''Regis & Kathie'' Lee are not colored in on this chart. Many of these programs air in the afternoon, when many children are home alone because their parents at work, or home with their parents but they parents may be doing something else.

But it is the quality—or lack thereof—that is more disturbing than the quantity. Many of these programs are simply debasing. Their growth has turned daytime television into a waste site of abnormality and amorality, as Ellen Goodman so aptly put it, which is on the its way toward stamping out any last semblance of standards, and shame when those standards are broken, in this country.

The greatest indictment of these shows, as well as the gamut of programming aimed directly or indirectly at children, comes from kids themselves. A recent poll conducted by the California-based advocacy group Children Now showed that a majority of youths between 10 and 16 said that television encourages them to lie, to be disrespectful to their parents, to engage in aggressive and violent behavior, and, perhaps most disturbing of all, to become sexually active too soon.

I am the father of a 7-year-old daughter. When I hear about these programs or see them, I can only wonder if those responsible for this junk appearing on television are parents themselves. Would they allow their children to watch the garbage that they are putting on display?

Mr. President, I have watched my daughter come home and watch one of the cable networks which has a lot of children's material in it. And suddenly you turn in the afternoon to adolescent fare, which may be OK for adolescents, but certainly is not for a 7-year-old. The same is true of some of the evening programming, whose content, even in early evening hours, is inappropriate for children.

I wonder the same thing about those responsible for deciding to target a version of ''Dumb and Dumber'' to young children. Especially the studio spokesperson who described the upcoming series by saying, ''It's going to so dumb it's smart. Or so smart it's dumb. I don't know which''

The case of ''Dumb and Dumber'' is particularly distressing, because on the same day that ABC announced that it was adding ''Dumb and Dumber'' to its lineup, the network said it was canceling one of its few quality educational programs for kids. That move would be alarming in its own right. By all accounts the program ABC was abandoning—a science-oriented show called ''Cro'' that is produced by the same highly regarded group that gave us ''Sesame Street''—was an inventive and thought-provoking series.

Like too many of the choices made in our entertainment industry these days, this one mocks the efforts of mothers and fathers who are struggling to create a healthy environment for their children to learn and grow. There is a place for fun, for laughter, for cartoons. But at the same time, there has to be a place about respecting values, intelligence, and good family fare.

Sadly, ABC's decision is typical of the priorities set by America's big four broadcast networks, and those carried out by their local affiliates. According to a congressional hearing held last June, ABC, NBC, CBS, and Fox combined to show a total of 8 hours of educational programming a week in 1993, whereas in 1980, 11 hours was the average for just one network. If that is not distressing enough, a study conducted by the Center for Media Education showed that the clear majority of children's educational shows are broadcast when kids were usually asleep. That raises real doubts about the commitment of the networks and the affiliates to these programs.

The ritual defense and industry uses to justify their growing irresponsibility is that they are providing what the market demands. In some ways it is a persuasive argument in this country, and in most cases I am willing to abide by the market and let it be. But when it is used to shield behavior that potentially puts America's children at risk, I think we have to figure out a reasonable way to set up some warning signs so parents can protect their own children. As Washington Post TV critic Tom Shales said, ''Just because people are willing to come is no defense. There's an audience for bloody traffic accidents too.''

Our colleague Senator BRADLEY spoke forcefully about this issue in an excellent speech he delivered earlier this year at the National Press Club.

Yes, we must remain committed to upholding freedom, Senator BRADLEY said, but we must also guard against the corrosive effect of the liberties we afford the markets, especially the entertainment industry. ''The answer is not censorship,'' he said, ''but more citizenship.''

The Senate majority leader spoke out just within the last week or 10 days on this subject forcefully, and I think appropriately. The Senator from Illinois [Mr. SIMON] has been a long-time critic of television programming, and has appealed to those involved to give better fare to our kids. What Senator BRADLEY and Senator DOLE said about this not being about censorship but citizenship is absolutely right. That is what H.L. Mencken was talking about when he said long ago that the cure to whatever ails democracy is more democracy. Parents must exercise their primary responsibility and hold television programmers accountable and remind them that profits accrued at the expense of our children are really fool's gold. That means speaking out—loudly—and acting as informed consumers. The networks and their local affiliates, the programmers and the syndicators need our help in hearing the call that we expect more in the way of citizenship. And advertisers should recognize their responsibility to the larger civil society that allows us all to exist and grow in this great democracy of ours.

But the question remains, though, what should the proper response of Congress and the law be? I have come to the conclusion myself that talk or jawboning is not enough. Talk is not only cheap, as the proliferation of talk shows has demonstrated. It also is apparently not sufficiently effective in changing the programming climate. Without adequate relief in sight, I believe we have an obligation to provide parents with the help they need to reduce their children's exposure to programs that the parents find offensive and harmful. And that is what Senator CONRAD's amendment puts at issue, confronts, and that is why I am pleased to be supporting his efforts to make the expanding communications technology family friendly and to empower parents to control the programs that enter their own homes. Rather than placing any restraints on content and encroaching on any first amendment freedoms, the Conrad amendment would simply give parents the ability to block programming they do not want their children to see.

This technology is readily available, and its addition as a standard feature in televisions sold today would come at a very small cost, by one estimate less than 5 additional dollars per television set. That is a small price to pay for gaining control over influences that a lot of American families do not want to commit to their home.

For this technology to work, network programming must come with some form of ratings. With his amendment, Senator CONRAD is calling on the television industry to do nothing more than the movie makers and the video game manufacturers have done, and that is to establish a voluntary rating system to evaluate programming for objectionable content.

This amendment, which I am pleased to support, will give the industry a year to develop such a system on their own. If the broadcasters and cable networks for some reason do not respond to this call, then under the proposal of the Senator from North Dakota the FCC would be required to promulgate ratings that would trigger the use of the blocking technology called for in the proposal.

While I share Senator CONRAD's commitment to ratings, I also recognize that some people have first amendment concerns regarding the FCC's direct involvement in developing ratings, and that those concerns may prevent them from supporting this amendment even though they may strongly support its goals.

So with that in mind, I have proposed the second-degree amendment that would limit the Government's role, the FCC's role, should the industry refuse to comply to the invitation to self-restraint that is at the heart of this amendment. Instead of the FCC stepping in, if the television industry fails to develop a voluntary set of standards after 1 year, this amendment would bring about the creation of an independent board, a joint independent ratings board, comprised of representatives of the public and representatives of the television industry to create the ratings necessary under the amendment.

The panel would be a mechanism of last resort, if you will, because I think Senator CONRAD and I both want to work cooperatively with the television industry to see that a truly voluntary system is put in place. That is the best way for this to happen. But if it does not happen, then this second-degree amendment will ensure that the ratings system that emerges will be born from a true public-private partnership, and will be the product of a broad-minded consensus. Based on my recent experience with the video game industry, I am optimistic that we can reach a constructive solution that would avoid any Government intervention.

As some of my colleagues may recall—and Senator CONRAD made reference to it—a little more than a year and a half ago, Senator KOHL and I held a series of hearings to call attention to the increasingly graphic violent, sometimes sexually abusive, nature of video games played by our kids. From the outset we appealed to the producers' sense of responsibility to give parents information necessary to make the right choice for their children. As an incentive, we gave them a choice between rating the games themselves or having an independent board do it.

To the credit of the video game makers, and the producers of recreational software that will enable games to be played on personal computers, the industry itself developed a voluntary system that actually was in place less than a year after Senator KOHL and I held our first hearing. Now I am pleased to say that almost 600 video game titles have been rated. By this year's Christmas shopping season, we hope and believe, based on conversations with the industry itself, that almost all of the video games in the stores will be rated, and, therefore, parents will know the content of the games that they are buying for their children.

Mr. President, finally, it is my hope that the television industry will respond similarly to this initiative by the Senator from North Dakota, by Senator MIKULSKI from Maryland, and by myself, and accept that it has not only obligations but opportunities as a very important member of the greater American community. I can assure the folks in the television and broadcast industry that we stand ready to work with them in a cooperative fashion to do what is best for America's families. Yes, but also ultimately what is best for the American television industry without infringing on any of the freedoms all of us rightly cherish and protect. This is not about censorship. It is about choices. We do not want to take away a network's choice to air offensive material if that is their choice. We just want to make sure that parents and citizens have the choice to prevent their kids or their families or, indeed, themselves from watching that material.

Mr. President, I thank the Chair. I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, I would like to just put into the RECORD a number of statements from prominent Americans involved in important national organizations who have been a part of supporting this legislation.

First, I would like to quote from Dr. Robert McAfee, the national president of the American Medical Association, who said with respect to the larger legislation from which this amendment is drawn, and I quote. This is Dr. McAfee speaking:

> It is estimated that by the time children leave elementary school, they have viewed 8,000 killings and more than 100,000 other violent acts. Children learn behavior by example. They have an instinctive desire to imitate actions they observe, without always possessing the intellect or maturity to determine if the actions are appropriate. This principle certainly applies to TV violence. Children's exposure to violence in the mass media can have lifelong consequences.
>
> We must take strong action now to curb TV violence if we are to have any chance of halting the violent behavior our children learn through watching television. If we fail to do so, it is a virtual certainly the situation will continue to worsen * * *.

That from the head of the American Medical Association.

Samuel Sava, executive director of the National Association of Elementary School Principals, said, and I quote:

The effect of television on children is of great concern to school principals. The family room television is more a persuasive and pervasive educator than all the teachers in America's classrooms. There's no question that the overdose of media violence American children receive is linked to their increasingly violent behavior. But more troubling for parents and educators is the fact that the violence children see, hear, and are entertained by makes them insensitive to real violence.

From Timothy Dyer, executive director of the National Association of Secondary School Principals, said, and I quote:

Our nation is experiencing an unrivaled period of juvenile violent crime perpetrated by youths from all races, social classes, and lifestyles. Without question, the entertainment industry plays a role in fostering this anti-social behavior by promoting instant gratification, glorifying casual sex, and encouraging the use of profanity, nudity, violence, killing, and racial and sexual sterotyping.

Mr. President, that is really at the heart of the amendment we are offering today. This amendment says parents—parents—ought to be able to choose what comes into their homes. Parents ought to be empowered to help decide what their children view. Parents ought to have a role in making these choices.

We can help parents have that choice by putting choice chips in the new television sets. The technology is available. It is very low cost. Let us give the parents of America what they say they want.

Again, I go back to this USA Today poll that was just published: Should these kinds of choice chips be installed in TV sets so parents could block violent programming? Yes, 90 percent. Ninety percent of the American people say we ought to do this.

We have done it in the least intrusive way imaginable. We have done it by saying, look, industry, get together with FCC. We are not going to tell you when to do it. We leave it up to your judgment. You work together, FCC and the industry. You get together on when you are technologically ready to have these available in the television sets.

And on a rating system, in the same way we have said, industry, you have a year to work with all interested parties to come up with a rating system that makes sense for the American people. And only if you fail to act does anything else happen. We give you a year to go forward in good faith and get this job done.

We think they will do it. Look at the answer to the question: Do you favor a rating system similar to that used for movies? Eighty three percent in the USA Today poll say, yes, we want a rating system—83 percent. And 90 percent said they wanted the new choice chip in their new television sets.

That is what this amendment offers. It does it in a way that is fully constitutional. It does it in a way that is the least intrusive as possible, and yet it responds to the real wants of the American public, to have parents be able to choose what comes into their homes, to have parents be able to decide what their children want.

Mr. President, I hope that my colleagues would respond favorably to this amendment. I would be happy to answer questions or engage in further debate.

Mr. PRESSLER. Mr. President, we are studying this amendment. We have just seen the Conrad amendment in the second degree to the Lieberman amendment for the first time. In the Commerce Committee, there have been many bills introduced on this subject, including one by the distinguished former chairman, Senator HOLLINGS.

It was the intention and is the hope that we could hold full committee hearings, in fairness to all those Senators. There are so many Senators who have introduced bills on this subject. And when we finish this telecommunications bill, we are in hopes of turning to hearings for a number of reasons to give those Senators who have introduced a bill and been waiting a chance to have their bills considered but also to allow industry and consumer groups to give an analysis of this.

We have just seen this amendment in the second degree to the Lieberman amendment, and I know there is great passion at the moment about this subject throughout our land. I feel very strongly about this subject matter, and we are struggling with trying to find a fair way to deal with this amendment, which Senators have just seen, and dealing with Senator Hollings' bill which was introduced earlier. He had already asked for hearings, and also several other Senators. Also, in fairness to industry groups and parents and children, it would seem that testimony at full committee hearings would be a good first step.

Mr. President, I would like to yield to anyone else who has comments at this time.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER (Mr. GREGG). The Senator from North Dakota.

Mr. CONRAD. I thank the Chair.

We have had hearings for years around here on this subject. Everybody wants to have more hearings. Frankly, the American people want us to act. They want us to work together to achieve something. We have had all the hearings we need on this question.

I introduced a bill that contained these provisions on February 2 of this year. So it is not the first time anybody has seen this. This has been in this body since February 2.

I just say that these are the national organizations that say vote for this now, no more delay, no more talk. Let us do something. Let us do something that makes sense. Let us do something that is constitutional. Let us do something that empowers parents. Let us do something that gives a rating system that the industry, on a voluntary basis, is able to create along with all interested parties. We give them a year to get this job done on their own.

Let me just read into the RECORD the national organizations that support this amendment: the National Association for the Education of Young Children, Future Wave, the American Medical Association, the American Medical Association Alliance, the National Association of Elementary School Principals, the American Psychiatric Association, the National PTA, Parent Action, the National Foundation To Approve Television, the National Association of Secondary School Principals, the American Academy of Child and Adolescent Psychiatry, the National Coalition on Television Violence, the American Academy of Pediatrics, the National Association for Family and Community Education, the Alliance Against Violence in Entertainment for Children, the American Nurses Association, the National Council for Children's TV and Media, the National Alliance for Nonviolent Programming, the National Association of School Psychologists, the Orthodox Union, the National Education Association, and the United Church of Christ.

Now, in the broader coalition we also have the sheriffs, police chiefs, and many others.

These organizations have all studied this issue and studied it and studied it and participated in hearing after hearing after hearing. They say now is the time to act. They are not alone. Ninety percent of the American people say, let us have these choice chips in our television sets; 83 percent of them say that they favor a rating system. We have tried to do this in the least intrusive way possible. We have done it by saying, with respect to choice chips, we will not say by when it should be done. We leave it up to the industry in conjunction with the FCC to determine the time at which it is practical to have this requirement go into effect. We leave it up to the experts: When is the time to have it go into effect?

With respect to the question of a rating system, we give the industry a year to work in conjunction with all interested parties on a voluntary basis to determine a rating system. They have done it in Canada. As I indicated earlier, the software industry, we gave them the same chance and they responded. They did a good job. So we are saying we believe this industry can do the same thing.

I wish to applaud the television manufacturers. They have gone a long way toward developing this technology. But clearly, if it is going to be widely disseminated in this country, it is going to require us to do a little something, just do a little something. The American people want us to act.

I thank the Chair.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, I feel like Frank Clement at the 1956 convention. How long, 0, America, how long will we continue to debate and not act? I share the same frustration that the distinguished Senators from Connecticut and North Dakota share on this particular score.

Over 2 years ago, getting right to one of the main points about the least intrusive manner—and the Senator from North Dakota is right on target there relative to constitutionality because he has read the cases, and we have all studied them, and that is what you have to do in order to qualify constitutionally in this particular measure—the least intrusive measure is with respect to children.

Yes, the courts have held you could not regulate violence with respect to the distinguished Presiding Officer and this particular Senator as adults. It is unconstitutional to try to even attempt it. So we found that you could do it with children. So having found that it could be done with children, then the least intrusive measure is not as suggested in this particular amendment, plus its perfection by the Senator from Connecticut; the least intrusive is limited to that period of time during the day when children are a substantial or majority portion of the viewing audience. That does not get them all. I feel, as the Senator sponsoring this measure, that I would like to get it all. I would like to get it all the time, but constitutionally I cannot. I think there is too much violence for all of us.

But constitutionally, not being able to, that would be one particular defect, as I see it, in the approach that has been brought out in hearings heretofore, and hearings heretofore incidentally back in 1993 that we had the present Attorney General study S. 470, which is now before our committee, a bill by Senator INOUYE, myself, and others. And Attorney General Reno attested to the fact that she thought it would definitely pass constitutional muster.

There is another feature with respect to this—and I am not just nit-picking because, if they call the amendment and we vote it, I would still vote for the amendment, I say to the Senator. Do not worry about that.

But what happens is you have a fee in here, also. When we had a fee 2 years ago, Senator Bentsen—no, this was 4 years ago, because 2 years ago he was the Secretary of Treasury—but 4 years ago when we had a similar hearing, he said, ''Wait a minute, the fee belongs in the Finance Committee,'' and someone later on would raise that point. I would still vote for it.

There are these kinds of misgivings. I remember the distinguished chairman of the Communications Subcommittee on the House side—the distinguished Presiding Officer would know and be familiar with the honorable Congressman ED MARKEY, of Massachusetts. He had what he called then the V-chip. They are calling this the choice chip. He ran into these similar problems. But it is not my argument.

So we have had problems. Like I said, how long, America, are we going to consider and do nothing because there is a problem for every solution?

I would prefer—it would be up to the sponsors of the bill; I am confident our distinguished chairman would prefer—to take these perfecting amendments, with a matter of a fee there, and otherwise, to have a hearing on this and guarantee we will bring out a bill of some kind that we think is constitutional.

I do not want them to think it is a putoff. I do know there is an inherent danger here that I immediately feel, having been in this particular discipline now for a long time. I started off last week in the opening statement I made that evening—I think it was last Wednesday evening—that any particular entity or discipline in communications has the power to block the bill.

I can see the broadcasters, when they see fees, running around trying to block this bill. That, again, is not necessarily a valid argument against the amendments of the Senators from North Dakota and Connecticut. But there are these inherent dangers that immediately arise. I can think of several others.

I have the opportunity to distinguish what we have pending before the committee. I implore the authors to go along with it, but if they want to vote, I am convinced the majority leader is ready to vote for them. Is it the desire of these Senators, irregardless, as my Congressman Rivers used to say down home, irregardless, you are going to want to vote one way or the other, period, because I do not know whether it is our duty to argue further, I say to the chairman.

I yield the floor.

Mr. CONRAD. Mr. President, I say to the distinguished managers of the bill, Senator HOLLINGS and Senator PRESSLER, that we do intend to get a vote on this matter. We have many national organizations that have waited years to have Congress speak on this question. We have gone through draft after draft after draft to address the legitimate concerns of people to make this as reasonable and unintrusive as possible.

I just say to the Senator from South Carolina, there is no fee in the underlying Conrad amendment. None. There is no fee here. The second-degree amendment has a fee. But the Conrad amendment has no fee; none, zero.

As I say, we have done this in the least intrusive way possible. We are trying to respond to what is the legitimate concern voiced by the Senator from South Carolina. I might say, the Senator from South Carolina [Senator HOLLINGS] has been a great leader on this issue. He has been someone who is concerned and has repeatedly raised the issue of violence in the media. He has said we ought to do something about it, and he has been willing to do that.

The American people want something done, and the least intrusive way to do it is to have choice chips on the televisions. American people overwhelmingly want it. It costs less than $5 a television set, and industry representatives just told us this morning that when it is in mass production, they believe some of these chips will cost as little as 18 cents—18 cents—a television set, to provide parents the right to choose what their kids see.

In addition, we create a rating system so that parents have some idea of what the programming will contain before they see it. Eighty-three percent of the American people say they want such a rating system. Again, we have done it in the least intrusive way possible. We do not let the Government decide it. We say, ''Industry, you meet with all industry parties, meet with the parents and teachers, meet with the school principals, meet with all the people who are concerned about this issue, meet with the church leaders and, on a voluntary basis, come up with a rating system and you have a year to do that without any Government interference or action.''

Again, I say to the chairman, who has the difficult challenge of managing this bill, we would like a vote. I, at this point, ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

Mr. PRESSLER. I would like to reserve the right to table.

The PRESIDING OFFICER. There is not a sufficient second.

Is there a sufficient second? The Chair did not hear the Senator from South Dakota. The Chair is asking if there is a sufficient second.

There is a sufficient second.

The yeas and nays were ordered.

Mr. PRESSLER. Let me make a request here. I see the Senator from Vermont here. If we can lay this aside—the problem we have is the memorial service for Les Aspin. Some Members want to speak, particularly the Senator from Illinois has requested a chance to speak on this amendment before we made any decision about it. So we already made one decision about it. I am wondering if the Senator from Vermont could offer his amendment, if he will allow us to do that. We have been working under the tortuous process of having all these conflicts.

Mr. LEAHY. I had discussed with the distinguished Senator from South Carolina the possibility of going with one of my major amendments. I understand we have some votes at 4 o'clock, or something to that effect. Mr. President, I advise my colleagues and friends that I would be perfectly willing to go forward with the so-called interLATA amendment, if that would be helpful, right after the vote. I have to speak with some of the other cosponsors, but I would be happy to enter

into a relatively short time agreement and an agreed-upon time to vote on it.

As my colleagues know, I rarely bring up anything that is going to take very long. I do not want to hold up people, and I have another amendment. So I would be very happy, once I bring it up, to enter into a relatively short time agreement with a time certain for a vote.

Mr. PRESSLER. I am trying to help Senator SIMON.

Mr. LEAHY. I will do it right after the 4 o'clock vote.

Mr. PRESSLER. I do not think Senator SIMON is going to be able to speak until 4:15, when the bus gets back from the Les Aspin service. If my friends agree, I ask unanimous-consent that this amendment be laid aside until Senator SIMON can speak and we go to the Bumpers amendment.

Mr. CONRAD. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I say to the chairman and the ranking member, I will not object, but I just want to say that I ask for the opportunity to answer Senator SIMON if he makes a statement in opposition to the amendment.

Mr. PRESSLER. I am just trying to accommodate that side of the aisle. I do not know if he is for the amendment or against the amendment.

Mr. CONRAD. I do not either. I do not need a unanimous-consent agreement or anything of the kind. I just ask the chairman for his acknowledgment that we will have a chance to debate it.

Mr. PRESSLER. Yes, yes; absolutely. You shall always have a chance to speak on anything you want as far as I am concerned.

Mr. CONRAD. We will be happy to lay it aside.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator is reserving the right to object.

Mr. LIEBERMAN. Reserving the right to object, and I will not object, I just want to take this moment to respond to the remarks of the Senator from South Dakota, to thank him for his support of the concept, to acknowledge that he has been on the frontier of this one and has been a pioneer for quite a while, and also to say, in the interim, while this amendment is being laid aside, I am going to pursue the suggestion that he made to modify the amendment to remove the fee provision from my second-degree amendment. It was put in there to make this ratings board self-financing. If the distinguished ranking member thinks that may complicate the future of the proposal, I will be happy to modify it. So I will not object.

The PRESIDING OFFICER. Without objection, the unanimous consent request of the Senator from South Dakota is agreed to.

AMENDMENT NO. 1348

(Purpose: To protect consumers of electric utility holding companies engaged in the provision of telecommunications services, and for other purposes)

Mr. BUMPERS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS], for himself and Mr. DASCHLE, proposes an amendment numbered 1348.

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

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

The amendment is as follows:

On page 76, after line 10, insert the following new subsection: ''AUTHORITY TO DISALLOW RECOVERY OF CERTAIN COSTS.—Section 318 of the Federal Power Act (16 U.S.C. 825q) is amended—

(A) by inserting ''(a)'' after ''Sec. 318.''; and

(B) by adding at the end of thereof the following:

''(b)(1) The Commission shall have the authority to disallow recovery in jurisdictional rates of any costs incurred by a public utility pursuant to a transaction that has been authorized under section 13(b) of the Public Utility Holding Company Act of 1935, including costs allocated to such public utility in accordance with paragraph (d), if the Commission determines that the recovery of such costs is unjust, unreasonable, or unduly preferential or discriminatory under sections 205 or 206 of this Act.

''(2) Nothing in the Public Utility Holding Company Act of 1935, or any actions taken thereunder, shall prevent a State Commission from exercising its jurisdiction to the extent otherwise authorized under applicable law with respect to the recovery by a public utility in its retail rates of costs incurred by such public utility pursuant to a transaction authorized by the Securities and Exchange Commission under section 13(b) between an associate company and such public utility, including costs allocated to such public utility in accordance with paragraph (d).

''(c) In any proceeding of the Commission to consider the recovery of costs described in subsection (b)(1), there shall be a rebuttable presumption that such costs are just, reasonable, and not unduly discriminatory or preferential within the meaning of this Act.

''(d)(1) In any proceeding of the Commission to consider the recovery of costs, the Commission shall give substantial deference to an allocation of charges for services, construction work, or goods among associate companies under section 13 of the Public Utility Holding Company Act of 1935, whether made by rule, regulation, or order of the Securities and Exchange Commission prior to or following the enactment of the Telecommunications Competition and Deregulation Act of 1995.

''(2) If the Commission pursuant to paragraph (1) establishes an allocation of charges that differs from an allocation established by the Securities and Exchange Commission with respect to the same charges, the allocation established by the Federal Energy Regulatory Commission shall be effective 12 months from the date of the order of the Federal Energy Regulatory Commission establishing such allocation, and binding on the Securities and Exchange Commission as of that date.

''(e) An allocation of charges for services, construction work, or goods among associate companies under section 13 of the Public Utility Holding Company Act of 1935, whether made by rule, regulation, or order of the Securities and Exchange Commission prior to or following enactment of the Telecommunications Competition and Deregulation Act of 1995, shall prevent a State Commission from using a different allocation with respect to the assignment of costs to any associate company.

''(f) Subsection (b) shall not apply—

''(1) to any cost incurred and recovered prior to July 15, 1994, whether or not subject to refund or adjustment;

''(2) to any uncontested settlement approved by the Commission or State Commission prior to the enactment of the Telecommunications Competition and Deregulation Act of 1995''; or

''(3) to any cost incurred and recovered prior to September 1, 1994 pursuant to a contract or other arrangement for the sale of fuel from Windsor Coal Company or Central Ohio Coal Company which has been the subject of a determination by the Securities and Exchange Commission prior to September 1, 1994, or any cost prudently incurred after that date pursuant to such a contract or other such arrangement before January 1, 2001.''.

Mr. BUMPERS. Mr. President, this amendment is being offered by Senators DASCHLE and KERREY and myself. I hope that we might get the managers of this bill to accept this amendment. It is precisely the language that was in last year's telecommunications bill. I do not know what happened on the way to the forum this year.

Somehow or another it did not make it. Since it is the same language that was in last year's bill, perhaps by the time we get around to finishing the debate the floor managers might see fit to accept it.

Now, Mr. President, here is what this amendment is about: any company that owns 10 percent of a utility company is considered a utility holding company. In 1935, because some public utility holding companies were very big and very powerful, we passed the Public Utility Holding Company Act [PUHCA].

Holding companies that operate essentially on a multistate basis, 11 electric utility holding companies and three natural gas utility holding companies—are what we call registered public utility holding companies. They must act and conduct themselves in accordance with PUHCA.

In my State, Arkansas Power & Light is owned by Entergy, a registered utility holding company. Entergy also owns utility subsidiaries in Louisiana, Mississippi, and Texas.

The other public utility companies have a similar number of utility subsidiaries. These 14 registered public utility holding companies serve approximately 50 million households in the United States.

The chart I have here contains a map of the affected States. All the States in dark blue, are served by registered utility holding companies. The States in light blue, including North Dakota, South Dakota, Minnesota, and Wisconsin, will be served by registered holding companies following the completion of proposed mergers.

Under the telecommunications bill, PUHCA will be amended to permit these public utility holding companies to get into telecommunications activities. Unlike the baby Bells, they can enter into these businesses immediately after the President puts his signature on this bill. No questions asked.

Here is what I am trying to address with this amendment. In 1971, a utility subsidiary of a registered public utility holding company, American Electric Power, the Ohio Power Co., which is an electric utility company, entered into a contract with a sister affiliate, called Southern Ohio Coal Co.

In 1971, 24 years ago, Southern Ohio Coal Company agreed to sell coal to Ohio Power under a contract. They said, ''We will sell you coal at our cost.'' Think about that. One sister company is saying to another sister company ''We will sell you coal at our cost.'' The only agency with authority to scrutinize that contract as to whether it is a good contract or a bad contract for consumers is the Securities and Exchange Commission [SEC], as is required by PUHCA.

The SEC looked at the contract in 1971 and said ''this is just hunky-dory. Fine contract. Off you go.'' The coal company sold its coal to its sister company—both of them owned by the same parent—Ohio Power, which generated electricity and obviously passed the cost of the coal as a part of its costs to the ratepayers in Ohio.

If you are sitting around at night in your house worrying about your electric bill and that air-conditioner is going full-time because it has been a hot day, you worry about the price of the power, but you assume that somebody, somewhere, is making sure what you are paying for that air-conditioning that day is a fair price.

Electric rate regulation in this country is conducted at both the Federal and State levels. The Federal Energy Regulatory Commission [FERC] is the only body that regulates the rates charged for power sold at the wholesale level. Everybody here knows what FERC is. FERC regulates wholesale sales of power.

What is a wholesale sale of power? That is the sale of power to a utility which in turn will sell it to the people who buy its power. Only FERC can set those rates.

Back to the guy sitting in his living room with the air-conditioning going. He does not realize that Southern Ohio Coal Company is selling coal to Ohio Power, who is generating electricity for his air-conditioner. He did not realize that the coal company was charging Ohio Power as much as twice as much as that coal could be bought for on the open market. That is right—100 percent more than their cost.

So, the municipalities that bought power from Ohio Power Company got to thinking, ''We are getting ripped off.'' So they go to FERC and they say, ''Listen, FERC, we are paying a utility rate for electricity that has been generated with coal from Southern Ohio Coal Co. and Ohio Power is giving them as much as 100 percent profit.'' That is right. Ohio Power is paying the coal company 100 percent more than they can buy from anybody else in southern Ohio.

They go to FERC and say, ''how about giving us a break on our rates? Check this out and see if it is right.'' So FERC sends a bunch of investigators out to find out if this is a true story. What do we get? It is. It is true.

Ohio Power has been paying up to 100 percent more for coal than they could have bought it from anybody. And they have been putting it in their rates, and the poor guy sitting in his living room wondering how he will pay for his electricity bill that month suddenly realizes he has been taken.

So FERC says, ''This is not right. This is not fair by any standard. Stop it. We are going to give you people a new rate. We will not sit by and tolerate something like this.''

What do you think Ohio Power did? Why, they did what any big fat-cat corporation would do that has all the money in the world—they appealed the FERC decision. Who did they appeal it to? The U.S. Court of Appeals for the District of Columbia Circuit.

The court of appeals decided that FERC had no jurisdiction. They did not have a right to delve into this issue. The court said the only agency with authority to look at this issue is the Securities and Exchange Commission. They approved the original contract. They said, it was just fine. And 21 years have gone by and they never looked at it again.

Incidentally, the poor little municipalities were continuing to get ripped off. They filed a petition with the SEC in 1989. Guess what the SEC has done in the last 6 years with their petition? You guessed it, Mr. President, nothing. Nothing.

When they saw that SEC was not going to do anything, that is the reason they took it to FERC and said, ''FERC, why don't you help us? You have the jurisdiction to do it.''

FERC said, ''We do, and we will.''

The court of appeals said, ''No dice.''

Now, Mr. President, my amendment is simple, straightforward, and fair. There are a lot of people in this body who are apprehensive about this bill. Know why they are apprehensive? Because they are afraid that it will wind up being anticompetitive, instead of procompetitive.

There is one thing in this bill that everyone should understand. The bill addresses public utility holding companies. It talks about public utility holding companies. It talks about FERC.

And Senator D'AMATO, to his credit, put a little proconsumer language in this bill. But his language will not ensure that poor old Joe Lunchbucket sitting in his living room worrying about his air-conditioning bill will be protected. TOM DASCHLE, BOB KERREY and DALE BUMPERS, we care about what his electric bill will be this month.

We are offering this amendment to prohibit cross-subsidization between affiliates of a public utility holding company. We are saying, ''We are not going to allow these people to charge 100 percent more than their cost and charge it to this poor guy sitting in his living room watching television.''

This amendment is directly related to the telecommunications bill. These public utility holding companies, serving more than 50 million households, want to get involved in the telecommunications business. I am for them. I want them in the cable television business. I want competition in the cable television business.

As I said in my opening statement, if the President signs this bill the public utility holding companies can immediately go into the telecommunications business—telephone, cable television, you name it.

So what I am saying is I do not want one utility company that generates electricity ripping off their sister affiliates and charging it to poor old Joe Lunchbucket. I do not want sister affiliates inflating their costs from one company to another and passing it on to any ratepayers.

Let me give an illustration. This chart explains precisely what I am talking about. Here is the registered holding company—let us assume this is American Electric Power. Here is a subsidiary which sells both fuel and telecommunications services. This subsidiary, we will say, is Southern Ohio Coal Co. They are mining coal and selling it to these utilities. But let us assume they are also in the telecommunications business, all of a sudden. They start shifting their costs from telecommunications to their coal operations, so they can compete better in the telecommunications market. They shift their costs over to the coal company, knowing that nobody is guarding the store, and that they can charge it to these utility companies and put it right back on old Joe Lunchbucket again. Not only are they going to charge them this exorbitant rate for coal and make him pay for it through his electric bill, now they are going to go to the telecommunications business and shift the cost from the telecommunications to coal, so their telecommunications cost will be so much less nobody can compete with them here in Washington, DC, or in Little Rock, AR.

Here is another example. Here is the same registered utility holding company. They form a telecommunications subsidiary. In addition, the holding company already has a service company which performs certain functions for the utility subsidiaries.

Let us assume that the telecommunications company is going to provide telecommunications services to the service company. They are going to charge them just like the coal company did, a 100 percent profit. And then what is going to happen? They are

going to pass it right down to the utility companies through the service company contracts and the utilities are going to pass it down to old Joe Lunchbucket again.

Mr. President, this gets a little complicated for people who have not dealt with it for the past 3 years, as I have. As I say, I am still a little nonplused about why my amendment was in the bill last year and is not in the bill this year. I guess somebody just felt they had a little more clout this year. They might not have liked it last year. I am not rocking the boat, but a lot of people, as I say, are worried about how the consumer comes out in all of this. If my amendment is not adopted, I can tell you exactly how the consumer is going to come out if he buys any services from a registered public utility holding company.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

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

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

Mr. KERREY. Mr. President, I have an amendment that is already at the desk that I have discussed with the managers of this bill. It is similar to an earlier amendment that was offered by the Senator from Pennsylvania and adopted, I believe 90-something to something, dealing with incidental interLATA relief.

Mr. President, I ask unanimous consent that the Bumpers amendment be laid aside temporarily so that we may consider this amendment.

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

Mr. KERREY. Mr. President, on this chart I am going to show the problem. We also have an illustration of why this amendment is needed or why we need to change the current method of regulation.

We have in the United States of America, since the divestiture in AT&T, created these local access transport areas (LATA's) throughout the country defining what local telephone service is. In northeast Nebraska, we have two—644 and 630. The red line down the center separates one from the other.

We have established a method to get our K through 12 schools hooked up to the Internet that requires us to go through a central hub. There are a number of them called educational service units.

Unfortunately for schools up in the northeastern part of the State, they have to cross one of these artificial boundaries, these LATA boundaries, in order to get to this little red dot here which represents the Wakefield, NE, educational service unit. All of these school districts here—Jackson, South Sioux City, Dakota City, Homer, Hubbard, Winnebago, Walthill, Macy, Rosalie—all have to cross that LATA in order to be able to connect to the educational service unit in Wakefield. It is about 17 miles total, somewhere in that range, from one of these towns to this central hub.

This problem was identified to me originally by a principal, Chuck Squire, of Macy School, as he was trying to get his school hooked up to the Internet. The requirement was again, as I said, to go through Wakefield. Because it crosses that interLATA boundary, it is no longer a local call. You have to pay an access charge when you are going from here to any one of these schools over here. The cost for dedicated Internet service if the local Bell company could provide the service would be approximately $180 a month, with an $800 installation charge. But for a long distance company, it ends up being almost $1,100 a month with a $1,000 installation charge, because the traffic needs to be routed across the State boundary.

What happens is the schools end up with about $10,000 to $12,000 more per year in the monthly charge. These are very small school districts, most of them, and $12,000 ends up being a lot of money. They get nothing more for it.

And this amendment, as I said, that I have discussed both with the chairman of the committee and with the ranking member, would grant incidental LATA relief to the Bell Operating Companies to provide dedicated two-way video or Internet service for this dedicated purpose, in this case the K through 12 environment.

The hope is, of course, that the legislation itself will eventually obliterate the need to ask for this kind of incidental relief. The hope is that these kinds of restrictions that make it difficult for prices to come down—you can see in a competitive environment, if you had competition at play here, these prices would go down. This price was not high as a consequence of some cost. It is a consequence entirely of the current regulatory structure.

So again, I am finished describing what the amendment does. I hope that the amendment can be simply agreed to at this time.

Mr. HOLLINGS. Mr. President, if the distinguished Senator from Nebraska is waiting for a response from this side, there is an amendment on interLATA rates which I discussed with the distinguished Senator at the time. We wanted to make absolutely clear that we did not open up a big loophole. The distinguished Senator now has it limited. It is dedicated, and I think in good order. We are prepared to accept the amendment on this side.

The PRESIDING OFFICER. Will the Senator from South Carolina wait for a second?

We do not have the amendment of the Senator from Nebraska at the desk.

Mr. KERREY. I will send a copy that I have here to the desk.

AMENDMENT NO. 1335

(Purpose: To provide that the incidental services which Bell operating companies may provide shall include two-way interactive video services or Internet services to or for elementary and secondary schools)

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska [Mr. KERREY] proposes an amendment numbered 1335.

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

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

The amendment is as follows:

On page 94, strike out line 16 and all that follows page 94, line 23, and insert in lieu thereof the following:

''(B) providing—

''(i) a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, between LATAs within a cable system franchise area in which such company is not, on the date of enactment of the Telecommunications Act of 1995, a provider of wireline telephone exchange service, or

''(ii) two-way interactive video services or Internet services over dedicated facilities to or for elementary and secondary schools as defined in section 264(d),''.

Mr. PRESSLER. Mr. President, we just saw this amendment about 30 minutes ago for the first time. We have been juggling six amendments. We would ask that the Senator withhold asking for a vote on it until we have a chance to study this amendment. I commend the Senator from Nebraska. It looks like something that I am taking a favorable look at. But we have not run it through all the hoops over here.

Mr. KERREY. I do not quite follow. I thought earlier we had discussed it.

Mr. PRESSLER. We discussed it last night, and had not agreed to accept it. But we just saw it for the first time 30 minutes ago. At that time, the Senator said he was going to supply us with a different copy. Do we have the final copy of the amendment?

Mr. KERREY. We just sent a copy to the desk.

Mr. PRESSLER. Do we have a final copy of the amendment?

Mr. KERREY. The Senator should have the final copy now.

Mr. PRESSLER. Will the Senator agree to set it aside and give us a chance to look at it? It will take us 15 minutes. We want to take a look at it.

Mr. KERREY. Sure. I would be pleased to.

The PRESIDING OFFICER. Without objection, the amendment is set aside.

Mr. PRESSLER. 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.

Mr. PRESSLER. Will my colleague yield? I have a unanimous-consent request. May I make this unanimous-consent request?

Mr. SIMON. I have no objection to that at all.

Mr. PRESSLER. By the way, we are looking forward very much to hearing the Senator's views on this. We have been holding the option open.

I ask unanimous consent that at 4 p.m. today, the Senate proceed to vote on the McCain amendment 1276, to be followed immediately by a vote on the motion to table the Feinstein amendment number 1270, and that the time between now and 4 p.m, which is 1 minute, be equally divided in the usual form for debate on either amendment. So there would be no further debate. I think we have debated both amendments.

Mr. HOLLINGS. Reserving the right to object, Mr. President, do I understand the Senator moved to table the McCain amendment?

Mr. PRESSLER. No; we are proceeding to vote on the McCain amendment.

Mr. HOLLINGS. I move to table the McCain amendment, and I ask for the yeas and nays.

Mr. DOMENICI. Reserving the right to object, the Chair has not ruled on that request, have you?

The PRESIDING OFFICER. No, I have not.

Mr. HOLLINGS. I object.

Mr. DOMENICI. Will the Senator yield me 1 minute?

Mr. PRESSLER. Sure.

Mr. HOLLINGS. Sure.

(The remarks of Mr. DOMENICI pertaining to the introduction of S. 917 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Several Senators addressed the Chair.

The PRESIDING OFFICER. The unanimous-consent request is pending.

Is there objection? Without objection, it is so ordered.

Mr. SIMON. Mr. President, reserving the right to object, the request is that we vote at 4 o'clock; is that correct?

Mr. PRESSLER. Yes; I am trying to get two votes out of the way so we can get moving along, so to speak. We still have some Senators coming back from the Les Aspin function. Then we will have a full force, and we will then do some business.

Mr. SIMON. Will the manager agree that after that, I be recognized? I have no objection.

The PRESIDING OFFICER. If there is no objection, the unanimous-consent request is agreed to.

There is 1 minute of time divided equally between the manager of the bill and the ranking member.

Who yields time?

Mr. MURKOWSKI addressed the Chair.

Mr. PRESSLER. There must be no time.

The PRESIDING OFFICER. The manager has control of the time.

Mr. PRESSLER. I suggest that the hour of 4 p.m. has arrived and there would be no time to divide.

The PRESIDING OFFICER. The Senator is correct.

The Chair notes that the Senator from Alaska is seeking recognition. Does the manager wish to yield him his time?

Mr. MURKOWSKI. If I may. I simply want to speak very briefly, about 3 minutes, in opposition to the Ohio Power amendment.

Mr. PRESSLER. Then I ask unanimous consent that at the end of 3 minutes the Senate will vote on the two votes that have been requested.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The Senator from Alaska is recognized.

Mr. MURKOWSKI. I thank my friend, the floor manager.

Mr. President, I rise in opposition to the pending amendment to overturn the Ohio Power court case. I am opposed to it simply because it is bad policy, and I will explain briefly why.

In the Ohio Power case, the U.S. court of appeals held that the Congress gave a single Federal agency—the Securities and Exchange Commission—jurisdiction over the interaffiliate transactions of registered electric utility holding companies. Those utilities sell power to an estimated 50 million households in 30 States.

The court said that a second Federal agency, the Federal Energy Regulatory Commission, cannot also regulate the same matter. No dual regulation, the court said.

So, Mr. President, good public policy is that if something must be regulated, then one and only one agency should do it, not two, which is the provision in the amendment before us. Utilities should not be whipsawed between the conflicting decisions of two different regulatory agencies. Unfortunately, that is precisely what this amendment does.

Mr. President, the proponent of the amendment argues that the FERC is a better regulator than the SEC; that we ought to overturn Ohio Power so that the FERC can regulate these transactions. But rather than take jurisdiction away from the SEC and give it to the FERC, the pending amendment allows both agencies to regulate the same matter.

I question the claim that FERC has been a better regulator than the SEC. I am less concerned about which agency regulates than having only one agency regulate. If both agencies use the same statutory standard for making their decisions and if both made their decisions at the same time, then the problems created by dual regulation might be manageable. But that is not how it will work if the pending amendment is adopted.

First, the SEC will regulate pursuant to the Public Utility Holding Company Act, and the FERC will regulate pursuant to the Federal Power Act. These two laws have different statutory standards, and the result will be conflicting regulatory decisions.

Second, because of differences in the two statutes, the decisions made by the SEC and the FERC cannot take place at the same time. The Public Utility Holding Company Act requires preapproval by the SEC, whereas the Federal Power Act provides for post-transaction review by the FERC. In the Ohio Power case, for example, the FERC acted 11 years after the SEC made its regulatory decision.

In short, the two regulatory systems are incompatible. Neither is inherently better than the other, they are simply different. The Ohio Power court recognized that fact; the pending amendment ignores it.

Mr. President, I am also concerned that the pending amendment does not respect the sanctity of contracts. It is intended to allow the FERC to retroactively overturn longstanding, SEC-approved contracts. Some of these contracts have been in place for more than a decade, and the parties have invested many hundreds of millions of dollars. Those investments will be placed in jeopardy if the pending amendment is adopted.

Mr. President, the proponent of the amendment also claims that it is needed to restore State public utility commission jurisdiction to where it was prior to Ohio Power. However, in some respects, the amendment actually has the opposite effect. It specifically prohibits State public utility commissions from using a cost allocation method different from one the SEC uses. In short, the pending amendment will require State public utility commissions to do what the SEC tells them to do.

Perhaps the most troubling aspect of the amendment is its resurrection of the very cost trapping the Ohio Power court found unacceptable. This will happen when a utility incurs costs pursuant to an SEC-approved contract but the FERC subsequently denies the passthrough of those approved costs.

In summary, Mr. President, the amendment would create a complex, overlapping, and confusing regulatory maze. It would allow electric agencies to be squeezed between the conflicting agency decisions. That is bad public policy.

Mr. President, the amendment should be rejected, and I urge my colleagues to vote against it.

I thank the floor managers for the opportunity to speak in opposition to the Bumpers amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. THOMPSON). The Senator's time has expired.

VOTE ON AMENDMENT NO. 1276

The PRESIDING OFFICER. The question is on agreeing to amendment No. 1276. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 18, nays 82, as follows:

[Rollcall Vote No. 251 Leg.]

YEAS—18

| | | |
|---|---|---|
| Abraham | Gorton | McCain |
| Ashcroft | Gramm | Nickles |
| Brown | Helms | Packwood |
| Coats | Hutchison | Santorum |
| DeWine | Kyl | Specter |
| Dole | Mack | Thompson |

NAYS—82

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

So the amendment (No. 1276) was rejected.

Mr. PRESSLER. I ask unanimous consent that the next vote be set aside temporarily.

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

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

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. PRESSLER. Mr. President, I ask unanimous consent the Bumpers amendment be voted on in 10 minutes and the Senator from Mississippi have 10 minutes to speak on it—5 minutes each. At that point we will move to table the Bumpers amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LOTT. Mr. President, reserving the right to object, and I do not intend to object, I would like to ask the distinguished chairman of the committee if he would add that, after the vote on the Bumpers amendment, Senator SIMON then be recognized for an amendment that he has been seeking recognition on.

Mr. PRESSLER. That is fine.

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

Who yields time?

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

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is recognized for 5 minutes.

Mr. LOTT. Mr. President, under the unanimous consent agreement I believe we have 10 minutes, now.

Mr. DOMENICI. Could we have order, Mr. President?

The PRESIDING OFFICER. There will be order in the Chamber.

AMENDMENT NO. 1348

Mr. LOTT. I believe that we do have 10 minutes now of debate on the Bumpers amendment, and then we would go to a vote at that point. So I would like to be heard briefly in opposition to the Bumpers amendment.

First, before I do that, I thank the Senator from Arkansas. Although I cannot support his amendment, I appreciate his willingness to work with me and Senator D'AMATO in developing appropriate safeguards as registered utilities enter this telecommunications area. I also thank him for working last year to resolve these issues in the Energy Committee. Of course it involves the Banking Committee as well as the Energy Committee. He was very cooperative in that effort.

The amendment he raises today should be considered, but not on this legislation. The Energy Committee has rightfully asked that such amendment first go through the Energy Committee where it was considered last year in preparation for the telecommunications bill being voted on by the Commerce Committee. So I must honor Senator MURKOWSKI's request as chairman of the committee on that matter and oppose the amendment on that basis, if no other. Having said that, I want to point to the substantial safeguards that were included in the managers' amendment to address the concerns of Senators D'AMATO and BUMPERS.

I would also like to take just a moment to point out the critical importance of this provision to the legislation and in particular to our region of the country, because it is going to provide an opportunity for tremendous services through the utility companies in our area and really will go a long way to providing the smart homes we have been talking about in addition to the new smart information highways.

What this all involves is the now famous Ohio Power case, and it deals with a Supreme Court ruling that restricts a State's right to disallow certain costs between companies in a registered holding company system for the purposes of ratemaking. With respect to such transactions related to telecommunications activities, this matter has already been addressed with language that prevents cross-subsidization between the companies. To the extent there remain unresolved issues regarding the broader application of the Ohio Power case, they should be dealt with by the Congress as part of its overall review of the Public Utility Holding Company Act, PUHCA.

Senator D'AMATO has indicated he will hold hearings on it and consider comprehensive PUHCA legislation later this session. I feel very strongly that is needed.

For these reasons the Bumpers amendment is not necessary at this time and I urge my colleagues to vote against it.

The purpose of the telecommunications bill is to allow competition in the broadest sense possible in the provision of telecommunications services. Most utility companies are already able to participate in the market. However, current law prevents the 14 registered utility holding companies from fully participating in telecommunications markets. With appropriate consumer protections, this amendment allows registered utility holding companies to enter this important market on the same footing as other utilities and new market entrants. The amendment would allow a registered holding company to create a separate subsidiary company that would provide telecommunications and information services.

The amendment contains numerous consumer protection provisions—the bill itself—which would be substantially altered by what the distinguished Senator from Arkansas is trying to do here.

So the public utility company subsidiary of a registered holding company may not issue securities and assume obligations or pledge or mortgage utility assets on behalf of a telecommunications affiliate without approval by State regulators. Also, protections in the bill say a telecommunications subsidiary of a registered holding company must maintain separate books, records and accounts and must provide access to its books to the States. State regulators may order an independent audit and the public utility is required to pay for that audit. If ordered by State regulators, a public utility may file a quarterly report, if that is ordered by the State regulators. Also, the public utility company must notify State regulators within 10 days after the acquisition by its parent company of an interest in telecommunications.

So there are very strong protections here. I think what we are talking about is making sure these registered utility holding companies can provide these services. It greatly enhances the opportunity for information and for competition, and I do not believe we need this amendment for there to be adequate protections for the consumer. They are in the bill.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. LOTT. We took great precautions to make sure those protections were included in the bill. So for these reasons outlined, I urge defeat of the Bumpers amendment and I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. BUMPERS. Mr. President, for the benefit of my colleagues who were not here for the earlier part of this debate, let me just say that my amendment is what I would call the do-right amendment. It was precipitated by an incorrect decision issued by the D.C. Circuit Court of Appeals in the Ohio Power case. In 1992, a bunch of cities who bought power from a utility subsidiary of a registered utility holding company, named Ohio Power. They were buying power from Ohio Power and Ohio Power was buying coal to generate that power from a sister company called Southern Ohio Coal.

The municipalities went to FERC, because FERC sets wholesale rates; that is power sold from a utility company to a city, for example. And they say, ''We think Ohio Power's rates are too high and the reason they are too high is because this coal company is charging its sister company an exorbitant rate for coal.'' FERC sends their investigators out and what do they find? They found Ohio Power is charging 100 percent more for coal than that coal can be bought from anybody else in southern Ohio. What is happening is Ohio Power is paying twice as much for coal and what are they doing? They are passing it right on down to the municipalities who, in turn, have to pass it right on down to Joe Lunchbucket, who is worried about how he is going to pay his air-conditioning bill this month. It is just that simple. That is all there is to this.

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

Mr. BUMPERS. I will be happy to yield.

Mr. JOHNSTON. Is this the identical amendment which was passed out of the Energy Committee after a great deal of hearings and work last year, I believe it was 14 to 5?

Mr. BUMPERS. Mr. President, this amendment is the precise language reported out of the Energy Committee, 14 to 5 last year. And it was incorporated in this bill precisely that way. There is nothing new about it.

Mr. JOHNSTON. I thank my colleague.

Mr. BUMPERS. The problem with the Court of Appeals' decision in Ohio Power is that the court said that the SEC is the only regulatory body with authority to protect consumers. And the problem is, the SEC will not, and possibly can not, do it.

They approved the original contract and for 24 years have refused to look at it. So what happens? The consumers are paying twice as much for coal as the coal can be bought from anyplace else.

I am just simply saying cross-subsidization of these affiliate companies held by public utility holding companies is wrong. There is not a person within earshot of my voice today who believes it is right. Why would you not vote to stop that? Why would you not give poor old Joe Lunchbucket a little bit of a break out of this? If you do not, these same holding companies are going to go into telecommunications, and unlike Pacific Bell, Bell South, Southwestern Bell, they go in the day the President puts his signature on this bill. They can be in the cable business. They can go into anything they want to. They do not have to go to the FCC and the Justice Department.

They can also orchestrate transactions between sister companies. Who is going to sell what to whom? One sister sells telecommunications products to another. And maybe that company also sells coal to a utility company. They pass it on. Even the telecommunications cost goes right down to the utility, right down to poor old Joe Lunchbucket. Nobody here believes that is right.

Do you know who favors my amendment? Every State public service commission. The Consumer Federation of America, the industrial energy consumers, including General Motors and Dow Chemical are even for it. The National Association of State Utility Consumer Advocates, the Ohio Wholesale Customers Group, and on and on. They all support the Bumpers amendment.

Mr. President, I do not know of anything further that I can say. This is an opportunity to protect consumers. If you want competition, you cannot have it unless you support this amendment because, if you do not, these anticompetitive practices will continue. It is just that simple.

I yield the floor.

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. PRESSLER. I move to table, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

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

The result was announced—yeas 52, nays 48, as follows:

[Rollcall Vote No. 252 Leg.]

YEAS—52

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

NAYS—48

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

So the motion to lay on the table the amendment (No. 1348) was agreed to.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

ORDER OF PROCEDURE

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Senate now return to the Dorgan amendment No. 1278 and that there be 20 minutes for debate to be equally divided in the usual form, with no amendments in order to the Dorgan amendment; that at the conclusion or yielding back of time I will be recognized to move to table the Dorgan amendment 1278, which deals with the 35 percent for national markets being lowered to 25 percent of the national media market, and this would move us forward. The Dorgan amendment is ready for voting. I would plead with everybody to let us vote on this and then proceed.

My motion would ask that we go to the Dorgan amendment 1278.

Mr. CONRAD. Reserving the right to object.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Lieberman amendment to the Conrad amendment.

Mr. CONRAD. The Lieberman amendment or the Dorgan amendment?

The PRESIDING OFFICER. The Lieberman amendment to the Conrad amendment.

Mr. CONRAD. Is the pending business?

The PRESIDING OFFICER. Is the pending business.

Mr. CONRAD. Mr. President and chairman of the committee, I would be reluctant to agree to this request if we cannot get some agreement on when our amendment would be handled. We are the pending business, the Lieberman second-degree amendment to the Conrad amendment. We would like to get this matter resolved. We have had a lengthy discussion, and I

would hope that we could move to a vote on that. And so I would be constrained to object unless there was some meeting of the minds with respect to when we would get to our amendment.

Mr. PRESSLER. Let me say that the Dorgan amendment came up first, and we are struggling to move forward here. Several Senators are seeking agreements that I am not in a position to give. This is something we could get done and behind us in the next 30 to 35 minutes. It is a major amendment involving the percentage of national media that one company or group can control. It is now set at 35 percent in the bill. The Dorgan amendment, as I understand it, would strike that and bring it back to 25 percent.

There has been debate on it. I think there is only one more speaker. I ask that we lay aside the amendment of the Senator from North Dakota, Senator CONRAD, if he will be kind enough to let us do that, and go to the Dorgan amendment, get a vote on it, and keep on going from there.

Mr. CONRAD. I just say to the chairman, if I could, I have to register objection if there is not some agreement reached——

Mr. DOLE. Will the Senator yield?

Mr. CONRAD. I will be glad to yield.

Mr. DOLE. We can bring the Dorgan amendment back by regular order. We can do it that way. Senator SIMON has an amendment relating to violence. We would like to have debate on all three amendments—the CONRAD amendment, the second-degree amendment, and then an amendment I am offering with Senator SIMON, a sense-of-the-Senate amendment, that all relates to TV violence. I wonder if we might have the debate on all of those before we start voting. That is the only problem we have.

Mr. CONRAD. As I understand, the pending business before the Senate is——

Mr. DOLE. Regular order brings back the Dorgan amendment, so I call for the regular order.

The PRESIDING OFFICER. The regular order is amendment No. 1278.

Mr. PRESSLER. Mr. President, I ask unanimous consent there be 20 minutes for debate equally divided on amendment No. 1278, and at the conclusion or yielding back of time, I be recognized to table the Dorgan amendment No. 1278.

The PRESIDING OFFICER. Is there objection?

Mr. CONRAD. Reserving the right to object. Again, can we not find some way of having a meeting of the minds on what the order will be? I will be happy to accommodate other Senators if there is some understanding of what the order is going to be.

Mr. DOLE. I think the order is, after this, we go back to the Senator from North Dakota. If you do not have any objection, the Senator from Illinois would like to at least be heard on his amendment.

Mr. CONRAD. Actually, the previous agreement was the Senator from Illinois would be recognized, and we certainly want to accommodate that. But could we have an understanding with respect to what the order is then after that? If we can have a unanimous consent agreement, we certainly would be open to entering into a time agreement, whatever else, so there is some understanding, given the fact there are many Senators who are interested in this matter.

Mr. DOLE. I will just say, what we are trying to do is finish the bill. All these amendments would fall if cloture is invoked. We could go out and have the cloture vote at 9:30 in the morning. I am not certain cloture would be invoked.

I think there has been some agreement. We heard the Conrad amendment, the Lieberman second-degree amendment, some agreement on the Simon amendment. As far as I am concerned, it is up to the managers. I think they are prepared to vote on all three. I do not know what order.

Mr. PRESSLER. I make a plea again to my friend from North Dakota, let us go to the Dorgan amendment for 20 minutes and vote on it, and meanwhile have intense discussions so we can cover everyone's needs. That would allow us to accomplish one more amendment. I think we are in a very friendly position trying to work this out.

Mr. FORD. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. FORD. Mr. President, could we have the unanimous consent request agreed to by the chairman of the committee, the manager of the bill, that we go to Conrad-Lieberman and then go to Simon without putting a time limit on it?

I ask unanimous consent that following the motion by the distinguished chairman, that the Conrad-Lieberman amendment be next in order and the Simon amendment follow that with any second-degree amendment in regard to it.

Mr. PRESSLER. Reserving the right to object. I appreciate what the Senator is doing. We also have to work in an agreement for debate on the Simon-Dole amendment, if that is to occur.

Mr. FORD. There is no agreement as far as time is concerned. I recognize the majority leader would have the right to second-degree the sense of the Senate, if that is what he wants to do. You are getting a pecking order here. A time agreement has not been worked out. The majority leader would not need much time.

Mr. DOLE. If the Senator will yield, we can have the vote on the Dorgan amendment and work this out during the vote.

Mr. FORD. I was trying to work it out so my colleagues on this side will be accommodated. I know the majority leader is trying to do that. We want to get the bill finished as much as he does. If my friends from North Dakota and Illinois are satisfied, I will be glad to yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Mr. President, may I inquire, is there then before us a suggestion by the Senator from Kentucky that we hear from Senator Simon after the Dorgan amendment has been offered, and then we would vote on the Lieberman amendment, then we would vote on the Conrad amendment, then we would vote on whatever amendments will be offered by Senator Simon and Senator Dole?

Mr. PRESSLER. I do not know. We all need to have a little meeting about that and work that through. Is it possible to go to the Dorgan amendment for the 20 minutes, get that voted on, and during that time, when people are speaking on it, we will try to work all this out in good faith? And I will act in very good faith.

Mr. CONRAD. All right.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Reserving the right to object. I have not yet spoken on my amendment because I had to leave for another meeting. I am to speak for 10 minutes. I would like to reserve 5 minutes for Senator Helms as a cosponsor. He is not in the Chamber at the moment, but I think he would like some time.

The PRESIDING OFFICER. Is there objection?

Mr. PRESSLER. He is in the Cloakroom and ready to go.

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

The Senator from North Dakota.

Mr. DORGAN. My understanding is we have a unanimous-consent agreement for 20 minutes. My understanding is I will take 10 minutes and 5 minutes is reserved for the Senator from North Carolina, Mr. Helms.

AMENDMENT NO. 1278

Mr. DORGAN. Mr. President, my amendment is very simple. The legislation that comes to the floor of the Senate changes the ownership rules with respect to television stations. We now have a prohibition in this country for anyone to own more than 12 television stations comprising more than 25 percent of the national viewing audience.

My amendment restores the 12-television-station limit and the 25-percent-of-the-national-audience limit. Why do I do that? Because I think the proper place to make that decision is at the Federal Communications Commission. They are, in fact, studying those limits, and I have no objection to those studies. I think that they are useful to do because we ought to determine when is there effective competition or when would there be control or concentration such that it affects competition in a negative way.

But I do not believe that coming out here and talking about competition,

competition being something that benefits the American people in this legislation on telecommunications, and then saying, ''By the way, we will essentially restrict competition by allowing for great concentration in ownership of television stations,'' represents the public interest.

I can understand why some want to do it. I can understand that we will end this process with five, six, or eight behemoth corporations owning most of the television stations in our country. But, frankly, that will not serve the public interest.

Mr. President, I respectfully tell you the Senate is not now in order.

The PRESIDING OFFICER. Will the Senate please come to order? We will not continue until the Senate has come to order. The Senator from North Dakota will proceed.

Mr. DORGAN. Mr. President, the Senate is not yet in order. I do not intend to proceed until the Senate is in order.

The PRESIDING OFFICER. Those wishing to continue their conversations, please take them off the floor. The Senator from North Dakota.

Mr. DORGAN. Thank you, Mr. President.

Mr. President, raising the national ownership limits on television stations resulting in concentration of corporate ownership of television stations in this country will represent, in my judgment, a dramatic shift in power from the local affiliates in our television industry to the national networks. The provision in this bill threatens, in my judgment, local media control, both in terms of programming and in terms of news content, in favor of national control.

One of the amendments that will follow me will be an amendment on television violence. I will tell you how to make television more violent, especially in terms of the local markets, and that is have your local television station sold to the networks, and there will not be any local control or discussion about what they are going to show on that local television station, because it will not be a local station anymore. You will remove local control, you will remove local decisionmaking, you will concentrate ownership in the hands of a few and, in my judgment, that is simply not in the public interest.

These changes will result in a nationalization of television programming and the demise of localism and program decisions made at home in local areas.

The bill changes of broadcast ownership rules that now exist at the Federal Communications Commission will lead to greater concentration and less diversity. I, for the life of me, cannot understand being on the floor of the Senate for 5 or 6 days talking about competition and deregulation being the engine of competition in our country and then seeing a provision in a bill like this that says, ''Oh, by the way, you know that limit that limits somebody to no more than 12 television stations, you can own no more than 12 television stations in the country; by the way, that limit is gone. You can own 25 television stations; in fact, buy 50 of them if you wish; just fine.''

Well, it is not fine with me.

Concentration does not serve the public interest. Go read a little about Thomas Jefferson. Read a little about what he thought served the public interest in this country—broad economic ownership serves the public interest in America. Broad economic ownership serves the free market and serves the interests of competition. Not concentration. Not behemoth corporations buying up and accumulating power and centralizing power, especially not in this area.

I know outside of our doors are plenty of people who want this provision. It is big money and it is big business. I am telling Senators the country is moving in the wrong direction when it does this.

There are not many voices that cry out on issues of antitrust or issues of concentration. There are not many voices raised in the public interest on these issues. I just cannot for the life of me understand people who chant about competition and chant about free markets, who so blithely ignore the threats to the free market system that come from concentration of ownership. I feel very strongly that the provision in this bill that eliminates the restriction on ownership is a provision that is bad for this country.

Senator SIMON from Illinois, I know, has probably spoken on this, and is a cosponsor of this amendment; and Senator HELMS from North Carolina. Maybe we are appealing to the schizophrenics today. Somebody on that side of the aisle who has a vastly different political outlook on things than I do, but, frankly, my interest in this is not the economic interests of this conglomerate or that conglomerate or that group, it is the interest of the public.

The public interest is served in America when there is competition and broad-based ownership. The public interest, in my judgment, is threatened in this country, especially in this area, when we decide it does not matter how much you own or who owns it.

We have always served the interests of our country in this area by limiting ownership. I think we serve the interests again if we pass my amendment and restore those sensible provisions in communication law that restrict the ownership of television stations to no more than 12, reaching no more than 25 percent of the American populace.

Mr. President, I have agreed to a time limit. This is a piece of legislation that on its own should command a day's debate. It is that important to our country. Yet it is reduced to 20 minutes because we are in a hurry and we are busy.

My hope is that people who look at this will understand the consequences of what we are doing. I am delighted that the Senator from North Carolina and some others feel as I do, that there is a way to restore a public interest dimension to this bill by passing this amendment this afternoon.

I yield the floor.

I yield 5 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina controls 5 minutes.

Mr. HELMS. Mr. President, as a former executive at a television station, I am an enthusiastic supporter of the Dorgan amendment which is now pending. This amendment would ensure that local television news and programming decisions remain in the hands of local broadcasters.

It is a worthy amendment. The Senate ought not to hasten to vote to table it. I will tell Senators why.

There is now a delicate balance of power between the network and their affiliates. I am concerned that if we allow the networks to acquire even more stations, the balance will be unwisely tilted. Media power should not be concentrated in the hands of network broadcasters. I say this as a former broadcaster who has been there.

The networks will kick the dickens out of an affiliate if the affiliates do not toe the line. On one occasion, my television station switched networks because of the dominance of an overbearing network. It was one of the smartest decisions we ever made. This bill increases what is known as the national audience cap from the current 25 percent to 35 percent. I oppose this increase, because it will allow the networks to acquire more stations. This, in turn, could very well increase domination by the networks and enhance their ability to exercise undue control of television coverage on local events and news reports.

Mr. President, I am also concerned about the negative impact of allowing cable companies to buy television stations. Consider, if you will, the possibility that Time Warner might buy up local cable station companies and local television stations.

The Dorgan amendment, which I cosponsor, restores, one, the 25 percent audience cap; and two, the restriction on cable broadcast cross-ownership.

If Congress increases the audience cap and thus the number of stations a network can acquire, it will be more difficult for a local affiliate to preempt a network program.

Mr. President, affiliates serve as a very good check against the indecent programs being proliferated these days by the networks. The ''NYPD Blue'' program is an example. Many affiliates consider this show to be too violent and otherwise unacceptable because of its content of offensive material. When the affiliates objected to the program, the network lowered the boom. There are too many indecent, sexually explicit programs on television already.

Some time back, Mr. President, I sponsored an amendment to restrict

the level of indecent material on television. Guess who fought that amendment down to the ground and fought it in the courts? Of course, the networks. The networks resent being limited in the amount of indecent material they can pump out over the airwaves. Do we really want to give the networks more power? I say no, and the Dorgan amendment says no.

The children of America, have spoken out about indecent material. In a recent survey, 77 percent of the children polled said TV too often portrays extramarital sex, and 62 percent said sex on television influences children in that direction.

Mr. President, affiliate stations often preempt programming and carry instead regional college sports and such things as Billy Graham's Crusade. These are important programs, and they should not be inhibited by network power.

We should not concentrate too much power in the hands of four national networks. The current provision in S. 652 would make possible just that kind of concentration. If this ownership rule had not been in place 10 years ago, the Fox Network could never have been created.

Local stations must have the freedom in the future to create and select and control programming, other than programming provided by the networks.

I urge Senators to support this amendment to restore local control of broadcasting decisions. I reserve the balance of my time.

Mr. PRESSLER. Mr. President, I rise in opposition to this amendment.

I believe we have reached a point where, through competition, we can achieve more than by Government regulation to keep certain competitors down.

I rather doubt that any one competitor is going to get a huge dominance in the American television market, because we have so many competitors. We have an increasing number.

When we have dial video, cable, PBS, the networks, I have here listed before me, the percentage of national coverage now by the top TV groups, they will face increasing competition.

Frequently, business comes to Washington seeking regulation to avoid competition. To those people who want to put arbitrary limits on how much success one company can have, I would say that they should be prepared to compete.

Now, a 25-percent limitation may well force some groups or individuals or companies to operate regionally, or to seek a niche market.

I believe we have enough competition to give a variety of voices. That is particularly true if we pass this bill. There will be an explosion of new services and alternatives.

In fact, I would even raise the limit to 50 percent or higher if I were doing it myself. The Commerce Committee worked out a 35-percent compromise—the Democrats and Republicans—on the committee, as well as in consultation with many other Senators.

I think 35 percent is a good compromise for the Senate. I expect that the House will probably come with 50 percent. I look upon going back to 25 percent as a move away from competition.

Why not 20 percent? Why not 10 percent? Why not 15 percent? All these percentages are anticompetitive, because it is businessmen coming to Washington who are seeking regulation to keep their competitors out. What they need to do is to compete, and they will find that they will do well.

Mr. President, the broadcasters in cable are not the only means by which video programming, for example, is distributed to consumers. More than 2 million households receive programming utilizing backyard dishes, availing them of numerous free services.

SMATV services are utilized by another million subscribers, wireless cable has attracted over half a million subscribers.

Recently direct broadcast satellite systems began offering very high-quality services. It is estimated that these services will attract more than 1 million subscribers in 1995.

Looming large on the fringes of the market are the telephone companies. The telephone companies pose a very highly credible competitive threat because of their specific identities, the technology they are capable of deploying, the technological evolution their networks are undergoing for reasons apart from video distribution, and, last but by no means least, their financial strength and perceived staying power. In 1993, the seven regional Bell operating companies [RBOC's] and GTE had combined revenues in excess of $100 billion. All of the major telephone companies in the United States have plans to enter the video distribution business, and several are currently striving mightily to do so in the face of heavy cable industry opposition, opposition which speaks for itself in terms of the perceived strength of the competition telephone companies are expected to bring to bear.

Recently three of the RBOC's—Bell Atlantic, Nynex, and Pacific Telesis—announced the formation of a joint venture, capitalized initially to the tune of $300 million, for the express purpose of developing entertainment, information and interactive programming for new telco video distribution systems. This group has hired Howard Stringer, formerly of CBS, to head the venture and Michael Ovitz of Creative Artists Agency of Los Angeles to advise on programming and technology. A key aspect of this effort is development of navigator software that eventually could replace VCR's and remote control units to help customers find programs and services. Three other RBOC's—BellSouth, Ameritech, and SBC Communications are forming a joint venture with Disney, with a combined investment of more than $500 million during the next 5 years. The goal of this venture is specifically to develop, market and deliver video programming.

On top of all this activity involving the creation of new distribution paths and delivery of new entertainment and information services to the home, there has been a simultaneous revolution in the sophistication of the communications equipment employed in the home. Today more than 84 million U.S. households have VCR's. In 1994, U.S. households spent as much money purchasing and renting videos, $14 billion, as the combined revenues of all basic cable, $4.6, and the three established broadcast networks, $9.4, in 1993. In 1994, 37 percent of U.S. households owned personal computers. In 1993, estimated retail sales of North American computer software sales were $6.8 billion.

The PRESIDING OFFICER. The time of the Senator has expired.

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

The PRESIDING OFFICER. Time remains to the sponsors.

Mr. HELMS. Mr. President, all time has not been yielded back.

The PRESIDING OFFICER. The Senator from North Carolina is correct.

Mr. PRESSLER. I move to table the amendment.

Mr. HELMS. I wish to speak for 60 seconds.

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

Mr. HELMS. Mr. President, I ask unanimous consent the aspect of the unanimous consent requiring a tabling motion be vitiated and that we have an up-or-down vote on this amendment.

The PRESIDING OFFICER. Is there objection?

Mr. PRESSLER. I object.

The PRESIDING OFFICER. Objection is heard.

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

The PRESIDING OFFICER. The Senator from North Carolina does not control sufficient time to do that. All time must be yielded back at this point for a quorum call to be in order.

Mr. HELMS. Please repeat that.

Mr. PRESSLER. I move to table.

The PRESIDING OFFICER. The Senator from North Carolina does not control sufficient time to call for a quorum. All time would have to be yielded back in order for a quorum call.

Mr. HELMS. I did not use all of my time, that 60 seconds. I reserve that so I can suggest the absence of a quorum at that time.

The PRESIDING OFFICER. The Senator from North Dakota has 2 minutes 55 seconds remaining.

Mr. DORGAN. Mr. President, I yield 1 minute to the Senator from Illinois, Senator SIMON.

Mr. SIMON. Mr. President, I support the Dorgan amendment for the reason Senator DORGAN and Senator HELMS

have outlined, but one other important reason. Economic diversity is important, but diversity in terms of news sources for the American people is extremely important.

I used to be in the newspaper business. Fewer and fewer people own the newspapers of this country. We are headed in the same direction in television. It is not a healthy thing for our country. I strongly support the Dorgan amendment and agree completely—it is not often I can stand up on the Senate floor and say I agree completely with Senator JESSE HELMS, but I certainly do here today.

Mr. HELMS. Right on.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Has all time been yielded back except for my time?

The PRESIDING OFFICER. The Senator has 14 seconds remaining.

Mr. HELMS. Is there any other time outstanding?

The PRESIDING OFFICER. The Senator from North Dakota has 2 minutes remaining.

The Senator from North Dakota.

Mr. DORGAN. Let me use just a minute of that. If the Senator from North Carolina needs another minute, I will be happy to yield to him. There is not much remaining to be said.

As I indicated earlier, this could be a discussion that should take a day and we are going to compress it into 20 minutes. If you look at the landscape of ownership of our television stations 10 years or 20 years from now, you will, in my judgment, if you vote against this amendment, regret the vote. Because I think what you will see is that at a time when we brought a bill to the floor talking about deregulation and competition, we included a provision in this bill that will lead to concentration of ownership in an enormously significant way in the television industry in this country, and I do not think it is in the public interest.

That is the position the Senator from Illinois took, the position the Senator from Nebraska discussed, and the Senator from North Carolina, too. I feel so strongly this is a mistake I just hope my colleagues will take a close, hard look at this and ask themselves, if they are talking about competition, if they are talking about local control, if they are talking about diversity, do they not believe it is in the public interest to have broad-based economic ownership of television stations spread around this country? Of course they do.

Do they want to see a future in which a half dozen companies in America own all the television stations and local control is gone, diversity is gone? I do not think so. And that is exactly what will happen if my amendment is not enacted.

So I very much hope my colleagues will understand the importance of this amendment despite the brevity of the debate.

Does the Senator from North Carolina need additional time?

Mr. PRESSLER. Mr. President, I ask unanimous consent the request to table this amendment be vitiated.

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

Mr. HELMS. No, no. What was the unanimous consent request?

The PRESIDING OFFICER. To vitiate the motion to table.

Mr. PRESSLER. Mr. President, I ask unanimous consent—the Senator from Montana has just arrived. He wishes to speak on this. All of my time is used, but I ask unanimous consent Senator BURNS be given 5 minutes to speak on this.

I have made the request to vitiate the yeas and nays.

Mr. HELMS. I thank the Senator.

Mr. PRESSLER. The Senate will vote in 5 minutes, but I also ask unanimous consent Senator SIMON be recognized—following this upcoming vote, Senator SIMON be recognized to speak for up to 10 minutes.

Mr. DORGAN. Mr. President, reserving the right to object.

Mr. PRESSLER. I have more to it. I will go on. I was hoping to get that approved. Relax. It is coming.

I ask unanimous consent that following the remarks of Senator SIMON, the Senate resume consideration of the Conrad amendment No. 1275 and there be 20 minutes for debate to be equally divided in the usual form; and that following the conclusion or yielding time, I be recognized to make a motion to table the Conrad amendment.

Mr. DORGAN. Mr. President, reserving the right to object, may I inquire, is there additional time left on my original time allocation?

The PRESIDING OFFICER. The Senator from North Dakota still controls 15 seconds. The Senator from North Carolina has 14 seconds left.

Mr. DORGAN. Mr. President, if the Senator from Montana is going to be given by unanimous consent 5 minutes to address this subject in opposition to this amendment, then I ask we be added an additional 5 minutes.

Mr. PRESSLER. I point out as manager of the bill I cut my time down to about 4 minutes to speak against it, to try to keep things moving. But I think the Senator from Montana is so eloquent that his argument——

Mr. DORGAN. If the Senator from Montana wishes to speak in favor of my amendment, I would have no objection.

Mr. SIMON. Parliamentary inquiry. Have we disposed of the unanimous consent request of Senator PRESSLER?

Mr. PRESSLER. I further ask that Senator SIMON be recognized following the disposition of the Conrad amendment No. 1275. Does that take care of the Senator? Then we have all the problems taken care of.

Mr. LEAHY. Reserving the right to object, I note for Senators it is customary if at the time—it has been a long custom here—if all time has expired and somebody asks for additional time to speak on something that is about to be voted on, it is customary to ask for an equal amount of time for somebody on the other side. They may or may not use it, but that is the customary practice.

Mr. PRESSLER. Fine. I will point out I gave the opposition 15 minutes. I just took 5 to try to move this thing along. But, fine, we will give each side 5 more minutes.

I ask unanimous consent that occur.

The PRESIDING OFFICER. Without objection, it is so ordered. Is that to be added to the 14 seconds remaining of the Senator from North Carolina and the 15 seconds remaining to the Senator——

Mr. PRESSLER. To the 14 seconds and 15 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Montana.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Did we also grant the unanimous consent request for the rest of the sequencing that the Senator indicated? That was done also?

The PRESIDING OFFICER. Yes, it was.

Mr. BURNS. I ask the Senator from New Mexico, did he want to speak in opposition to this?

Mr. DOMENICI. No; I am afraid if I were to speak, I might not speak in opposition, so I do not choose to speak.

Mr. BURNS. That is fine.

The PRESIDING OFFICER. The Senator from Montana has 5 minutes.

Mr. BURNS. Mr. President, I shall not take 5 minutes. I would say the way the trend has been in radio and television station ownership in the last 5 or 10 years, this actually, I think, would stymie any development of further stations in the market.

I rather doubt that any one owner wants to own both radio stations or three television stations in the market of Billings, MT. I do not think they want to own all of them. We are not talking about just network stations; we are talking about independent stations. We are talking about stations that are not affiliated with any kind of a network on the limits of ownership that you can have in a specific market but across the Nation.

So, I am going to yield my time back. I am opposed to this amendment just for the simple reason of its effect on the sale of a station. When one retires or wants to sell a station, then you are going to have to go over and maybe you have a willing buyer that will give so much money for it and then that is closed out because he already owns too many stations? Maybe nobody else wants to get into the broadcast business. This also limits your ability to market a station, if you are lucky enough to own one.

This does not pertain just to television stations. This also pertains to radio stations, radio stations as well as television stations.

So I would oppose this amendment and I ask my colleagues to oppose it also.

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

## EXECUTIVE SESSION

### EXECUTIVE CALENDAR

Mr. PRESSLER. Mr. President, in executive session, I ask unanimous consent that the Senate immediately proceed to the consideration of the following Executive Calendar nominations:

Calendar No. 175, Robert F. Rider; Calendar No. 176, John D. Hawke, and Calendar No. 177, Linda Lee Robertson.

I further ask unanimous consent that the nominations be considered en bloc, the motions to reconsider be laid upon the table en bloc, that any statements relating to the nominations appear at the appropriate place in the RECORD, that the President be immediately notified of the Senate's action, and that the Senate then return to legislative session.

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

The nominations were considered and confirmed en bloc, as follows:

U.S. POSTAL SERVICE

Robert F. Rider, of Delaware, to be a Governor of the United States Postal Service for the term expiring December 8, 2004. (Reappointment)

DEPARTMENT OF THE TREASURY

John D. Hawke, Jr., of New York, to be Under Secretary of the Treasury.

Linda Lee Robertson, of Oklahoma, to be a Deputy Under Secretary of the Treasury.

## LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

## THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate resumed with the consideration of the bill.

AMENDMENT NO. 1278

Mr. DORGAN. Mr. President, I yield 2 minutes to the Senator from Nebraska, Senator KERREY.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, thank you.

As I indicated earlier, this amendment simply conforms with the underlying theme of S. 652 which is that if we have competition the consumers will benefit. The current language of the bill moves us in the direction of less competition. You cannot go from 25 percent ownership of stations in a service area to 35 percent without decreasing the competition. Inescapably the consequence is decreasing the number of broadcast owners in a particular area.

So, in addition to the localism argument, which was very eloquently made by both the Senator from Illinois and the Senator from North Carolina, the important issue when you are dealing with news—I point out a very important issue—when you are dealing with the question of how does the electorate, how does the public, how do the citizens themselves acquire information, is the issue of concentration of ownership. That is a very important issue.

So in addition to the idea that this shifts us away from local control of stations, there is also the very important idea of concentration in the industry, and lack of competition. It is highly likely that companies that we currently see as networks, or companies that we currently see as broadcasters, will be coming in at the local level saying we would like to provide what we previously regarded as dial tone and vice versa. This whole thing is going to get jumbled up in a hurry. As the Senator from South Dakota said several times, we allow people to get into each other's business. That is basically what the bill does.

So I hope Members who want competition, who want the consumers to benefit from that competition, will support the Dorgan amendment.

Mr. DORGAN. Mr. President, I will not use all of the remaining time. I am going to send a modification to the desk.

If I might have the attention of the Senator from South Dakota, who I think is now looking at the modification, the modification is purely technical in order to conform the amendment to the manner in which the underlying bill is drafted.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. I have a right to modify the amendment without consent.

Mr. PRESSLER. We have a problem with one portion, which is to modify or remove such national or local ownership of radio and television broadcasting.

Mr. DORGAN. Radio has never been a part of the amendment that we offered today. It was not intended to be a part. I described the amendment earlier today as only affecting television stations. That is the intent of the amendment.

Mr. PRESSLER. In the amendment we have national or local ownership of radio and television broadcasting.

Mr. DORGAN. It is not the intent of the amendment to include radio. It is the intent to only include television, and that is the way I described it earlier today just after the noon hour.

Mr. PRESSLER. As I understand it, every Senator can modify his amendment at any time. That changes the amendment based on my understanding. The amendment I have in my hand reads radio and television broadcasting.

Mr. DORGAN addressed the Chair.

Mr. PRESSLER. A Senator has a right to modify his amendment.

The PRESIDING OFFICER. The Senator from North Dakota needs to ask unanimous consent in order to modify his amendment.

Mr. PRESSLER. In view of the fact that the amendment I have in my hand is to modify or remove such national or local ownership of radio and television broadcasting, and just on the very moment of the vote to take out radio, and I want to consult with some of my colleagues, 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. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. Mr. President, my understanding of the parliamentary situation is that once all time is yielded back, under the unanimous-consent request, I would then be allowed to modify my amendment, which I sought to do. Is that correct?

The PRESIDING OFFICER. It still would require unanimous consent to proceed under that scenario.

AMENDMENT NO. 1278, AS MODIFIED

Mr. DORGAN. Mr. President, I ask unanimous consent that I be allowed to modify my amendment, and I send the modification to the desk.

The PRESIDING OFFICER. Is there objection?

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

I have 2 minutes remaining. In order to accommodate my friend from North Dakota, I would yield back the remainder of my time so that will put his request to modify in correct parliamentary procedure. Is that a correct assumption?

The PRESIDING OFFICER. It will not be necessary for the Senator to yield back time in order for the unanimous-consent modification of the amendment.

Mr. BURNS. Then I reserve the remainder of my time.

I thank the Chair.

The PRESIDING OFFICER. Is there objection to the request to modify the amendment? Without objection, it is so ordered.

The amendment (No. 1278), as modified, is as follows:

Strike paragraph (1) of subsection (b) of Section (207) and insert in lieu thereof the following:

''(1) REVIEW AND MODIFICATION OF BROADCAST RULES.—The Commission shall:

''(A) modify or remove such national and local ownership rules only applying to television broadcasters as are necessary to ensure that broadcasters are able to compete fairly with other media providers while ensuring that the public receives information from a diversity of media sources and localism and service in the public interest is protected taking into consideration the economic dominance of providers in a market and

''(B) review the ownership restriction in section 613(a)(1).''

Mr. DORGAN. Mr. President, I have 2 minutes remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. DORGAN. Mr. President, I shall not use the entire 2 minutes. Let me just say that when I proposed this amendment earlier today, I indicated the amendment was about removing the provision in the bill that eliminates the restrictions on broadcast ownership on television stations. The bill is drafted that way. The first two sentences strike those provisions dealing with television stations and there was some ancillary language that relates to the rules that will have to be redrawn at the FCC. That referred to the set of rules in which they were dealing with both television and radio stations, so the word ''radio'' was there but it had nothing to do with the strike. So we have since corrected that so that no one can misunderstand what the discussion is.

The discussion is that we believe the elimination of the ownership rules, the ownership restrictions, 12 stations and 25 percent of the market, the elimination is not in the public interest, and we believe very much that the provision that strikes those prohibitions ought to be taken out of this bill, and the provisions of the 12 television stations and 25 percent of the market ought to remain. That is the purpose of it. I already described what I think is the importance of it, and in the interest of my friend from South Dakota, who has been very cooperative on this, in the interest of his moving this along, I would yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BURNS. When you start talking about, I guess, broadcast companies, I find it unlikely, coming out of that business, that any one company would come to buy all the broadcast stations, especially in television, in a specific market.

Now, we have limited it nationally to 25 percent by law under the cable rereg bill, 25 percent of the market to a specific company, but we did not say that you were limited to a certain amount of cable systems. In other words, you just do not own so many cable systems if that adds up to 25 percent.

What we are saying here is that you are limited not only as to the number of stations you can own but also a limit on the number of listeners or people who might be in that specific market nationally.

So I just think it is bad policy right now. We do not limit any other media on the amount of ownership nationally across this country.

The local station, if it is owned locally, does a much better job in competing against an absentee owner. And that question came up in the hearings. I said even though I might do business in Georgia—and there was a Georgia businessman who owned a station in my State of Montana—it is still tough to do business against a local owner of a local station whenever the investment is there and the money is spent there.

So again I would say that even the marketplace itself limits ownership in television and, of course, I am objecting to any kind of an ownership restriction on radio stations altogether.

I reserve the remainder of my time. I yield the floor.

Mr. PRESSLER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is all time yielded back?

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

The PRESIDING OFFICER. Does the Senator from North Carolina yield back his time?

Mr. HELMS. I certainly do. Yes.

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to amendment No. 1278, as modified. 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.

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

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 253 Leg.]

YEAS—51

| | | |
|---|---|---|
| Akaka | Faircloth | Kohl |
| Baucus | Feingold | Lautenberg |
| Biden | Feinstein | Leahy |
| Bingaman | Glenn | Levin |
| Boxer | Gorton | Lieberman |
| Bradley | Graham | McConnell |
| Bumpers | Grams | Mikulski |
| Byrd | Grassley | Moseley-Braun |
| Campbell | Harkin | Murray |
| Conrad | Hatfield | Pell |
| D'Amato | Heflin | Pryor |
| Daschle | Helms | Reid |
| DeWine | Johnston | Rockefeller |
| Dodd | Kassebaum | Sarbanes |
| Domenici | Kennedy | Simon |
| Dorgan | Kerrey | Thomas |
| Exon | Kerry | Wellstone |

NAYS—48

| | | |
|---|---|---|
| Abraham | Frist | Nickles |
| Ashcroft | Gramm | Nunn |
| Bennett | Gregg | Packwood |
| Bond | Hatch | Pressler |
| Breaux | Hollings | Robb |
| Brown | Hutchison | Roth |
| Bryan | Inhofe | Santorum |
| Burns | Inouye | Shelby |
| Chafee | Jeffords | Simpson |
| Coats | Kempthorne | Smith |
| Cochran | Kyl | Snowe |
| Cohen | Lott | Specter |
| Coverdell | Lugar | Stevens |
| Craig | McCain | Thompson |
| Dole | Moynihan | Thurmond |
| Ford | Murkowski | Warner |

ANSWERED ''PRESENT''—1

Mack

So the amendment (No. 1278), as modified, was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. 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. D'AMATO. 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. D'AMATO. Mr. President, I move to reconsider the vote by which the amendment, as modified, was agreed to.

Mr. DOLE. I ask for the yeas and nays on the motion to reconsider.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DORGAN. Mr. President, I move to table the motion, 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.

VOTE ON MOTION TO TABLE THE MOTION TO RECONSIDER

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the motion to reconsider. On this question, the yeas and nays were ordered, and the clerk will call the roll.

The bill clerk called the roll.

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

The result was announced—yeas 48, nays 52, as follows:

[Rollcall Vote No. 254 Leg.]

YEAS—48

| | | |
|---|---|---|
| Akaka | Feingold | Lautenberg |
| Baucus | Feinstein | Leahy |
| Biden | Ford | Levin |
| Bingaman | Glenn | Lieberman |
| Boxer | Gorton | McConnell |
| Bradley | Graham | Mikulski |
| Bumpers | Grassley | Moseley-Braun |
| Byrd | Harkin | Murray |
| Campbell | Heflin | Pell |
| Conrad | Helms | Pryor |
| Daschle | Inouye | Reid |
| DeWine | Johnston | Robb |
| Dodd | Kennedy | Rockefeller |
| Dorgan | Kerrey | Sarbanes |
| Exon | Kerry | Simon |
| Faircloth | Kohl | Wellstone |

NAYS—52

| | | |
|---|---|---|
| Abraham | Gramm | Nickles |
| Ashcroft | Grams | Nunn |
| Bennett | Gregg | Packwood |
| Bond | Hatch | Pressler |
| Breaux | Hatfield | Roth |
| Brown | Hollings | Santorum |
| Bryan | Hutchison | Shelby |
| Burns | Inhofe | Simpson |
| Chafee | Jeffords | Smith |
| Coats | Kassebaum | Snowe |
| Cochran | Kempthorne | Specter |
| Cohen | Kyl | Stevens |
| Coverdell | Lott | Thomas |
| Craig | Lugar | Thompson |
| D'Amato | Mack | Thurmond |
| Dole | McCain | Warner |
| Domenici | Moynihan | |
| Frist | Murkowski | |

So, the motion to lay on the table was rejected.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Madam President, I ask unanimous consent that the yeas and nays be vitiated on the motion to reconsider.

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

Mr. DOLE. So then the vote will be, again, on the issue. We can adopt the motion to reconsider by voice vote.

VOTE ON MOTION TO RECONSIDER

The PRESIDING OFFICER. The question now is on agreeing to the motion to reconsider the vote by which the Dorgan amendment was agreed to.

So the motion was agreed to.

VOTE ON AMENDMENT NO. 1278, AS MODIFIED, UPON RECONSIDERATION

The PRESIDING OFFICER. The question is on agreeing to the Dorgan amendment No. 1278, as modified, upon reconsideration.

Mr. DORGAN. Madam President, I ask for the yeas and nays.

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

The assistant legislative clerk called the roll.

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

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

The result was announced—yeas 47, nays 52, as follows:

[Rollcall Vote No. 255 Leg.]

YEAS—47

| | | |
|---|---|---|
| Akaka | Faircloth | Lautenberg |
| Baucus | Feingold | Leahy |
| Biden | Feinstein | Levin |
| Bingaman | Glenn | Lieberman |
| Boxer | Gorton | McConnell |
| Bradley | Graham | Mikulski |
| Bumpers | Grassley | Moseley-Braun |
| Byrd | Harkin | Murray |
| Campbell | Heflin | Pell |
| Conrad | Helms | Pryor |
| Daschle | Inouye | Reid |
| DeWine | Johnston | Rockefeller |
| Dodd | Kennedy | Sarbanes |
| Domenici | Kerrey | Simon |
| Dorgan | Kerry | Wellstone |
| Exon | Kohl | |

NAYS—52

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|---|---|---|
| Abraham | Gramm | Nunn |
| Ashcroft | Grams | Packwood |
| Bennett | Gregg | Pressler |
| Bond | Hatch | Robb |
| Breaux | Hatfield | Roth |
| Brown | Hollings | Santorum |
| Bryan | Hutchison | Shelby |
| Burns | Inhofe | Simpson |
| Chafee | Jeffords | Smith |
| Coats | Kassebaum | Snowe |
| Cochran | Kempthorne | Specter |
| Cohen | Kyl | Stevens |
| Coverdell | Lott | Thomas |
| Craig | Lugar | Thompson |
| D'Amato | McCain | Thurmond |
| Dole | Moynihan | Warner |
| Ford | Murkowski | |
| Frist | Nickles | |

ANSWERED ''PRESENT''—1

Mack

So the amendment (No. 1278), as modified, was rejected.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Madam President, I thank my colleagues. I think we are holding the committee bill together and moving forward.

There is now, under the unanimous consent as I understand it, to be a speech from Senator SIMON, which he has been waiting to give. He is prepared to go.

The PRESIDING OFFICER. May we have order in the Chamber, please?

The Senator from Illinois.

AMENDMENT NO. 1347 TO AMENDMENT NO. 1275

Mr. SIMON. Madam President, I rise in opposition to the amendment offered by my friend and colleague from North Dakota and the Senator from Connecticut, Senator LIEBERMAN. I do this reluctantly, in part because I agree with them in terms that we have a real problem and we have to confront that problem. The question is how we confront it.

Let me commend him, Senator CONRAD, Senator DORGAN, also from North Dakota, and Senator LIEBERMAN, in terms of video games and what he has been able to do there. Senator HOLLINGS has been a leader in this. Senator HUTCHISON has shown leadership. The problem is real and there are those in the industry, just like there are those in the cigarette industry, who deny there is a real problem. But the research is just overwhelming. There is no question that a cause—not the cause, because there are many causes—but a cause of violence in our society is the violence people see on entertainment television.

I stress entertainment television because on news television —sometimes it is more violent than I would like—but on news television when you see that scene from Bosnia, you see relatives crying, you see violence in its grimness. In entertainment television, there is a tendency to glorify violence.

When even the President of the United States uses a phrase like ''make my day,'' using it against Saddam Hussein, what he is saying is violence is a way of solving problems and violence is fun. Those are precisely the wrong messages.

We have been working on this for some time. This body, I am pleased to say, unanimously passed a bill saying the industry can get together without violating the antitrust laws to deal with the problem of violence. Since that has happened, there have been steps—major steps, frankly, by the broadcast industry; very small steps by the cable industry—in moving in a more positive direction. That ultimately is going to have an effect on our society.

If you look back at the old television series and movies, you will see our heroes and heroines smoking a great deal, drinking very heavily. That just quietly changed. The same thing is happening on broadcast television, but it is not happening, frankly, in the cable field as much as we would like. I applaud the steps that have been taken, but we need to do more.

I am also very reluctant to see Government get excessively into this problem. I spoke in Los Angeles in August 1993 to a unique gathering of 800 television and movie producers and talked about this issue of violence in our films. It was received about as favorably out there as Senator Bob DOLE's recent comments. Let me just add that I agree with the general thrust of Senator DOLE's comments.

But one of the things I said in August 1993 was, if the industry was willing to set up monitoring where we could find out what is happening, independent monitoring that is recognized as solid, I would oppose any legislative answers. At first we got a very negative response from the industry. Finally, both the broadcast and cable industries have established—or have contracted with respected entities, UCLA and Mediascope, to do this. The first report on broadcast will come in September. The report on cable will come in January. And tentatively we will have that for 3 years.

I think it is important that we let the industry try to correct its problems on its own, that we applaud the steps that have been taken, that we say more steps are needed. I have a sense-of-the-Senate resolution which will be voted upon immediately after we vote on the Conrad-Lieberman amendment—it is cosponsored by Senator DOLE and Senator PRESSLER—which urges the industry to do more in this area but does not get the Federal Government involved directly. When you start moving in the direction of getting the Federal Government involved—for example this deals with ''the level of violence or objectionable content.'' When you talk about ''objectionable content,'' you are talking about something that is not very precise. When you talk about content, I think the Federal Government has to be very, very careful.

If the industry on its own gets into this V-chip field, I applaud that. I welcome that. I am reluctant to have the Federal Government start moving into this field of content.

Let me add, it is not a substitute for the industry policing itself and having good programming, positive programming. Even if this is agreed to, we will still face the reality, for example, that in the high crime areas of our country young people watch a great deal more television than they do in the suburbs and rural areas of our country. And they are going to continue to see much too much violence and programs that I think are objectionable.

So my hope is that, frankly, we will defeat the Conrad-Lieberman amendment because we do not want the Federal Government getting its fist in there too heavily. I think we have to be careful. But let us pass the sense-of-the-Senate resolution, which will send a signal, a very clear signal, a sense-of-the-Senate resolution that I assume will pass unanimously, that sends a signal to the industry: Let us do better. We have serious concerns.

Madam President, I reserve the remainder of my time.

Mr. PRESSLER. Will the Senator yield?

The PRESIDING OFFICER. The Chair recognizes the distinguished Senate majority leader.

Mr. DOLE. Madam President, I will just take a few minutes, I say to Senator SIMON.

First, I ask unanimous consent the vote on the motion to table the Conrad amendment occur at 8:10 p.m. to be followed immediately by a vote on the Simon amendment.

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

Mr. DOLE. Mr. President, I support the goals of the amendments offered by my distinguished colleagues, Senator CONARD and Senator LIEBERMAN.

Both Senators are absolutely right to criticize the television industry for programming that too often glorifies mindless violence and casual sex. One recent study commissioned by USA Weekend magazine recorded 370 instances of ''crude language or sexual situations'' during a 5-night period of prime-time programming, or 1 every 8.9 minutes; 208 of these incidents occurred between 8 and 9 p.m., the so-called family hour.

According to one study, children will have been exposed to nearly 18,000 televised murders and 800 televised suicides by the time they reach the ripe old age of 18.

Clearly, on the issue of violent and sexually oriented programming, the television industry has much, much to explain to concerned parents throughout the country.

So, Mr. President, Senator CONARD, Senator LIEBERMAN, and I are in total agreement when it comes to identifying the problem that his amendment seeks to address. We part ways, however, when it comes to how best to resolve this problem in a way that is both effective and consistent with our free-speech traditions.

Senator CONRAD's amendment, as modified by the Lieberman second-degree, may not amount to censorship, but by establishing a 5-member Presidential Commission to create a ''violence rating system,'' it takes us one step closer to government control over what we see and hear on television. As I have said on numerous occasions, we have more to lose than to gain from putting Washington in charge of our culture.

I am also concerned about the provisions in Senator CONRAD's amendment that would direct TV stations to transmit the ratings developed by the Presidentially appointed Commission as well as require that all TV sets be equipped with chip technology in order to block out programming found objectionable under the government-rating system.

These provisions are inconsistent with the general deregulatory approach of this bill—that less government control, less government regulations are what is needed most for a strong, competitive, consumer-oriented telecommunications industry.

The real solution to the problem of television's corrosive impact on our culture lies with concerned parents, informed consumers who have the good sense to turn off the trash, and corporate executives within the entertainment industry who are willing to put common decency above corporate profits.

That is why I have cosponsored the sense of the Senate amendment offered by my distinguished colleague from Illinois, Senator SIMON. This amendment is right-on-target: It states that ''self-regulation by the private sector is * * * preferable to direct regulation by the Federal Government.'' And it urges the entertainment industry ''to do everything possible'' to limit the amount of violent and aggressive programming, particularly during the hours when children are most likely to be watching.

In other words: No regulation. No government involvement. No censorship. Just focusing the moral spotlight where it is needed most.

Mr. President, the television industry has tremendous power. In fact, television is perhaps the most dominant cultural force in America today. But with this power comes responsibility. It is my hope, and it is the hope of millions of Americans across this great country, that the television industry will finally get the message and preform a much-needed and urgent house-cleaning.

Let me also add that when I made a statement about the entertainment industry a couple of weeks ago it did get the attention of a lot of people. But I notice in all the surveys that followed that speech there were about as many people concerned about Government censorship as there were about the violence, the mindless violence, and casual sex in movies and TV.

I have been criticized, maybe with some justification, by some who say, ''BOB DOLE, Senator DOLE, wants censorship.'' I never suggested censorship. I did not suggest the Government do anything. I suggested that shame is a powerful weapon, and that it ought to be used.

I also suggested that, while the entertainment industry has its first amendment rights, we have our first amendment rights to express outrage, as the Senator from Illinois has done, the Senator from New Jersey, Senator BRADLEY, and many others, in this Senate.

So I would hope that we would not let the Government take one inch, make one effort that would indicate that we are headed towards Government regulation, Government involvement, censorship, if you will, and give the industry a chance to clean up its act. The last thing we want is more Government, particularly in a bill. As I have suggested, we are trying to deregulate and be more competitive.

I hope that the Conrad amendment and the underlying amendment will be tabled, and that the amendment of the Senator from Illinois would then be adopted.

The PRESIDING OFFICER. Does the Senator from Illinois wish to use his final minutes?

Mr. SIMON. Madam President, I would like to reserve the 2 minutes for later, if I could.

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

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I ask that Senator LIEBERMAN, Senator EXON, Senator BYRD, Senator NUNN, and Senator FEINSTEIN be shown as cosponsors of my amendment.

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

Mr. CONRAD. I thank the Chair.

Madam President, the amendment that I am offering is not governmental choice in television. It is parental choice in television. There is a world of difference, and it is an important difference.

The amendment that I am offering provides for choice chips in new television sets so that parents can decide what comes into their homes—not the Government; parents. That is what the American people want, and that is what this amendment provides. It says when we start building new television sets let us include the new technology that will permit parents to decide what their children see—no Government bureaucrat, no Government agency; parents. That is precisely where the choice ought to lie.

Madam President, we do not dictate when the industry should provide the choice chip. We provide that there should be consultation between the industry and the FCC to determine the appropriate time for the choice chip to be included in new television sets. But we did say those chips ought to be available, and ought to be included in new sets, whether they are manufactured abroad or in this country for use in America. The American people want to be able to make these decisions.

I would direct my colleagues' attention to a USA Today poll that was taken on June 2 through the 4th. They asked the question:

> Should ''V-chips'' be installed in TV sets so parents could easily block violent programming?

Yes, 90 percent; 90 percent said yes. They want to have the ability to choose. They want to have the ability to make the determination about what their kids see—not Government, parents.

This amendment empowers parents. Let parents decide. It leaves the decision where it belongs, with American families—not some Government agency, not some Government authority, but the American parents.

Second it provides for a rating system.

Mr. BREAUX. Will the Senator yield?

Mr. CONRAD. I would prefer not to. I would like to conclude my statement because I have very limited time.

Consumers would like to know the content of programming. So we provide for a rating system. In my amendment, it is not determined by any Government board. It is determined by industry getting together with all interested parties. They are given 1 year on a voluntary basis to determine a rating system—not some Government fiat, not some Government dictate, but the industry working together with all interested parties on a voluntary basis for 1 year to establish a rating system.

Do you know? I believe they could do it without any Government interference, without any Government involvement. But if they fail after 1 year, then, yes. We provide that the FCC step in and oversee the creation of the rating system.

Do you know what? We have seen this done in other industries. We asked the industry that is involved with recreational software to develop on a voluntary basis a rating system. They did it. They did an excellent job. This is what they came up with—a thermometer that shows levels of violence, shows sexual activity, shows language so that people can make a judgment for themselves. That is what we are calling for here—parental choice, not governmental choice.

Madam President, I ask my colleague, Senator LIEBERMAN, for his comments.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. PRESSLER. Madam President, how much time remains, and who is it allocated to?

The PRESIDING OFFICER. The Senator from South Dakota has 9 minutes, and the Senator from North Dakota has 4 minutes and 40 seconds.

Mr. CONRAD. I give 3 minutes to my colleague from Connecticut.

The PRESIDING OFFICER. The Senator from Connecticut.

AMENDMENT NO. 1347, AS MODIFIED, TO AMENDMENT NO. 1275

Mr. LIEBERMAN. I thank the Chair.

Madam President, I first want to exercise my ability to send a modification of my second-degree amendment to the desk.

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

Mr. LIEBERMAN. I thank the Chair.

The PRESIDING OFFICER. The amendment is so modified.

Mr. LIEBERMAN. This is a technical amendment which in part——

Mr. PRESSLER. Reserving the right to object——

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. LIEBERMAN. Madam President, I exercised, I say to the chairman of the committee, my right to modify my second-degree amendment. It is a technical modification which in part responds to the suggestion of the ranking member of the committee to remove the section of the original amendment that would have established a system of fees to finance the grading board.

Mr. PRESSLER. What is the parliamentary situation? Does this take unanimous consent?

The PRESIDING OFFICER. It does require unanimous consent.

Does the Senator object?

Mr. PRESSLER. I must reserve the right to object.

Mr. LIEBERMAN. I am happy to proceed with my statement.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. PRESSLER. I withdraw my objection.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 1347), as modified, is as follows:

On page 3, strike out line 12 and all that follows through page 4, line 16, and insert in lieu thereof the following:

**SEC. 503. RATING CODE FOR VIOLENCE AND OTHER OBJECTIONABLE CONTENT ON TELEVISION.**

(a) SENSE OF CONGRESS ON VOLUNTARY ESTABLISHMENT OF RATING CODE.—It is the sense of Congress—

(1) to encourage appropriate representatives of the broadcast television industry and the cable television industry to establish in a voluntary manner rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming;

(2) to encourage such representatives to establish such rules in consultation with appropriate public interest groups and interested individuals from the private sector; and

(3) to encourage television broadcasters and cable operators to comply voluntarily with such rules upon the establishment of such rules.

(b) REQUIREMENT FOR ESTABLISHMENT OF RATING CODE.—

(1) IN GENERAL.—If the representatives of the broadcast television industry and the cable television industry do not establish the rules referred to in subsection (a)(1) by the end of the 1-year period beginning on the date of the enactment of this Act, there shall be established on the day following the end of that period a commission to be known as the Television Rating Commission (hereafter in this section referred to as the ''Television Commission''). The Television Commission shall be an independent establishment in the executive branch as defined under section 104 of title 5, United States Code.

(2) MEMBERS.—

(A) IN GENERAL.—The Television Commission shall be composed of 5 members appointed by the President, by and with the advice and consent of the Senate, of whom—

(i) three shall be individuals who are members of appropriate public interest groups or are interested individuals from the private sector; and

(ii) two shall be representatives of the broadcast television industry and the cable television industry.

(B) NOMINATION.—Individuals shall be nominated for appointment under subparagraph (A) not later than 60 days after the date of the establishment of the Television Commission.

(D) TERMS.—Each member of the Television Commission shall serve until the termination of the commission.

(E) VACANCIES.—A vacancy on the Television Commission shall be filled in the same manner as the original appointment.

(2) DUTIES OF TELEVISION COMMISSION.—The Television Commission shall establish rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming.

(3) COMPENSATION OF MEMBERS.—

(A) CHAIRMAN.—The Chairman of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the Chairman is engaged in the performance of duties vested in the commission.

(B) OTHER MEMBERS.—Except for the Chairman who shall be paid as provided under subparagraph (A), each member of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level V of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the commission.

(4) STAFF.—

(A) IN GENERAL.—The Chairman of the Television Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the commission to perform its duties. The employment of an executive director shall be subject to confirmation by the commission.

(B) COMPENSATION.—The Chairman of the Television Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed te rate payable for level V of the Executive Schedule under section 5316 of such title.

(5) CONSULTANTS.—The Television Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Code. The commission shall give public notice of any such contract before entering into such contract.

(6) FUNDING.—There is authorized to be appropriated to the Commission such sums as are necessary to enable the Commission to carry out its duties under this Act.

Mr. LIEBERMAN. I thank the chairman of the committee.

Madam President, again, I am privileged to join with my colleague from North Dakota in this amendment. The fact is that every study we have seen shows the extraordinary unacceptable amount of violence on television. It affects our children. It makes them more violent. The fact is that it is hard to believe that amount of inappropriate, objectionable material that the majority leader has referred to as casual sex on television which affects the violence of our kids.

One survey I quoted in an earlier statement here said the kids themselves admitted that what they saw on television encouraged them to be involved in sexual activity earlier than they should have.

It is time finally in our society that we focus on some of the major forces that affect our values and our children's values. We are confronting the difficult question of the impact of the entertainment media which is so powerful on our values and on our lives in our society.

This amendment gives the Members of this Chamber the opportunity to do more than talk about this problem. This is an opportunity to do something about it—not to create censorship, far from it—but under the terms of this amendment to basically get the attention of the television industry.

Senator SIMON, our colleague, has been a leader in this. But the fact is, as I understand it, that it is because of his understanding of the television industry that he has offered his sense of the Senate. The fact is that the industry has not gotten the message.

The programs that our kids are seeing are giving them the wrong message, and it is affecting their behavior and challenging the ability of parents in this country to raise their kids the way they want to raise them. This amendment, modified by my second-degree amendment, simply gives the industry a year to create its own standards; if they do not, then sets up a rating board, two members from the industry, three from the public, to do the job.

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

Mr. LIEBERMAN. I thank the Chair. This Senate ought to act on this problem.

I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Madam President, it is the intention of the Commerce Committee to hold hearings on this subject in the near future. Indeed, Senator HOLLINGS and many others have bills that they have filed, and they have been patiently waiting to have hearings so that we can start a legislative process.

For example, this amendment, before it was amended, said we would have had to look at the impact of assessing fees on broadcasters for funding a national commission on TV.

Now, that has been modified, but there still are many questions that I have about this. And I would inform Members that a Simon-Dole-Pressler amendment will be coming calling for renewed efforts by the broadcast industry to regulate violent programming. It is my strongest feeling that we should vote down the first amendment and adopt the sense-of-the-Senate amendment so that we can clearly state our views on this matter and proceed with legislation in a proper way with hearings and a markup.

I thought the Senator from Louisiana wished to speak. I would like to yield as much time as the Senator from Louisiana would consume.

Mr. BREAUX. I thank the chairman. I would just like to ask a question of the Senator who is the sponsor of the amendment. He spoke of the—what was it, the choice chip? It would seem to me that the TV sets already have choice chips. It is called the off and on switch, and when the parent thinks that the program is not proper for a small child in their home, they just go turn it off. And that is a choice chip by a different name. But they have the right to control what their children see right now.

I am not sure why we have to order companies to build some other kind of switch to regulate what children see. It is a parental responsibility, I think, to say this is a program that is suitable for my child or it is not. And if it is not, you take the little off-on switch and you go ''flick'' or you can take the remote control and go ''push'' and the program is gone—poof, it is gone, like we already have a choice chip on the TV right now.

I would like to ask, what is the problem with the existing chip?

Mr. CONRAD. The Senator asks a very good question, and the problem is very often the parents are not home to help participate in that choice. Millions of American families have both parents working. Millions of American families are so busy that they do not have a chance to monitor every minute of what their children are watching. And so what we are providing is when the parent is absent, they are able to program that television to exclude programming they find objectionable. Why not? Why should not parents have an ability to say that not just anyone can come into their home, uninvited, and give any message to their kid that they want to give without the parents being able to stop it?

Mr. BREAUX. I thank the Senator.

Mr. CONRAD. I think the American people want the chance to say no.

Mr. BREAUX. I think it is a valid response.

I thank the Senator for yielding. I thank the Chair. I yield the floor.

Mr. SIMON addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Illinois.

AMENDMENT NO. 1349

Mr. SIMON. Mr. President, I would like to take my remaining time. I have an amendment at the desk I would offer.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself, Mr. DOLE, and Mr. PRESSLER, proposes an amendment numbered 1349.

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

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

The amendment is as follows:

At the appropriate place add the following.

**SEC. : FINDINGS.**

The Senate finds that—

Violence is a pervasive and persistent feature of the entertainment industry. According to the Carnegie Council on Adolescent Development, by the age of 18, children will have been exposed to nearly 18,000 televised murders and 800 suicides.

Violence on television is likely to have a serious and harmful effect on the emotional development of young children. The American Psychological Association has reported that children who watch ''a large number of aggressive programs tend to hold attitudes and values that favor the use of aggression to solve conflicts.'' The National Institute of Mental Health has stated similarly that ''violence on television does lead to aggressive behavior by children and teenagers.''

The Senate recognizes that television violence is not the sole cause of violence in society.

There is a broad recognition in the U.S. Congress that the television industry has an obligation to police the content of its own broadcasts to children. That understanding was reflected in the Television Violence Act of 1990, which was specifically designed to permit industry participants to work together to create a self-monitoring system.

After years of denying that television violence has any detrimental effect, the entertainment industry has begun to address the problem of television violence. In the Spring of 1994, for example, the network and cable industries announced the appointment of an independent monitoring group to assess the amount of violence on television. These reports are due out in the Fall of 1995 and Winter of 1996, respectively.

The Senate recognizes that self-regulation by the private sector is generally preferable to direct regulation by the federal government.

**SEC. : SENSE OF THE SENATE.**

It is the Sense of the Senate that the entertainment industry should do everything possible to limit the amount of violent and aggressive programming, particularly during the hours when children are most likely to be watching.

Mr. SIMON. Mr. President, in closing the argument, let me say if the industry on its own moves in this direction, I will applaud the industry for doing it. But let us not make any mistake, we are moving beyond anything Government has ever done before. We are saying, if the industry in 1 year does not get this resolved, then a Government commission is going to determine violence and objectionable content. That is an intrusion that I hope we can avoid. And my reason for hoping we can avoid it is that, frankly, we are making some progress in the television industry. On the broadcast side, we are clearly making progress. No one denies that. On the cable side, frankly, very little progress has been made. And there I hope the industry can move ahead. But we are going to have monitoring. We are going to have our first report come in September of this year on broadcast, January of next year on cable. Let us let the industry try to resolve this matter on their own. It is a genuine problem. I agree with Senator CONRAD and Senator LIEBERMAN on that. But I think we have to be careful how far the Federal Government goes.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 1 minute 29 seconds.

Mr. CONRAD. Mr. President, I just have to correct the record with respect to the statement Senator SIMON made. My amendment does not have any Government agency determining what is objectionable content. It is not a governmental decision. It is parental choice. Parents have a right to decide. The only involvement of Government is if the industry does not move forward with putting in chips, the choice chips that will allow parents to make these decisions, it will be required on new television sets.

Second, with respect to a rating system so that parents can determine what is coming into their homes, if the industry, together with all interested parties, does not reach a determination within 1 year, then a commission will determine a rating system. They will not determine that something is objectionable and should be blocked from people's homes. Not at all. People can produce anything they want, but parents will have a right to choose what comes into their homes.

Under the Dole-Simon amendment, they are saying that the networks can come into your home, talk to your children, say anything they want, and you cannot stop them. We say that is wrong. We say that parents ought to be able to choose what their children see.

I hope my colleagues will support this commonsense amendment that gives parents the right to decide what comes into their homes.

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

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from South Dakota has 3 minutes 50 seconds.

Mr. PRESSLER. I will use my time to urge Members to vote to table the Conrad amendment. And I urge Members to express their concern on this subject by voting for the Dole-Simon-Pressler amendment, which will be a sense-of-the-Senate, so Members will have an opportunity for a followup vote.

I urge all Members of the Senate to vote to table the Conrad amendment No. 1275.

Mr. BRADLEY. Will the Senator yield?

Mr. PRESSLER. The Senator from New Jersey wants 1 minute. Even though he is not on my side, I will give him 1 minute but then I want the floor to make my motion.

Mr. BRADLEY. I thank the distinguished Senator.

Mr. President, this is the opening round of a very important debate. Nobody disputes that too much violence is coming into the home. It is coming into the home because it sells, because the market works, because people buy it.

So the question is, how do you stop it from coming into the home? My first preference would be to shame those who are making money out of selling trash. But if that fails, Mr. President, then clearly there has to be another way to try to prevent the trash from coming into the home. The amendment offered by the distinguished Senators from South Dakota and Connecticut is the beginning of saying, well, what if the market will not be subject to shame? What if it will continue to put forth trash?

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

Mr. BRADLEY. Therefore, Mr. President, I think this is a very important Senate decision.

Mr. PRESSLER. Mr. President, I must now move to table the Conrad amendment. The hour of 8:10 has arrived. I know the Senator from Florida wanted 1 minute. I do not know that that can be worked out, but I do now move to table the Conrad amendment No. 1275, and 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.

Mr. GRAHAM. Mr. President, I would like to ask if the Senator from South Dakota will yield 1 minute of his time to me.

Mr. PRESSLER. I do yield 1 minute.

The PRESIDING OFFICER. Without objection, the Senator from Florida is recognized for 1 minute.

Mr. GRAHAM. Mr. President, I ask unanimous consent to be listed as a cosponsor of the Conrad-Lieberman amendment.

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

Mr. GRAHAM. Mr. President, this is not an issue of censorship or excessive Government intrusion. This is essentially an issue of empowerment. We are empowering the parents of children to make an intelligent choice, which the children by their immaturity often are unable to make. Who better to ask in our society to be responsible for what comes into the minds of young people than those who love them the most and have the responsibility for their nurturing and upbringing?

I believe that we ought to be encouraging responsibility beyond just the pure dictates of the marketplace from many aspects of our society. I am very pleased that three Federal agencies —the Department of Defense, Amtrak, and the Postal Service—have joined together to establish some standards that will not place Federal advertising into programs that are excessively violent.

I hope that would be a standard of social responsibility that other sponsors would look to and that we would allow parents to exercise that responsibility by empowering them to control what their children see.

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

Mr. PRESSLER. I yield back all my time. This will be a vote on a motion to table.

VOTE ON MOTION TO TABLE AMENDMENT NO. 1275

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 1275 offered by the Senator from North Dakota [Mr. CONRAD]. 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.

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

The result was announced—yeas 26, nays 73, as follows:

[Rollcall Vote No. 256 Leg.]

YEAS—26

| | | |
|---|---|---|
| Ashcroft | Glenn | Packwood |
| Burns | Grassley | Pell |
| Craig | Jeffords | Pressler |
| D'Amato | Kempthorne | Robb |
| Dodd | Kyl | Santorum |
| Dole | Leahy | Simon |
| Faircloth | Lott | Specter |
| Feingold | Moseley-Braun | Thomas |
| Frist | Moynihan | |

NAYS—73

| | | |
|---|---|---|
| Abraham | Exon | Lieberman |
| Akaka | Feinstein | Lugar |
| Baucus | Ford | McCain |
| Bennett | Gorton | McConnell |
| Biden | Graham | Mikulski |
| Bingaman | Gramm | Murkowski |
| Bond | Grams | Murray |
| Boxer | Gregg | Nickles |
| Bradley | Harkin | Nunn |
| Breaux | Hatch | Pryor |
| Brown | Hatfield | Reid |
| Bryan | Heflin | Rockefeller |
| Bumpers | Helms | Roth |
| Byrd | Hollings | Sarbanes |
| Campbell | Hutchison | Shelby |
| Chafee | Inhofe | Simpson |
| Coats | Inouye | Smith |
| Cochran | Johnston | Snowe |
| Cohen | Kassebaum | Stevens |
| Conrad | Kennedy | Thompson |
| Coverdell | Kerrey | Thurmond |
| Daschle | Kerry | Warner |
| DeWine | Kohl | Wellstone |
| Domenici | Lautenberg | |
| Dorgan | Levin | |

ANSWERED ''PRESENT''—1

Mack

So the motion to lay on the table the amendment (No. 1275) was rejected.

VOTE ON AMENDMENT NO. 1347, AS MODIFIED, TO AMENDMENT NO. 1275

Mr. PRESSLER. Mr. President, I ask unanimous consent that the yeas and nays be vitiated on amendment No. 1347.

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

Several Senators addressed the Chair.

The PRESIDING OFFICER. The question occurs on the second-degree amendment No. 1347 offered by the Senator from Connecticut.

If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 1347), as modified, was agreed to.

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

Mr. PRESSLER. I ask for the yeas and nays on amendment No. 1349.

VOTE ON AMENDMENT NO. 1275, AS AMENDED

The PRESIDING OFFICER. The question occurs on amendment No. 1275 as amended.

The amendment (No. 1275), as amended, was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. PRESSLER adressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

VOTE ON AMENDMENT NO. 1349

Mr. PRESSLER. Mr. President, I ask for the yeas and nays on amendment No. 1349.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question occurs on amendment No. 1349, 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.

The result was announced, yeas 100, nays 0, as follows:

[Rollcall Vote No. 257 Leg.]

YEAS—100

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

So, the amendment (No. 1349) was agreed to.

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

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

The motion to lay on the table was agreed to.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. Mr. President, I have 2 or 3 unanimous consent requests.

AMENDMENT NO. 1335

Mr. President, I ask unanimous consent that the Senate now resume consideration of amendment 1335—it is the Kerrey of Nebraska amendment—the amendment be agreed to and the motion to reconsider be laid upon the table, all without any intervening action or debate.

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

So the amendment (No. 1335) was agreed to.

AMENDMENT NO. 1350

(Purpose: To assure that the national security is protected when considering grants of common carrier license to foreign entities and other persons)

Mr. PRESSLER. I ask that the pending amendments be laid aside, and I send an amendment to the desk on behalf of Senator EXON.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER], for Mr. EXON, for himself, Mr. DORGAN, and Mr. BYRD, proposes an amendment numbered 1350.

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

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

The amendment is as follows:

On page 49, line 15 after ''Government (or its representative)'' add the following: ''provided that the President does not object within 15 days of such determination''

On page 50 between line 14 and 15 insert the following:

''(c) THE APPLICATION OF THE EXON-FLORIO LAW.—Nothing in this section (47 U.S.C. 310) shall limit in any way the application of 50 U.S.C. App. 2170 (the Exon-Florio law) to any transaction.''

Mr. EXON. Mr. President, I rise to offer an amendment related to the foreign ownership provisions of the telecommunications bill.

S. 652, the pending bill, adds new procedures to permit foreign ownership of common carrier licenses if the Federal Communications Commission [FCC] determines that the home country of the proposed foreign owner offers reciprocal and equivalent market opportunities to Americans.

The Exon-Dorgan-Byrd amendment clarifies that nothing in the new section limits or affects the application of the Exon-Florio law (50 App. 2170) which gives the President the power to investigate and if necessary prohibit or suspend a merger, takeover or acquisition of an American company by a foreign entity when the national security may be affected by such transaction.

Where the proposed FCC procedure would permit the foreign acquisition of a U.S. telecommunications company and its common carrier licenses, it is important to make clear that the new FCC procedure does not pre-empt existing law affecting foreign mergers, acquisitions and takeovers.

Most importantly, our proposed amendment would give the President 15 days to review actions of the FCC. Under this provision, the license could be granted only if the President does not object within 15 days. As Commander in Chief, and the conductor of foreign policy, there may be information available to a President which would not or should not be available to the FCC in making its findings under the proposed procedure in S. 652. The Exon-Dorgan-Byrd amendment assures that the President gets the final say if a common carrier license is granted to a foreign entity.

This amendment should be non-controversial and in no way undermines the foreign investment and ownership reforms of S. 652. It preserves important national security, foreign policy and law enforcement powers of the President.

I urge my colleagues to support this short but critically important amendment.

Mr. BYRD. Mr. President, I strongly support the amendment offered by the distinguished senior Senator from Nebraska [Mr. EXON], and am a co-sponsor of it along with the distinguished Senator from North Dakota [Mr. DORGAN]. The international marketplace in telecommunications equipment and service is a very robust, lucrative one, and the opportunities for U.S. companies abroad are vast. However, this marketplace is subject to many of the same kind of barriers to entry as has been the case for other American business sectors. Currently, the US Trade representative, Ambassador Kantor, has initiated a 301 case against the Japanese in the area of automobile parts, after years of frustration in trying to gain fair entry into the Japanese market. The Senate has strongly endorsed this action by a vote of 88–8 on a resolution offered by myself, the two leaders, and other Senators on both sides of the aisle.

Similar problems of access to foreign markets exist in the telecommunications sector, and the bill as reported from the Commerce Committee includes a provision to protect our country and our companies from unfair competition. The bill as reported by the Committee supports an incentives-based strategy for foreign countries to open their telecommunications markets to U.S. companies. It does this by conditioning new access to the American market upon a showing of reciprocity in the markets of the petitioning foreign companies. Current law, that is section 310 of the Communications Act of 1934, provides that a foreign entity may not obtain a common carrier license itself, and may not own more than 25 percent of any corporation which owns or controls a common carrier license. This foreign ownership limitation has not been very effective and has not prevented foreign carriers from entering the U.S. market. The FCC has had the discretion of waiving this limitation, if it finds that such action does not adversely affect the public interest.

Nevertheless, maintaining restrictions on foreign ownership is generally considered by U.S. industry to be useful as one way to raise the issue of unfair foreign competition and to maintain leverage abroad. Therefore, the bill established a reciprocal market access standard as a condition for the waiver of Section 310(b). It states that the FCC may grant to an alien, foreign corporation or foreign government a common carrier license that would otherwise violate the restriction in Section 310(b) if the FCC finds that there are equivalent market opportunities for U.S. companies and citizens in the foreign country of origin of the corporation or government.

Even though Section 310 has not prevented access into our market, the existence of the section has been used by foreign countries as an excuse to deny U.S. companies access to their markets. The provision in S. 652, applying a reciprocity rule, makes it clear that our market will be open to others to the same extent that theirs are open to our investment. This is as it should be.

The amendment offered by the distinguished Senator from Nebraska ensures that important factors of national security and the overall best interest of the U.S. from the perspective of law enforcement, foreign policy, the interpretation of international agreements, and national economic security are protected. The FBI has indicated to me its grave concerns over foreign penetration of our telecommunications market. Foreign governments whose interests are adverse to the U.S., foreign drug cartels, international criminal syndicates, terrorist organizations, and others who would like to own, operate, or penetrate our telecommunications market should be prohibited from doing so. Therefore, the Exon-Dorgan-Byrd amendment gives the president the authority to overturn an FCC decision to grant a waiver of the restrictions of Section 310. This is based, of course, on the superior information available to the President by virtue of the resources available to him across the board in the Executive branch. The president must have a veto in this field, and he should not hesitate to exercise this authority.

Mr. President, my second degree amendment provides that, in the event that the President should reject a recommendation by the FCC to grant a license to a foreign entity to operate in our market, the President shall provide a report to the Congress on the findings he has made in the particular case and the factors that he took into account in arriving at his determination. The Congress needs to be kept in the loop on the evolution of our telecommunications market. The reports can be provided in classified and/or unclassified form, as appropriate, since many of the national security factors that might pertain in a particular case are sensitive and should be protected.

In addition, Mr. President, my amendment has a second section which deals with the issue of the actual nature of the foreign telecommunications market place. Given the highly lucrative nature of the telecommunications marketplace, the stakes of gaining access to foreign markets are high. It should be no surprise that securing effective market access to many foreign markets, including those of our allies, such as France, Germany and Japan, has been very difficult. Those markets remain essentially closed to our companies, dominated as they are by large monopolies favored by those governments. In fact, most European markets highly restrict competition in basic voice services and infrastructure. A study by the Economic Strategy Institute, in December 1994, found that ''While the U.S. has encouraged competition in all telecommunication sectors except the local exchange, the overwhelming majority of nations have discouraged competition and maintained a public monopoly that has no incentive to become more efficient. U.S. firms, as a result of intense competition here in the U.S., provide the most advanced and efficient telecommunications services in the world, and could certainly compete effectively in other markets if given the chance of an open playing field.'' The same study found that ''U.S. firms are blocked from the majority of lucrative international opportunities by foreign government regulations prohibiting or restricting U.S. participation and international regulations which intrinsically discriminate and overcharge U.S. firms and consumers.'' This study found that the total loss in revenues to U.S. firms, as a result of foreign barriers, is estimated to be close to $100 billion per year between 1992 and the end of the century.

As my colleagues are aware, the negotiations which led to the historic revision of the GATT agreement, and which created the World Trade Organization, were unable to conclude an agreement on telecommunications services. Thus, separate negotiations are underway in Geneva today to secure such an agreement, in the context of the Negotiating Group on Basic Telecommunications. In the absence of such an agreement, we must rely on our own laws to protect our companies and to provide leverage over foreign nations to open their markets. To forego our own national leverage would do a great disservice to American business and would be shortsighted—the result of which would be not only a setback to our strategy to open those markets, but to pull the rug out from under our negotiators in Geneva seeking to secure a favorable international agreement for open telecommunications markets. Indeed, tough U.S. reciprocity laws are clearly needed by our negotiators to gain an acceptable, effective, market-opening agreement in Geneva in these so-called GATT (General Agreement on Trade in Services) negotiations.

The standard for access into the American market in the reported bill requires that the FCC find that market opportunities in the home market of the applicant be equivalent to those desired in the U.S. in the specific telecommunications market segment involved. Thus, if an applicant wants to get into the American mobile telephone market, the mobile telephone market of the applicant must be open. I expect that the FCC will be very tough, and the President will be very tough, as provided for in the underlying amendment pending here, in making a determination that the home market of the applicant is really open for our investment and/or operations. My second degree amendment would also require the FCC and the President to look beyond that specific telecommunications market segment, and make an evaluation of the accessibility of the whole range of telecommunications market segments for American investment and/or operations. This is because the telecommunications market between the U.S. and our trading partners is often very asymmetrical. For instance, if a German company wants to get into the U.S. mobile phone market, we might find, and indeed we would find, that the German mobile phone market is open to U.S. business access. But the rest of the German market is mainly closed up tighter than a dry drum to U.S. investment or entry. So we at least need to inform ourselves of the real nature of the international marketplace, and I would expect that these evaluations would be made available to the public, in detail and in a timely way. Over the long run, if we determine a persistent pattern of imbalance and unfairness, as a whole, exists in telecommunications markets, further action to force foreign markets open will have to be considered.

Mr. President, this is an effort to advance our understanding of the nature of the evolving international marketplace for the range of exploding technologies in the telecommunications field, and to ensure that America is treated fairly and in a reciprocal manner. I congratulate the committee for the reciprocity provision and I hope that the modest contribution that Senators EXON, DORGAN, and I make with this amendment will add something of value to that provision.

AMENDMENT NO. 1351 TO AMENDMENT NO. 1350

(Purpose: To require a report on objections to determinations of the Federal Communications Commission for purposes of termination of foreign ownership restrictions and to revise the determinations of market opportunities for such purposes)

Mr. PRESSLER. I send a second-degree amendment to the desk on behalf of Senator BYRD.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from South Dakota [Mr. PRESSLER], for Mr. BYRD, for himself and Mr. EXON, proposes an amendment numbered 1351.

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

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

The amendment is as follows:

On page 1 of the amendment, line 4, strike out ''determination.'' and insert in lieu thereof the following: ''determination. If the President objects to a determination, the President shall, immediately upon such objection, submit to Congress a written report (in unclassified form, but with a classified annex if necessary) that sets forth a detailed explanation of the findings made and factors considered in objecting to the determination.''

On page 49, line 17, insert after the period the following: ''While determining whether such opportunities are equivalent on that basis, the Commission shall also conduct an evaluation of opportunities for access to all segments of the telecommunications market of the applicant.''

Mr. EXON. Mr. President, I am pleased to support and cosponsor Senator BYRD's amendment to the Exon-Dorgan-Byrd foreign investment amendment. This friendly amendment would require the President to report to the Congress in a classified and unclassified form.

This report mirrors the reporting provisions of the 1993 Exon-Byrd amendment to the Exon-Florio law. I am pleased to lend my full support to my friend and colleague from West Virginia.

Mr. PRESSLER. I ask unanimous consent that the amendment be agreed to and the motion to reconsider be laid on the table.

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

So the amendment (No. 1351) was agreed to.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Exon amendment be agreed to and the motion to reconsider be laid upon the table.

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

So the amendment (No. 1350), as amended, was agreed to.

Mr. PRESSLER. Mr. President, I believe that that brings our activities on the telecommunications bill to a close today. I think we have made good progress, and I think the committee bill has held together. I know there are Senators present with speeches, but I wish to thank all Senators.

The PRESIDING OFFICER. The Senator from Mississippi.

## CLOTURE MOTION

Mr. COCHRAN. Mr. President, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The bill clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 45, S. 652, the telecommunications bill:

Trent Lott, Larry Pressler, Judd Gregg, Don Nickles, Rod Grams, Rick Santorum, Craig Thomas, Spencer Abraham, Bob Dole, Ted Stevens, Larry Craig, Mike DeWine, John Ashcroft, Robert Bennett, Hank Brown, and Conrad Burns.

## MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

## EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

## REPORT OF THE DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT FOR CALENDAR YEARS 1993—MESSAGE FROM THE PRESIDENT—PM 55

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

*To the Congress of the United States:*

Pursuant to the requirements of 42 U.S.C. 3536, I transmit herewith the 29th Annual Report of the Department of Housing and Urban Development, which covers calendar year 1993.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *June 13, 1995.*

## 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–969. A communication from the Director of the Institute of Museum Services, transmitting, pursuant to law, the report under the Federal Managers' Financial Integrity Act; to the Committee on Governmental Affairs.

EC–970. A communication from the Comptroller General of the United States, transmitting, pursuant to law, notice of the reports and testimony for April 1995; to the Committee on Governmental Affairs.

EC–971. A communication from the Executive Director of the Federal Retirement Thrift Investment Board, transmitting, a draft of proposed legislation to amend Title 5, United States Code, to provide additional investment funds for the thrift savings plan; to the Committee on Governmental Affairs.

EC–972. A communication from the Director of the Office of Personnel Management, transmitting, a draft of proposed legislation entitled ''The Federal Employees Emergency Leave Transfer Act of 1995''; to the Committee on Governmental Affairs.

EC–973. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, the report under the Chief Financial Officers Act of 1990; to the Committee on Governmental Affairs.

EC–974. A communication from the Chief Operating Officer/President of the Resolution Funding Corporation, transmitting, pursuant to law, a report relative to internal controls for 1993 and 1994; to the Committee on Governmental Affairs.

EC–975. A communication from the Chair of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the 1994 annual report under the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC–976. A communication from the Executive Director of the Neighborhood Reinvestment Corporation, transmitting, pursuant to law, the 1994 annual report under the Government in the Sunshine Act; to the Committee on Governmental Affairs.

EC 977. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–51, adopted by the Council on May 2, 1995; to the Committee on Governmental Affairs.

EC 978. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–52, adopted by the Council on May 2, 1995; to the Committee on Governmental Affairs.

EC 979. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–53, adopted by the Council on May 2, 1995; to the Committee on Governmental Affairs.

EC 980. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–54, adopted by the Council on May 2, 1995; to the Committee on Governmental Affairs.

EC 981. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–55, adopted by the Council on May 2, 1995; to the Committee on Governmental Affairs.

EC 982. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–56, adopted by the Council on May 2, 1995; to the Committee on Governmental Affairs.

EC 983. A communication from the chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 11–59, adopted by the Council on May 2, 1995; to the Committee on Governmental Affairs.

## 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. DOMENICI (for himself and Mr. BOND):

S. 917. A bill to facilitate small business involvement in the regulatory development processes of the Environmental Protection Agency and the Occupational Safety and Health Administration, and for other purposes; to the Committee on Small Business.

By Mr. EXON:

S. 918. A bill to prohibit the payment of certain Federal benefits to any person not lawfully present within the United States, and for other purposes; to the Committee on Finance.

By Mr. COATS (for himself and Mrs. KASSEBAUM):

S. 919. A bill to modify and reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes; to the Committee on Labor and Human Resources.

## STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DOMENICI (for himself and Mr. BOND):

S. 917. A bill to facilitate small business involvement in the regulatory development processes of the Environmental Protection Agency and the Occupational Safety and Health Administration, and for other purposes; to the Committee on Small Business.

THE SMALL BUSINESS ADVOCACY ACT OF 1995

Mr. DOMENICI. Essentially, Mr. President, this bill will establish the process whereby small business in each of our respective States will be involved in the process of writing the rules and regulations for both OSHA and EPA. I think it is an exciting idea that came right from small business.

I note that the chairman of the Small Business Committee, Senator BOND, is a cosponsor. I thank him for his assistance. Mr. President, on behalf of the small business women and men in America, I am pleased to offer a bill to create a Small Business Advocacy Review Panel. This bill has been developed because of the suggestions of a committed group of New Mexican small business people. I am also pleased that the distinguished chairman of the Senate Committee on Small Business is joining me as an original cosponsor of this measure. I am also pleased to say that the National Federation of Independent Business supports this bill.

This week, the White House Conference on Small Business is convening here in Washington. This is an event I am particularly interested in since I introduced the legislation that authorizes these national conferences with small business men and women. I would like to welcome all the delegates from New Mexico and ask unanimous consent to place a list of their names in the RECORD at the conclusion of my remarks.

In early 1994, I formed a Small Business Advocacy Council in New Mexico. I asked this group to advise me about the problems of small businesses and how Congress might address some of their concerns. This council held 7 meetings in 6 locations throughout the State of New Mexico with more than 400 businesses participating. The consistent theme at all of these meetings was the appearance of an adversarial relationship between the Federal Government and business, and the lack of accountability of regulatory agencies in their dealings with business.

A few months ago the Senate Small Business Committee kicked off a series of field hearings entitled ''Entrepreneurship in America,'' with the first hearing in Albuquerque. These hearings focused on 7 issues affecting American small businesses: the Federal tax burden, cost of employment, environmental compliance, OSHA compliance, government intrusion on the family farm, banking system restrictions, and unreasonable legal exposure costs. Many members of the Small Business Advocacy Council testified at the Albuquerque field hearing of the Senate Small Business Committee chaired by my good friend and distinguished colleague, KIT BOND.

The concerns vetted in this field hearing were not unique to New Mexico. In fact, the Washington Post insert of June 6, ran a very illustrative story on the Small Business White House Conference. This story focused on Sal Risalvato, a White House Conference delegate from New Jersey. Mr. Risalvato runs a gasoline service station in Morristown, NJ, and he relates a familiar tale of struggling to cope with a continuous stream of new EPA regulations. He cites that these regulations are difficult to understand and require the constant expenditure of capital—capital that could have been otherwise used to expand the business and create more jobs. I ask unanimous consent that a copy of this article be inserted in the RECORD at the conclusion of my remarks.

In June 1994, the General Accounting Office delivered a report to the House Committee on Education and Labor entitled ''Workplace Regulation—Information on Selected Employer and Union Experiences.''

I recently discussed this report with the GAO because I found its results so strikingly similar to the findings of the New Mexico Small Business Advocacy Council and the gentleman from New Jersey cited in the Post article. The objective of the GAO report was to: First, identify and analyze the characteristics of the major statutes comprising the framework of workplace regulation and, second, describe the actual experiences of a wide range of employer and employee representatives with workplace regulation.

The GAO identified 26 statutes and one Executive order on workplace regulation and sought comments, on a confidential basis, from a broad range of 36 employers and union representatives. Those interviewed generally accepted the importance of workplace regulations. There were frequently voiced concerns, however, with the operation of the overall regulatory process of many agencies and about whether the agencies' regulatory goals were being achieved. Last year there were over 8,000 rules and regulations that were promulgated. Obviously, not every rule can, or needs to be, reviewed. However, there are currently approximately 46 rulemakings pending at EPA that are termed significant, with an economic impact exceeding $100 million.

The small business men and women of America aren't asking to abolish regulations, they are asking for an opportunity to work with agencies to establish an effective mechanism for drafting regulations. The New Mexico Small Business Council members, as well as Sal Risalvato from New Jersey, have said they agree regulation is necessary and everyone benefits from reasonable regulations on health and safety. The small business men and women are pleading for a vehicle of cooperation to act in an advisory capacity to the government on regulatory impacts and costs.

So, at their suggestion, I am pleased to introduce the Small Business Advocacy Act of 1995. This act will establish a small business review panel to facilitate small business involvement in the regulatory development process within the EPA and OSHA. These panels will be responsible for providing technical guidance for issues impacting small businesses, such as applicability, compliance, consistency, redundancy, readability, and any other related concerns that may affect them. This panel will then provide recommendations to the appropriate agency personnel responsible for developing and drafting the relevant regulations. Why EPA and OSHA? They were repeatedly cited as the most onerous and costly agencies to small business.

The panel will be chaired by a senior official of the agency and will include staff responsible for development and drafting of the regulation, a representative from OIRA, a member of the SBA advocate office, and up to three representatives from small businesses especially affected. This will allow the actual small business owners, or their representative associations, to have a voice in the massive regulatory process that affects them so much. The panel has a total of 45 days to meet and develop its recommendations before a rule is promulgated or a final rule is issue. This panel's recommendations, both the majority and minority views, will be reported to the appropriate agency personnel before the rulemaking and the agency will ensure that the panel's recommendations, and the agency's response to them, are included in any notice of final rulemaking.

Finally, this act will also provide for a peer review survey to be conducted on regulations. This idea is analogous to what the private sector routinely practices. A customer survey, contracted and conducted with a private sector firm, will sample a cross-section of the affected small business community responsible for complying with the sampled regulation. This valuable input on regulatory issues impacting small businesses will be made available to the Small Business Advocacy Review Board to assist in their review

processes and will also be made available to interested parties and organizations upon request.

I believe that this panel, working together so all viewpoints are represented, will be the crux of reasonable, consistent and understandable rulemaking. I am very concerned about the adversarial manner in which our small businesses perceive their government. Much of this adversarial relationship has grown from years of misunderstanding of impacts and effects and a lack of communication. I want to improve our rulemaking and regulatory process through cooperation and collaboration and I urge my colleagues to support this act.

Mr. President, I ask that 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:

[From the Washington Post, June 6, 1995]

A TALE OF PUMPING GAS WITH ONE HAND, HOLDING OFF GOVERNMENT WITH THE OTHER

(By Sal Risalvato)

I wonder if my small business can survive another onslaught of excessive federal regulations. And if it can't, what will happen to my livelihood and that of my employees who depend on me for jobs?

I have learned through firsthand experience how the burden created by federal regulations can hurt a small business.

Since 1987, when I bought Riverdale Texaco, a gasoline service station in Morris County, N.J., costly regulations have touched every aspect of my small business, from the sale of petroleum products to the repair service my employees provide.

My first experience with federal regulations occurred even before I bought the station. Because of the government's response to rising environmental concerns, I had to assemble additional financing in order to make sure that the station I bought had underground storage tanks that were in good shape. The tanks in my new station, for which I did pay a premium, had been installed just a year earlier.

However, within five years, the Environmental Protection Agency (EPA) altered the regulations for underground storage tanks, requiring me to spend another $95,000.

Although it wasn't the government's fault, this $95,000 was especially difficult for me to come by. I had been left virtually broke after losing my first service station in 1986 when my landlord wouldn't renew my lease because he believed he could put his rapidly-appreciating property to more profitable use than as a service station.

In fact, while operating my new station, I was still paying debts from the station I had lost to its landlord. So, coming up with an additional $95,000 to meet new and unexpected governmental regulations meant borrowing from family members. My father borrowed the money he lent me, using his home as collateral.

Fortunately, Texaco also provided me with funds in exchange for a supply contract.

To me, this was government extortion because I would have been forced out of business if I hadn't met the EPA's new requirements. Many service station owners without the money to meet the new requirements have gone out of business or have stopped selling gasoline and are trying to get by on the income from other products and services.

I had thought the EPA had inflicted enough pain and torture on my business, but the federal government now is attempting to blackmail me, my governor, the motorists of my state, and my fellow service station owners in New Jersey.

New Jersey probably has one of the best motor vehicle inspection systems in the country. Under current law, motorists must have their car emissions systems and safety items such as brakes inspected annually, either at a state inspection site or a licensed private repair facility such as mine.

In order to meet EPA requirements, the State of New Jersey will have to invest millions of dollars for new equipment at the state inspection sites. And I, along with other private businesses that want to continue performing inspections, will each have to spend $40,000 to $100,000 for new equipment.

Since many service stations, including mine, can't afford to buy the new, mandated equipment, we small business owners will be forced to give up an important profit center.

I am running out of family members who have money to lend, and those family members who do have money are running out because they always have been lending it to me.

N.J. Gov. Christine Todd Whitman has been negotiating with the EPA to lessen the burden on our state. But ultimately, if the state refuses to adopt an inspection system suitable to the EPA, the Department of Transportation will withhold $217 million in federal highway funds.

This would hurt the whole state.

There's no doubt that if these regulations were less stringent or if they were eliminated altogether, I would have more money to expand my business and to create jobs.

When I bought my business, my dream was to add on three or four service bays, a sales room, an employee room, and storage and office space to meet what I hoped would be my growing business' needs.

Now, to make the best use of space inside the main building, our offices are housed in a trailer on the side of my building. Twice in the past seven years, the local board of adjustment has granted us temporary permission to keep our office. Each time, I explained to the board that costly government regulations are slowing down my expansion plans. And that once I'm able to expand, I'll hire at least seven more people.

Anyone can see how federal regulations are stifling my small business. Some people say small-business owners don't care about health and safety or that we are anti-environment. Nothing could be further from the truth.

The small-business community agrees that some regulation is necessary. We, too, benefit from reasonable regulations, and I care about employee safety and environmental protection. I drink the same water and breathe the same air as everyone else. I have no desire to see the quality of either jeopardized.

But federal bureaucrats need to step back and re-evaluate the damage their actions inflict on the free enterprise system.

Congress must make sure that no new requirements are put on the books unless the benefits outweigh the costs, and there should be a clear understanding of what the nation is getting in return.

The regulatory situation for small business is approaching crisis proportions.

Each year, I spend many hours and dollars completing government paperwork and trying to comply with all the regulations. Besides the time I spend actually filling out the forms, there's the time spent trying to understand the paperwork and identify the information needed.

These requirements take valuable time away from running a small business and depletes limited resources that could better be used to expand the business.

Among other changes, my fellow small-business owners want paperwork reduction, a review process for regulations and the right to challenge excessive or unnecessary regulations in court.

If the burdens of excessive regulations are lifted from our backs, we can do even better what we already are the best at—creating jobs.

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LIST OF NEW MEXICO DELEGATES TO THE WHITE HOUSE CONFERENCE ON SMALL BUSINESS, JUNE 12–14

1. Angela Atterbury, Atterbury and Associates, Inc.
2. Lynne K. Behnfield, Lynfield Consulting, Inc.
3. Diane D. Denish, The Target Group.
4. Maria Estela de Rios, ORION Int'l. Technologies, Inc.
5. Joyce Freiwald, F2 Associates, Inc.
6. Scott Garrett, New Mexico Sports and Wellness.
7. Jim Greenwood, Greenwood Consulting Group.
8. Janet Kerley, Monteverde, Inc.
9. Chet Lytle, Communications Diversified, Inc.
10. Annique Malm, Healthcare Business Solutions, Inc.
11. Ioana McNamara, Permacharge Corp.
12. James M. Parker, Modrall Law Firm.
13. George Shaffer, Insurance Center.
14. Carolyn Sigstedt, Tewa Enterprises.
15. Larry Scheffield.
16. John Lorentzen, Southwest Realty Investment.

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By Mr. EXON:

S. 918. A bill to prohibit the payment of certain Federal benefits to any person not lawfully present within the United States, and for other purposes; to the Committee on Finance.

THE ILLEGAL ALIEN BENEFITS PROHIBITION ACT OF 1995

Mr. EXON. Mr. President, I introduce a bill intended to eliminate the payment of Federal benefits to illegal aliens. I spoke on this issue in detail yesterday and I rise to formally introduce the bill today.

I believe that as we begin to debate the welfare reform bill, we have a golden opportunity to stop, once and for all, paying benefits to illegal aliens. I also believe that we can forge a new compact between the States and the Federal Government. If the States can stand with us and help to identify and verify alien status, we will provide them the necessary funds. We can also allow States to deny benefits to illegal aliens.

I intend to pursue this matter to the end, and I urge my colleagues to support this measure.

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. 918

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the ''Illegal Alien Benefits Prohibition Act of 1995''.

**SEC. 2. PROHIBITION ON PAYMENT OF FEDERAL BENEFITS TO CERTAIN PERSONS.**

(a) IN GENERAL.—Notwithstanding any other provision of law and except as provided in subsection (b), Federal benefits shall not be paid or provided to any person who is not a person lawfully present within the United States.

(b) EXCEPTIONS.—Subsection (a) shall not apply with respect to the following benefits:

(1) Emergency medical services under title XIX of the Social Security Act.

(2) Short-term emergency disaster relief.

(3) Assistance or benefits under the National School Lunch Act.

(4) Assistance or benefits under the Child Nutrition Act of 1966.

(5) Public health assistance for immunizations with respect to immunizable diseases and for testing and treatment for communicable diseases.

(c) DEFINITIONS.—For purposes of this Act—

(1) FEDERAL BENEFITS.—The term ''Federal benefit'' means—

(A) the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, education, food stamps, unemployment benefit, or any other similar benefit for which payments or assistance are provided by an agency of the United States or by appropriated funds of the United States.

(2) VETERANS BENEFIT.—The term ''veterans benefit'' means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.

(3) PERSON LAWFULLY PRESENT WITHIN THE UNITED STATES.—The term ''person lawfully present within the United States'' means a person who, at the time the person applies for, receives, or attempts to receive a Federal benefit, is a United States citizen, a permanent resident alien, an asylee, a refugee, a parolee, a national, or a national of the United States for purposes of the immigration laws of the United States (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)).

**SEC. 3. STATE OBLIGATION.**

Notwithstanding any other provision of law, a State that administers a program that provides a Federal benefit (described in section 2(c)(1)) or provides State benefits pursuant to such a program shall not be required to provide such benefit to a person who is not a person lawfully present within the United States through a State agency or with appropriated funds of such State.

**SEC. 4. VERIFICATION OF ELIGIBILITY.**

(a) IN GENERAL.—Not later than 18 months after the date of the enactment of this Act, the Attorney General of the United States, after consultation with the Secretary of Health and Human Services, shall promulgate regulations requiring verification that a person applying for a Federal benefit, including a benefit described in section 2(b), is a person lawfully present within the United States and is eligible to receive such benefit. Such regulations shall, to the extent feasible, require that information requested and exchanged be similar in form and manner to information requested and exchanged under section 1137 of the Social Security Act.

(b) STATE COMPLIANCE.—Not later than 24 months after the date the regulations described in subsection (a) are adopted, a State that administers a program that provides a Federal benefit described in such subsection shall have in effect a verification system that complies with the regulations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purpose of this section.

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By Mr. COATS (for himself and Mrs. KASSEBAUM):

S. 919. A bill to modify and reauthorize the Child Abuse Prevention and Treatment Act, and for other purposes; to the Committee on Labor and Human Resources.

THE CHILD ABUSE PREVENTION AND TREATMENT ACT AMENDMENTS OF 1995

● Mr. COATS. Mr. President: I introduce the Child Abuse Prevention and Treatment Act Amendments of 1995.

Child abuse is an issue which provokes our anger and anguish, and which demands our attention as legislators. Our Nation's outrage on this Topic was renewed with the murder of Susan Smith's children. It is impossible to comprehend how those who are entrusted with protecting children can hurt them, maim them, and even take their lives. In fact, it was cases just like this—involving the severe abuse and death of children—which led to Senate hearings in 1973, and eventually to the development of the Child Abuse Prevention and Treatment Act.

CAPTA was first authorized in 1974 and is the only Federal program specifically aimed at child abuse prevention and treatment. CAPTA has served as a catalyst, encouraging States to do some important things: Develop programs of prevention and treatment; educate law enforcement and judicial personnel; and to develop crisis hotlines, self-help groups, volunteer training, and public awareness campaigns.

In 1993, the National Committee for the Prevention of Child Abuse and neglect reported that there were 2,898,000 child maltreatment reports. This represents a twentyfold increase from 1963, when there were about 150,000 reports. Federal and State expenditures for child protection programs and associated foster care programs now exceed $6 billion a year. The heightened awareness in the public regarding the issue of child abuse, and the corresponding increase in Federal and State dollars, is partially due to the passage of mandatory reporting laws—required by CAPTA—and the media campaigns that have accompanied them. Certainly, many thousands of children have been saved from serious injury, and even death, during the last 20 years.

Unfortunately, a byproduct of this heightened public awareness has been an explosion in the number of unfounded reports of child abuse and neglect. The staggering number of reports that are determined to be unfounded tell a disturbing tale. According to the annual 50-State survey of the National Committee To Prevent Child Abuse, only 34 percent of the reports received by child protective services were substaintiated. This means that two-thirds of all abuse and neglect reports are unsubstantiated. When you take into account the number of families involved and the numbers duplicate reports, we know that each year as many as 700,000 families are being unnecessarily investigated—their children are being questioned and family life disrupted.

This is a concern, but the most important problem is this: unnecessary investigations are overwhelming the child protection system, and thereby preventing caseworkers from getting to those children who are truly in need of help.

It is important to note that few of the unfounded reports are made maliciously. The reporter is usually well-intentioned, but unclear as to what constitutes maltreatment. A vague suspicion that something may be wrong sets in motion a legal obligation on the part of child protective services to investigate.

This burden of empty accusations helps explain why between 25 to 50 percent of child abuse deaths involve children previously known to the authorities. With caseworkers spending significant amounts of time investigating every allegation of child maltreatment, no matter how tenuous, it is understandable that children who are truly in need of help are missed or ignored.

Mr. President, the legislation that I am introducing today addresses some of the failings in the current system, and addresses ways that we can better target attention to those children in desperate need of protection. The legislation proposes to encourage the States through the development of risk assessment protocols, improved training of child protection workers, and enhanced community awareness and public education.

The legislation was drafted following a fruitful hearing that examined some of the critical child protection issues facing our Nation today and particularly their impact on the families and children who come in contact with the child protective system.

A great deal is at stake in these matters. The protection of children from abuse is a demand of our conscience and a demand of our laws. Our concern and compassion should be broad. But the system charged with protecting children must be focused to be effective. And that is the only measure of our success—when a child is effectively shielded from abuse and neglect.

This requires a serious revision of our current approach—not its goal, but some of its methods. And I hope that with this legislation we can begin that process in earnest.

For the information of my colleagues, I will summarize some of the provisions of the bill.

Title I reauthorizes State grants and demonstration grants, makes reporting and data collection requirements more effective, and eliminates certain bureaucratic bodies.

The bill repeals the current mandates for a National Center on Child Abuse and Neglect, for the U.S. Advisory

Board on Child Abuse and Neglect, and the Inter-Agency Task Force on Child Abuse and Neglect. Instead the secretary has discretion to establish an Office on Child Abuse and Neglect to coordinate the functions of this Act, and to appoint an advisory board to report on specific issues.

The data collection function for the National Clearinghouse would be expanded. In addition, the research activities function, coordinated by the Secretary of HHS, is restructured to require a continuing program of research aimed at better protecting children from abuse and neglect.

The bill authorizes demonstration grants to encourages State and local innovation in training professionals, families, service providers, and communities and providing information and assistance to individuals, agencies, and organizations through child abuse resource centers; parent mutual support and self help programs; and other innovative programs, such as establishing a triage system which would allow and encourage community participation in the prevention and response to child abuse and neglect.

The basic State grant program will continue to support State child protective services by assisting States with: First the intake, screening and investigation of reports of child abuse or neglect; second, case management and delivery of services provided to children and their families; third, improving risk and safety assessment tools, fourth, expanding training opportunities for service providers and mandated reporters; and fifth; provide for education and training addressing ''Baby Doe'' situations of medical neglect.

In order to be eligible to receive funds under this section, a State must submit a State plan and annual data reports.

The bill continues the current immunity from prosecution for individuals who report a suspicion or incident of child abuse and neglect, but adds a requirement that the reports must be made in good faith.

This bill clarifies the issue of medical neglect as well, providing that parents are free to make decisions regarding the medical treatment of their children, and that States may not find a family using spiritual or non-medical means as being neglectful, solely on the basis of a religious practice, absent an affirmative finding of abuse or neglect on a case-by-case basis. Further, the bill makes clear that nothing in this act precludes a State from intervening on behalf of the child where failure or refusal to provide a medical service or treatment will lead to imminent risk of severe harm to the child.

Finally, to give better direction to the States, the definition of child abuse and neglect is clarified.

Title II consolidates the former community—based family resource programs grant with the Temporary Child Care for Children With Disabilities and Crisis Nurseries Act and Title VII(F)—family support services—of the Stewart B. McKinney Homeless Assistance Act to create a comprehensive community—based family resource program. The new program provides for broad-based networks of child abuse and prevention programs and other family resource and support programs.

Title III reauthorizes the Family Violence Prevention and Services Act, which provides grants to States to assist in supporting programs and projects to prevent incidents or family violence and provide immediate shelter for victims of family violence.

Title IV reauthorizes the Adoption Opportunities Act, which a few technical changes and a new requirement that the Secretary report on the efficacy of the current system of recruitment for prospective foster care and/or adoptive parents.

Title V reauthorizes the Abandoned Infants Assistance Act, which provides discretionary grants to States to prevent abandonment of children and to provide for the needs of children who are abandoned, especially those with AIDS.

And finally, Title VI provides a 2-year, straight reauthorization of the Missing Children's Assistance Act and section 214B of the Victims of Child Abuse Act.

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. 919

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

(a) SHORT TITLE.—This Act may be cited as the ''Child Abuse Prevention and Treatment Act Amendments of 1995''.

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROGRAM

Sec. 101. Reference.
Sec. 102. Findings.
Sec. 103. Office of Child Abuse and Neglect.
Sec. 104. Advisory Board on Child Abuse and Neglect.
Sec. 105. Repeal of Interagency Task Force.
Sec. 106. National Clearinghouse for Information Relating to Child Abuse.
Sec. 107. Research and assistance activities.
Sec. 108. Grants for demonstration programs.
Sec. 109. State grants for prevention and treatment programs.
Sec. 110. Repeal.
Sec. 111. Definitions.
Sec. 112. Authorization of appropriations.
Sec. 113. Rule of construction.

TITLE II—COMMUNITY-BASED CHILD ABUSE AND NEGLECT PREVENTION GRANTS

Sec. 201. Establishment of program.
Sec. 202. Repeals.

TITLE III—FAMILY VIOLENCE PREVENTION AND SERVICES

Sec. 301. Reference.
Sec. 302. State demonstration grants.
Sec. 303. Allotments.
Sec. 304. Authorization of appropriations.

TITLE IV—ADOPTION OPPORTUNITIES

Sec. 401. Reference.
Sec. 402. Findings and purpose.
Sec. 403. Information and services.
Sec. 404. Authorization of appropriations.

TITLE V—ABANDONED INFANTS ASSISTANCE ACT OF 1986

Sec. 501. Reauthorization.

TITLE VI—REAUTHORIZATION OF VARIOUS PROGRAMS

Sec. 601. Missing Children's Assistance Act.
Sec. 602. Victims of Child Abuse Act of 1990.

**TITLE I—GENERAL PROGRAM**

**SEC. 101. REFERENCE.**

Except as otherwise expressly provided, whenever in this title 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 Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.).

**SEC. 102. FINDINGS.**

Section 2 (42 U.S.C. 5101 note) is amended—

(1) in paragraph (1), the read as follows:

''(1) each year, close to 1,000,000 American children are victims of abuse and neglect;'';

(2) in paragraph (3)(C), by inserting ''assessment,'' after ''prevention,'';

(3) in paragraph (4)—

(A) by striking ''tens of''; and

(B) by striking ''direct'' and all that follows through the semicolon and inserting ''tangible expenditures, as well as significant intangible costs;'';

(4) in paragraph (7), by striking ''remedy the causes of'' and inserting ''prevent'';

(5) in paragraph (8), by inserting ''safety,'' after ''fosters the health,'';

(6) in paragraph (10)—

(A) by striking ''ensure that every community in the United States has'' and inserting ''assist States and communities with''; and

(B) by inserting ''and family'' after ''comprehensive child''; and

(7) in paragraph (11)—

(A) by striking ''child protection'' each place that such appears and inserting ''child and family protection''; and

(B) in subparagraph (D), by striking ''sufficient''.

**SEC. 103. OFFICE OF CHILD ABUSE AND NEGLECT.**

Section 101 (42 U.S.C.5101) is amended to read as follows:

**''SEC. 101. OFFICE OF CHILD ABUSE AND NEGLECT.**

''(a) ESTABLISHMENT.—The Secretary of Health and Human Services may establish an office to be known as the Office on Child Abuse and Neglect.

''(b) PURPOSE.—The purpose of the Office established under subsection (a) shall be to execute and coordinate the functions and activities of this Act. In the event that such functions and activities are performed by another entity or entities within the Department of Health and Human Services, the Secretary shall ensure that such functions and activities are executed with the necessary expertise and in a fully coordinated manner involving regular intradepartmental and interdepartmental consultation with all agencies involved in child abuse and neglect activities.''.

**SEC. 104. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.**

Section 102 (42 U.S.C.5102) is amended to read as follows:

**''SEC. 102. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT.**

''(a) APPOINTMENT.—The Secretary may appoint an advisory board to make recommendations to the Secretary and to the appropriate committees of Congress concerning specific issues relating to child abuse and neglect.

''(b) SOLICITATION OF NOMINATIONS.—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointment of members of the advisory board under subsection (a).

''(c) COMPOSITION.—In establishing the board under subsection (a), the Secretary shall appoint members from the general public who are individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent—

''(1) law (including the judiciary);

''(2) psychology (including child development);

''(3) social services (including child protective services);

''(4) medicine (including pediatrics);

''(5) State and local government;

''(6) organizations providing services to disabled persons;

''(7) organizations providing services to adolescents;

''(8) teachers;

''(9) parent self-help organizations;

''(10) parents' groups;

''(11) voluntary groups; and

''(12) family rights groups.

''(d) VACANCIES.—Any vacancy in the membership of the board shall be filled in the same manner in which the original appointment was made.

''(e) ELECTION OF OFFICERS.—The board shall elect a chairperson and vice-chairperson at its first meeting from among the members of the board.

''(f) DUTIES.—Not later than 1 year after the establishment of the board under subsection (a), the board shall submit to the Secretary and the appropriate committees of Congress a report, or interim report, containing—

''(1) recommendations on coordinating Federal, State, and local child abuse and neglect activities with similar activities at the Federal, State, and local level pertaining to family violence prevention;

''(2) specific modifications needed in Federal and State laws and programs to reduce the number of unfounded or unsubstantiated reports of child abuse or neglect while enhancing a more focused attention to legitimate cases of abuse or neglect which place a child in danger; and

''(3) recommendations for modifications needed to facilitate coordinated national data collection with respect to child protection and child welfare.''.

**SEC. 105. REPEAL OF INTERAGENCY TASK FORCE.**

Section 103 (42 U.S.C.5103) is repealed.

**SEC. 106. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE.**

Section 104 (42 U.S.C.5104) is amended—

(1) in subsection (a), to read as follows:

''(a) ESTABLISHMENT.—The Secretary shall through the Department, or by one or more contract of not less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse.'';

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking ''Director'' and inserting ''Secretary'';

(B) in paragraph (1)—

(i) by inserting ''assessment,'' after ''prevention,''; and

(ii) by striking '', including'' and all that follows through ''105(b)'' and inserting ''and'';

(C) in paragraph (2)—

(i) in subparagraph (A), by striking ''general population'' and inserting ''United States'';

(ii) in subparagraph (B), by adding ''and'' at the end thereof;

(iii) in subparagraph (C), by striking ''; and'' at the end thereof and inserting a period; and

(iv) by striking subparagraph (D); and

(D) by striking paragraph (3); and

(3) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking ''Director'' and inserting ''Secretary'';

(B) in paragraph (2), by striking ''that is represented on the task force'' and inserting ''involved with child abuse and neglect and mechanisms for the sharing of such information among other Federal agencies and clearinghouses'';

(C) in paragraph (3), by striking ''State, regional'' and all that follows and inserting the following: ''Federal, State, regional, and local child welfare data systems which shall include:

''(A) standardized data on false, unfounded, unsubstantiated, or substantiated reports; and

''(B) information on the number of deaths due to child abuse and neglect;'';

(D) by redesignating paragraph (4) as paragraph (6); and

(E) by inserting after paragraph (3), the following new paragraphs:

''(4) through a national data collection and analysis program and in consultation with appropriate State and local agencies and experts in the field, collect, compile, and make available, State child abuse and neglect reporting information which, to the extent practical, shall be universal and case specific, and integrated with other case-based foster care and adoption data collected by the Secretary;

''(5) compile, analyze, and publish a summary of the research conducted under section 105(a); and''.

**SEC. 107. RESEARCH, EVALUATION AND ASSISTANCE ACTIVITIES.**

(a) RESEARCH.—Section 105(a) (42 (42 U.S.C. 5105(a)) is amended—

(1) in the section heading, by striking ''OF THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT'';

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking '', through the Center, conduct research on'' and inserting ''carry out a continuing interdisciplinary program of research that is designed to provide information needed to better protect children from abuse or neglect and to improve the well-being of abused or neglected children, with at least a portion of such research being field initiated. Such research program may focus on'';

(B) by redesignating subparagraphs (A) through (C) as subparagraph (B) through (D), respectively;

(C) by inserting before subparagraph (B) (as so redesignated) the following new subparagraph:

''(A) the nature and scope of child abuse and neglect;'';

(D) in subparagraph (B) (as so redesignated), ''by striking ''identification,, treatment and cultural'' and inserting ''causes, prevention, assessment, identification, treatment, cultural and socio-economic distinctions, and the consequences of child abuse and neglect'';

(E) in subparagraph (D) (as so redesignated)—

(i) by striking clause (ii); and

(ii) in clause (iii), to read as follows:

''(ii) the incidence of substantiated and unsubstantiated reported child abuse cases;

''(iii) the number of substantiated cases that result in a legal finding of child abuse or neglect or related criminal court convictions;

''(iv) the extent to which the number of unsubstantiated, unfounded and false reported cases of child abuse or neglect have contributed to the inability of a State to respond effectively to serious cases of child abuse or neglect;

''(v) the number of unsubstantiated, false, or unfounded reports that have resulted in a child being placed on substitute care, and the duration of such placement;

''(vi) the extent to which unsubstantiated reports return as more serious cases of child abuse or neglect;

''(vii) the incidence and prevalence of physical, sexual, and emotional abuse and physical and emotional neglect in substitute care; and

''(viii) the incidence and outcomes of abuse allegations reported within the context of divorce, custody, or other family court proceedings, and the interaction between this venue and the child protective services system.''; and

(3) in paragraph (2)—

(A) in subparagraph (A)—

(i) by striking ''and demonstrations''; and

(ii) by striking ''paragraph (1)(A) and activities under section 106'' and inserting ''paragraph (1)''; and

(B) in subparagraph (B), by striking ''and demonstration''.

(b) REPEAL.—Subsection (b) of section 105 (42 U.S.C. 5105(b)) is repealed.

(c) TECHNICAL ASSISTANCE.—Section 105(c) (42 U.S.C. 5105(c)) is amended—

(1) by striking ''The Secretary'' and inserting:

''(1) IN GENERAL.—The Secretary'';

(2) by striking '', through the Center,'';

(3) by inserting ''State and local'' before ''public and nonprofit'';

(4) by inserting ''assessment,'' before ''identification''; and

(5) by adding at the end thereof the following new paragraphs:

''(2) EVALUATION.—Such technical assistance may include an evaluation or identification of—

''(A) various methods and procedures for the investigation, assessment, and prosecution of child physical and sexual abuse cases;

''(B) resultant ways to mitigate psychological trauma to the child victim; and

''(C) effective programs carried out by the States under titles I and III.

''(3) DISSEMINATION.—The Secretary may provide for and disseminate information relating to various training resources available at the State and local level to—

''(A) individuals who are engaged, or who intend to engage, in the prevention, identification, and treatment of child abuse and neglect; and

''(B) to appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, education, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse.''.

(d) GRANTS AND CONTRACTS.—Section 105(d)(2) (42 U.S.C. 5105(d)(2)) is amended by striking the second sentence.

(e) PEER REVIEW.—Section 105(e) (42 U.S.C. 5105(e)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A), by striking ''and contracts''; and

(B) in subparagraph (B)—

(i) by striking ''shall'' and inserting ''may''; and

(ii) by striking ''Office of Human Development'' and inserting ''Administration on Children and Families''; and

(2) in paragraph (2), by striking '', contract, or other financial assistance''.

**SEC. 108. GRANTS FOR DEMONSTRATION PROGRAMS.**

Section 106 (42 U.S.C. 5106) is amended—

(1) in the section heading, by striking ''OR SERVICE'';

(2) in subsection (a), by striking paragraph (1) and inserting the following new paragraph:

''(1) DEMONSTRATION PROGRAMS AND PROJECTS.—The Secretary may make grants to, and enter into contracts with, public agencies or nonprofit private agencies or organizations (or combinations of such agencies or organizations) for time limited, research based demonstration programs and projects for the following purposes:

''(A) TRAINING PROGRAMS.—The Secretary may award grants to public or private nonprofit organizations under this section—

''(i) for the training of professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect;

''(ii) to provide culturally specific instruction in methods of protecting children from child abuse and neglect to children and to persons responsible for the welfare of children, including parents of and persons who work with children with disabilities;

''(iii) to improve the recruitment, selection, and training of volunteers serving in private and public nonprofit children, youth and family service organizations in order to prevent child abuse and neglect through collaborative analysis of current recruitment, selection, and training programs and development of model programs for dissemination and replication nationally; and

''(iv) for the establishment of resource centers for the purpose of providing information and training to professionals working in the field of child abuse and neglect.

''(B) MUTUAL SUPPORT PROGRAMS.—The Secretary may award grants to private nonprofit organizations (such as Parents Anonymous) to establish or maintain a national network of mutual support and self-help programs as a means of strengthening families in partnership with their communities.

''(C) OTHER INNOVATIVE PROGRAMS AND PROJECTS.—

''(i) IN GENERAL.—The Secretary may award grants to public agencies that demonstrate innovation in responding to reports of child abuse and neglect including programs of collaborative partnerships between the State child protective service agency, community social service agencies and family support programs, schools, churches and synagogues, and other community agencies to allow for the establishment of a triage system that—

''(I) accepts, screens and assesses reports received to determine which such reports require an intensive intervention and which require voluntary referral to another agency, program or project;

''(II) provides, either directly or through referral, a variety of community-linked services to assist families in preventing child abuse and neglect; and

''(III) provides further investigation and intensive intervention where the child's safety is in jeopardy.

''(ii) PREFERRED PLACEMENT.—The Secretary may award grants to public entities to assist such entities in developing or implementing procedures protecting the rights of families, using adult relatives as the preferred placement for children removed from their home, where such relatives are determined to be capable of providing a safe environment for the child or where such relatives comply with the State child protection standards.''; and

(3) by adding at the end thereof the following new subsection:

''(d) EVALUATION.—In making grants for demonstration projects under this section, the Secretary shall require all such projects to be evaluated for their effectiveness. Funding for such evaluations shall be provided either as a stated percentage of a demonstration grant or as a separate grant entered into by the Secretary for the purpose of evaluating a particular demonstration project or group of projects.''.

**SEC. 109. STATE GRANTS FOR PREVENTION AND TREATMENT PROGRAMS.**

Section 107 (42 U.S.C. 5107) is amended to read as follows:

**''SEC. 107. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.**

''(a) DEVELOPMENT AND OPERATION GRANTS.—The Secretary shall make grants to the States, based on the population of children under the age of 18 in each State that applies for a grant under this section, for purposes of assisting the States in improving the child protective service system of each such State in—

''(1) the intake, assessment, screening, and investigation of reports of abuse and neglect;

''(2)(A) creating and improving the use of multidisciplinary teams and interagency protocols to enhance investigations; and

''(B) improving legal preparation and representation, including—

''(i) procedures for appealing and responding to appeals of substantiated reports of abuse and neglect; and

''(ii) provisions for the appointment of a guardian ad litem.

''(3) case management and delivery of services provided to children and their families;

''(4) enhancing the general child protective system by improving risk and safety assessment tools and protocols, automation systems that support the program and track reports of child abuse and neglect from intake through final disposition and information referral systems;

''(5) developing, strengthening, and facilitating training opportunities and requirements for individuals overseeing and providing services to children and their families through the child protection system;

''(6) developing and facilitating training protocols for individuals mandated to report child abuse or neglect;

''(7) developing, strengthening, and supporting child abuse and neglect prevention, treatment, and research programs in the public and private sectors; or

''(8) developing, implementing, or operating—

''(A) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

''(i) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

''(ii) the parents of such infants;

''(B) programs to enhance the capacity of community-based programs to integrate shared leadership strategies between parents and professionals to prevent and treat child abuse and neglect at the neighborhood level; and

''(C) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

''(i) existing social and health services;

''(ii) financial assistance; and

''(iii) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption.

''(b) COMPLIANCE AND EDUCATION GRANTS.—The Secretary is authorized to make grants to the States for purposes of developing, implementing, or operating—

''(1) the procedures or programs required under subsection (b)(2);

''(2) procedures or programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

''(A) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

''(B) the parents of such infants; and

''(3) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

''(A) existing social and health services;

''(B) financial assistance; and

''(C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption.

''(c) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for a grant under subsection (a), such State shall provide an assurance or certification, signed by the chief executive officer of the State, that the State—

''(1) has in effect and operation a State law or Statewide program relating to child abuse and neglect which ensures—

''(A) provisions or procedures for the reporting of known and suspected instances of child abuse and neglect; and

''(B) procedures for the immediate screening, safety assessment, and prompt investigation of such reports;

''(C) procedures for immediate steps to be taken to ensure and protect the safety of the abused or neglected child and of any other child under the same care who may also be in danger of physical abuse or neglect;

''(D) provisions for immunity from prosecution under State and local laws and regulations for individuals making good faith reports of suspected or known instances of child abuse or neglect;

''(E) methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians, including methods to ensure that disclosure (and redisclosure) of information concerning child abuse or neglect involving specific individuals is made only to persons or entities that the State determines have a need for such information directly related to the purposes of this Act;

''(F) requirements for the prompt disclosure of all relevant information to any Federal, State, or local governmental entity, or any agent of such entity, with a need for such information in order to carry out its responsibilities under law to protect children from abuse and neglect;

''(G) the cooperation of law enforcement officials, court of competent jurisdiction, and appropriate State agencies providing human services;

''(H) provisions requiring, and procedures in place that facilitate the prompt expungement of any records that are accessible to the general public or are used for purposes of employment or other background checks in cases determined to be unsubstantiated or false, except that nothing in this section shall prevent State child protective service agencies from keeping information on unsubstantiated reports in their casework files to assist in future risk assessment; and

''(I) provisions and procedures requiring that in every case involving an abused or neglected child which results in a judicial proceeding, a guardian ad litem shall be appointed to represent the child in such proceedings; and

''(2) has in place procedures for responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

''(A) coordination and consultation with individuals designated by and within appropriate health-care facilities;

''(B) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

''(C) authority, under State law, for the State child protective service system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life threatening conditions.

''(d) ADDITIONAL REQUIREMENT.—Not later than 2 years after the date of enactment of this section, the State shall provide an assurance or certification that the State has in place provisions, procedures, and mechanisms by which individuals who disagree with an official finding of abuse or neglect can appeal such finding.

''(e) STATE PROGRAM PLAN.—To be eligible to receive a grant under this section, a State shall submit every 5 years a plan to the Secretary that specifies the child protective service system area or areas described in subsection (a) that the State intends to address with funds received under the grant. Such plan shall be coordinated with the plan of the State for child welfare services and family preservation and family support services under part B of title IV of the Social Security Act. and shall contain an outline of the activities that the State intends to carry out using amounts provided under the grant to achieve the purposes of this Act, including the procedures to be used for—

''(1) receiving and assessing reports of child abuse or neglect;

''(2) investigating such reports;

''(3) protecting children by removing them from dangerous settings and ensuring their placement in a safe environment;

''(4) providing services or referral for services for families and children where the child is not in danger of harm;

''(5) providing services to individuals, families, or communities, either directly or through referral, aimed at preventing the occurrence of child abuse and neglect;

''(6) providing training to support direct line and supervisory personnel in report-taking, screening, assessment, decision-making, and referral for investigation; and

''(7) providing training for individuals mandated to report suspected cases of child abuse or neglect.

''(f) RESTRICTIONS RELATING TO CHILD WELFARE SERVICES.—Programs or projects relating to child abuse and neglect assisted under part B of title IV of the Social Security Act shall comply with the requirements set forth in paragraphs (1)(A) and (B), (2), (3), (4), (5), and (6) of subsection (c).

''(g) ANNUAL STATE DATA REPORTS.—Each State to which a grant is made under this part shall annually submit to the Secretary a report that includes the following:

''(1) The number of children who were reported to the State during the year as abused or neglected.

''(2) Of the number of children described in paragraph (1), the number with respect to whom such reports were—

''(A) substantiated;

''(B) unsubstantiated; and

''(C) determined to be false.

''(3) Of the number of children described in paragraph (2)—

''(A) the number that did not receive services during the year under the State program funded under this part or an equivalent State program;

''(B) the number that received services during the year under the State program funded under this part or an equivalent State program; and

''(C) the number that were removed from their families during the year by disposition of the case.

''(4) The number of families that received preventive services from the State during the year.

''(5) The number of deaths in the State during the year resulting from child abuse or neglect.

''(6) Of the number of children described in paragraph (5), the number of such children who were in foster care.

''(7) The number of child protective service workers responsible for the intake and screening of reports filed in the previous year.

''(8) The agency response time with respect to each such report with respect to initial investigation of reports of child abuse or neglect.

''(9) The response time with respect to the provision of services to families and children where an allegation of abuse or neglect has been made.

''(10) The number of child protective service workers responsible for intake, assessment, and investigation of child abuse and neglect reports relative to the number of reports investigated in the previous year.''.

**SEC. 110. REPEAL.**

Section 108 (42 U.S.C. 5106b) is repealed.

**SEC. 111. DEFINITIONS.**

Section 113 (42 U.S.C.5106h) is amended—

(1) by striking paragraphs (1) and (2);

(2) by redesignating paragraphs (3) through (10) as paragraphs (1) through (8), respectively; and

(3) in paragraph (2) (as so redesignated), to read as follows:

''(2) the term 'child abuse and neglect' means, at a minimum, any recent act or failure to act on the part of a parent or caretaker, which results in death or serious physical, sexual, or emotional harm, or presents an imminent risk of serious harm. Such term does not include a child who has suffered harm where the harm results primarily from the parent or caretaker's lack of financial resources or from causes linked to such lack of resources;''.

**SEC. 112. AUTHORIZATION OF APPROPRIATIONS.**

Section 114(a) (42 U.S.C. 5106h(a)) is amended to read as follows:

''(a) IN GENERAL.—

''(1) GENERAL AUTHORIZATION.—There are authorized to be appropriated to carry out this title, $100,000,000 for fiscal year 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2000.

''(2) DISCRETIONARY ACTIVITIES.—

''(A) IN GENERAL.—Of the amounts appropriated for a fiscal year under paragraph (1), the Secretary shall make available 33⅓ percent of such amounts to fund discretionary activities under this title.

''(B) DEMONSTRATION PROJECTS.—Of the amounts made available for a fiscal year under subparagraph (A), the Secretary make available not more than 40 percent of such amounts to carry out section 106.''.

**SEC. 113. RULE OF CONSTRUCTION.**

Title I (42 U.S.C. 5101 et seq.) is amended by adding at the end thereof the following new section:

**''SEC. 115. RULE OF CONSTRUCTION.**

''(a) IN GENERAL.—Nothing in this Act shall be construed to require that a parent or legal guardian provide a child any medical service or treatment, nor require a State to find abuse or neglect in cases in which a parent or legal guardian treats a child's health condition solely or partially by spiritual or non-medical means.

''(b) STATE INTERVENTION.—Notwithstanding subsection (a), nothing in this Act shall be construed as precluding a State from intervening to protect a child or find abuse or neglect in a case involving the failure or refusal to provide a medical service or treatment where such failure or refusal will lead to imminent risk of severe harm to the child.''.

**TITLE II—COMMUNITY-BASED CHILD ABUSE AND NEGLECT PREVENTION GRANTS**

**SEC. 201. ESTABLISHMENT OF PROGRAM.**

Title II of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5116 et seq) is amended to read as follows:

**''TITLE II—COMMUNITY-BASED CHILD ABUSE AND NEGLECT PREVENTION GRANTS**

**''SEC. 201. PURPOSE AND AUTHORITY.**

''(a) PURPOSE.—It is the purpose of this Act to support State efforts to develop, operate, expand and enhance a network of community-based, prevention-focused, family resource and support programs that are culturally competent and that coordinate resources among existing education, vocational rehabilitation, disability, respite, health, mental health, job readiness, self-sufficiency, child and family development, community action, Head Start, child care, child abuse and neglect prevention, juvenile justice, domestic violence prevention and intervention, housing, and other human service organizations within the State.

''(b) AUTHORITY.—The Secretary shall make grants under this title on a formula basis to the entity designated by the State as the lead entity (hereafter referred to in this title as the 'lead entity') for the purpose of—

''(1) developing, operating, expanding and enhancing Statewide networks of community-based, prevention-focused, family resource and support programs that—

''(A) offer sustained assistance to families;

''(B) provide early, comprehensive, and holistic support for all parents;

''(C) promote the development of parental competencies and capacities, especially in young parents and parents with very young children;

''(D) increase family stability;

''(E) improve family access to other formal and informal resources and opportunities for assistance available within communities; and

''(F) support the additional needs of families with children with disabilities;

''(2) fostering the development of a continuum of preventive services for children and families through State and community-based collaborations and partnerships both public and private;

''(3) financing the start-up, maintenance, expansion, or redesign of specific family resource and support program services (such as respite services, child abuse and neglect prevention activities, disability services, mental health services, housing services, transportation, adult education, home visiting and other similar services) identified by the inventory and description of current services required under section 205(a)(3) as an unmet need, and integrated with the network of community-based family resource and support program;

''(4) maximizing funding for the financing, planning, community mobilization, collaboration, assessment, information and referral,

startup, training and technical assistance, information management, reporting and evaluation costs for establishing, operating, or expanding a Statewide network of community-based, prevention-focused, family resource and support program; and

''(5) financing public information activities that focus on the healthy and positive development of parents and children and the promotion of child abuse and neglect prevention activities.

**''SEC. 202. ELIGIBILITY.**

''A State shall be eligible for a grant under this title for a fiscal year if—

''(1)(A) the chief executive officer of the State has designated an entity to administer funds under this title for the purposes identified under the authority of this title, including to develop, implement, operate, enhance or expand a Statewide network of community-based, prevention-focused, family resource and support programs, child abuse and neglect prevention activities and access to respite services integrated with the Statewide network;

''(B) in determining which entity to designate under subparagraph (A), the chief executive officer should give priority consideration to the trust fund advisory board of the State or an existing entity that leverages Federal, State, and private funds for a broad range of child abuse and neglect prevention activities and family resource programs, and that is directed by an interdisciplinary, public-private structure, including participants from communities; and

''(C) such lead entity is an existing public, quasi-public, or nonprofit private entity with a demonstrated ability to work with other State and community-based agencies to provide training and technical assistance, and that has the capacity and commitment to ensure the meaningful involvement of parents who are consumers and who can provide leadership in the planning, implementation, and evaluation of programs and policy decisions of the applicant agency in accomplishing the desired outcomes for such efforts;

''(2) the chief executive officer of the State provides assurances that the lead entity will provide of will be responsible for providing—

''(A) a network of community-based family resource and support programs composed of local, collaborative, public-private partnerships directed by interdisciplinary structures with balanced representation from private and public sector members, parents, and public and private nonprofit service providers and individuals and organizations experienced in working in partnership with families with children with disabilities;

''(B) direction to the network through an interdisciplinary, collaborative, public-private structure with balanced representation from private and public sector members, parents, and public sector and private nonprofit sector service providers; and

''(C) direction and oversight to the network through identified goals and objectives, clear lines of communication and accountability, the provision of leveraged or combined funding from Federal, State and private sources, centralized assessment and planning activities, the provision of training and technical assistance, and reporting and evaluation functions; and

''(3) the chief executive officer of the State provides assurances that the lead entity—

''(A) has a demonstrated commitment to parental participation in the development, operation, and oversight of the Statewide network of community-based, prevention-focused, family resource and support programs;

''(B) has a demonstrated ability to work with State and community-based public and private nonprofit organizations to develop a continuum of preventive, family centered, holistic services for children and families through the Statewide network of community-based, prevention-focused, family resource and support programs;

''(C) has the capacity to provide operational support (both financial and programmatic) and training and technical assistance, to the Statewide network of community-based, prevention-focused, family resource and support programs, through innovative, interagency funding and interdisciplinary service delivery mechanisms; and

''(D) will integrate its efforts with individuals and organizations experienced in working in partnership with families with children with disabilities and with the child abuse and neglect prevention activities of the State, and demonstrate a financial commitment to those activities.

**''SEC. 203. AMOUNT OF GRANT.**

''(a) RESERVATION.—The Secretary shall reserve 1 percent of the amount appropriated under section 210 for a fiscal year to make allotments to Indian tribes and tribal organizations and migrant programs.

''(b) IN GENERAL.—Of the amounts appropriated for a fiscal year under section 210 and remaining after the reservation under subsection (a), The Secretary shall allot to each State lead entity an amount so that—

''(1) 50 percent of the total amount allotted to the State under this section is based on the number of children under 18 residing in the State as compared to the number of such children residing in all States, except that no State shall receive less than $250,000; and

''(2) each State receives, from the amounts remaining from the total amount appropriated, an amount equal to 50 percent of the amount that each such State has directed through the lead agency to the purposes identified under the authority of this title, including foundation, corporate, and other private funding, State revenues, and Federal funds.

''(c) ALLOCATION.—Funds allotted to a State under this section shall be awarded on a formula basis for a 3-year period. Payment under such allotments shall be made by the Secretary annually on the basis described in subsection (a).

**''SEC. 204. EXISTING AND CONTINUATION GRANTS.**

''(a) EXISTING GRANTS.—Notwithstanding the enactment of this title, a State or entity that has a grant, contract, or cooperative agreement in effect, on the date of enactment of this title, under the Family Resource and Support Program, the Community-Based Family Resource Program, the Emergency Child Abuse Prevention Grant Program, or the Temporary Child Care for Children with Disabilities and Crisis Nurseries Programs shall continue to receive funds under such programs, subject to the original terms under which such funds were granted, through the end of the applicable grant cycle.

''(b) CONTINUATION GRANTS.—The Secretary may continue grants for Family Resource and Support Program grantees, and those programs otherwise funded under this Act, on a noncompetitive basis, subject to the availability of appropriations, satisfactory performance by the grantee, and receipt of reports required under this Act, until such time as the grantee no longer meets the original purposes of this Act.

**''SEC. 205. APPLICATION.**

''(a) IN GENERAL.—A grant may not be made to a State under this title unless an application therefore is submitted by the State to the Secretary and such application contains the types of information specified by the Secretary as essential to carrying out the provisions of section 202, including—

''(1) a description of the lead entity that will be responsible for the administration of funds provided under this title and the oversight of programs funded through the Statewide network of community-based, prevention-focused, family resource and support programs which meets the requirements of section 202;

''(2) a description of how the network of community-based, prevention-focused, family resource and support programs will operate and how family resource and support services provided by public and private, nonprofit organizations, including those funded by programs consolidated under this Act, will be integrated into a developing continuum of family centered, holistic, preventive services for children and families;

''(3) an assurance that an inventory of current family resource programs, respite, child abuse and neglect prevention activities, and other family resource services operating in the State, and a description of current unmet needs, will be provided;

''(4) a budget for the development, operation and expansion of the State's network of community-based, prevention-focused, family resource and support programs that verifies that the State will expend an amount equal to not less than 20 percent of the amount received under this title (in cash, not in-kind) for activities under this title;

''(5) an assurance that funds received under this title will supplement, not supplant, other State and local public funds designated for the Statewide network of community-based, prevention-focused, family resource and support programs;

''(6) an assurance that the State network of community-based, prevention-focused, family resource and support programs will maintain cultural diversity, and be culturally competent and socially sensitive and responsive to the needs of families with children with disabilities;

''(7) an assurance that the State has the capacity to ensure the meaningful involvement of parents who are consumers and who can provide leadership in the planning, implementation, and evaluation of the programs and policy decisions of the applicant agency in accomplishing the desired outcomes for such efforts;

''(8) a description of the criteria that the entity will use to develop, or select and fund, individual community-based, prevention-focused, family resource and support programs as part of network development, expansion or enhancement;

''(9) a description of outreach activities that the entity and the community-based, prevention-focused, family resource and support programs will undertake to maximize the participation of racial and ethnic minorities, new immigrant populations, children and adults with disabilities, and members of other underserved or underrepresented groups;

''(10) a plan for providing operational support, training and technical assistance to community-based, prevention-focused, family resource and support programs for development, operation, expansion and enhancement activities;

''(11) a description of how the applicant entity's activities and those of the network and its members will be evaluated;

''(12) a description of that actions that the applicant entity will take to advocate changes in State policies, practices, procedures and regulations to improve the delivery of prevention-focused, family resource and support program services to all children and families; and

''(13) an assurance that the applicant entity will provide the Secretary with reports

at such time and containing such information as the Secretary may require.

**"SEC. 206. LOCAL PROGRAM REQUIREMENTS.**

''(a) IN GENERAL.—Grants made under this title shall be used to develop, implement, operate, expand and enhance community-based, prevention-focused, family resource and support programs that—

''(1) assess community assets and needs through a planning process that involves parents and local public agencies, local nonprofit organizations, and private sector representatives;

''(2) develop a strategy to provide, over time, a continuum of preventive, holistic, family centered services to children and families, especially to young parents and parents with young children, through public-private partnerships;

''(3) provide—

''(A) core family resource and support services such as—

''(i) parent education, mutual support and self help, and leadership services;

''(ii) early developmental screening of children;

''(iii) outreach services;

''(iv) community and social service referrals; and

''(v) follow-up services;

''(B) other core services, which must be provided or arranged for through contracts or agreements with other local agencies, including all forms of respite services; and

''(C) access to optional services, including—

''(i) child care, early childhood development and intervention services;

''(ii) services and supports to meet the additional needs of families with children with disabilities;

''(iii) job readiness services;

''(iv) educational services, such as scholastic tutoring, literacy training, and General Educational Degree services;

''(v) self-sufficiency and life management skills training;

''(vi) community referral services; and

''(vii) peer counseling;

''(4) develop leadership roles for the meaningful involvement of parents in the development, operation, evaluation, and oversight of the programs and services;

''(5) provide leadership in mobilizing local public and private resources to support the provision of needed family resource and support program services; and

''(6) participate with other community-based, prevention-focused, family resource and support program grantees in the development, operation and expansion of the Statewide network.

''(b) PRIORITY.—In awarding local grants under this title, a lead entity shall give priority to community-based programs serving low income communities and those serving young parents or parents with young children, and to community-based family resource and support programs previously funded under the programs consolidated under the Child Abuse Prevention and Treatment Act Amendments of 1995, so long as such programs meet local program requirements.

**"SEC. 207. PERFORMANCE MEASURES.**

''A State receiving a grant under this title, through reports provided to the Secretary, shall—

''(1) demonstrate the effective development, operation and expansion of a Statewide network of community-based, prevention-focused, family resource and support programs that meets the requirements of this title;

''(2) supply an inventory and description of the services provided to families by local programs that meet identified community needs, including core and optional services as described in section 202;

''(3) demonstrate the establishment of new respite and other specific new family resources services to address unmet needs identified by the inventory and description of current services required under section 201(b)(6);

''(4) describe the number of families served, including families with children with disabilities, and the involvement of a diverse representation of families in the design, operation, and evaluation of the Statewide network of community-based, prevention-focused, family resource and support programs, and in the design, operation and evaluation of the individual community-based family resource and support programs that are part of the Statewide network funded under this title;

''(4) demonstrate a high level of satisfaction among families who have used the services of the community-based, prevention-focused, family resource and support programs;

''(5) demonstrate the establishment or maintenance of innovative funding mechanisms, at the State or community level, that blend Federal, State, local and private funds, and innovative, interdisciplinary service delivery mechanisms, for the development, operation, expansion and enhancement of the Statewide network of community-based, prevention-focused, family resource and support programs;

''(6) describe the results of a peer review process conducted under the State program; and

''(7) demonstrate an implementation plan to ensure the continued leadership of parents in the on-going planning, implementation, and evaluation of such community based, prevention-focused, family resource and support programs.

**"SEC. 208. NATIONAL NETWORK FOR COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.**

''The Secretary may allocate such sums as may be necessary from the amount provided under the State allotment to support the activities of the State network—

''(1) to create, operate and maintain a peer review process;

''(2) to create, operate and maintain an information clearinghouse;

''(3) to fund a yearly symposium on State system change efforts that result from the operation of the Statewide networks of community-based, prevention-focused, family resource and support programs;

''(4) to create, operate and maintain a computerized communication system between lead entities; and

''(5) to fund State-to-State technical assistance through bi-annual conferences.

**"SEC. 209. DEFINITIONS.**

''(1) CHILDREN WITH DISABILITIES.—The term 'children with disabilities' has the same meaning given such term in section 602(a)(2) of the Individuals with Disabilities Education Act.

''(2) COMMUNITY REFERRAL SERVICES.—The term 'community referral services' means services provided under contract or through interagency agreements to assist families in obtaining needed information, mutual support and community resources, including respite services, health and mental health services, employability development and job training, and other social services through help lines or other methods.

''(3) CULTURALLY COMPETENT.—The term 'culturally competent' means services, support, or other assistance that is conducted or provided in a manner that—

''(A) is responsive to the beliefs, interpersonal styles, attitudes, languages, and behaviors of those individuals and families receiving services; and

''(B) has the greatest likelihood of ensuring maximum participation of such individuals and families.

''(4) FAMILY RESOURCE AND SUPPORT PROGRAM.—The term 'family resource and support program' means a community-based, prevention-focused entity that—

''(A) provides, through direct service, the core services required under this title, including—

''(i) parent education, support and leadership services, together with services characterized by relationships between parents and professionals that are based on equality and respect, and designed to assist parents in acquiring parenting skills, learning about child development, and responding appropriately to the behavior of their children;

''(ii) services to facilitate the ability of parents to serve as resources to one another other (such as through mutual support and parent self-help groups);

''(iii) early developmental screening of children to assess any needs of children, and to identify types of support that may be provided;

''(iv) outreach services provided through voluntary home visits and other methods to assist parents in becoming aware of and able to participate in family resources and support program activities;

''(v) community and social services to assist families in obtaining community resources; and

''(vi) follow-up services;

''(B) provides, or arranges for the provision of, other core services through contracts or agreements with other local agencies, including all forms of respite services; and

''(C) provides access to optional services, directly or by contract, purchase of service, or interagency agreement, including—

''(i) child care, early childhood development and early intervention services;

''(ii) self-sufficiency and life management skills training;

''(iii) education services, such as scholastic tutoring, literacy training, and General Educational Degree services;

''(iv) job readiness skills;

''(v) child abuse and neglect prevention activities;

''(vi) services that families with children with disabilities or special needs may require;

''(vii) community and social service referral;

''(viii) peer counseling;

''(ix) referral for substance abuse counseling and treatment; and

''(x) help line services.

''(5) NATIONAL NETWORK FOR COMMUNITY-BASED FAMILY RESOURCE PROGRAMS.—The term 'network for community-based family resource program' means the organization of State designated entities who receive grants under this title, and includes the entire membership of the Children's Trust Fund Alliance and the National Respite Network.

''(6) OUTREACH SERVICES.—The term 'outreach services' means services provided to assist consumers, through voluntary home visits or other methods, in accessing and participating in family resource and support program activities.

''(7) RESPITE SERVICES.—The term 'respite services' means short term care services provided in the temporary absence of the regular caregiver (parent, other relative, foster parent, adoptive parent, or guardian) to children who—

''(A) are in danger of abuse or neglect;

''(B) have experienced abuse or neglect; or

''(C) have disabilities, chronic, or terminal illnesses.

Such services shall be provided within or outside the home of the child, be short-term care (ranging from a few hours to a few weeks of time, per year), and be intended to enable the family to stay together and to keep the child living in the home and community of the child.

**"SEC. 210. AUTHORIZATION OF APPROPRIATIONS.**

''There are authorized to be appropriated to carry out this title, $108,000,000 for each of the fiscal years 1996, 1997, and 1998.''.

**SEC. 202. REPEALS.**

(a) TEMPORARY CHILD CARE FOR CHILDREN WITH DISABILITIES AND CRISIS NURSERIES ACT.—The Temporary Child Care for Children with Disabilities and Crisis Nurseries Act of 1986 (42 U.S.C. 5117 et seq.) is repealed.

(b) FAMILY SUPPORT CENTERS.—Subtitle F of title VII of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11481 et seq.) is repealed.

## TITLE III—FAMILY VIOLENCE PREVENTION AND SERVICES

**SEC. 301. REFERENCE.**

Except as otherwise expressly provided, whenever in this title 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 Family Violence Prevention and Services Act (42 U.S.C. 10401 et seq.).

**SEC. 302. STATE DEMONSTRATION GRANTS.**

Section 303(e) (42 U.S.C. 10420(e)) is amended—

(1) by striking ''following local share'' and inserting ''following non-Federal matching local share''; and

(2) by striking ''20 percent'' and all that follows through ''private sources.'' and inserting ''with respect to an entity operating an existing program under this title, not less than 20 percent, and with respect to an entity intending to operate a new program under this title, not less than 35 percent.''.

**SEC. 303. ALLOTMENTS.**

Section 304(a)(1) (42 U.S.C. 10403(a)(1)) is amended by striking ''$200,000'' and inserting ''$400,000''.

**SEC. 304. AUTHORIZATION OF APPROPRIATIONS.**

Section 310 (42 U.S.C. 10409) is amended—

(1) in subsection (b), by striking ''80'' and inserting ''70''; and

(2) by adding at the end thereof the following new subsections:

''(d) GRANTS FOR STATE COALITIONS.—Of the amounts appropriated under subsection (a) for each fiscal year, not less than 10 percent of such amounts shall be used by the Secretary for making grants under section 311.

''(e) NON-SUPPLANTING REQUIREMENT.—Federal funds made available to a State under this title shall be used to supplement and not supplant other Federal, State, and local public funds expended to provide services and activities that promote the purposes of this title.''.

## TITLE IV—ADOPTION OPPORTUNITIES

**SEC. 401. REFERENCE.**

Except as otherwise expressly provided, whenever in this title 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 Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 (42 U.S.C. 5111 et seq.).

**SEC. 402. FINDINGS AND PURPOSE.**

Section 201 (42 U.S.C. 5111) is amended—

(1) in subsection (a)—

(A) in paragraph (1)—

(i) by striking ''50 percent between 1985 and 1990'' and inserting ''61 percent between 1986 and 1994''; and

(ii) by striking ''400,000 children at the end of June, 1990'' and inserting ''452,000 as of June, 1994''; and

(B) in paragraph (5), by striking ''local'' and inserting ''legal''; and

(C) in paragraph (7), to read as follows:

''(7)(A) currently, 40,000 children are free for adoption and awaiting placement;

''(B) such children are typically school aged, in sibling groups, have experienced neglect or abuse, or have a physical, mental, or emotional disability; and

''(C) while the children are of all races, children of color and older children (over the age of 10) are over represented in such group;''; and

(2) in subsection (b)—

(A) by striking ''conditions, by—'' and all that follows through ''providing a mechanism'' and inserting ''conditions, by providing a mechanism''; and

(B) by redesignating subparagraphs (A) through (C), as paragraphs (1) through (3), respectively and by realigning the margins of such paragraphs accordingly.

**SEC. 403. INFORMATION AND SERVICES.**

Section 203 (42 U.S.C. 5113) is amended—

(1) in subsection (a), by striking the last sentence;

(2) in subsection (b)—

(A) in paragraph (6), to read as follows:

''(6) study the nature, scope, and effects of the placement of children in kinship care arrangements, pre-adoptive, or adoptive homes;'';

(B) by redesignating paragraphs (7) through (9) as paragraphs (8) through (10), respectively; and

(C) by inserting after paragraph (6), the following new paragraph:

''(7) study the efficacy of States contracting with public or private nonprofit agencies (including community-based organizations), organizations, or sectarian institutions for the recruitment of potential adoptive and foster families and to provide assistance in the placement of children for adoption;''; and

(3) in subsection (d)—

(A) in paragraph (2)—

(i) by striking ''Each'' and inserting ''(A) Each'';

(ii) by striking ''for each fiscal year'' and inserting ''that describes the manner in which the State will use funds during the 3-fiscal years subsequent to the date of the application to accomplish the purposes of this section. Such application shall be''; and

(iii) by adding at the end thereof the following new subparagraph:

''(B) The Secretary shall provide, directly or by grant to or contract with public or private nonprofit agencies or organizations—

''(i) technical assistance and resource and referral information to assist State or local governments with termination of parental rights issues, in recruiting and retaining adoptive families, in the successful placement of children with special needs, and in the provision of pre- and post-placement services, including post-legal adoption services; and

''(ii) other assistance to help State and local governments replicate successful adoption-related projects from other areas in the United States.''.

**SEC. 404. AUTHORIZATION OF APPROPRIATIONS.**

Section 205 (42 U.S.C. 5115) is amended—

(1) in subsection (a)—

(A) by striking ''$10,000,000,'' and all that follows through ''1992, and''; and

(B) by inserting ''$20,000,000 for fiscal year 1996, and such sums as may be necessary for fiscal year 1997'' after ''1995,'';

(2) by striking subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

## TITLE V—ABANDONED INFANTS ASSISTANCE ACT OF 1986

**SEC. 501. REAUTHORIZATION.**

Section 104(a)(1) of the Abandoned Infants Assistance Act of 1988 (42 U.S.C. 670 note) is amended by striking ''$20,000,000'' and all that follows through the end thereof and inserting ''$35,000,000 for each of the fiscal years 1995 and 1996, and such sums as may be necessary for each of the fiscal years 1997 through 2000''.

## TITLE VI—REAUTHORIZATION OF VARIOUS PROGRAMS

**SEC. 601. MISSING CHILDREN'S ASSISTANCE ACT.**

Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended—

(1) by striking ''To'' and inserting ''(a) IN GENERAL.—''

(2) by striking ''and 1996'' and inserting ''1996, and 1997''; and

(3) by adding at the end thereof the following new subsection:

''(b) EVALUATION.—The Administrator shall use not more than 5 percent of the amount appropriated for a fiscal year under subsection (a) to conduct an evaluation of the effectiveness of the programs and activities established and operated under this title.''.

**SEC. 602. VICTIMS OF CHILD ABUSE ACT OF 1990.**

Section 214B of the Victims of Child Abuse Act of 1990 (42 U.S.C. 13004) is amended—

(1) in subsection (a)(2), by striking ''and 1996'' and inserting ''1996, and 1997''; and

(2) in subsection (b)(2), by striking ''and 1996'' and inserting ''1996, and 1997''.●

● Mrs. KASSEBAUM. Mr. President, I am pleased to join with Senator COATS today in introducing the Child Abuse Prevention and Treatment Act Amendments of 1995. This important legislation reauthorizes the Child Abuse and Prevention Treatment Act (CAPTA) and makes several important changes to the legislation. CAPTA is the only Federal program specifically aimed at the prevention and treatment of child abuse.

Federal involvement in child welfare began with the passage of CAPTA in 1974. This act has provided critical leadership to help States identify child abuse and neglect, improve State child protective systems, and prevent and treat child abuse and neglect. CAPTA has assisted States in establishing mandatory reporting systems of child abuse and neglect. In addition, the act provided immunity from prosecution for mandated reporters who act in good faith to report suspected cases of child abuse and neglect. This has dramatically improved States' ability to intervene in situations where abuse has occurred. The legislation Senator COATS and I are introducing today will make significant improvements to state reporting systems by placing a stronger emphasis on training of mandated reporters and case workers and by building in an assessment component in the reporting and investigation process.

CAPTA has also provided funding for research in the field of child abuse and neglect. Research is critical to understanding this issue and to providing professionals with the necessary tools to assist children and families who may be at risk of child abuse and neglect. In addition, CAPTA has established a national clearinghouse to collect data on child abuse and neglect.

Amendments to CAPTA have been made to strengthen research efforts and to expand the clearinghouse's data collection function to include information on substantiated, unsubstantiated, and false reports of child abuse and neglect.

This legislation also seeks to encourage State and local innovation through demonstration grants in the areas of training and education, reporting and investigation of abuse and neglect, and encouraging parent mutual support and self-help programs.

The reauthorization of CAPTA also includes a prevention component that involves networks of local community-based organizations whose primary purpose is to assist families at risk of child abuse and neglect. Title II of this legislation consolidates several programs, the Temporary Child Care for Children with Disabilities and Crisis Nurseries Act and the Family Support Centers under the Stewart B. McKinney Homeless Assistance Act, into the Community-Based Family Resource Grants program. The programs being consolidated provide a range of services to families, from respite care and support services to families with disabled children to assisting families in finding affordable housing. The grants are awarded to States that demonstrate a commitment to establishing a network of resources designed to assist families and prevent child abuse and neglect and to providing leadership in coordinating various programs and activities at the State and local levels.

The Child Abuse and Prevention Treatment Act Amendments of 1995 has been reauthorized at $100 million for fiscal year 1996 and such sums as necessary through fiscal year 2000.

The legislation also includes several minor technical amendments to the Family Violence Prevention and Services Act to reconcile differences between this and the Victims of Crime Act. In addition, Title IV and Title V reauthorize the Adoption Opportunities Act and the Abandoned Infants Assistance Act. Several technical changes have been made to the Adoption Opportunities Act to improve this program. Also, a provision has been included to require the Secretary of Health and Human Services to study and report on the efficacy of requiring States to contract with public, private nonprofit, and sectarian institutions for recruitment of prospective foster care and adoptive parents and for assistance with the placement of children with special needs. The Adoption Opportunities Act has been reauthorized at $20 million for fiscal year 1996 and such sums as may be necessary through fiscal year 2000. The Abandoned Infants Assistance Act has been reauthorized at $35 million for fiscal year 1996 and such sums as may be necessary through fiscal year 2000.

Finally, in conjunction with Senator HATCH, several programs under the Senate Committee on the Judiciary's jurisdiction that were included in Title II of the House welfare reform proposal, have been reauthorized under Title VI of CAPTA. They are the Missing Children's Assistance Act and the Victims of Child Abuse Act of 1990. Both programs have been reauthorized through 1997.

I believe this legislation will make significant improvements to the reporting, prevention, and treatment of child abuse and neglect. I would like to thank Senator COATS for his strong commitment to children and his leadership on this very important issue. I hope that this legislation will receive bipartisan support from my colleagues in the Senate and that many of you will join with Senator COATS and me in ensuring its passage on the Senate floor.●

## ADDITIONAL COSPONSORS

S. 256

At the request of Mr. SPECTER, his name was added as a cosponsor 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. 304

At the request of Mr. SANTORUM, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 304, a bill to amend the Internal Revenue Code of 1986 to repeal the transportation fuels tax applicable to commercial aviation.

S. 472

At the request of Mr. DODD, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Minnesota [Mr. WELLSTONE] were added as cosponsors of S. 472, a bill to consolidate and expand Federal child care services to promote self sufficiency and support working families, and for other purposes.

S. 692

At the request of Mr. GREGG, the name of the Senator from Alaska [Mr. STEVENS] was added as a cosponsor of S. 692, a bill to amend the Internal Revenue Code of 1986 to preserve family-held forest lands, and for other purposes.

S. 758

At the request of Mr. HATCH, the name of the Senator from Oregon [Mr. HATFIELD] was added as a cosponsor of S. 758, a bill to amend the Internal Revenue Code of 1986 to provide for S corporation reform, and for other purposes.

S. 770

At the request of Mr. DOLE, the name of the Senator from Texas [Mrs. HUTCHISON] 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. 771

At the request of Mr. PRYOR, the name of the Senator from South Dakota [Mr. PRESSLER] was added as a cosponsor of S. 771, a bill to provide that certain Federal property shall be made available to States for State use before being made available to other entities, and for other purposes.

S. 830

At the request of Mr. SPECTER, the name of the Senator from Maine [Mr. COHEN] was added as a cosponsor of S. 830, a bill to amend title 18, United States Code, with respect to fraud and false statements.

S. 867

At the request of Mr. COCHRAN, the name of the Senator from Mississippi [Mr. LOTT] was added as a cosponsor of S. 867, a bill to amend the Internal Revenue Code of 1986 to revise the estate and gift tax in order to preserve American family enterprises, and for other purposes.

S. 915

At the request of Mr. D'AMATO, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 915, a bill to govern relations between the United States and the Palestine Liberation Organization [PLO], to enforce compliance with standards of international conduct, and for other purposes.

SENATE RESOLUTION 103

At the request of Mr. DOMENICI, the names of the Senator from Missouri [Mr. BOND] the Senator from Texas [Mrs. HUTCHISON], and the Senator from Florida [Mr. MACK] were added as cosponsors of Senate Resolution 103, a resolution to proclaim the week of October 15 through October 21, 1995, as National Character Counts Week, and for other purposes.

AMENDMENT NO. 1265

At the request of Mr. DORGAN, the name of the Senator from Wisconsin [Mr. FEINGOLD] was added as a cosponsor of Amendment No. 1265 proposed to S. 652, an original bill to provide for a procompetitive, de-regulatory 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.

## AMENDMENTS SUBMITTED

### THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT OF 1995 COMMUNICATIONS DECENCY ACT OF 1995

### DORGAN AMENDMENTS NOS. 1272–1273

(Ordered to lie on the table.)

Mr. DORGAN submitted two amendments intended to be proposed by him 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. 1272

On page 82, between lines 4 and 5, insert the following:

(3) This section shall operate only if the Commission shall amend its ''Application for renewal of License for AM, FM, TV, Translator or LPTV Station'' (FCC Form 303–S) to require that, for commercial TV applicants only, the applicant attach as an exhibit to the application a summary of written comments and suggestions received from the public and maintained by the licensee in accordance with 47 C.F.R. sec. 73.1202 that comment on the applicant's programming, if any, characterized by the commentor as constituting violent programming.

AMENDMENT NO. 1273

On page 77, line 2, strike the word ''and'' and all that follows through line 4 on the same page and insert the following:

(B) it shall apply similar rules to use of existing television spectrum; and

(C) it shall adopt regulations that would require broadcast stations to transmit, by way of line 21 of the vertical blanking interval, signals which enable viewers to block the display of programs with common ratings based on violent content determined by such stations.

## DORGAN (AND HELMS) AMENDMENT NO. 1274

(Ordered to lie on the table.)

Mr. DORGAN (for himself and Mr. HELMS) submitted an amendment intended to be proposed by them to the bill S. 652, supra; as follows:

Strike paragraph (1) of subsection (b) of Section (207) and insert in lieu thereof the following:

''(b) REVIEW AND MODIFICATION OF BROADCAST RULES.—The Commission shall:

''(1) modify or remove such national and local ownership rules on radio and television broadcasters as are necessary to ensure that broadcasters are able to compete fairly with other media providers while ensuring that the public receives information from a diversity of media sources and localism and service in the public interest in protected, taking into consideration the economic dominance of providers in a market and

''(2) review the ownership restriction in section 613(a)(1).''

## CONRAD (AND OTHERS) AMENDMENT NO. 1275

Mr. CONRAD (for himself, Ms. MIKULSKI, and Mr. GRAHAM) proposed an amendment to the bill, S. 652, supra; as follows:

On page 146, below line 14, add the following:

TITLE V—MISCELLANEOUS

**SEC. 501. SHORT TITLE.**

This title may be cited as the ''Parental Choice in Television Act of 1995''.

**SEC. 502. FINDINGS.**

Congress makes the following findings:

(1) On average, a child in the United States is exposed to 27 hours of television each week and some children are exposed to as much as 11 hours of television each day.

(2) The average American child watches 8,000 murders and 100,000 acts of other violence on television by the time the child completes elementary school.

(3) By the age of 18 years, the average American teenager has watched 200,000 acts of violence on television, including 40,000 murders.

(4) On several occasions since 1975, The Journal of the American Medical Association has alerted the medical community to the adverse effects of televised violence on child development, including an increase in the level of aggressive behavior and violent behavior among children who view it.

(5) The National Commission on Children recommended in 1991 that producers of television programs exercise greater restraint in the content of programming for children.

(6) A report of the Harry Frank Guggenheim Foundation, dated May 1993, indicates that there is an irrefutable connection between the amount of violence depicted in the television programs watched by children and increased aggressive behavior among children.

(7) It is a compelling National interest that parents be empowered with the technology to block the viewing by their children of television programs whose content is overly violent or objectionable for other reasons.

(8) Technology currently exists to permit the manufacture of television receivers that are capable of permitting parents to block television programs having violent or otherwise objectionable content.

**SEC. 503. ESTABLISHMENT OF TELEVISION VIOLENCE RATING CODE.**

(a) IN GENERAL.—Section 303 (47 U.S.C. 303) is amended by adding at the end the following:

''(v) Prescribe, in consultation with television broadcasters, cable operators, appropriate public interest groups, and interested individuals from the private sector, rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

''(1) signals containing ratings of the level of violence or objectionable content in such programming; and

''(2) signals containing specifications for blocking such programming.''.

(b) APPLICABILITY.—The amendment made by subsection (a) shall take effect 1 year after the date of the enactment of this Act, but only if the Commission determines, in consultation with appropriate public interest groups and interested individuals from the private sector, on that date that television broadcast stations and cable systems have not—

(1) established voluntarily rules for rating the level of violence or other objectionable content in television programming which rules are acceptable to the Commission; and

(2) agreed voluntarily to broadcast signals that contain ratings of the level of violence or objectionable content in such programming.

**SEC. 504. REQUIREMENT FOR MANUFACTURE OF TELEVISIONS THAT BLOCK PROGRAMS.**

(a) REQUIREMENT.—Section 303 (47 U.S.C. 303), as amended by this Act, is further amended by adding at the end the following:

''(w) Require, in the case of apparatus designed to receive television signals that are manufactured in the United States or imported for use in the United States and that have a picture screen 13 inches or greater in size (measured diagonally), that such apparatus—

''(1) be equipped with circuitry designed to enable viewers to block the display of channels during particular time slots; and

''(2) enable viewers to block display of all programs with a common rating.''.

(b) IMPLEMENTATION.—In adopting the requirement set forth in section 303(w) of the Communications Act of 1934, as added by subsection (a), the Federal Communications Commission, in consultation with the television receiver manufacturing industry, shall determine a date for the applicability of the requirement to the apparatus covered by that section.

**SEC. 505. SHIPPING OR IMPORTING OF TELEVISIONS THAT BLOCK PROGRAMS.**

(a) REGULATIONS.—Section 330 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by adding after subsection (b) the following new subsection (c):

''(c)(1) Except as provided in paragraph (2), no person shall ship in interstate commerce, manufacture, assemble, or import from any foreign country into the United States any apparatus described in section 303(w) of this Act except in accordance with rules prescribed by the Commission pursuant to the authority granted by that section.

''(2) This subsection shall not apply to carriers transporting apparatus referred to in paragraph (1) without trading it.

''(3) The rules prescribed by the Commission under this subsection shall provide performance standards for blocking technology. Such rules shall require that all such apparatus be able to receive transmitted rating signals which conform to the signal and blocking specifications established by the Commission.

''(4) As new video technology is developed, the Commission shall take such action as the Commission determines appropriate to ensure that blocking service continues to be available to consumers.''.

(b) CONFORMING AMENDMENT.—Section 330(d), as redesignated by subsection (a)(1), is amended by striking ''section 303(s), and section 303(u)'' and inserting in lieu thereof ''and sections 303(s), 303(u), and 303(w)''.

## McCAIN AMENDMENT NO. 1276

Mr. McCAIN proposed an amendment to the bill S. 652, supra; as follows:

On page 43, strike out line 2 and insert in lieu thereof the following:

Act.

''(k) TRANSITION TO ALTERNATIVE SUPPORT SYSTEM.—Notwithstanding any other provision of this Act, beginning 2 years after the date of the enactment the Telecommunications Act of 1995, support payments for universal service under this Act shall occur in accordance with the provisions of subsection (l) rather than any other provisions of this Act.

''(l) VOUCHER SYSTEM.—

''(1) IN GENERAL.—Not later than 2 years after the date of the enactment of the Telecommunications Act of 1995, the Commission shall prescribe regulations to provide for the payment of support payments for universal service through a voucher system under this subsection.

''(2) INDIVIDUALS ELIGIBLE TO MAKE PAYMENTS BY VOUCHER.—Payment of support payments for universal service by voucher under this subsection may be made only by individuals—

''(A) who are customers of telecommunications carriers described in paragraph (3); and

''(B) whose income in the preceding year was an amount equal to or less than the amount equal to 200 percent of the poverty level for that year.

''(3) CARRIERS ELIGIBLE TO RECEIVE VOUCHERS.—Telecommunications carriers eligible to receive support payments for universal service by voucher under this subsection are telecommunications carriers designated as essential telecommunications carriers in accordance with subsection (f).

''(4) VOUCHERS.—

''(A) IN GENERAL.—The Commission shall provide in the regulations under this subsection for the distribution to individuals described in paragraph (2) of vouchers that may be used by such individuals as payment for telecommunications services received by such individuals from telecommunications carriers described in paragraph (3).

''(B) VALUE OF VOUCHERS.—The Commission shall determine the value of vouchers distributed under this paragraph.

''(C) USE OF VOUCHERS.—Individuals to whom vouchers are distributed under this paragraph may utilize such vouchers as payment for the charges for telecommunications services that are imposed on such persons by telecommunications carriers referred to in subparagraph (A).

''(D) ACCEPTANCE OF VOUCHERS.—Each telecommunications carrier referred to in subparagraph (A) shall accept vouchers under this paragraph as payment for charges for telecommunications services that are imposed by the telecommunications carrier on individuals described in paragraph (2).

''(E) REIMBURSEMENT.—The Commission shall, upon submittal of vouchers by a telecommunications carrier, reimburse the telecommunications carrier in an amount equal to the value of the vouchers submitted. Amounts necessary for reimbursements under this subparagraph shall be derived from contributions for universal support under subsection (c).''

## GORTON AMENDMENT NO. 1277

Mr. GORTON proposed an amendment to amendment No. 1270 proposed by Mrs. FEINSTEIN to the bill, S. 652, supra; as follows:

In the matter proposed to be stricken, strike ''or is inconsistent with this section, the Commission shall promptly'' and insert ''subsection (a) or (b), the Commission shall''.

## DORGAN (AND OTHERS) AMENDMENT NO. 1278

Mr. DORGAN (for himself, Mr. HELMS, and Mr. KERREY) proposed an amendment to the bill, S. 652, supra; as follows:

Strike paragraph (1) of subsection (b) of Section (207) and insert in lieu thereof the following:

''(b) REVIEW AND MODIFICATION OF BROADCAST RULES.—The Commission shall:

''(1) modify or remove such national and local ownership rules on radio and television broadcasters as are necessary to ensure that broadcasters are able to compete fairly with other media providers while ensuring that the public receives information from a diversity of media sources and localism and service in the public interest is protected, taking into consideration the economic dominance of providers in a market and

''(2) review the ownership restriction in section 613(a)(1).''

## THURMOND AMENDMENT NO. 1279

(Ordered to lie on the table.)

Mr. THURMOND submitted an amendment intended to be proposed by him to the bill S. 652, supra; as follows:

On page 82, line 23, strike all after the word ''service'' through page 91, line 2, and insert the following:

''to the extent approved by the Commission and the Attorney General of the United States in accordance with the provisions of subsection (c);

''(2) interLATA telecommunications services originating in any area where that company is not the dominant provider of wireline telephone exchange service or exchange access service in accordance with the provisions of subsection (d); and

''(3) interLATA services that are incidental services in accordance with the provisions of subsection (e).

''(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS.—

''(1) IN GENERAL.—A Bell operating company may provide interLATA services in accordance with this section only if that company has reached an interconnection agreement under section 251 and that agreement provides, at a minimum, for interconnection that meets the competitive checklist requirements of paragraph (2).

''(2) COMPETITIVE CHECKLIST.—Interconnection provided by a Bell operating company to other telecommunications carriers under section 251 shall include:

''(A) Nondiscriminatory access on an unbundled basis to the network functions and services of the Bell operating company's telecommunications network that is at least equal in type, quality, and price to the access the Bell operating company affords to itself or any other entity.

''(B) The capability to exchange telecommunications between customers of the Bell operating company and the telecommunications carrier seeking interconnection.

''(C) Nondiscriminatory access to the poles, ducts, conduits, and rights-of-way owned or controlled by the Bell operating company at just and reasonable rates where it has the legal authority to permit such access.

''(D) Local loop transmission from the central office to the customer's premises, unbundled from local switching or other services.

''(E) Local transport from the trunk side of a wireline local exchange carrier switch unbundled from switching or other services.

''(F) Local switching unbundled from transport, local loop transmission, or other services.

''(G) Nondiscriminatory access to—

''(i) 911 and E911 services;

''(ii) directory assistance services to allow the other carrier's customers to obtain telephone numbers; and

''(iii) operator call completion services.

''(H) White pages directory listings for customers of the other carrier's telephone exchange service.

''(I) Until the date by which neutral telephone number administration guidelines, plan, or rules are established, nondiscriminatory access to telephone numbers for assignment to the other carrier's telephone exchange service customers. After that date, compliance with such guidelines, plan, or rules.

''(J) Nondiscriminatory access to databases and associated signaling, including signaling links, signaling service control points, and signaling service transfer points, necessary for call routing and completion.

''(K) Until the date by which the Commission determines that final telecommunications number portability is technically feasible and must be made available, interim telecommunications number portability through remote call forwarding, direct inward dialing trunks, or other comparable arrangements, with as little impairment of functioning, quality, reliability, and convenience as possible. After that date, full compliance with final telecommunications number portability.

''(L) Nondiscriminatory access to whatever services or information may be necessary to allow the requesting carrier to implement local dialing parity in a manner that permits consumers to be able to dial the same number of digits when using any telecommunications carrier providing telephone exchange service or exchange access service.

''(M) Reciprocal compensation arrangements on a nondiscriminatory basis for the origination and termination of telecommunications.

''(N) Telecommunications services and network functions provided on an unbundled basis without any conditions or restrictions on the resale or sharing of those services or functions, including both origination and termination of telecommunications services, other than reasonable conditions required by the Commission or a State. For purposes of this subparagraph, it is not an unreasonable condition for the Commission or a State to limit the resale—

''(i) of services included in the definition of universal service to a telecommunications carrier who intends to resell that service to a category of customers different from the category of customers being offered that universal service by such carrier if the Commission or State orders a carrier to provide the same service to different categories of customers at different prices necessary to promote universal service; or

''(ii) of subsidized universal service in a manner that allows companies to charge another carrier rates which reflect the actual cost of providing those services to that carrier, exclusive of any universal service support received for providing such services in accordance with section 214(d)(5).

''(3) JOINT MARKETING OF LOCAL AND LONG DISTANCE SERVICES.—Until a Bell operating company is authorized to provide interLATA services in a telephone exchange where that company is the dominant provider of wireline telephone exchange service or exchange access service, a telecommunications carrier may not jointly market in such telephone exchange area telephone exchange service purchased from such company with interLATA services offered by that telecommunications carrier.

''(4) COMMISSION MAY NOT EXPAND COMPETITIVE CHECKLIST.—The Commission may not, by rule or otherwise, limit or extend the terms used in the competitive checklist.

''(c) IN-REGION SERVICES.—

''(1) APPLICATION.—Upon the enactment of the Telecommunications Act of 1995, a Bell operating company or its affiliate may apply to the Commission and the Attorney General for authorization notwithstanding the Modification of Final Judgment to provide interLATA telecommunications service originating in any area where such Bell operating company is the dominant provider of wireline telephone exchange service or exchange access service. The application shall describe with particularity the nature and scope of the activity and of each product market or service market, and each geographic market for which authorization is sought.

''(2) DETERMINATION BY COMMISSION AND ATTORNEY GENERAL.—

''(A) DETERMINATION.—Not later than 90 days after receiving an application under paragraph (1), the Commission and the Attorney General shall each issue a written determination, on the record after a hearing and opportunity for comment, granting or denying the application in whole or in part.

''(B) APPROVAL BY COMMISSION.—The Commission may only approve the authorization requested in an application submitted under paragraph (1) if it—

''(i) finds that the petitioning Bell operating company has fully implemented the competitive checklist found in subsection (b)(2);

''(ii) finds that the requested authority will be carried out in accordance with the requirements of section 252; and ''(iii) determines that the requested authorization is consistent with the public interest, convenience, and necessity, in making its determination whether the requested authorization is consistent with the public interest convenience, and necessity, the Commission shall not consider the antitrust effects of such authorization in any market for which authorization is sought. Nothing in this subsection shall limit the authority of the Commission under any other section. If the Commission does not approve an application under this subparagraph it shall state the basis for its denial of the application.

(C) APPROVAL BY ATTORNEY GENERAL.—The Attorney General may only approve the authorization requested in an application submitted under paragraph (1) if the Attorney General finds that the effect of such authorization will not substantially lessen competition, or tend the create a monopoly in any line of commerce in any section of the country. The Attorney General may approve all or part of the request. If the Attorney General does not approve an application under this subparagraph, the Attorney General shall state the basis for the denial of the application. These provisions shall become effective one day after date of enactment.

''(3) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (2), the Commission and the Attorney General shall each publish in the Federal Register a brief description of the determination.

''(4) JUDICIAL REVIEW.—

''(A) COMMENCEMENT OF ACTION.—Not later than 45 days after a determination by the Commission or the Attorney General is published under paragraph (3), the Bell operating company or its subsidiary or affiliate that applied to the Commission and the Attorney General under paragraph (1), or any person who would be threatened with loss or damage as a result of the determination regarding such company's engaging in the activity described in its application, may commence an action in any United States Court of Appeals against the Commission or the Attorney General for judicial review of the determination regarding the application.''

## ROBB AMENDMENT NO. 1280

(Ordered to lie on the table.)

Mr. ROBB submitted an amendment intended to be proposed by him to the bill, S. 652, supra; as follows:

On page 146, below line 14, add the following:

**SEC. 409. RESTRICTIONS ON ACCESS BY CHILDREN TO OBSCENE AND INDECENT MATERIAL ON ELECTRONIC INFORMATION NETWORKS OPEN TO THE PUBLIC.**

In order.

(1) to encourage the voluntary use of tags in the names, addresses, or text of electronic files containing obscene, indecent, or mature text or graphics that are made available to the public through public information networks in order to ensure the ready identification of files containing such text or graphics;

(2) to encourage developers of computer software that provides access to or interface with a public information network to develop software that permits users of such software to block access to or interface with text or graphics identified by such tags; and

(3) to encourage the telecommunications industry and the providers and users of public information networks to take practical actions (including the establishment of a board consisting of appropriate members of such industry, providers, and users) to develop a highly effective means of preventing the access of children through public information networks to electronic files that contain such text or graphics,

The Secretary of Commerce shall take appropriate steps to make information on the tags established and utilized in voluntary compliance with subsection (a) available to the public through public information networks.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit to Congress a report on the tags established and utilized in voluntary compliance with this section. The report shall—

(1) describe the tags so established and utilized;

(2) assess the effectiveness of such tags in preventing the access of children to electronic files that contain obscene, indecent, or mature text or graphics through public information networks; and

(3) provide recommendations for additional means of preventing such access.

(d) DEFINITIONS.—In this section:

(2) The term ''public information network'' means the Internet, electronic bulletin boards, and other electronic information networks that are open to the public.

(2) The term ''tag'' means a part or segment of the name, address, or text of an electronic file.

## EXON (AND COATS) AMENDMENT NO. 1281

(Ordered to lie on the table.)

Mr. EXON (for himself and Mr. COATS) submitted an amendment intended to be proposed by them to the bill S. 652, supra; as follows:

On page 137 beginning with line 12 strike through line 10 on page 143 and insert the following:

(1) by striking subsection (a) and inserting in lieu thereof:

''(a) Whoever—

''(1) in the District of Columbia or in interstate or foreign communications—

''(A) by means of telecommunications device knowingly—

''(i) makes, creates, or solicits, and

''(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other communication which is obscene, lewd, lascivious, filthy, or indecent, with intent to annoy, abuse, threaten, or harass another person;

''(B) makes a telephone call or utilizes a telecommunications device, whether or not conversation or communication ensues, without disclosing his identity and with intent to annoy, abuse, threaten, or harass any person at the called number or who receives the communication;

''(C) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

''(D) makes repeated telephone calls or repeatedly initiates communication with a telecommunications device, during which conversation or communication ensues, solely to harass any person at the called number or who receives the communication; or

''(2) knowingly permits any telecommunications facility under his control to be used for any activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined not more than $100,000 or imprisoned not more than two years, or both.''; and

(2) by adding at the end the following new subsections:

''(d) Whoever—

''(1) knowingly within the United States or in foreign communications with the United States by means of telecommunications device makes or makes available any obscene communications in any form including any comment, request, suggestion, proposal, or image regardless of whether the maker of such communication placed the call or initiated the communications; or

''(2) knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by subsection (d)(1) with the intent that it be used for such activity;

shall be fined not more than $100,000 or imprisoned not more than two years or both.

''(e) Whoever—

''(1) knowingly within the United States or in foreign communications with the United States by means of telecommunications device makes or makes available any indecent communications in any form including any comment, request, suggestion, proposal, or image to any person under 18 years of age regardless of whether the maker of such communication placed the call or initiated the communications; or

''(2) knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by subsection (1) with the intent that it be used for such activity;

shall be fined not more than $100,000 or imprisoned not more than two years or both.

''(f) Defenses to the subsections (a), (d), and (e), restrictions on access, judicial remedies respecting restrictions for persons providing information services and access to information services—

''(1) No person shall be held to have violated subsections (a), (d), or (e) solely for providing access or connection to or from a facility, system, or network over which that person has no control, including related capabilities which are incidental to providing access or connection. This subsection shall not be applicable to an individual who is owned or controlled by, or a conspirator with, an entity actively involved in the creation, editing or knowing distribution of communications which violate this section.

''(2) No employer shall be held liable under this section for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his employment or agency and the employer has knowledge of, authorizes, or ratifies the employee's or agent's conduct.

''(3) It is a defense to prosecution under subsection (a), (d)(2), or (e) that a person has taken reasonable, effective and appropriate actions in good faith to restrict or prevent the transmission of, or access to a communication specified in such subsections, or complied with procedures as the Commission may prescribe in furtherance of this section. Until such regulations become effective, it is a defense to prosecution that the person has complied with the procedures prescribed by regulation pursuant to subsection (b)(3). Nothing in this subsection shall be construed to treat enhanced information services as common carriage.

''(4) No cause of action may be brought in any court or administrative agency against any person on account of any activity which is not in violation of any law punishable by criminal or civil penalty, which activity the person has taken in good faith to implement a defense authorized under this section or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section.

''(g) No State or local government may impose any liability for commercial activities

or actions by commercial entities in connection with an activity or action which constitutes a violation described in subsection (a)(2), (d)(2), or (e)(2) that is inconsistent with the treatment of those activities or actions under this section provided, however, that nothing herein shall preclude any State or local government from enacting and enforcing complementary oversight, liability, and regulatory systems, procedures, and requirements, so long as such systems, procedures, and requirements govern only intrastate services and do not result in the imposition of inconsistent rights, duties or obligations on the provision of interstate services. Nothing in this subsection shall preclude any State or local government from governing conduct not covered by this section.

''(h) Nothing in subsection (a), (d), (e), or (f) or in the defenses to prosecution under (a), (d), or (e) shall be construed to affect or limit the application or enforcement of any other Federal law.

''(i) The use of the term 'telecommunications device' in this section shall not impose new obligations on (one-way) broadcast radio or (one-way) broadcast television operators licensed by the Commission or (one-way) cable service registered with the Federal Communications Commission and covered by obscenity and indecency provisions elsewhere in this Act.

''(j) Within two years from the date of enactment and every two years thereafter, the Commission shall report on the effectiveness of this section.''

On page 144, strike lines 1 through 17, and in lieu thereof insert the following:

**SEC. 405. DISSEMINATION OF INDECENT MATERIAL ON CABLE TELEVISION SERVICE.**

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by inserting after section 1464 the following:

**''§ 1464A. Dissemination of indecent material on cable television**

''(a) Whoever knowingly disseminates any indecent material on any channel provided to all subscribers as part of a basic cable television package shall be imprisoned not more than two years or fined under this title, or both.

''(b) As used in this section, the term 'basic cable television package' means those channels provided by any means for a basic cable subscription fee to all cable subscribers, including 'basic cable service' and 'other programming service' as those terms are defined in section 602 of the Communications Act of 1934 but does not include separate channels that are provided to subscribers upon specific request, whether or not a separate or additional fee is charged.''.

''(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by inserting after the item relating to section 1464 the following new item:

''1464A. Dissemination of indecent material on cable television.''.

At the end of bill add:

**SEC. 409. SEPARABILITY.**

If any provision of this title, including amendments to this title or the application thereof to any person or circumstance is held invalid, the remainder of this title and the application of such provision to other persons or circumstances shall not be affected thereby.

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## MOSELEY-BRAUN AMENDMENT NO. 1282

(Ordered to lie on the table)

Ms. MOSELEY-BRAUN submitted an amendment intended to be proposed by her to the bill S. 652, supra; as follows:

At the end of the bill, insert the following:

TITLE —NATIONAL EDUCATION TECHNOLOGY FUNDING CORPORATION

**SEC. 01. SHORT TITLE.**

This title may be cited as the ''National Education Technology Funding Corporation Act of 1995''.

**SEC. 02. FINDINGS; PURPOSE.**

(a) FINDINGS.—The Congress finds as follows:

(1) CORPORATION.—There has been established in the District of Columbia a private, nonprofit corporation known as the National Education Technology Funding Corporation which is not an agency or independent establishment of the Federal Government.

(2) BOARD OF DIRECTORS.—The Corporation is governed by a Board of Directors, as prescribed in the Corporation's articles of incorporation, consisting of 15 members, of which—

(A) five members are representative of public agencies representative of schools and public libraries;

(B) five members are representative of State government, including persons knowledgeable about State finance, technology and education; and

(C) five members are representative of the private sector, with expertise in network technology, finance and management.

(3) CORPORATE PURPOSES.—The purposes of the Corporation, as set forth in its articles of incorporation, are—

(A) to leverage resources and stimulate private investment in education technology infrastructure;

(B) to designate State education technology agencies to receive loans, grants or other forms of assistance from the Corporation;

(C) to establish criteria for encouraging States to—

(i) create, maintain, utilize and upgrade interactive high capacity networks capable of providing audio, visual and data communications for elementary schools, secondary schools and public libraries;

(ii) distribute resources to assure equitable aid to all elementary schools and secondary schools in the State and achieve universal access to network technology; and

(iii) upgrade the delivery and development of learning through innovative technology-based instructional tools and applications;

(D) to provide loans, grants and other forms of assistance to State education technology agencies, with due regard for providing a fair balance among types of school districts and public libraries assisted and the disparate needs of such districts and libraries;

(E) to leverage resources to provide maximum aid to elementary schools, secondary schools and public libraries; and

(F) to encourage the development of education telecommunications and information technologies through public-private ventures, by serving as a clearinghouse for information on new education technologies, and by providing technical assistance, including assistance to States, if needed, to establish State education technology agencies.

(b) PURPOSE.—The purpose of this title is to recognize the Corporation as a nonprofit corporation operating under the laws of the District of Columbia, and to provide authority for Federal departments and agencies to provide assistance to the Corporation.

**SEC. 03. DEFINITIONS.**

For the purpose of this title—

(1) the term ''Corporation'' means the National Education Technology Funding Corporation described in section 02(a)(1);

(2) the terms ''elementary school'' and ''secondary school'' have the same meanings given such terms in section 14101 of the Elementary and Secondary Education Act of 1965; and

(3) the term ''public library'' has the same meaning given such term in section 3 of the Library Services and Construction Act.

**SEC. 04. ASSISTANCE FOR EDUCATION TECHNOLOGY PURPOSES.**

(a) AUTHORIZATION OF ASSISTANCE.—Each Federal department or agency is authorized to award grants or contracts, or provide gifts, contributions, or technical assistance, to the Corporation to enable the Corporation to carry out the corporate purposes described in section 02(a)(3).

(b) AGREEMENT.—In order to receive any assistance described in subsection (a) the Corporation shall enter into an agreement with the Federal department or agency providing such assistance, under which the Corporation agrees—

(1) to use such assistance to provide funding and technical assistance only for activities which the Board of Directors of the Corporation determines are consistent with the corporate purposes described in section 02(a)(3);

(2) to review the activities of State education technology agencies and other entities receiving assistance from the Corporation to assure that the corporate purposes described in section 02(a)(3) are carried out;

(3) that no part of the assets of the Corporation shall accrue to the benefit of any member of the Board of Directors of the Corporation, any officer or employee of the Corporation, or any other individual, except as salary or reasonable compensation for services;

(4) that the Board of Directors of the Corporation will adopt policies and procedures to prevent conflicts of interest;

(5) to maintain a Board of Directors of the Corporation consistent with section 02(a)(2);

(6) that the Corporation, and any entity receiving the assistance from the Corporation, are subject to the appropriate oversight procedures of the Congress; and

(7) to comply with—

(A) the audit requirements described in section 05; and

(B) the reporting and testimony requirements described in section 06.

(c) CONSTRUCTION.—Nothing in this title shall be construed to establish the Corporation as an agency or independent establishment of the Federal Government, or to establish the members of the Board of Directors of the Corporation, or the officers and employees of the Corporation, as officers or employees of the Federal Government.

**SEC. 05. AUDITS**

(a) AUDITS BY INDEPENDENT CERTIFIED PUBLIC ACCOUNTANTS.—

(1) IN GENERAL.—The Corporation's financial statements shall be audited annual in accordance with generally accepted auditing standards by independent certified public accountants who are members of a nationally recognized accounting firm and who are certified by a regulatory authority of a State or other political subdivision of the United States. The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit shall be made available to the person or persons conducting the audits, and full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons.

(2) REPORTING REQUIREMENTS.—The report of each annual audit described in paragraph

(1) shall be included in the annual report required by section 06(a).

(b) AUDITS BY THE COMPTROLLER GENERAL OF THE UNITED STATES.—

(1) AUDITS.—The programs, activities and financial transactions of the Corporation shall be subject to audit by the Comptroller General of the United States under such rules and regulations as may be prescribed by the Comptroller General. The representatives of the Comptroller General shall have access to such books, accounts, financial records, reports, files and such other papers, things, or property belonging to or in use by the Corporation and necessary to facilitate the audit, and the representatives shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. The representatives of the Comptroller General shall have access, upon request to the Corporation or any auditor for an audit of the Corporation under this section, to any books, financial records, reports, files or other papers, things, or property belonging to or in use by the Corporation and used in any such audit and to papers, records, files, and reports of the auditor used in such an audit.

(2) REPORT.—A report on each audit described in paragraph (1) shall be made by the Comptroller General to the Congress. The report to the Congress shall contain such comments and information as the Comptroller General may deem necessary to inform the Congress of the financial operations and condition of the Corporation, together with such recommendations as the Comptroller General may deem advisable. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed or reviewed in the course of the audit, which, in the opinion of the Comptroller General, has been carried on or made contrary to the requirements of this title. A copy of each such report shall be furnished to the President and to the Corporation at the time such report is submitted to the Congress.

(c) AUDIT BY INSPECTOR GENERAL OF THE DEPARTMENT OF COMMERCE.—The financial transactions of the Corporation may also be audited by the Inspector General of the Department of Commerce under the same conditions set forth in subsection (b) for audits by the Comptroller General of the United States.

(d) RECORDKEEPING REQUIREMENTS; AUDIT AND EXAMINATION OF BOOKS.—

(1) RECORDKEEPING REQUIREMENTS.—The Corporation shall ensure that each recipient of assistance from the Corporation keeps—

(A) separate accounts with respect to such assistance;

(B) such records as may be reasonably necessary to fully disclose—

(i) the amount and the disposition by such recipient of the proceeds of such assistance;

(ii) the total cost of the project or undertaking in connection with which such assistance is given or used; and

(iii) the amount and nature of that portion of the cost of the project or undertaking supplied by other sources; and

(C) such other records as will facilitate an effective audit.

(2) AUDIT AND EXAMINATION OF BOOKS.—The Corporation shall ensure that the Corporation, or any of the Corporation's duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of any recipient of assistance from the Corporation that are pertinent to such assistance. Representatives of the Comptroller General shall also have such access for such purpose.

**SEC. 06. ANNUAL REPORT; TESTIMONY TO THE CONGRESS.**

(a) ANNUAL REPORT.—Not later than April 30 of each year, the Corporation shall publish an annual report for the preceding fiscal year and submit that report to the President and the Congress. The report shall include a comprehensive and detailed evaluation of the Corporation's operations, activities, financial condition, and accomplishments under this title and may include such recommendations as the Corporation deems appropriate.

(b) TESTIMONY BEFORE CONGRESS.—The members of the Board of Directors, and officers, of the Corporation shall be available to testify before appropriate committees of the Congress with respect to the report described in subsection (a), the report of any audit made by the Comptroller General pursuant to this title, or any other matter which any such committee may determine appropriate.

## SIMON AMENDMENTS NOS. 1283–1284

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to the bill S. 652, supra; as follows:

AMENDMENT NO. 1283

On page 82, between lines 4 and 5, insert the following:

(e) SUPERSEDING RULE ON RADIO OWNERSHIP.—In lieu of making the modification required by the first sentence of subsection (b)(2), the Commission shall modify its rules set forth in 47 CFR 73,3555 by limiting to 50 AM or 50 FM broadcast stations the number of such stations which may be owned or controlled by one entity nationally.

AMENDMENT NO. 1284

On page 31, insert at the appropriate place the following:

''(d) BIENNIAL AUDIT.—

''(1) GENERAL REQUIREMENT.—A company required to operate a separate subsidiary under this section shall obtain and pay for an audit every 2 years conducted by an independent auditor selected by, and working at the direction of, the State commission of each State in which such company provides service, to determine whether such company has complied with this section and the regulations promulgated under this section, and particularly whether such company has complied with the separate accounting requirements under subsection (b).

''(2) RESULTS SUBMITTED TO COMMISSION; STATE COMMISSIONS.—The auditor described in paragraph (1) shall submit the results of the audit to the Commission and to the State commission of each State in which the company audited provides service, which shall make such results available for public inspection. Any party may submit comments on the final audit report.

''(3) REGULATIONS.—The audit required under paragraph (1) shall be conducted in accordance with procedures established by regulation by the State commission of the State in which such company provides service. The regulations shall include requirements that—

''(A) each audit submitted to the Commission and to the State commission is certified by the auditor responsible for conducting the audit; and

''(B) each audit shall be certified by the person who conducted the audit and shall identify with particularity any qualifications or limitations on such certification and any other information relevant to the enforcement of the requirements of this section.

''(4) COMMISSION REVIEW.—The Commission shall periodically review and analyze the audits submitted to it under this subsection.

''(5) ACCESS TO DOCUMENTS.—For purposes of conducting audits and reviews under this subsection—

''(A) the independent auditor, the Commission, and the State commission shall have access to the financial accounts and records of each company and of its subsidiaries necessary to verify transactions conducted with that company that are relevant to the specific activities permitted under this section and that are necessary for the regulation of rates;

''(B) the Commission and the State commission shall have access to the working papers and supporting materials of any auditor who performs an audit under this section; and

''(C) the State commission shall implement appropriate procedures to ensure the protection of any proprietary information submitted to it under this section.

## McCAIN (AND OTHERS) AMENDMENT NO. 1285

(Ordered to lie on the table.)

Mr. McCAIN (for himself, Ms. SNOWE, Mr. ROCKEFELLER, Mr. EXON, Mr. KERREY, and Mr. CRAIG) submitted an amendment intended to be proposed by him to the bill, S. 652, supra; as follows:

At the end of section 310 of the Act, add the following:

( ) No entity listed in this section shall be entitled for preferential rates or treatment as required by this section, if such entity operates as a for-profit business, is a school as defined in sec. 264(d)(1) with an endowment of more than $50 million dollars, or is a library not eligible for participation in state-based plane for Library Services and Construction Act Title III funds.

## SIMON AMENDMENT NO. 1286

(Ordered to lie on the table.)

Mr. SIMON submitted an amendment intended to be proposed by him to the bill, S. 652, supra; as follows:

On page 79, line 11, in the language added by the Dole amendment #1255 (as modified), insert the following:

(3) SUPERSEDING RULE ON RADIO OWNERSHIP.—In lieu of making the modification required by the first sentence of subsection (b)(2), the Commission shall modify its rules set forth in 47 CFR 73,3555 by limiting to 50 AM or 50 FM broadcast stations the number of such stations which may be owned or controlled by one entity nationally.

## BUMPERS AMENDMENT NO. 1287

(Ordered to lie on the table.)

Mr. BUMPERS submitted an amendment intended to be proposed by him to the bill, S. 652, supra; as follows:

In section 206(b) of the bill, strike ''described in subsection (a)(1)''.

## LEAHY (AND OTHERS) AMENDMENT NO. 1288

(Ordered to lie on the table.)

Mr. LEAHY (for himself, Ms. MOSELEY-BRAUN, Mr. FEINGOLD, and Mr. KERREY) submitted an amendment intended to be proposed by him to the bill, S. 652, supra; as follows:

On page 137, strike out line 7 and all that follows through page 144, line 19, and insert in lieu thereof the following:

**SEC. 402. OBSCENE PROGRAMMING ON CABLE TELEVISION.**

Section 639 (47 U.S.C. 559) is amended by striking ''$10,000'' and inserting ''$100,000''.

**SEC. 403. BROADCASTING OBSCENE LANGUAGE ON RADIO.**

Section 1464 of title 18, United States Code, is amended by striking out ''$10,000'' and inserting ''$100,000''.

**SEC. 404. REPORT ON MEANS OF RESTRICTING ACCESS TO UNWANTED MATERIAL IN INTERACTIVE TELECOMMUNICATIONS SYSTEMS.**

(a) REPORT.—Not later than 150 days after the date of the enactment of this Act, the Attorney General shall submit to the Committees on the Judiciary of the Senate and the House of Representatives a report containing—

(1) an evaluation of the enforceability with respect to interactive media of current criminal laws governing the distribution of obscenity over computer networks and the creation and distribution of child pornography by means of computers;

(2) an assessment of the Federal, State, and local law enforcement resources that are currently available to enforce such laws;

(3) an evaluation of the technical means available—

(A) to enable parents to exercise control over the information that their children receive by interactive telecommunications systems so that children may avoid violent, sexually explicit, harassing, offensive, and other unwanted material on such systems;

(B) to enable other users of such systems to exercise control over the commercial and noncommercial information that they receive by such systems so that such users may avoid violent, sexually explicit, harassing, offensive, and other unwanted material on such systems; and

(C) to promote the free flow of information, consistent with the values expressed in the Constitution, in interactive media; and

(4) recommendations on means of encouraging the development and deployment of technology, including computer hardware and software, to enable parents and other users of interactive telecommunications systems to exercise the control described in subparagraphs (A) and (B) of paragraph (3).

(b) CONSULTATION.—In preparing the report under subsection (a), the Attorney General shall consult with the Assistant Secretary of Commerce for Communications and Information.

**SEC. 405. ADDITIONAL PROHIBITION ON BILLING FOR TOLL-FREE TELEPHONE CALLS.**

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## LEAHY (AND OTHERS) AMENDMENT NO. 1289

(Ordered to lie on the table.)

Mr. LEAHY (for himself, Mr. FEINGOLD, Mr. SIMPSON, Mr. SIMON, and Mr. KERREY) submitted an amendment intended to be proposed by them to the bill, S. 652, supra; as follows:

On page 93, strike out line 7 and all that follows through line 12 and insert in lieu thereof the following:

''(ii) Nothing in this subsection shall prevent a State from ordering the implementation of toll dialing parity in an intraLATA area by a Bell operating company before the Bill operating company has been granted authority under this subsection to provide interLATA services in that area.''.

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## LEAHY AMENDMENTS NOS. 1290–1291

(Ordered by lie on the table.)

Mr. LEAHY submitted two amendments intended to be proposed by him to the bill, S. 652, supra; as follows:

AMENDMENT NO. 1290

On page 116, between lines 2 and e, insert the following:

''(D) Notwithstanding any other provision this Act, the Commission and the States may, in establishing any such alternative form of regulation, take into account the earnings of a telecommunications carrier in order to ensure that the rates for the services of such carrier which are not subject to effective competition are just, reasonable, and affordable.''.

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AMENDMENT NO. 1291

On page 24, beginning on line 20, strike out ''no State court'' and all that follows through ''under this section''.

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## ROCKEFELLER AMENDMENT NO. 1292

(Ordered to lie on the table.)

Mr. ROCKEFELLER submitted an amendment intended to be proposed by him to the bill, S. 652, supra; as follows:

In section 264 of the Communications Act of 1934, as added by section 310 of the bill beginning on page 132, strike subsections (a) and (b) and insert the following:

''(a) IN GENERAL.—

''(1) HEALTH CARE PROVIDERS FOR RURAL AREAS.—A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services, including instruction relating to such services, at rates that are reasonably comparable to rates charged for similar services in urban areas to any public or nonprofit health care provider that serves persons who reside in rural areas. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the difference, if any, between the price for services provided to health care providers for rural areas and the price for similar services provided to other customers in comparable urban areas treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

''(2) EDUCATIONAL PROVIDERS AND LIBRARIES.—All telecommunications carriers serving a geographic area shall, upon a bona fide request, provide to elementary schools, secondary schools, and libraries universal services (as defined in section 253) that permit such schools and libraries to provide or receive telecommunications services for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission and the States determine is appropriate and necessary to ensure affordable access to and use of such telecommunications by such entities. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the amount of the discount treated as a service obligation as part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

''(b) UNIVERSAL SERVICE MECHANISMS.—The Commission shall include consideration of the universal service provided to public institutional telecommunications users in any universal service mechanism it may establish under section 253.

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## McCAIN (AND OTHERS) AMENDMENT NO. 1293

(Ordered to lie on the table.)

Mr. McCAIN (for himself, Mr. PACKWOOD, and Mr. CRAIG) submitted an amendment intended to be proposed by them to the bill, S. 652, supra; as follows:

On page 119, strike out line 3 and all that follows through page 120, line 4, and insert in lieu thereof the following:

''(a) REGULATORY FORBEARANCE.—The Commission shall forbear from applying any regulation or any provision of this Act to a telecommunications carrier or service, or class of carriers or services, in any or some of its or their geographic markets, if the Commission determines that—

''(1) enforcement of such regulation or provision is not necessary for the protection of consumers; and

''(2) the absence of such regulation or provision will not constitute a barrier to competition.

''(b) ELIMINATION OF REGULATION OF COMMON CARRIERS OTHER THAN LOCAL EXCHANGE CARRIERS.—The Commission shall not apply any provision of part I of title II (except sections 201, 202, 208, and 223 through 229) to any carrier other than a local exchange carrier in any market.

''(c) ELIMINATION OF REGULATION OF LOCAL EXCHANGE CARRIERS.—The Commission shall not apply any provision of part I of title II (except sections 201, 202, 208, and 223 through 229) to any service of a local exchange carrier in any market that is open for competition as a result of—

''(1) the elimination of the barriers to entry pursuant to section 254;

''(2) compliance by the carrier providing such service with section 251; and

''(3) compliance by a Bell operating company with section 252, except to the extent granted an exception from such compliance pursuant to subsection (g) of that section.

''(d) DETERMINATIONS.—A carrier may apply to the Commission for a determination that the provisions of subsection (a) or (c) apply to the carrier. The Commission shall determine whether or not such provisions apply to the carrier not later than 180 days after the date of its submission. If the Commission does not make a determination on an application within the time required for the determination in the preceding sentence, such provisions shall be deemed to apply to the carrier.

''(e) RATES.—A carrier to which section 203 does not apply by reason of subsection (b) or (c) shall, upon request, make available for public inspection the rates such carrier charges for telecommunications services.

''(f) LIMITATION.—Except as provided in section

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## SPECTER AMENDMENT NO. 1294

(Ordered to lie on the table.)

Mr. SPECTER submitted an amendment intended to be proposed by him to the bill, S. 652, supra; as follows:

At the appropriate place in the bill, insert the following:

**SEC. . TELECOMMUTING PUBLIC INFORMATION PROGRAM.**

(a) FINDINGS.—Congress makes the following findings—

(1) Telecommuting is the practice of allowing people to work either at home or in nearby centers located closer to home during their normal working hours, substituting telecommunications services, either partially or completely, for transportation to a more traditional workplace;

(2) Telecommuting is now practiced by an estimated two to seven million Americans, including individuals with impaired mobility, who are taking advantage of computer

and telecommunications advances in recent years;

(3) Telecommuting has the potential to dramatically reduce fuel consumption, mobile source air pollution, vehicle miles traveled, and time spent commuting, thus contributing to an improvement in the quality of life for millions of Americans; and

(4) It is in the public interest for the Federal Government to collect and disseminate information encouraging the increased use of telecommuting and identifying the potential benefits and costs of telecommuting.

(b) TELECOMMUTING RESEARCH AND PUBLIC INFORMATION DISSEMINATION PROGRAM.—The Secretary of Transportation, in consultation with the Secretary of Labor and the Administrator of the Environmental Protection Agency, shall, in accordance with this section and within three months of the date of enactment of this Act, establish a comprehensive program to—

(1) Carry out research to identify successful telecommuting programs in the public and private sectors; and

(2) Provide for the dissemination of information described in paragraph (b)(1) to the public.

(c) REPORT.—Within one year of the establishment of the program described in subsection (b), the Secretary of Transportation shall report to Congress the findings and conclusions reached under this program.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation such sums as may be necessary to carry out the program established by this section.

## LIEBERMAN AMENDMENTS NOS. 1295–1298

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted four amendments intended to be proposed by him to the bill, S. 652, supra; as follows:

AMENDMENT NO. 1295

At the appropriate place, insert the following new section:

**SEC. . DETERMINATION OF REASONABLENESS OF CABLE RATES.**

(a) COMMISSION CONSIDERATION.—Notwithstanding any other provision of this Act or section 623(c), as amended by this Act, for purposes of section 623(c), the Commission may only consider a rate for cable programming services to be unreasonable if it substantially exceeds the average rate for comparable programming services in cable systems subject to effective competition.

(b) RATES OF SMALL CABLE COMPANIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or the amendments made by this Act, the regulations prescribed under section 623(c) shall not apply to the rates charged by small cable companies for the cable programming services provided by such companies.

(2) DEFINITION.—As used in this subsection, the term 'small cable company' means the following:

(A) A cable operator whose number of subscribers is less than 35,000.

(B) A cable operator that operates multiple cable systems, but only if the total number of subscribers of such operator is less than 400,000 and only with respect to each system of the operator that has less than 35,000 subscribers.

AMENDMENT NO. 1296

At the appropriate place, insert the following new section:

**SEC. . DETERMINATION OF REASONABLENESS OF CABLE RATES.**

(a) COMMISSION CONSIDERATION.—Notwithstanding any other provision of this Act or section 623(c), as amended by this Act, for purposes of section 623(c), the Commission may only consider a rate for cable programming services to be unreasonable if it exceeds the national average rate for comparable programming services in cable systems subject to effective competition.

(b) RATES OF SMALL CABLE COMPANIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or the amendments made by this Act, the regulations prescribed under section 623(c) shall not apply to the rates charged by small cable companies for the cable programming services provided by such companies.

(2) DEFINITION.—As used in this subsection, the term 'small cable company' means the following:

(A) A cable operator whose number of subscribers is less than 35,000.

(B) A cable operator that operates multiple cable systems, but only if the total number of subscribers of such operator is less than 400,000 and only with respect to each system of the operator that has less than 35,000 subscribers.

AMENDMENT NO. 1297

On page 71, between lines 5 and 6, insert the following:

(d) LIMITATION ON INCREASE IN CABLE RATES.—(1) Notwithstanding any other provision of this Act, the rate charged by a cable system for cable programming services in a calendar year may not exceed the rate charged by the system for such services in the calendar year preceding such calendar year by an amount whose percentage of the rate charged in such preceding calendar year is greater than the percentage by which—

(A) the Consumer Price Index (all items, United States city average) for the 12-month period ending on January 1 of the year concerned, exceeds

(B) such Consumer Price Index for the 12-month period preceding the 12-month period referred to in subparagraph (A).

(2) For purposes of this subsection:

(A) The term ''cable programming services'' has the meaning given such term in section 634(l)(2) of the Communications Act of 1934 (47 U.S.C. 543(l)(2)).

(B) The term ''cable system'' has the meaning given such term in section 602(7) of such Act (47 U.S.C. 522(7)).

AMENDMENT NO. 1298

At the appropriate place, insert the following new section:

**SEC. . DETERMINATION OF REASONABLENESS OF CABLE RATES.**

(a) COMMISSION CONSIDERATION.—Notwithstanding any other provision of this Act or section 623(c), as amended by this Act, for purposes of section 623(c), the Commission may only consider a rate for cable programming services to be unreasonable if it substantially exceeds the national average rate for comparable programming services in cable systems subject to effective competition.

(b) RATES OF SMALL CABLE COMPANIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or the amendments made by this Act, the regulations prescribed under section 623(c) shall not apply to the rates charged by small cable companies for the cable programming services provided by such companies.

(2) DEFINITION.—As used in this subsection, the term 'small cable company' means the following:

(A) A cable operator whose number of subscribers is less than 35,000.

(B) A cable operator that operates multiple cable systems, but only if the total number of subscribers of such operator is less than 400,000 and only with respect to each system of the operator that has less than 35,000 subscribers.

## BREAUX AMENDMENT NO. 1299

(Ordered to lie on the table.)

Mr. BREAUX submitted an amendment intended to be proposed by him to the bill, S. 652, supra; as follows:

On page 123, line 10, add the following new sentence:

''This section shall take effect upon a determination by the United States Coast Guard that at least 80% of vessels required to implement the Global Maritime Distress and Safety System have the equipment required by such System installed and operating in good working condition.''

## STEVENS AMENDMENTS NOS. 1300–1302

(Ordered to lie on the table.)

Mr. STEVENS submitted three amendments intended to be proposed by him to the bill, S. 652, supra; as follows:

AMENDMENT NO. 1300

On page 36, between lines 23 and 24, insert the following new subsection and renumber the remaining subsections accordingly:

(a) FINDINGS.—The Congress finds that—

(1) the existing system of universal service has evolved since 1930 through an ongoing dialogue between industry, various Federal-State Joint Boards, the Commission, and the courts;

(2) this system has been predicated on rates established by the Commission and the States that require implicit cost shifting by monopoly providers of telephone exchange service through both local rates and access charges to interexchange carriers;

(3) the advent of competition for the provision of telephone exchange service has led to industry requests that the existing system be modified to make support for universal service explicit and to require that all telecommunications carriers participate in the modified system on a competitively neutral basis; and

(4) modification of the existing system is necessary to promote competition in the provision of telecommunications services and to allow competition and new technologies to reduce the need for universal service support mechanisms.

On page 38, beginning on line 15, strike all through page 43, line 2, and insert the following:

**''SEC. 253. UNIVERSAL SERVICE.**

''(a) UNIVERSAL SERVICE PRINCIPLES.—The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

''(1) Quality services are to be provided at just, reasonable, and affordable rates.

''(2) Access to advanced telecommunications and information services should be provided in all regions of the Nation.

''(3) Consumers in rural and high cost areas should have access to telecommunications and information services, including interexchange services, that are reasonably comparable to those services provided in urban areas.

''(4) Consumers in rural and high cost areas should have access to telecommunications and information services at rates that are reasonably comparable to rates charged for similar services in urban areas.

''(5) Consumers in rural and high cost areas should have access to the benefits of advanced telecommunications and information

services for health care, education, economic development, and other public purposes.

''(6) There should be a coordinated Federal-State universal service system to preserve and advance universal service using specific and predictable Federal and State mechanisms administered by an independent, nongovernmental entity or entities.

''(7) Elementary and secondary schools and classrooms should have access to advanced telecommunications services.

''(b) DEFINITION.—

''(1) IN GENERAL.—Universal service is an evolving level of intrastate and interstate telecommunications services that the Commission, based on recommendations from the public, Congress, and the Federal-State Joint Board periodically convened under section 103 of the Telecommunications Act of 1995, and taking into account advances in telecommunications and information technologies and services, determines—

''(A) should be provided at just, reasonable, and affordable rates to all Americans, including those in rural and high cost areas and those with disabilities;

''(B) are essential in order for Americans to participate effectively in the economic, academic, medical, and democratic processes of the Nation; and

''(C) are, through the operation of market choices, subscribed to by a substantial majority of residential customers.

''(2) DIFFERENT DEFINITION FOR CERTAIN PURPOSES.—The Commission may establish a different definition of universal service for schools, libraries, and health care providers for the purposes of section 264.

''(c) ALL TELECOMMUNICATIONS CARRIERS MUST PARTICIPATE.—Every telecommunications carrier engaged in instrastate, interstate, or foreign communication shall participate, on an equitable and nondiscriminatory basis, in the specific and predictable mechanisms established by the Commission and the States to preserve and advance universal service. Such participation shall be in the manner determined by the Commission and the States to be reasonably necessary to preserve and advance universal service. Any other provider of telecommunications may be required to participate in the preservation and advancement of universal service, if the public interest so requires.

''(d) STATE AUTHORITY.—A State may adopt regulations to carry out its responsibilities under this section, or to provide for additional definitions, mechanisms, and standards to preserve and advance universal service within that State, to the extent that such regulations do not conflict with the Commission's rules to implement this section. A State may only enforce additional definitions or standards to the extent that it adopts additional specific and predictable mechanisms to support such definitions or standards.

''(e) ELIGIBILITY FOR UNIVERSAL SERVICE SUPPORT.—To the extent necessary to provide for specific and predictable mechanisms to achieve the purposes of this section, the Commission shall modify its existing rules for the preservation and advancement of universal service. Only essential telecommunications carriers designated under section 214(d) shall be eligible to receive support for the provision of universal service. Such support, if any, shall accurately reflect what is necessary to preserve and advance universal service in accordance with this section and the other requirements of this Act.

''(f) UNIVERSAL SERVICE SUPPORT.—The Commission and the States shall have as their goal the need to make any support for universal service explicit, and to target that support to those essential telecommunications carriers that serve areas for which such support is necessary. The specific and predictable mechanisms adopted by the Commission and the States shall ensure that essential telecommunications carriers are able to provide universal service at just, reasonable, and affordable rates. A carrier that receives universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

''(g) INTEREXCHANGE SERVICE.—The rates charged by any provider of interexchange telecommunications service to customers in rural and high cost areas shall be no higher than those charged by such provider to its customers in urban areas.

''(h) SUBSIDY OF COMPETITIVE SERVICES PROHIBITED—A telecommunications carrier may not use services that are not competitive to subsidize competitive services. The Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

''(i) CONGRESSIONAL NOTIFICATION REQUIRED.—

''(1) IN GENERAL.—The Commission may not take action to require participation by telecommunications carriers or other providers of telecommunications under subsection (c), or to modify its rules to increase support for the preservation and advancement of universal service, until—

''(A) the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the participation required, or the increase in support proposed, as appropriate; and

''(B) a period of 120 days has elapsed since the date the report required under paragraph (1) was submitted.

''(2) NOT APPLICABLE TO REDUCTIONS.—This subsection shall not apply to any action taken to reduce costs to carriers or consumers.

''(j) EFFECT ON COMMISSION'S AUTHORITY.—Nothing in this section shall be construed to expand or limit the authority of the Commission to preserve and advance universal service under this Act. Further, nothing in this section shall be construed to require or prohibit the adoption of any specific type of mechanism for the preservation and advancement of universal service.

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

The language on page 43, beginning with ''receive'' on line 25, through ''253.'' on page 44, line 1, is deemed to read ''receive universal service support under section 253.''.

In section 264 of the Communications Act of 1934, as added by section 310 of the bill beginning on page 132, strike subsections (a) and (b) and insert the following:

''(a) IN GENERAL.—

''(1) HEALTH CARE PROVIDERS FOR RURAL AREAS.—A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services, including instruction relating to such services, at rates that are reasonably comparable to rates charged for similar services in urban areas to any public or non-profit health care provider that serves persons who reside in rural areas. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the difference, if any, between the price for services provided to health care providers for rural areas and the price for similar services provided to other customers in comparable urban areas treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

''(2) EDUCATIONAL PROVIDERS AND LIBRARIES.—All telecommunications carriers serving a geographic area shall, upon a bona fide request, provide to elementary schools, secondary schools, and libraries universal services (as defined in section 253) that permit such schools and libraries to provide or receive telecommunications services for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission and the States determine is appropriate and necessary to ensure affordable access to and use of such telecommunications by such entities. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the amount of the discount treated as a service obligation as part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

''(b) UNIVERSAL SERVICE MECHANISMS.—The Commission shall include consideration of the universal service provided to public institutional telecommunications users in any universal service mechanism it may establish under section 253.

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AMENDMENT NO. 1301

At the appropriate place insert the following:

In section 3(tt) of the Communications Act of 1934, as added by section 8(b) of the bill on page 14, strike ''services.'' and insert the following: ''provided, however, that in the case of a Bell operating company affiliate, such geographic area shall be no smaller than the LATA area for such affiliate on the date of enactment of the Telecommunications Act of 1995.''

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AMENDMENT NO. 1302

On page 28 before line 6 insert the following:

''(m) COMMERCIAL MOBILE SERVICE PROVIDERS.—The requirements of this section shall not apply to commercial mobile services provided by a wireline local exchange carrier unless the Commission determines under subsection (a)(3) that such carrier has market power in the provision of commercial mobile service.''

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## STEVENS (AND OTHERS) AMENDMENT NO. 1303

(Ordered to lie on the table.)

Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed by them to the bill, S. 652, supra; as follows:

Page 86, line 25, after ''basis'' insert a comma and ''reflecting the actual cost of providing those services or functions to another carrier,''

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## STEVENS AMENDMENT NO. 1304

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by him to the bill, S. 652, supra; as follows:

In subsection (d) of the section captioned ''SPECTRUM AUCTIONS'' added to the bill by amendment, strike ''three frequency

bands (225–400 megahertz, 3625–3650 megahertz,'' and insert ''two frequency bands (3625–3650 megahertz''.

## DASCHLE AMENDMENT NO. 1305

(Ordered to lie on the table.)

Mr. DASCHLE submitted an amendment intended to be proposed by them to the bill, S. 652, supra; as follows:

On page 93 strike line 7 and all that follows through line 12, and insert in lieu thereof the following:

''(ii) During the period beginning on the date of enactment of this Act, and ending 36 months after such date, a State may not require a Bell operating company to implement toll dialing parity in an intraLATA area before a Bell operating company has been granted authority under this subsection to provide interLATA services in that area, except that a State may order the implementation of toll dialing parity in an intraLATA area during such period if the state issued an order by June 1, 1995 requiring a Bell operating company to implement toll dialing parity.''.

## KERREY AMENDMENTS NOS. 1306–1316

Mr. KERREY submitted 11 amendments intended to be proposed by him to the bill, S. 652, supra; as follows:

AMENDMENT NO. 1306

On page 107, after line 23, insert the following:

''(d) PAYMENT OF CIVIL PENALTIES.—No civil penalties assessed against a local exchange carrier as a result of a violation of this section will be charged directly or indirectly to that company's rate payers.''

AMENDMENT NO. 1307

On page 83, strike out line 12 and all that follows through line 20 and insert in lieu thereof the following:

''(b) SPECIFIC INTERLATA INTERCONNECTION REQUIREMENTS.—

''(1) IN GENERAL.—A Bell operating company may provide interLATA services in accordance with this section only if that company has reached interconnection agreements under section 251 with telecommunications carriers that have requested interconnection for the purpose of providing telephone exchange service or exchange access service, including telecommunications carriers capable of providing a substantial number of business and residential customers with telephone exchange or exchange access service. Those agreements shall provide, at a minimum, for interconnection that meets the competitive checklist requirements of paragraph (2).

AMENDMENT NO. 1308

Strike Section 204.

AMENDMENT NO. 1309.

Strike subsection (b) of Section (207).

AMENDMENT NO. 1310

On page 112, at the end of line 17, insert the following sentence: ''Pricing flexibility implemented pursuant to this section shall be for the purpose of allowing a regulated telecommunications provider to respond fairly to competition by repricing services subject to competition but shall not have the effect of shifting revenues from competitive services to non-competitive services.''

AMENDMENT NO. 1311

On page 36, strike line 23 and insert in lieu thereof the following:

**SEC. 103. NATIONAL POLICY GOALS.**

Section 1 (47 U.S.C. 151) is amended by inserting ''(a)'' before ''For the purpose of'' and by adding at the end the following new subsection:

''(b) The primary objective of United States national and international communications policy shall be to protect the public interest. The public interest shall include the following:

''(1) To ensure that every person has access to reasonably evolving telecommunications services at just, reasonable, and affordable rates taking into account advances in telecommunications and information technology.

''(2) To promote the development and widespread availability of new technologies and advanced telecommunications and information services to all persons regardless of location or disability.

''(3) To ensure that consumers have access to diverse sources of information.

''(4) To promote learning, education, and knowledge.

''(5) To ensure reasonably comparable services at reasonably comparable rates for consumers in urban and rural areas.

''(6) To allow each individual the opportunity to contribute to the free flow of ideas and information through telecommunications and information services.

''(7) To maximize the contribution of communications and information technologies and services to economic development and quality of life.

''(8) To protect each individual's right to control the use of information concerning his or her use of telecommunications services.

''(9) To provide secure and reliable services for Federal, State, and local government emergency response.

''(10) To make available so far as possible, to all the people of the United States, regardless of race, color, national origin, income, residence in a rural or urban area, or disability, high capacity two-way communications networks capable of enabling users to originate and receive affordable and accessible high quality voice, data, graphics, video, and other types of telecommunications services.''.

**SEC. 103. UNIVERSAL SERVICE PROTECTION AND ADVANCEMENT.**

(a) IN GENERAL.—Title II (47 U.S.C. 201 et seq.) is amended by inserting after section 201 the following new section:

**''SEC. 201A. UNIVERSAL SERVICE PROTECTION AND ADVANCEMENT.**

''(a) UNIVERSAL SERVICE PRINCIPLES.—The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

''(1) Quality services are to be provided at just, reasonable, and affordable rates.

''(2) Access to advanced telecommunications and information services should be provided in all regions of the Nation.

''(3) Consumers in rural and high cost areas should have access to telecommunications and information services, including interexchange services, reasonably comparable to those services provided in urban areas.

''(4) Consumers in rural and high cost areas should have access to telecommunications and information services at rates that are reasonably comparable to rates charged for similar services in urban areas.

''(5) Citizens in rural and high cost areas should have access to the benefits of advanced telecommunications and information services for health care, education, economic development, and other public purposes.

''(6) There should be a coordinated Federal-State universal service system to preserve and advance universal service administered by an independent, non-governmental entity or person using specific and predictable Federal and State mechanisms.

''(7) Consumers should be permitted to exercise choice among telecommunications carriers offering universal service.

''(8) Consumers of universal service should have the right to control the use of information concerning their individual use of such service.

AMENDMENT NO. 1312

Beginning on line 1 of page 117, add the following new paragraphs:

''(c) DETERMINATION OF AVERAGE UNIVERSAL SERVICE RATE.—As part of the Federal-State Joint Board proceeding required under section 103(a)(1), the Commission and the Joint Board shall determine the average rate charged to consumers nationwide for the provision of those services included in the definition of universal service. The Commission and the Joint Board may periodically revise such determination as part of any Federal-State Joint Board proceeding periodically convened under section 103(a)(2).

''(d) SUPPORT PAYMENTS FOR COSTS ABOVE AVERAGE RATE.—If the Commission adopts rules for the distribution of interstate support payments to essential telecommunications carriers for the preservation and advancement of universal service under section 253 of the Communications Act of 1934, such rules shall provide that a carrier may only receive such interstate support payments to the extent that the reasonable cost to that carrier of providing the services included in the definition of universal service exceed the amount such carrier may recover from consumers at the average rate determined under subsection (c), or the rate such carrier is allowed to charge the consumer, if such rate is higher than the average rate, whichever results in the lower amount of support payments being made to the carrier.''

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 interstate 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.

AMENDMENT NO. 1314

Strike Section 5 and insert in lieu thereof the following:

**SEC. 2. FINDINGS.**

The Congress makes the following findings:

(1) Congress has not passed comprehensive changes to the Communications Act of 1934 since that Act was originally passed.

(2) Congress must pass comprehensive communications legislation to promote the development and growth of the national information superhighway.

(3) Changes in the telecommunications marketplace have made some of the provisions of the Communications Act of 1934 obsolete, unnecessary, or inimical to advances in communications technologies and services.

(4) Competition has emerged in many services that were previously thought to be natural monopolies, but the Communications Act of 1934 requires all carriers to be regulated as if they were monopolies.

(5) As communications markets change, government must ensure that the public interest, convenience, and necessity are preserved.

(6) The public interest requires that universal service is protected and advanced, that new telecommunications technologies are deployed rapidly and equitably, and that access by schools, hospitals, public broadcasters, libraries, and museums to advanced telecommunications services is assisted.

(7) Access to telecommunications services is fundamental to safety of life and participation in a democratic society.

(8) Telecommunications networks make substantial use of public rights of way in real property and in spectrum frequencies, and carriers that make use of such public rights of way have an obligation to provide preferential rates to entities that provide significant public benefits.

(9) Advanced telecommunications services can enhance the quality of life and promote economic development and international competitiveness.

(10) Telecommunications infrastructure development is particularly crucial to the continued economic development of rural areas that may lack an adequate industrial or service base for continued development.

(11) Advancements in the Nation's telecommunications infrastructure will enhance the public welfare by helping to speed the delivery of new services, such as distance learning, remote medical sensing, and distribution of health information.

(12) Infrastructure advancement can be assisted by joint planning and infrastructure sharing by carriers and other providers of network facilities and services providing communications services.

(13) Increased competition in telecommunications services can, if subject to appropriate safeguards, encourage infrastructure development and have beneficial effects on the price, universal availability, variety, and quality of telecommunications services.

(14) The emergence of competition in telecommunications services has already contributed, and can be expected to continue contributing, to the modernization of the infrastructure.

(15) Competition in the long distance industry and the communications equipment market has brought about lower prices and higher quality services.

(16) Competition for local communications services has already begun to benefit the public; competitive access providers have deployed thousands of miles of optical fiber in their local networks; local exchange carriers have been prompted by competition to accelerate the installation of optical fiber in their own networks.

(17) Electric utilities, satellite carriers, and others are prepared to enter the local telephone market over the next few years.

(18) A diversity of telecommunications carriers enhances network reliability by providing redundant capacity, thereby lessening the impact of any network failure.

(19) Competition must proceed under rules that protect consumers and are fair to all telecommunications carriers.

(20) All telecommunications carriers, including competitors to the telephone companies, should contribute to universal service and should make their networks available for interconnection by others.

(21) Removal of all State and local barriers to entry into the telecommunications services market and provision of interconnection are warranted after mechanisms to protect universal service and rules are established to ensure that competition develops.

(22) Increasing the availability of interconnection and interoperability among the facilities of telecommunications carriers will help stimulate the development of fair competition among providers.

(23) The portability of telecommunications numbers will eliminate a significant advantage held by traditional telephone companies over competitors in the provision of telecommunications services.

(24) Unreasonable restrictions on resale and sharing of telecommunications networks retard the growth of competition and restrict the diversity of services available to the public.

(25) Additional regulatory measures are needed to allow consumers in rural markets and noncompetitive markets the opportunity to benefit from high-quality telecommunications capabilities.

(26) Regulatory flexibility for existing providers of telephone exchange service is necessary to allow them to respond to competition.

(27) The Federal Communications Commission (referred to elsewhere in this Act as the ''Commission'') and the States must have the flexibility to ad just their regulations of each provider of telecommunications services to serve the public interest.

(28) If the efforts of the private sector fail, the Commission should take steps to ensure network reliability and the development of network standards.

(29) Access to switched, digital telecommunications service for all segments of the population promotes the core First Amendment goal of diverse information sources by enabling individuals and organizations alike to publish and otherwise make information available in electronic form.

(30) The national welfare will be enhanced if community newspapers are provided ease of entry into the operation of information services disseminated through electronic means primarily to customers in the localities served by such newspapers at rates that are not higher, on a per-unit basis, than the rates charged for such services to any other electronic publisher.

(31) A clear national mandate is needed for full participation in access to telecommunications networks and services by individuals with disabilities.

(32) The obligations of telecommunications carriers include the duty to furnish telecommunications services which are designed to be fully accessible to individuals with disabilities in accordance with such standards as the Commission may prescribe.

(33) Permitting the Bell operating companies to enter the manufacturing market will stimulate greater research and development, create more jobs, and enhance our international competitiveness.

(34) The Bell operating companies should not be permitted to enter the market for other long distance services until they have eliminated the barriers to competition and interconnection.

(35) Safeguards are necessary to ensure that the Bell operating companies do not abuse their market power over local telephone service to discriminate against competitors in the markets for electronic publishing, alarm services, and other information services.

(36) Amending the legal barriers to the provision of video programming by telephone companies in their service areas will encourage telephone companies to upgrade their telecommunications facilities to enable them to deliver video programming, as long as telephone companies and cable companies are prohibited from buying or joint venturing with each other in their service areas (except for certain rural areas).

(37) As communications technologies and services proliferate, consumers must be given the right to control information concerning their use of those technologies and services.

(38) As competition in the media increases, the Commission should re-examine the need for national and local ownership limits on broadcast stations, consistent with the need to maintain diversity of information sources.

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AMENDMENT NO. 1315

On page 82, beginning with ''Sec. 255'' on line 11, strike all that follows through line 2, page 99.

On page 82, after line 10, add the attached paragraphs, except on page 136, line 7, of attachment strike the word ''there'', and all that follows through line 13, and add ''the effect of such authorization will not substantially lessen competition, or tend to create a monopoly in any line of commerce in any section of the country.''

**"SEC. 255. INTERLATA TELECOMMUNICATIONS SERVICES.**

''(a) AUTHORITY.—Notwithstanding any restriction or obligation imposed before the date of enactment of the Communications Act of 1994 pursuant to section II(D) of the Modification of Final Judgment, a Bell operating company may engage in the provision of interLATA telecommunications services subject to the requirements of this section and any regulations prescribed thereunder. No Bell operating company or affiliate of a Bell operating company shall engage in the provision of interLATA telecommunications services, except as authorized under this section.

''(b) CURRENTLY AUTHORIZED ACTIVITIES.—Subsection (a) shall not prohibit a Bell operating company from engaging, at any time after the date of enactment of the Communications Act of 1994, in any activity as authorized by an order entered by the United States District Court for the District of Columbia pursuant to the Modification of Final Judgment if such order was entered on or before such date of enactment.

''(c) PETITION FOR AUTHORITY FOR INTERLATA TELECOMMUNICATION SERVICES.—

''(1) APPLICATION—

''(A) IN REGION.—On or after the date of enactment of the Communications Act of 1994, a Bell operating company or affiliate may apply to the Attorney General and the Commission for authorization notwithstanding the Modification of Final Judgment to provide interLATA telecommunications service originating in any area where such Bell operating company is the dominant provider of wireline telephone exchange service. The application shall describe with particularity the nature and scope of the activity and of each product market or service market, and each geographic market for which authorization is sought.

''(B) OUT OF REGION.—On or after the date of enactment of the Communications Act of 1994, a Bell operating company or affiliate may apply to the Attorney General and the Commission for authorization, notwithstanding the Modification of Final Judgment, to provide interLATA telecommunications services not described in subparagraph (A). The application shall describe with particularity the nature and scope of the activity and of each product market or service market, and each geographic market for which authorization is sought.

''(2) DETERMINATION BY ATTORNEY GENERAL AND COMMISSION.—

''(A) DETERMINATION.—Not later than 180 days after receiving an application made under paragraph (1), the Attorney General and the Commission each shall issue a written determination, on the record after an opportunity for a hearing, with respect to the authorization for which a Bell operating company or affiliate has applied. In making such determinations, the Attorney General and the Commission shall review the whole record.

''(B) APPROVAL.—

''(i) The Attorney General shall approve the authorization requested in any application submitted under paragraph (1) only to

the extent that the Attorney General finds that there is no substantial possibility that such company or its affiliates could use monopoly power in a telephone exchange or exchange access service market to impede competition in the inteLATA telecommunications services market such company or affiliate seeks to enter. The Attorney General shall deny the remainder of the requested authorization.

(ii) The Commission shall approve the requested authorization only to the extent that the Commission finds that the requested authorization is consistent with the public interest, convenience and necessity. The Commission shall deny the remainder of the requested authorization. For applications submitted under paragraph (1)(A), the Commission shall only find that the requested authorization is consistent with the public interest, convenience, and necessity if the requirements of clause (iii) are satisfied, and shall take into account—

''(I) the extent to which granting the requested authorization would benefit consumers;

''(II) the likely effect that granting the requested authorization would have on the rates for, and availability of, telephone exchange, interchange, and other telecommunications services;

''(III) the availability of alternative providers of telephone exchange service throughout the geographic area in which the Bell operating company or its affiliate seeks to provide service;

''(IV) the extent to which there exist barriers to entering the telephone exchange services market, including the extent to which consumers have an opportunity to select their presubscribed telephone exchange service providers by means of a balloting process; and

''(V) the potential for cross-subsidization or anticompetitive activity by the Bell operating company. For applications submitted under paragraph (1)(B), the Commission shall take into account subclauses (I), (II), and (V).

''(iii) The Commission shall approve a requested authorization for applications submitted under paragraph (1)(A) only if—

''(I) the Commission finds that, as prescribed by section 230(a), no State or local statute, regulations, or other State or local requirement in effect in the area in which the petitioning Bell operating company or affiliate seeks to originate interLATA telecommunications, prohibits or has the effect of prohibiting the ability of any entity to provide interstate or intrastate telecommunications services in the State and local area where the Bell operating company seeks to originate interLATA services;

''(II) either the Commission has adopted and made effective regulations to implement and enforce the requirements of section 201A, or 21 months after the date of enactment of the Communications Act of 1994, whichever is earlier; and

''(III) the Commission finds that the Bell operating company has fully implemented the requirements of subparagraphs (A) through (G) of section 230(c)(1), and finds that, at the time of consideration of its application, the Bell operating company is in full compliance with the Commission's regulations to implement and enforce the requirements of section 230(e) and (f), and any State regulations under 230(c)(2), where the Bell operating company seeks to originate interLATA services.

''(iv) Any Bell operating company granted authority under paragraph (1)(A) shall provide intraLATA toll dialing parity throughout the market coincident with its exercise of that authority. If the Commission finds that such a Bell operating company has provided interLATA service authorized under this clause before its implementation of intraLATA toll dialing parity throughout that market, or fails to maintain intraLATA toll dialing parity throughout that market, the Commission, except in cases of inadvertent interruptions or other events beyond the control of the Bell operating company, shall suspend the authority to provide interLATA service for that market until the Commission determines that intra LATA toll dialing parity is implemented or reinstated.

''(C) DESCRIPTION.—A determination that approves any part of a requested authorization shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which approval applies.

''(3) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (2), the Attorney General and the Federal Communications Commission each shall publish in the Federal Register a brief description of the determination.

''(4) AUTHORIZATION GRANTED.—A requested authorization is granted only to the extent that—

''(A) both the Attorney General and the Federal Communications Commission approve the authorization under paragraph (2), unless either of their approvals is vacated, reversed, or remanded as a result of judicial review, or

''(B) as a result of such judicial review of either or both determinations, both the Attorney General and the Federal Communications Commission approve the requested authorization.

''(d) JUDICIAL REVIEW—

''(1) COMMENCEMENT OF ACTION.—Not later than 45 days after a determination by the Attorney General or the Federal Communications Commission is published under subsection (c)(3), the Bell operating company or affiliate that applied to the Attorney General and the Federal Communications Commission under subsection (c)(1), or any person who would be threatened with loss or damage as a result of the determination regarding such company's engaging in the activity described in such company's application, may commence an action in any United States Court of Appeals against the Attorney General or the Federal Communications Commission, as the case may be, for judicial review of the determination regarding the application.

''(2) JUDGMENT.—

''(A) The Court shall enter a judgment after reviewing the determination in accordance with section 706 of title 5 of the United States State Code.

''(B) A JUDGMENT—

''(i) affirming any part of the determination that approves granting all or part of the requested authorization, or

''(ii) reversing any part of the determination that denies all or part of the requested authorization, shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which the affirmance of reversal applies.

''(e) ENFORCEMENT.—

''(1) PRIVATE RIGHT OF ACTION.—Any person who is injured in its business or property by reason of a violation of this section—

''(A) may bring a civil action in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and

''(B) shall recover threefold the damages sustained, and the costs of suit (including a reasonable attorney's fee). The court may award under this section, pursuant to a motion by such person promptly made, simple interest on actual damages for the period beginning on the date of service of such person's pleading setting forth a claim under this title and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances.

''(2) PRIVATE INJUNCTIVE RELIEF.—Any person shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a violation of this section, when and under the same conditions and principles as injunctive relief is available under section 16 of the Clayton Act (15 U.S.C. 26). In any action under this subsection in which the plaintiff substantially prevails, the court shall award the cost of suit, including a reasonable attorney's fee, to such plaintiff.

''(f) INTERLATA TELECOMMUNICATIONS SERVICE SAFEGUARDS.—

''(1) SEPARATE SUBSIDIARY.—Other than interLATA services authorized by an order entered by the United States District Court for the District of Columbia pursuant to the Modification of Final Judgment before the date of the enactment of the Communications Act of 1994, a Bell operating company providing interLATA services authorized under subsection (c) shall provide such interLATA services in that market only through a subsidiary that is separate from any Bell operating company entity that provides regulated local telephone exchange service. The subsidiary required by this section need not be separate from affiliates required in sections 231, 233, and 613 of this Act or any other affiliate that does not provide regulated local telephone exchange service.

''(2) NONDISCRIMINATION SAFEGUARDS.—The Bell operating company shall—

''(A) fulfill any requests from an unaffiliated entity for exchange access service within a period no longer than that in which it provides such exchange access service to itself or to its affiliates;

''(B) fulfill any such requests with exchange access service of a quality that meets or exceeds the quality of exchange access services provided by the Bell operating company or it affiliates to itself or its affiliate;

''(C) provide exchange access to all carriers at rates that are not unreasonably discriminatory and are based on costs and any explicit subsidy;

''(D) in any transaction with the subsidiary required by this section, not prefer or discriminate in favor of such subsidiary;

''(E) not provide any facilities, services, or information concerning its provision of exchange access service to the subsidiary required by this section unless such facilities, services, or information are made available to other providers of interLATA services in that market on the same terms and conditions;

''(F) not enter into any joint venture or partnership with the subsidiary required by this section; and

'(G) charge the subsidiary required by this section, and impute to itself or any intraLATA toll affiliate, the same rates for access to its local exchange and exchange access services that it charges other, unaffiliated, toll carriers for such services.

''(3) SEPARATE SUBSIDIARY SAFEGUARDS.—The separate subsidiary required by this section shall—

''(A) carry out its marketing and sales directly and separate from its affiliate Bell operating company or any affiliates of such company;

''(B) maintain books, records, and accounts in the manner prescribed by the Commission which shall be separate from the books,

records, and accounts maintained by its affiliated Bell operating company or any affiliates of such company;

''(C) charge rates to consumers, and any intraLATA toll affiliate shall charge rates to consumers, for intraLATA service and interLATA toll service that are no less than rates the Bell operating company charges other interLATA carriers for its local exchange and exchange access services plus the other costs to the subsidiary of providing such services.

''(D) be permitted to use interLATA facilities and services provided by its affiliated Bell operating company, so long as it costs are appropriately allocated and such facilities and services are provided to its subsidiaries and other carriers on nondiscriminatory rates, terms and conditions;

''(E) comply with Commission regulations to ensure that the economic risks associated with the provision of interLATA services by such subsidiary are not borne by customers of the company's telephone exchange services; and

''(F) shall not obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the local exchange carrier.

''(4) TRIENNIAL AUDIT.—

''(A) GENERAL REQUIREMENT.—A Bell operating company that engages in interLATA services shall obtain and pay for an audit every 3 years conducted by an independent auditor selected by, and working at the direction of, the State commission of each State in which such Bell operating company provides local exchange service, to determine whether such Bell operating company has complied with this section and the regulations promulgated under this section, and particularly whether such Bell operating company has complied with the separate accounting requirements under subsection (c).

''(B) RESULTS SUBMITTED TO COMMISSION; STATE COMMISSIONS.—The auditor described in clause (i) shall submit the results of the audit to the Commission and to the State commission of each State in which the Bell operating company audited provides telephone exchange service, which shall make such results available for public inspection. Any party may submit comments on the final audit report.

''(C) REGULATIONS.—The audit required under paragraph (1) shall be conducted in accordance with procedures established by regulation by the State commission of the State in which such Bell operating company provides local exchange service. The regulations shall include requirements that—

''(i) each audit submitted to the Commission and to the State commission is certified by the auditor responsible for conducting the audit; and

''(ii) each audit shall be certified by the person who conducted the audit and shall identify with particularity any qualifications or limitations on such certification and any other information relevant to the enforcement of the requirements of this section.

''(D) COMMISSION REVIEW.—The Commission shall periodically review and analyze the audits submitted to it under this subsection.

''(E) ACCESS TO DOCUMENTS.—For purposes of conducting audits and reviews under this subsection—

''(i) the independent auditor, the Commission, and the State commission shall have access to the financial accounts and records of each Bell operating company and of its subsidiaries necessary to verify transactions conducted with that Bell operating company that are relevant to the specific activities permitted under this section and that are necessary for the regulation of rates for telephone exchange and exchange access;

''(ii) the Commission and the State Commission shall have access to the working papers and supporting materials of any auditor who performs an audit under this section; and

''(iii) the State commission shall implement appropriate procedures to ensure the protection of any proprietary information submitted to it under this section.

''(F) COMMISSION ACTION ON COMPLAINTS.—With respect to any complaint brought under section 208 alleging a violation of this section or the regulations implementing it, the Commission shall issue a final order within 1 year after such complaint if filed.

''(g) ADDITIONAL AUTHORITY TO PROVIDE INTERLATA SERVICES RELATING TO COMMERCIAL MOBILE RADIO SERVICES.—Notwithstanding any restriction or obligation imposed pursuant to the Modification of Final Judgment before the date of enactment of the Communications Act of 1994, the Commission shall prescribe uniform equal access and long distance presubscription requirements for providers of all cellular and two-way wireless services.

''(h) Exceptions for Incidental Services.—

''(1) Subsection (a) shall not prohibit a Bell operating company at any time after the date of enactment of the Communications Act of 1994 from providing interLATA telecommunications services incidental to the purpose of—

''(A)(i) providing audio programming, video programming, or other programming services to subscribers of such company,

''(ii) providing the capability for interaction by such subscribers to select or respond to such audio programming, video programming, or other programming services, to order, or control transmission of the programming, polling or balloting, and ordering other goods or services, or

''(iii) providing to distributors audio programming or video programming that such company owns, controls, or is licensed by the copyright owner of such programming, or by an assignee of such owner, to distribute,

''(B) providing a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, between LATAs within a cable system franchise area in which such company is not, on the date of the enactment of the Communications Act of 1994, a provider of wireline telephone exchange service,

''(C) providing a commercial mobile service except where such service is a replacement for land line telephone exchange service for a substantial portion of the telephone land line exchange service in a State in accordance with section 332(c) of the Communications Act of 1934 (47 U.S.C. 332(c)) and with the regulations prescribed by the Commission,

''(D) providing a service that permits a customer that is located in one LATA to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another LATA area, so long as the customer acts affirmatively to initiate the storage or retrieval of information, except that—

''(i) such service shall not cover any service that establishes a direct connection between end users or any real-time voice and data transmission,

''(ii) such service shall not include voice, data, or facsimile distribution services in which the Bell operating company or affiliate forwards customer-supplied information to customer- or carrier-selected recipients,

''(iii) such service shall not include any service in which the Bell operating company or affiliate searches for and connects with the intended recipient of information, or any service in which the Bell operating company or affiliate automatically forwards stored voicemail or other information to the intended recipient; and

''(iv) customers of such service shall not be billed a separate charge for the interLATA telecommunications furnished in conjunction with the provision of such service;

''(E) providing signaling information used in connection with the provision or exchange or exchange access services to a local exchange carrier that, together with any affiliated local exchange carriers, has aggregate annual revenues of less than $100,000,000; or

''(F) providing network control signaling information to, and receiving such signaling information from, interexchange carriers at any location within the area in which such company provides exchange services or exchange access.

''(2) The provisions of paragraph (1) are intended to be narrowly construed. Nothing in this subsection permits a Bell operating company or any affiliate of such a company to provide interLATA telecommunications services not described in paragraph (1) without receiving the approval of the Commission and the Attorney General under subsection (c). The transmission facilities used by a Bell operating company or affiliate thereof to provide interLATA telecommunications under subparagraphs (C) and (D) of paragraph (1) shall be leased by that company from unaffiliated entities on terms and conditions (including price) no more favorable than those available to the competitors of that company until approval is obtained from the Commission and the Attorney General under subsection (c). The interLATA services provided under paragraph (1)(A) are limited to those interLATA transmissions incidental to the provision by a Bell operating company or its affiliate of video, audio, and other programming services that the company or its affiliate is engaged in providing to the public and, except as provided in paragraph (1)(A)(iii), does not include the interLATA transmission of audio, video, or other programming services provided by others.

''(3)(A) The Commission, in consultation with the Attorney General, shall prescribe regulations for the provision by a Bell operating company or any of its affiliates of the interLATA services authorized under this subsection. The regulations shall ensure that the provision of such service by a Bell operating company or its affiliate does not—

''(i) permit that company to provide telecommunications services not described in paragraph (1) without receiving the approvals required by subsection (c), or

''(ii) adversely affect telephone exchange ratepayers or competition in any telecommunications services market.

''(B) Nothing in this paragraph shall delay the ability of a Bell operating company to provide the interLATA services described in paragraph (1) immediately upon enactment of the Communications Act of 1994.

''(4) As used in this subsection—

''(A) 'audio programming services' means programming provided by, or generally considered to be comparable to programming provided by, a radio broadcast station, and

''(B) 'video programming service' and 'other programming services' have the same meanings as such terms have under section 602 of this Act.

''(i) DEFINITIONS.—As used in this section:

''(1) The term 'LATA' means the local access and transport area as defined in United States v. Western Electric Co., 569 F.Supp. 990 (United States District Court, District of Columbia) and subsequent judicial orders relating thereto.

''(2) The term 'cable service' has the meaning given that term under section 602.''.

**SEC. 442. JURISDICTION.**

Section 2(b) of the Communications Act of 1934 (47 U.S.C. 153) is amended by striking

''section 332'' and inserting in lieu thereof ''sections 229, 230, 234, 235, 237, and 332''.

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On page 82, beginning with ''Sec. 255 on line 11, strike all that follows through line 2, page 99.

On page 82, after line 10, add the attached paragraphs:

**''SEC. 255. INTERLATA TELECOMMUNICATIONS SERVICES.**

''(a) AUTHORITY.—Notwithstanding any restriction or obligation imposed before the date of enactment of the Communications Act of 1994 pursuant to section II(D) of the Modification of Final Judgment, a Bell operating company may engage in the provision of interLATA telecommunications services subject to the requirements of this section and any regulations prescribed thereunder. No Bell operating company or affiliate of a Bell operating company shall engage in the provision of interLATA telecommunications services, except as authorized under this section.

''(b) CURRENTLY AUTHORIZED ACTIVITIES.—Subsection (a) shall not prohibit a Bell operating company from engaging, at any time after the date of enactment of the Communications Act of 1994, in any activity as authorized by an order entered by the United States District Court for the District of Columbia pursuant to the Modification of Final Judgment if such order was entered on or before such date of enactment.

''(c) PETITION FOR AUTHORITY FOR INTERLATA TELECOMMUNICATION SERVICES—

''(1) APPLICATION—

''(A) IN REGION.—On or after the date of enactment of the Communications Act of 1994, a Bell operating company or affiliate may apply to the Attorney General and the Commission for authorization notwithstanding the Modification of Final Judgment to provide interLATA telecommunications service originating in any area where such Bell operating company is the dominant provider of wireline telephone exchange service. The application shall describe with particularity the nature and scope of the activity and of each product market or service market, and each geographic market for which authorization is sought.

''(B) OUT OF REGION.—On or after the date of enactment of the Communications Act of 1994, a Bell operating company or affiliate may apply to the Attorney General and the Commission for authorization, notwithstanding the Modification of Final Judgment, to provide interLATA telecommunications services not described in subparagraph (A). The application shall describe with particularity the nature and scope of the activity and of each product market or service market, and each geographic market for which authorization is sought.

''(2) DETERMINATION BY ATTORNEY GENERAL AND COMMISSION.—

''(A) DETERMINATION.—Not later than 180 days after receiving an application made under paragraph (1), the Attorney General and the Commission each shall issue a written determination, on the record after an opportunity for a hearing, with respect to the authorization for which a Bell operating company or affiliate has applied. In making such determinations, the Attorney General and the Commission shall review the whole record.

''(B) APPROVAL.—

''(i) The Attorney General shall approve the authorization requested in any application submitted under paragraph (1) only to the extent that the Attorney General finds that there is no substantial possibility that such company or its affiliates could use monopoly power in a telephone exchange or exchange access service market to impede competition in the interLATA telecommunications services market such company or affiliate seeks to enter. The Attorney General shall deny the remainder of the requested authorization.

''(ii) The Commission shall approve the requested authorization only to the extent that the Commission finds that the requested authorization is consistent with the public interest, convenience and necessity. The Commission shall deny the remainder of the requested authorization. For applications submitted under paragraph (1)(A), the Commission shall only find that the requested authorization is consistent with the public interest, convenience, and necessity if the requirements of clause (iii) are satisfied, and shall take into account—

''(I) the extent to which granting the requested authorization would benefit consumers;

''(II) the likely effect that granting the requested authorization would have on the rates for, and availability of, telephone exchange, interexchange, and other telecommunications services;

''(III) the availability of alternative providers of telephone exchange service throughout the geographic area in which the Bell operating company or its affiliate seeks to provide service;

''(IV) the extent to which there exist barriers to entering the telephone exchange services market, including the extent to which consumers have an opportunity to select their presubscribed telephone exchange service providers by means of a balloting process; and

''(V) the potential for cross-subsidization or anticompetitive activity by the Bell operating company.

For applications submitted under paragraph (1)(B), the Commission shall take into account subclauses (I), (II), and (V).

''(iii) The Commission shall approve a requested authorization for applications submitted under paragraph (1)(A) only if—

''(I) the Commission finds that, as prescribed by section 230(a), no State or local statute, regulations, or other State or local requirement in effect in the area in which the petitioning Bell operating company or affiliate seeks to originate interLATA telecommunications, prohibits or has the effect of prohibiting the ability of any entity to provide interstate or intrastate telecommunications services in the State and local area where the Bell operating company seeks to originate interLATA services;

''(II) either the Commission has adopted and made effective regulations to implement and enforce the requirements of section 201A, or 21 months after the date of enactment of the Communications Act of 1994, whichever is earlier; and

''(III) the Commission finds that the Bell operating company has fully implemented the requirements of subparagraphs (A) through (G) of section 230(c)(1), and finds that, at the time of consideration of its application, the Bell operating company is in full compliance with the Commission's regulations to implement and enforce the requirements of section 230 (e) and (f), and any State regulations under 230(c)(2), where the Bell operating company seeks to originate interLATA services.

''(iv) Any Bell operating company granted authority under paragraph (1)(A) shall provide intraLATA toll dialing parity throughout that market coincident with its exercise of that authority. If the Commission finds that such a Bell operating company has provided interLATA service authorized under this clause before its implementation of intraLATA toll dialing parity throughout that market, or fails to maintain intraLATA toll dialing parity throughout that market, the Commission, except in cases of inadvertent interruptions or other events beyond the control of the Bell operating company, shall suspend the authority to provide interLATA service for that market until the Commission determines that intraLATA toll dialing parity is implemented or reinstated.

''(C) DESCRIPTION.—A determination that approves any part of a requested authorization shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which approval applies.

''(3) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (2), the Attorney General and the Federal Communications Commission each shall publish in the Federal Register a brief description of the determination.

''(4) AUTHORIZATION GRANTED.—A requested authorization is granted only to the extent that—

''(A) both the Attorney General and the Federal Communications Commission approve the authorization under paragraph (2), unless either of their approvals is vacated, reversed, or remanded as a result of judicial review, or

''(B) as a result of such judicial review of either or both determinations, both the Attorney General and the Federal Communications Commission approved the requested authorization.

''(d) JUDICIAL REVIEW—

''(1) COMMENCEMENT OF ACTION.—Not later than 45 days after a determination by the Attorney General or the Federal Communications Commission is published under subsection (c)(3), the Bell operating company or affiliate that applied to the Attorney General and the Federal Communications Commission under subsection (c)(1), or any person who would be threatened with loss or damage as a result of the determination regarding such company's engaging in the activity described in such company's application, may commence an action in any United States Court of Appeals against the Attorney General or the Federal Communications Commission, as the case may be, for judicial review of the determination regarding the application.

''(2) JUDGMENT.—

''(A) The Court shall enter a judgment after reviewing the determination in accordance with section 706 of title 5 of the United State Code.

''(B) A JUDGMENT.—

''(i) affirming any part of the determination that approves granting all or part of the requested authorization, or

''(ii) reversing any part of the determination that denies all or part of the requested authorization, shall describe with particularity the nature and scope of the activity, and of each product market or service market, and each geographic market, to which the affirmance or reversal applies.

''(e) ENFORCEMENT.—

''(1) PRIVATE RIGHT OF ACTION.—Any person who is injured in its business or property by reason of a violation of this section—

''(A) may bring a civil action in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and

''(B) shall recover threefold the damages sustained, and the costs of suit (including a reasonable attorney's fee). The court may award under this action, pursuant to a motion by such person promptly made, simple interest on actual damages for the period beginning on the date of service of such person's pleading setting forth a claim under this title and ending on the date of judgment, or for any shorter period therein, if

the court finds that the award of such interest for such period is just in the circumstances.

''(2) PRIVATE INJUNCTIVE RELIEF.—Any person shall be entitled to sue for and have injunctive relief, in any court of the United States having jurisdiction over the parties, against threatened loss or damage by a violation of this section, when and under the same conditions and principles as injunctive relief is available under section 16 of the Clayton Act (15 U.S.C. 26). In any action under this subsection in which the plaintiff substantially prevails, the court shall award the cost of suit, including a reasonable attorney's fee, to such plaintiff.

''(f) INTERLATA TELECOMMUNICATIONS SERVICE SAFEGUARDS.—

''(1) SEPARATE SUBSIDIARY.—Other than interLATA services authorized by an order entered by the United States District Court for the District of Columbia pursuant to the Modification of Final Judgment before the date of the enactment of the Communications Act of 1994, a Bell operating company providing interLATA services authorized under subsection (c) shall provide such interLATA services in that market only through a subsidiary that is separate from any Bell operating company entity that provides regulated local telephone exchange service. The subsidiary required by this section need not be separate from affiliates requires in sections 231, 233, and 613 of this Act or any other affiliate that does not provide regulated local telephone exchange service.

''(2) NONDISCRIMINATION SAFEGUARDS.—The Bell operating company shall—

''(A) fulfill any requests from an unaffiliated entity for exchange access service within a period no longer than that in which it provides such exchange access service to itself or to its affiliates;

''(B) fulfill any such requests with exchange access service of a quality that meets or exceeds the quality of exchange access services provided by the Bell operating company or its affiliates to itself or its affiliate;

''(C) provide exchange access to all carriers at rates that are not unreasonably discriminatory and are based on costs and any explicit subsidy;

''(D) in any transaction with the subsidiary required by this section, not prefer or discriminate in favor of such subsidiary;

''(E) not provide any facilities, services, or information concerning its provision of exchange access service to the subsidiary required by this section unless such facilities, services, or information are made available to other providers of interLATA services in that market on the same terms and conditions;

''(F) not enter into any joint venture or partnership with the subsidiary required by this section; and

''(G) charge the subsidiary required by this section, and impute to itself or any intraLATA toll affiliate, the same rates for access to its local exchange and exchange access services that it charges other, unaffiliated, toll carriers for such services.

''(3) SEPARATE SUBSIDIARY SAFEGUARDS.—The separate subsidiary required by this section shall—

''(A) carry out its marketing and sales directly and separate from its affiliated Bell operating company or any affiliates of such company;

''(B) maintain books, records, and accounts in the manner prescribed by the Commission which shall be separate from the books, records, and accounts maintained by its affiliated Bell operating company or any affiliates of such company;

''(C) charge rates to consumers, and any intraLATA toll affiliate shall charge rates to consumers, for interLATA service and intraLATA toll service that are no less than the rates the Bell operating company charges other interLATA carriers for its local exchange and exchange access services plus the other costs to the subsidiary of providing such services;

''(D) be permitted to use interLATA facilities and services provided by its affiliated Bell operating company, so long as its costs are appropriately allocated and such facilities and services are provided to its subsidiaries and other carriers on nondiscriminatory rates, terms and conditions;

''(E) comply with Commission regulations to ensure that the economic risks associated with the provision of interLATA services by such subsidiary are not borne by customers of the company's telephone exchange services; and

''(F) shall not obtain credit under any arrangement that would permit a creditor, upon default, to have recourse to the assets of the local exchange carrier.

''(4) TRIENNIAL AUDIT.—

''(A) GENERAL REQUIREMENT.—A Bell operating company that engages in interLATA services shall obtain and pay for an audit every 3 years conducted by an independent auditor selected by, and working at the direction of, the State commission of each State in which such Bell operating company provides local exchange service, to determine whether such Bell operating company has complied with this section and the regulations promulgated under this section, and particularly whether such Bell operating company has complied with the separate accounting requirements under subsection (c).

''(B) RESULTS SUBMITTED TO COMMISSION; STATE COMMISSIONS.—The auditor described in clause (i) shall submit the results of the audit to the Commission and to the State commission of each State in which the Bell operating company audited provides telephone exchange service, which shall make such results available for public inspection. Any party may submit comments on the final audit report.

''(C) REGULATIONS.—The audit required under paragraph (1) shall be conducted in accordance with procedures established by regulation by the State commission of the State in which such Bell operating company provides local exchange service. The regulations shall include requirements that—

''(i) each audit submitted to the Commissions and to the State commission is certified by the auditor responsible for conducting the audit; and

''(ii) each audit shall be certified by the person who conducted the audit and shall identify with particularity any qualifications or limitations on such certification and any other information relevant to the enforcement of the requirements of this section.

''(D) COMMISSION REVIEW.—The Commission shall periodically review and analyze the audits submitted to it under this subsection.

''(E) ACCESS TO DOCUMENTS.—For purposes of conducting audits and reviews under this subsection—

''(i) the independent auditor, the Commission, and the State commission shall have access to the financial accounts and records of each Bell operating company and of its subsidiaries necessary to verify transactions conducted with that Bell operating company that are relevant to the specific activities permitted under this section and that are necessary for the regulation of rates for telephone exchange and exchange access;

''(ii) the Commission and the State Commission shall have access to the working papers and supporting materials of any auditor who performs an audit under this section; and

''(iii) the State commission shall implement appropriate procedures to ensure the protection of any proprietary information submitted to it under this section.

''(F) COMMISSION ACTION ON COMPLAINTS.—With respect to any complaint brought under section 208 alleging a violation of this section or the regulations implementing it, the Commission shall issue a final order within 1 year after such complaint is filed.

''(g) ADDITIONAL AUTHORITY TO PROVIDE INTERLATA SERVICES RELATING TO COMMERCIAL MOBILE RADIO SERVICES.—Notwithstanding any restriction or obligation imposed pursuant to the Modification of Final Judgment before the date of enactment of the Communications Act of 1994, the Commission shall prescribe uniform equal access and long distance presubscription requirements for providers of all cellular and two-way wireless services.

''(h) EXCEPTIONS FOR INCIDENTAL SERVICES.—

''(1) Subsection (a) shall not prohibit a Bell operating company at any time after the date of enactment of the Communications Act of 1994 from providing interLATA telecommunications services incidental to the purpose of—

''(A)(i) providing audio programming, video programming, or other programming services to subscribers of such company,

''(ii) providing the capability for interaction by such subscribers to select or respond to such audio programming, video programming, or other programming services, to order, or control transmission of the programming, polling or balloting, and ordering other goods or services, or

''(iii) providing to distributors audio programming or video programming that such company owns, controls, or is licensed by the copyright owner of such programming, or by an assignee of such owner, to distribute.

''(B) providing a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, between LATAs within a cable system franchise area in which such company is not, on the date of the enactment of the Communications Act of 1994, a provider of wireline telephone exchange service,

''(C) providing a commercial mobile service except where such service is a replacement for land line telephone exchange service for a substantial portion of the telephone land line exchange service in a State in accordance with section 332(c) of the Communications Act of 1934 (47 U.S.C. 332(c)) and with the regulations prescribed by the Commission,

''(D) providing a service that permits a customer that is located in one LATA to retrieve stored information from, or file information for storage in, information storage facilities of such company that are located in another LATA area, so long as the customer acts affirmatively to initiate the storage or retrieval of information, except that—

''(i) such service shall not cover any service that establishes a direct connection between end users or any real-time voice and data transmission,

''(ii) such service shall not include voice, data, or facsimile distribution services in which the Bell operating company or affiliate forwards customer-supplied information to customer- or carrier-selected recipients,

''(iii) such service shall not include any service in which the Bell operating company or affiliate searches for and connects with the intended recipient of information, or any service in which the Bell operating company or affiliate automatically forwards stored voicemail or other information to the intended recipient; and

''(iv) customers of such service shall not be billed a separate charge for the interLATA telecommunications furnished in conjunction with the provision of such service;

''(E) providing signaling information used in connection with the provision or exchange access services to a local exchange carrier that, together with any affiliated local exchange carriers, has aggregate annual revenues of less than $100,000,000; or

''(F) providing network control signaling information to, and receiving such signaling information from, interexchange carriers at any location within the area which such company provides exchange services or exchange access.

''(2) The provisions of paragraph (1) are intended to be narrowly construed. Nothing in this subsection permits a Bell operating company or any affiliate of such a company to provide interLATA telecommunications services not described in paragraph (1) without receiving the approval of the Commission and the Attorney General under subsection (c). The transmission facilities used by a Bell operating company or affiliate thereof to provide interLATA telecommunications under subparagraphs (C) and (D) of paragraph (1) shall be leased by that company from unaffiliated entities on terms and conditions (including price) no more favorable than those available to the competitors of that company until approval is obtained from the Commission and the Attorney General under subsection (c). The interLATA services provided under paragraph (1)(A) are limited to this interLATA transmissions incidental to the provision by a Bell operating company or its affiliate of video, audio, and other programming services that the company or its affiliate is engaged in providing to the public and, except as provided in paragraph (1)(A)(iii), does not include the interLATA transmission of audio, video, or other programming services provided by others.

''(3)(A) The Commission, in consultation with the Attorney General, shall prescribe regulations for the provision by a Bell operating company or any of its affiliates of the interLATA services authorized under this subsection. The regulations shall ensure that the provision of such service by a Bell operating company or its affiliate does not—

''(i) permit that company to provide telecommunications services not described in paragraph (1) without receiving the approvals required by subsection (c), or

''(ii) adversely affect telephone exchange ratepayers or competition in any telecommunications services market.

''(B) Nothing in this paragraph shall delay the ability of a Bell operating company to provide the interLATA services described in paragraph (1) immediately upon enactment of the Communications Act of 1994.

''(4) As used in this subsection—

''(A) 'audio programming services' means programming provided by, or generally considered to be comparable to programming provided by, a radio broadcast station, and

''(B) 'video programming service' and 'other programming services' have the same meanings as such terms have under section 602 of this Act.

''(i) DEFINITIONS.—As used in this section:

''(1) The term 'LATA' means the local access and transport area as defined in United States v. Western Electric Co., 569 F.Supp. 990 (United States District Court, District of Columbia) and subsequent judicial orders relating thereto.

''(2) The term 'cable service' has the meaning given that term under section 602.''.

**SEC. 442. JURISDICTION.**

Section 2(b) of the Communications Act of 1934 (47 U.S.C. 153) is amended by striking ''section 332'' and inserting in lieu thereof ''sections 229, 230, 234, 235, 237, and 332''.

## BROWN AMENDMENTS NOS. 1317–1320

(Ordered to lie on the table.)

Mr. BROWN submitted four amendments intended to be proposed by him to the bill S. 652, supra; as follows:

AMENDMENT NO. 1317

In managers' amendment, on page 13, line 20, after ''programming'' insert: ''by any means''.

AMENDMENT NO. 1318

On page 12, line 10 insert after ''services''' ''or its affiliate''.

AMENDMENT NO. 1319

At the appropriate point in the bill, insert the following:

( ) DIGITAL VIDEO STANDARDS.—Section 624 of the Communications Act of 1934 (47 U.S.C. 544) is amended by adding at the end the following new subsection:

''(j) DIGITAL VIDEO STANDARDS.—The Commission may participate, in a manner consistent with its authority and practice prior to the date of enactment of this subsection, in the development by appropriate voluntary industry standards-setting organizations of technical standards for the digital transmission and reception of the signals of video programming. The Commission shall have no authority to prescribe such standards, except with respect to the over-the-air transmission and reception of the signals of broadcast television stations between such stations and members of the public directly receiving such signals.''.

AMENDMENT NO. 1320

In managers' amendment, on page 15, line 1, insert the following: ''(1) by inserting after 'organized' in subsection (a)(1) the following: 'any person who was a nondominant telecommunications carrier on January 1, 1995.'.''

## BYRD (AND EXON) AMENDMENT NO. 1321

(Ordered to lie on the table.)

Mr. BYRD (for himself and Mr. EXON) submitted an amendment intended to be proposed by them to the bill S. 652, supra; as follows:

On page 1 of the amendment, line 4, strike out ''determination,'' and insert in lieu thereof the following: ''determination. If the President objects to a determination, the President shall, immediately upon such objection, submit to Congress a written report (in unclassified form, but with a classified annex if necessary) that sets forth a detailed explanation of the findings made and factors considered in objecting to the determination.''

On page 49, line 17, insert after the period the following: ''While determining whether such opportunities are equivalent on that basis, the Commission shall also conduct an evaluation of opportunities for access to all segments of the telecommunications market of the applicant.''

## HARKIN AMENDMENTS NOS. 1322–1324

(Ordered to lie on the table.)

Mr. HARKIN submitted three amendments intended to be proposed by him to the bill S. 652, supra; as follows:

AMENDMENT NO. 1322

On page 146, below line 14, add the following:

**SEC. 409. PREVENTION OF UNFAIR BILLING PRACTICES FOR INFORMATION OR SERVICES PROVIDED OVER TOLL-FREE TELEPHONE CALLS.**

(a) FINDINGS.—Congress makes the following findings:

(1) Reforms required by the Telephone Disclosure and Dispute Resolution Act of 1992 have improved the reputation of the pay-per-call industry and resulted in regulations that have reduced the incidence of misleading practices that are harmful to the public interest.

(2) Among the successful reforms is a restriction on charges being assessed for calls to 800 telephone numbers or other telephone numbers advertised or widely understood to be toll free.

(3) Nevertheless, certain interstate pay-per-call businesses are taking advantage of an exception in the restriction on charging for information conveyed during a call to a ''toll-free'' number to continue to engage in misleading practices. These practices are not in compliance with the intent of Congress in passing the Telephone Disclosure and Dispute Resolution Act.

(4) It is necessary for Congress to clarify that its intent is that charges for information provided during a call to an 800 number or other number widely advertised and understood to be toll free shall not be assessed to the calling party unless the calling party agrees to be billed according to the terms of a written subscription agreement or by other appropriate means.

(b) PREVENTION OF UNFAIR BILLING PRACTICES.—

(1) IN GENERAL.—Section 228(c) (47 U.S.C. 228(c)) is amended—

(A) by striking out subparagraph (C) of paragraph (7) and inserting in lieu thereof the following:

''(C) the calling party being charged for information conveyed during the call unless—

''(i) the calling party has a written agreement (including an agreement transmitted through electronic medium) that meets the requirements of paragraph (8); or

''(ii) the calling party is charged for the information in accordance with paragraph (9); or''; and

(B) by adding at the end the following new paragraphs:

''(8) SUBSCRIPTION AGREEMENTS FOR BILLING FOR INFORMATION PROVIDED VIA TOLL-FREE CALLS.—

''(A) IN GENERAL.—For purposes of paragraph (7)(C), a written subscription does not meet the requirements of this paragraph unless the agreement specifies the material terms and conditions under which the information is offered and includes—

''(i) the rate at which charges are assessed for the information;

''(ii) the information provider's name;

''(iii) the information provider's business address;

''(iv) the information provider's regular business telephone number;

''(v) the information provider's agreement to notify the subscriber of all future changes in the rates charged for the information; and

''(vi) the subscriber's choice of payment method, which may be by direct remit, debit, prepaid account, phone bill or credit or calling card.

''(B) BILLING ARRANGEMENTS.—If a subscriber elects, pursuant to subparagraph (A)(vi), to pay by means of a phone bill—

''(i) the agreement shall clearly explain that charges for the service will appear on the subscriber's phone bill;

''(ii) the phone bill shall include, in prominent type, the following disclaimer:

'Common carriers may not disconnect local or long distance telephone service for

failure to pay disputed charges for information services.'; and

''(iii) the phone bill shall clearly list the 800 number dialed.

''(C) USE OF PINS TO PREVENT UNAUTHORIZED USE.—A written agreement does not meet the requirements of this paragraph unless it requires the subscriber to use a personal identification number to obtain access to the information provided, and includes instructions on its use.

''(D) EXCEPTIONS.—Notwithstanding paragraph (7)(C), a written agreement that meets the requirements of this paragraph is not required—

''(i) for calls utilizing telecommunications devices for the deaf;

''(ii) for services provided pursuant to a tariff that has been approved or permitted to take effect by the Commission or a State commission; or

''(iii) for any purchase of goods or of services that are not information services.

''(E) TERMINATION OF SERVICE.—On receipt by a common carrier of a complaint by any person that an information provider is in violation of the provisions of this section, a carrier shall—

''(i) promptly investigate the complaint; and

''(ii) if the carrier reasonably determines that the complaint is valid, it may terminate the provision of service to an information provider unless the provider supplies evidence of a written agreement that meets the requirements of this section.

''(F) TREATMENT OF REMEDIES.—The remedies provided in this paragraph are in addition to any other remedies that are available under title V of this Act.

''(9) CHARGES IN ABSENCE OF AGREEMENT.—A calling party is charged for a call in accordance with this paragraph if the provider of the information conveyed during the call—

''(A) clearly states to the calling party the total cost per minute of the information provided during the call and for any other information or service provided by the provider to which the calling party requests connection during the call; and

''(B) receives from the calling party—

''(i) an agreement to accept the charges for any information or services provided by the provider during the call; and

''(ii) a credit, calling, or charge card number or verification of a prepaid account to which such charges are to be billed.

''(10) DEFINITION.—As used in paragraphs (8) and (9), the term 'calling card' means an identifying number or code unique to the individual, that is issued to the individual by a common carrier and enables the individual to be charged by means of a phone bill for charges incurred independent of where the call originates.''

(2) REGULATIONS.—The Federal Communications Commission shall revise its regulations to comply with the amendment made by paragraph (1) not later than 180 days after the date of the enactment of this Act.

(3) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date of the enactment of this Act.

(c) CLARIFICATION OF ''PAY-PER-CALL SERVICES'' UNDER TELEPHONE DISCLOSURE AND DISPUTE RESOLUTION ACT.—Section 204(1) of the Telephone Disclosure and Dispute Resolution Act (15 U.S.C. 5714(1)) is amended to read as follows:

''(1) The term 'pay-per-call services' has the meaning provided in section 228(j)(1) of the Communications Act of 1934, except that the Commission by rule may, notwithstanding subparagraphs (B) and (C) of such section, extend such definition to other similar services providing audio information or audio entertainment if the Commission determines that such services are susceptible to the unfair and deceptive practices that are prohibited by the rules prescribed pursuant to section 201(a).''.

AMENDMENT NO. 1323

On page 109, line 4, strike out ''3 years'' and insert in lieu thereof ''6 years''.

AMENDMENT NO. 1324

On page 146, below line 14, add the following:

**SEC. 409. DISCLOSURE OF CERTAIN RECORDS FOR INVESTIGATIONS OF TELEMARKETING FRAUD.**

Section 2703(c)(1)(B) of title 18, United States Code, is amended—

(1) by striking out ''or'' at the end of clause (ii);

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof ''; or''; and

(3) by adding at the end the following:

''(iv) submits a formal written request for information relevant to a legitimate law enforcement investigation of the governmental entity for the name, address, and place of business of a subscriber or customer of such provider, which subscriber or customer is engaged in telemarketing (as such term is in section 2325 of this title).''.

## WARNER AMENDMENT NO. 1325

(Ordered to lie on the table.)

Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 652, supra; as follows:

At the end of section 222 of the bill, insert the following:

(c) ADDITIONAL REQUIREMENTS RELATING TO RESEARCH AND DESIGN ACTIVITIES WITH RESPECT TO MANUFACTURING.—(1) In addition to the rules required under section 256(a)(2) of the Communications Act of 1934, as added by subsection (a), a Bell operating company may not engage in the activities or enter into the agreements referred to in such section 256(a)(2) until the Commission adopts the rules required under paragraph (2).

(2) The Commission shall adopt rules that—

(A) provide for the full, ongoing disclosure by the Bell operating companies of all protocols and technical specifications required for connection with and to the telephone exchange networks of such companies, and of any proposed research and design activities or other planned revisions to the networks that might require a revision of such protocols or specifications;

(B) prevent discrimination and cross-subsidization by the Bell operating companies in their transactions [regarding what?] with third parties and with the affiliates of such companies; and

(C) ensure that the research and design activities [by the Bell operating companies?] [with respect to what?] are clearly delineated and kept separate from other manufacturing activities [of the Bell operating companies?].

## GORTON AMENDMENT NO. 1326

(Ordered to lie on the table.)

Mr. GORTON submitted an amendment intended to be proposed by him to the bill S. 652, supra; as follows:

On page 144, strike out lines 13 through 17, and insert the following in lieu thereof:

(2) In paragraph (2)(a)(1)—

(A) by striking ''wire or electronic communication'' each place it appears and inserting ''wire, electronic, or digital communication'' for the first occurrence and ''such communication'' for the second and third occurrence;

(B) by inserting a comma after ''activity''; and

(C) by adding thereafter ''including the investigation of fraudulent or unlawful use of wire, electronic, or digital communication services by any person,''.

## EXON AMENDMENT NO. 1327–1329

(Ordered to lie on the table.)

Mr. EXON submitted three amendments intended to be proposed by him to the bill S. 652, supra; as follows:

AMENDMENT NO. 1327

On page 144, strike lines 1 through 17, and in lieu thereof insert the following:

**SEC. 405. DISSEMINATION OF INDECENT MATERIAL ON CABLE TELEVISION SERVICE.**

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by inserting after section 1464 the following:

**''§ 1464A. Dissemination of indecent material on cable television**

''(a) Whoever knowingly disseminates any indecent material on any channel provided to all subscribers as part of a basic cable television package shall be imprisoned not more than two years or fined under this title, or both.

''(b) As used in this section, the term 'basic cable television package' means those channels provided by any means for a basic cable subscription fee to all cable subscribers, including 'basic cable service' and 'other programming service' as those terms are defined in section 602 of the Communications Act of 1939 but does not include separate channels that are provided to subscribers upon specific request, whether or not a separate or additional fee is charged.''.

''(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by inserting after the item relating to section 1464 the following new item:

''1464A. Dissemination of indecent material on cable television.''.

AMENDMENT NO. 1328

On page 144, strike lines 1 through 17.

AMENDMENT NO. 1329

On page 137 beginning with line 12 strike through line 10 on page 143 and insert the following:

(1) by striking subsection (a) and inserting in lieu thereof:

''(a) Whoever—

''(1) in the District of Columbia or in interstate or foreign communications

''(A) by means of telecommunications device knowingly—

''(i) makes, creates, or solicits, and

''(ii) initiates the transmission of,

any comment, request, suggestion, proposal, image, or other communication which is obscene, lewd, lascivious, filthy, or indecent, with intent to annoy, abuse, threaten, or harass another person;

''(B) makes a telephone call or utilizes a telecommunications device, whether or not conversation or communication ensures, without disclosing his identify and with intent to annoy, abuse, threaten, or harass any person at the called number or who receives the communication;

''(C) makes or causes the telephone of another repeatedly or continuously to ring, with intent to harass any person at the called number; or

''(D) makes repeated telephone calls or repeatedly initiates communication with a telecommunications device, during which conversation or communication ensues, solely to harass any person at the called number or who receives the communication; or

''(2) knowingly permits any telecommunications facility under his control to be used for any activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined not more than $100,000 or imprisoned not more than two years, or both.''; and

(2) by adding at the end the following new subsections:

''(d) Whoever—

''(1) knowingly within the United States or in foreign communications with the United States by means of telecommunications device makes or makes available any obscene communication in any form including any comment, request, suggestion, proposal, or image regardless of whether the maker of such communication placed the call or initiated the communications; or

''(2) knowingly permits any telecommunications facility under such person's control to be used for an activity prohibited by subsection (d)(1) with the intent that it be used for such activity;

shall be fined not more than $100,000 or imprisoned nor more than two years or both.

''(e) Whoever—

''(1) knowingly within the United States or in foreign communications with the United States by means of telecommunications device makes or makes available any indecent communication in any form including any comment, request, suggestion, proposal, image, to any person under 18 years of age regardless of whether the maker of such communication placed the call or initiated the communication; or

''(2) knowingly permits any telecommunications facility under such person's control to be used for activity prohibited by paragraph (1) with the intent that it be used for such activity,

shall be fined not more than $100,000 or imprisoned not more than two years or both.

''(f) Defense to the subsections (a), (d), and (e), restrictions on access, judicial remedies respecting restrictions for persons providing information services and access to information services—

''(1) No person shall be held to have violated subsections (a), (d), or (e) solely for providing access or connection to or from a facility, system, or network over which that person has no control, including related capabilities which are incidental to providing access or connection. This subsection shall not be applicable to an individual who is owned or controlled by, or a conspirator with, an entity actively involved in the creation, editing or knowing distribution of communications which violate this section.

''(2) No employer shall be held liable under this section for the actions of an employee or agent unless the employee's or agent's conduct is within the scope of his employment or agency and the employer has knowledge of, authorizes, or ratifies the employee's or agent's conduct.

''(3) It is a defense to prosecution under subsection (a), (d)(2), or (e) that a person has taken reasonable, effective and appropriate actions in good faith to restrict or prevent the transmission of, or access to a communication specified in such subsections, or complied with procedures as the Commission may prescribe in furtherance of this section. Until such regulations become effective, it is a defense to prosecution that the person has complied with the procedures prescribed by regulation pursuant to subsection (b)(3). Nothing in this subsection shall be construed to treat enhanced information services as common carriage.

''(4) No cause of action may be brought in any court or administrative agency against any person on account of any activity which is not in violation of any law punishable by criminal or civil penalty, which activity the person has taken in good faith to implement a defense authorized under this section or otherwise to restrict or prevent the transmission of, or access to, a communication specified in this section.

''(g) No State or local government may impose any liability for commercial activities or actions by commercial entities in connection with an activity or action which constitutes a violation described in subsection (a)(2), (d)(2), or (e)(2) that is inconsistent with the treatment of those activities or actions under this section provided, however, that nothing herein shall preclude any State or local government from enacting and enforcing complementary oversight, liability, and regulatory systems, procedures, and requirements, so long as such systems, procedures, and requirements govern only intrastate services and do not result in the imposition of inconsistent rights, duties or obligations on the provision of interstate services. Nothing in this subsection shall preclude any State or local government from governing conduct not covered by this section.

''(h) Nothing in subsection (a), (d), (e), or (f) or in the defenses to prosecution under (a), (d), or (e) shall be construed to affect or limit the application or enforcement of any other Federal law.

''(i) The use of the term 'telecommunications device' in this section shall not impose new obligations on (one-way) broadcast radio or (one-way) broadcast television operators licensed by the Commission or (one-way) cable service registered with the Federal Communications Commission and covered by obscenity and indecency provisions elsewhere in this Act.''

''(j) Within two years from the date of enactment and every two years thereafter, the Commission shall report on the effectiveness of this section.''.

## EXON (AND OTHERS) AMENDMENT NO. 1330

(Ordered to lie on the table.)

Mr. EXON (for himself, Mr. DORGAN, and Mr. BYRD) submitted an amendment intended to be proposed by them to the bill S. 652, supra; as follows:

On page 49, line 15 after ''Government (or its representative)'' add the following: ''provided that the President does not object within 15 days of such determination'' and on page 50 between lines 14 and 15 insert the following:

''(c) THE APPLICATION OF THE EXON-FLORIO LAW.—Nothing in this section (47 U.S.C. 310) shall limit in any way the application of 50 U.S.C. App. 2170 (the Exon-Florio law) to any transaction.''

## KERRY AMENDMENTS NOS. 1331–1334

(Ordered to lie on the table.)

Mr. KERRY submitted four amendments intended to be proposed by him to the bill S. 652, supra; as follows:

AMENDMENT NO. 1331

Strike Section 311 (Kerry payphone amendment) in its entirety and insert the following:

**SEC. 311. PROVISION OF PAYPHONE SERVICES AND TELEMESSAGING SERVICES.**

Part II of title II (47 U.S.C. 251 et seq.), as amended by this Act, is amended by adding after section 264 the following new section:

**''SEC. 265. PROVISION OF PAYPHONE SERVICES AND TELEMESSAGING SERVICES.**

''(a) NONDISCRIMINATION SAFEGUARDS.—Any Bell operating company that provides payphone services or telemessaging services—

''(1) shall not subsidize its payphone services or telemessaging services directly or indirectly with revenue from its telephone exchange services or its exchange access services; and

''(2) shall not prefer or discriminate in favor of its payphone services or telemessaging services.

''(b) REGULATIONS.—

''(1) In order to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public, not later than six months after the date of enactment of the Act the Commission shall adopt rules, with such rules to take effect concurrently no later than nine months after the date of enactment of the Act, that:

''(A) Establish a per call compensation plan to ensure that all payphone services providers are fairly compensated for each and every completed intrastate and interstate call using their payphone, except that emergency calls and telecommunications relay services calls for hearing disabled individuals shall not be subject to such compensation;

''(B) Discontinue the current intrastate carrier access charge payphone service elements and payments, and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues, in favor of a compensation plan as specified in subparagraph (A) above;

''(C) Prescribe a set of nonstructural safeguards for Bell operating company payphone service to implement the provisions of paragraphs (1) and (2) of subsection (a), which safeguards shall, at a minimum, include the nonstructural safeguards equal to those adopted in the Computer Inquiry-III, CC Docket No. 90–623 proceeding; and

''(D) Provide for Bell operating company payphone service providers to have the same right that independent payphone providers have to negotiate with the location provider on selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with the carriers that carry interLATA calls from their payphones, and provide for all payphone service providers to have the right to negotiate with the location provider on selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with the carriers that carry intraLATA calls from their payphones. Nothing in this section shall affect any existing contracts between location providers and payphone service providers or interLATA or intraLATA carriers that are in force and effect as of the date of enactment.

''(2) PUBLIC INTEREST TELEPHONES.—In the rulemaking conducted pursuant to Paragraph (1), the Commission shall determine whether public interest payphones, which are provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be payphone, should be maintained, and if so, ensure that such public interest payphones are supported fairly and equitably.

''(c) STATE PREEMPTION.—To the extent that any State requirements are inconsistent with the Commission's regulations, the Commission's regulations on such matters shall preempt such State requirements.

''(d) RULEMAKING FOR TELEMESSAGING.—In a separate proceeding, the Commission shall determine whether, to enforce the requirements of this section, it is appropriate to require the Bell operating companies to provide telemessaging services through a separate subsidiary that meets the requirements of Section 252.

''(e) MODIFICATION OF FINAL JUDGMENT.—Notwithstanding any other provision of law, or any prior prohibition or limitation established pursuant to the Modification of Final Judgment, the Commission is directed and authorized to implement this section.

''(f) DEFINITIONS.—As used in the Act:

''(1) The term 'payphone service' means the provision of public or semi-public pay telephones, the provision of inmate telephone in correctional institutions, and any ancillary services;''

''(2) the term 'telemessaging services' means voice mail and voice storage and retrieval services provided over telephone lines, any live operator services used to record, transcribe, or relay messages (other than telecommunication relay services), and any ancillary services offered in combination with these services.''.

AMENDMENT NO. 1332

Strike Section 311 (Kerry payphone amendment) in its entirety and insert the following:

**"SEC. 311. PROVISION OF PAYPHONE SERVICES AND TELEMESSAGING SERVICES.**

Part II of title II (47 U.S.C. 251 et seq.), as amended by this Act, is amended by adding after section 264 the follow new section:

**"SEC 265. PROVISION OF PAYPHONE SERVICES AND TELEMESSAGING SERVICES.**

''(a) NONDISCRIMINATION SAFEGUARDS.—Any Bell operating company that provides payphone services or telemessaging services—

''(1) shall not subsidize its payphone services or telemessaging services directly or indirectly with revenue from its telephone exchange services or its exchange access services; and

''(2) shall not prefer or discriminate in favor of its payphone services or telemessaging services.

''(b) REGULATIONS.—

''(1) In order to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public, not later than six months after the date of enactment of the Act the Commission shall——

''(A) adopt rules, with such rules to take effect concurrently no later than nine months after the date of enactment of the Act, that——

''(i) Establish a per call compensation plan to ensure that all payphone services providers are fairly compensated for each and every completed intrastate and interstate call using their payphone, except that emergency calls and telecommunications relay service calls for hearing disabled individuals shall not be subject to such compensation;

''(ii) Discontinue the current intrastate and interstate carrier access charge payphone service elements and payments, and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues, in favor of a compensation plan as specified in subparagraph (A) above;

''(iii) Prescribe a set of nonstructural safeguards for Bell operating company payphone service to implement the provisions of paragraphs (1) and (2) of subsection (a), which safeguards shall, at a minimum, include the nonstructural safeguards equal to those adopted in the Computer Inquiry-III, CC Docket No. 90–623 proceeding; and

''(B) In the rulemaking conducted pursuant to subparagraph (A), determine whether to provide for Bell operating company payphone service providers to have the same right that independent payphone providers have to negotiate with the location provider on selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with the carriers that carry interLATA calls from their payphones, and provide for all payphone service providers to have the right to negotiate with the location provider on selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with the carriers that carry intraLATA calls from their payphones, provided that nothing in this section or in any regulations adopted by the Commission shall affect any existing contracts between location providers and payphone service providers or interLATA or intraLATA carriers that are in force and effect as of the date of enactment.

''(2) PUBLIC INTEREST PAYPHONES.—In the rulemaking conducted pursuant to Paragraph (1), the Commission shall determine whether public interest payphones, which are provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a payphone, should be maintained, and if so, ensure that such public interest payphones are supported fairly and equitably.

''(c) STATE PREEMPTION.—To the extent that any State requirements are inconsistent with the Commission's regulations, adopted in the rulemaking conducted pursuant to subsection (b) the Commission's regulations on such matters shall preempt such State requirements.

''(d) RULEMAKING FOR TELEMESSAGING.—In a separate proceeding, the Commission shall determine whether, to enforce the requirements of this section, it is appropriate to require the Bell operating companies to provide telemessaging services through a separate subsidiary that meets the requirements of Section 252.

''(e) MODIFICATION OF FINAL JUDGMENT.—Notwithstanding any other provision of law, or any prior prohibition or limitation established pursuant to the Modification of Final Judgment, the Commission is directed and authorized to implement this section.

''(f) DEFINITIONS.—As used in the Act:

''(1) the term 'payphone service' means the provision of public or semi-public pay telephones, the provision of inmate telephone in correctional institutions, and any ancillary services;

''(2) the term 'telemessaging services' means voice mail and voice storage and retrieval services provided over telephone lines, any live operator services used to record, transcribe, or relay messages (other than telecommunication relay services), and any ancillary services offered in combination with these services.''

AMENDMENT NO. 1333

Strike Section 311 (Kerry payphone amendment) in its entirety and insert the following:

**SEC. 311. PROVISION OF PAYPHONE SERVICES AND TELEMESSAGING SERVICES.**

Part II of title 11 (47 U.S.C. 251 et seq.), as amended by this Act, is amended by adding after section 264 the following new section:

**"SEC. 265. PROVISION OF PAYPHONE SERVICES AND TELEMESSAGING SERVICES**

''(a) NONDISCRIMINATION SAFEGUARDS.—On the date that the regulations issued pursuant to subsection (b) take effect, any Bell operating company that provides payphone services or telemessaging services——

''(1) shall not subsidize its payphone services or telemessaging services directly or indirectly with revenue from its telephone exchange services or its exchange access services; and

''(2) shall not prefer or discriminate in favor of its payphone services or 13 telemessaging services.

''(b) REGULATIONS.—

(1) In order to promote competition among payphone service providers and promote the widespread deployment of payphone services to the benefit of the general public, the Commission shall conduct a rulemaking, with such rulemaking to be concluded not later than six months after the date of enactment of the Act and with such rules as the Commission may adopt in such rulemaking to take effect concurrently no later than nine months after the date of enactment of the Act, in which the Commission shall determine whether:

''(A) To establish a compensation plan to ensure that all payphone services providers are fairly compensated for each and every completed intrastate and interstate call using their payphone, which plan shall take into consideration the payphone provider's demonstrated costs or some other means of determining the value of providing payphone access service, except that emergency calls and telecommunications relay service calls for hearing disabled individuals shall not be subject to such compensation;

''(B) To discontinue the current intrastate and interstate carrier access charge payphone service elements and payments, and all intrastate and interstate payphone subsidies from basic exchange and exchange access revenues;

''(C) To prescribe a set of nonstructural safeguards for Bell operating company payphone service to implement the provisions of paragraphs (1) and (2) of subsection (a), which safeguards shall, at a minimum, include the nonstructural safeguards equal to those adopted in the *Computer Iizquiry-III, CC* Docket No. 90–623 proceeding; and

''(D) To provide for Bell operating company payphone service providers to have the same right that independent payphone providers have to negotiate with the location provider on selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with the carriers that carry interLATA calls from their payphones, and provide for all payphone service providers to have the right to negotiate with the location provider on selecting and contracting with, and, subject to the terms of any agreement with the location provider, to select and contract with the carriers that carry intraLATA calls from their payphones, provided that nothing in this section or in any regulation adopted by the Commission shall affect any existing contracts between location providers and payphone service providers or interLATA or intraLATA carriers that are in force and effect as of the date of enactment

''(2) PUBLIC INTEREST TELEPHONES.—In the rulemaking conducted pursuant to Paragraph (1), the Commission shall determine whether public interest payphones, which are provided in the interest of public health, safety, and welfare, in locations where there would otherwise not be a payphone, should be maintained, and if so, ensure that such public interest payphones are supported fairly and equitably.

''(c) STATE PREEMPTION.—To the extent that any State requirements are inconsistent with the Commission's regulations adopted in the rulemaking conducted pursuant to subsection (b), the Commission's regulations on such matters shall preempt such State requirements.

''(d) RULEMAKING FOR TELEMESSAGING.—In a separate proceeding, the Commission shall determine whether, to enforce the requirements of this section, it is appropriate to require the Bell operating companies to provide telemessaging services through a separate subsidiary that meets the requirements of Section 252.

''(e) MODIFICATION OF FINAL JUDGMENT.—Notwithstanding any other provision of law, or any prior prohibition or limitation established pursuant to the Modification of Final Judgment, the Commission is directed and authorized to implement this section.

''(f) DEFINITIONS.—As used in the Act:

''(1) the term 'payphone service' means the provision of public or semi-public pay telephones, the provision of inmate telephone in correctional institutions, and ancillary services;

''(2) the term 'telemessaging services' means voice mail and voice storage retrieval services provided over telephone lines, any live operator services used to record, transcribe, or relay messages (other than telecommunication relay services), and ancillary services offered in combination with these services.''

AMENDMENT NO. 1334

**SEC. 311. PROVISION OF PAYPHONE SERVICE AND TELEMESSAGING SERVICE**

Part II of title II (47 U.S.C. 251 et seq.), as added by this Act, is amended by adding after section 264 the following new section:

**''SEC. 265. PROVISION OF PAYPHONE SERVICE AND TELEMESSAGING SERVICE.**

''(a) NONDISCRIMINATION SAFEGUARDS.—Any Bell operating company that provides payphone service or telemessaging service—

''(1) shall not subsidize its payphone service or telemessaging service directly or indirectly with revenue from its telephone exchange service or its exchange access service; and

''(2) shall not prefer or discriminate in favor of its payphone service or telemessaging service.

''(b) DEFINITIONS.—As used in this section—

''(1) The term 'payphone service' means the provision of telecommunications service through public or semi-public pay telephones, and includes the provision of service to inmates in correctional institutions.

''(2) The term 'telemessaging service' means voice mail and voice storage and retrieval services, any live operator services used to record, transcribe, or relay messages (other than telecommunications relay services), and any ancillary services offered in combination with these services.

''(c) REGULATIONS.—Not later than 9 months after the date of enactment of the Telecommunications Act of 1995, the Commission shall complete a rulemaking proceeding to prescribe regulations to carry out this section and [determine whether to] adopt a per call compensation system to provide fair compensation for all payphone providers that applies to local exchange carriers once payphone service is removed from the regulated accounts of local exchange carriers. In that rulemaking proceeding, the Commission shall determine whether, in order to enforce the requirements of this section, it is appropriate to adopt regulations to require the Bell operating companies to provide payphone service or telemessaging service through a separate subsidiary that meets the requirements of section 252, allow the Bell operating companies to choose the interLATA carrier from Bell operating company payphones, and adopt other regulations to carry out the purposes of this Section. The rules adopted pursuant to this subsection shall take effect concurrently.''.

## KERREY AMENDMENT NO. 1335

Mr. KERREY proposed an amendment to the bill S. 652, supra; as follows:

On page 94, strike out line 16 and all that follows page 94, line 23, and insert in lieu thereof the following:

''(B) providing—

''(i) a telecommunications service, using the transmission facilities of a cable system that is an affiliate of such company, between LATAs within a cable system franchise area in which such company is not, on the date of enactment of the Telecommunications Act of 1995, a provider of wireline telephone exchange service, or

''(ii) two-way interactive video services or Internet services over dedicated facilities to or for elementary and secondary schools as defined in section 264(d),''

## FEINSTEIN AMENDMENT NO. 1336

(Ordered to lie on the table.)

Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 652, supra; as follows:

On page 136, below line 21, add the following:

**SEC. 312. CABLE EQUIPMENT COMPATIBILITY.**

(a) FINDINGS.—Subsection (a) of section 624A (47 U.S.C. 544A) is amended—

(1) by striking ''and'' at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting in lieu thereof ''; and''; and

(3) by adding at the end the following:

''(4) compatibility among televisions, video cassette recorders, and cable systems can be assured with narrow technical standards that mandate a minimum degree of common design and operation, leaving all features, functions, protocols, and other product and service options for selection through open competition in the market.''.

(b) RULEMAKING REQUIREMENTS.—Subsection (c) of such section is amended—

(1) in paragraph (1)—

(A) by redesignating subparagraphs (A) and (B) as subparagraphs (B) and (C), respectively; and

(B) by inserting before subparagraph (B), as so redesignated, the following new subparagraph (A):

''(A) the need to maximize open competition in the market for all features, functions, protocols, and other products and service options of converter boxes and other cable converters unrelated to the descrambling or decryption of cable television signals;''; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively; and

(B) by inserting after subparagraph (C) the following new subparagraph (D):

''(D) to ensure that any standards or regulations developed under the authority of this section to ensure compatibility between television, video cassette recorders, and cable systems do not affect features, functions, protocols, and other product and service options (including telecommunications interface equipment, home automation communications, and computer network services) other than those specified in paragraph (1)(B);''.

## LIEBERMAN AMENDMENT NO. 1337

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted an amendment intended to be proposed by him to the bill S. 652, supra; as follows:

On page 3, strike out line 12 and all that follows through page 4, line 16, and insert in lieu thereof the following:

**SEC. 503. RATING CODE FOR VIOLENCE AND OTHER OBJECTIONABLE CONTENT ON TELEVISION.**

(a) SENSE OF CONGRESS ON VOLUNTARY ESTABLISHMENT OF RATING CODE.—It is the sense of Congress—

(1) to encourage appropriate representatives of the broadcast television industry and the cable television industry to establish in a voluntary manner rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming;

(2) to encourage such representatives to establish such rules in consultation with appropriate public interest groups and interested individuals from the private sector; and

(3) to encourage television broadcasters and cable operators to comply voluntarily with such rules upon the establishment of such rules.

(b) REQUIREMENT FOR ESTABLISHMENT OF RATING CODE.—

(1) IN GENERAL.—If the representatives of the broadcast television industry and the cable television industry do not establish the rules referred to in subsection (a)(1) by the end of the 1-year period beginning on the date of the enactment of this Act, there shall be established on the day following the end of that period a commission to be known as the Television Rating Commission (hereafter in this section referred to as the ''Television Commission''). The Television Commission shall be an independent establishment in the executive branch as defined under section 104 of title 5, United States Code.

(2) MEMBERS.—

(A) IN GENERAL.—The Television Commission shall be composed of 5 members, of whom—

(i) three shall be appointed by the President, by and with the advice and consent of the Senate; and

(ii) two shall be representatives of the broadcast television industry and the cable television industry.

(B) NOMINATION.—Individuals shall be nominated for appointment under subparagraph (A)(i) not later than 60 days after the date of the establishment of the Television Commission.

(D) TERMS.—Each member of the Television Commission shall serve until the termination of the commission.

(E) VACANCIES.—A vacancy on the Television Commission shall be filled in the same manner as the original appointment.

(2) DUTIES OF TELEVISION COMMISSION.—The Television Commission shall establish rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming.

(3) COMPENSATION OF MEMBERS.—

(A) CHAIRMAN.—The Chairman of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the Chairman is engaged in the performance of duties vested in the commission.

(B) OTHER MEMBERS.—Except for the Chairman who shall be paid as provided under subparagraph (A), each member of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level V of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the commission.

(4) STAFF.—

(A) IN GENERAL.—The Chairman of the Television Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the commission to perform its duties. The employment of an executive director shall be subject to confirmation by the commission.

(B) COMPENSATION.—The Chairman of the Television Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(5) CONSULTANTS.—The Television Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Code. The commission shall give public notice of any such contract before entering into such contract.

(6) FUNDING.—Funds for the activities of the Television Commission shall be derived from fees imposed upon and collected from television broadcast stations and cable systems by the Federal Communications Commission. The Federal Communications Commission shall determine the amount of such fees in order to ensure that sufficient funds are available to the Television Commission to support the activities of the Television Commission under this subsection.

## BROWN AMENDMENT NO. 1338

(Ordered to lie on the table.)

Mr. BROWN submitted an amendment intended to be proposed by him to the bill S. 652, supra; as follows:

On page 82, line 23, beginning with the word ''after'', delete all that follows through the word ''services'' on line 2, page 83 and insert therein the following: ''to the extent approved by the Commission and the Attorney General''.

On page 88, line 17, after the word ''Commission'', add the words ''and Attorney General''.

On page 89, beginning with the word ''before'' on line 9, strike all that follows through line 15.

On page 90, line 10, replace ''(3)'' with ''(C)''; after the word ''Commission'' on line 17, add the words ''or Attorney General''; and after the word ''Commission'' on line 19, add the words ''and Attorney General''. On page 90, after line 13, add the following paragraphs:

''(4) DETERMINATION BY ATTORNEY GENERAL.—

(A) REVISED STANDARD.—Notwithstanding the standard of approval set forth in subparagraph (C) of section 255(c)(2) of the Communications Act of 1934, as added by section 221(a) of this Act, the Attorney General shall approve an authorization requested in an application referred to in that subparagraph unless the Attorney General finds that there is a dangerous probability that the Bell operating company covered by the application or its affiliates would successfully use market power to impede competition in the market such company seeks to enter.

(B) DEADLINE FOR APPROVAL.—Notwithstanding any provision of section 225(c) of the Communications Act of 1934, as so added, if the Attorney General does not approve or deny an application referred to in paragraph (1) of that section within 90 days of its submittal to the Attorney General, the application shall be deemed approved by the Attorney General.

''(C) PUBLICATION.—Not later than 10 days after issuing a determination under paragraph (4), the Attorney General shall publish the determination in the Federal Register.''

On page 91, line 1, after the word ''Commission'' add the words ''or the Attorney General''.

## GRAMM AMENDMENT NO. 1339

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill S. 652, supra; as follows:

Strike section 206(f)(3), and insert in lieu thereof the following:

''(3) AVAILABILITY OF AUDITOR'S REPORT.—The auditor's report shall be provided to the State commission within 180 days after the selection of the auditor, and provided to the public utility company 60 days thereafter.''

## BOXER (AND LEVIN) AMENDMENT NO. 1340

(Ordered to lie on the table.)

Mrs. BOXER (for herself and Mr. LEVIN) submitted an amendment intended to be proposed by them to the bill S. 652, supra; as follows:

On page 71, between lines 2 and 3, insert the following:

(d) PRESERVATION OF BASIC TIER SERVICE.—Section 623 (47 U.S.C. 543) is further amended by adding at the end the following:

''(n) PRESERVATION OF BASIC TIER SERVICE.—A cable operator may not cease to furnish as part of its basic service tier any programming that is part of such basic service tier on January 1, 1995, unless the franchising authority for the franchise area concerned approves the action.''.

## DOLE AMENDMENT NO. 1341

(Ordered to lie on the table.)

Mr. DOLE submitted an amendment intended to be proposed by him to the bill S. 652, supra; as follows:

On page 70, beginning with line 22, strike through line 2 on page 71.

## KERRY AMENDMENT NO. 1342

(Ordered to lie on the table.)

Mr. KERRY submitted an amendment intended to be proposed by him to the bill S. 652, supra; as follows:

On page 146, strike line 14 and insert in lieu the following: ''cency, or nudity''.

This section shall not become effective unless the Commission shall prohibit any telecommunications carrier from excluding from any of such carrier's services any high-cost area, or any area on the basis of the rural location or the income of the residents of such area; provided that a carrier may exclude an area in which the carrier can demonstrate that—

(1) providing a service to such area will be less profitable for the carrier than providing the service in areas to which the carrier is already providing or has proposed to provide the service; and—

(2) there will be insufficient consumer demand for the carrier to earn some return over the long term on the capital invested to provide such service to such area.

The Commission shall provide for public comment on the adequacy of the carrier's proposed service area on the basis of the requirements of this section.

## DORGAN AMENDMENT NO. 1343

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 652, supra; as follows:

On page 93, after line 12, insert the following:

''(6) NOTIFICATION OF ATTORNEY GENERAL.—

''(A) NOTIFICATION.—The Commission shall immediately notify the Attorney General of any approval of an application under paragraph (1).

''(B) ACTION BY ATTORNEY GENERAL.—Upon notification of an approval of an application under paragraph (1), the Attorney may commence an action in any United States District Court if—

''(i) the Attorney General determines that the authorization granted by the Commission may substantially lessen competition or tend to create a monopoly; or

''(ii) the Attorney General determines that the authorization granted by the Commission is inconsistent with any recommendation of the Attorney General provided to the Commission pursuant to paragraph (2) of this section.

''The commencement of such an action shall stay the effectiveness of the Commission's approval unless the court shall otherwise specifically order.

''(C) STANDARD OF REVIEW.—In any such action, the court shall review de novo the issues presented. The court may only uphold the Commission's authorization if the court finds that the effect of such authorization will not be substantially to lessen competition or to tend to create a monopoly in any line of commerce in any section of the country. The court may uphold all or part of the authorization.''

## KERREY AMENDMENTS NOS. 1344–1345

(Ordered to lie on the table.)

Mr. KERREY submitted two amendments intended to be proposed by him to the bill S. 652, supra; as follows:

AMENDMENT NO. 1344

On page 37, line 7, insert after ''service.'' the following: ''In addition to the members of the Joint Board required under such section 410(c), one member of the Joint Board shall be an appointed utility consumer advocate of a State who is nominated by a national organization of State utility consumer advocates.''.

AMENDMENT NO. 1345

On page 37, on line 7, after ''service.'', insert: ''In addition to the members required under section 410(c) of the Communications Act of 1934, one member of the Joint Board shall be a State-appointed utility consumer advocate nominated by a national organization of State utility consumer advocates.''

## HEFLIN AMENDMENT NO. 1346

(Ordered to lie on the table.)

Mr. HEFLIN submitted an amendment intended to be proposed by him to the bill S. 652, supra; as follows:

At the appropriate place in the bill, insert the following:

**SEC. . AUTHORITY TO ACQUIRE CABLE SYSTEMS.**

(a) IN GENERAL.—Notwithstanding the provisions of section 613(b)(b)(6) of the Communications Act of 1934, as added by section 213(a) of this Act, or any other provision of law, a local exchange carrier (or any affiliate of such carrier owned by, operated by, controlled by, or under common control with

such carrier) may obtain a controlling interest in, management interest in, or enter into a joint venture or partnership with any cable system described in subsection (b).

(b) COVERED CABLE SYSTEMS.—Subsection (a) applies to any cable system that serves incorporated or unincorporated places or territories having fewer than 50,000 inhabitants if more than——percent the subscriber base of such system serves individuals living outside an urbanized area, as defined by the Bureau of the Census.

(c) DEFINITION.—For purposes of this section, the term ''local exchange carrier'' has the meaning given such term in section 3(kk) of the Communications Act of 1934, as added by section 8(b) of this Act.

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## LIEBERMAN AMENDMENT NO. 1347

Mr. LIEBERMAN proposed an amendment to amendment No. 1275 proposed by Mr. CONRAD to the bill S. 652, supra; as follows:

On page 3, strike out line 12 and all that follows through page 4, line 16, and insert in lieu thereof the following:

**SEC. 503. RATING CODE FOR VIOLENCE AND OTHER OBJECTIONABLE CONTENT ON TELEVISION.**

(a) SENSE OF CONGRESS ON VOLUNTARY ESTABLISHMENT OF RATING CODE.—It is the sense of Congress—

(1) to encourage appropriate representatives of the broadcast television industry and the cable television industry to establish in a voluntary manner rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming;

(2) to encourage such representatives to establish such rules in consultation with appropriate public interest groups and interested individuals from the private sector; and

(3) to encourage television broadcasters and cable operators to comply voluntarily with such rules upon the establishment of such rules.

(b) REQUIREMENT FOR ESTABLISHMENT OF RATING CODE.—

(1) IN GENERAL.—If the representatives of the broadcast television industry and the cable television industry do not establish the rules referred to in subsection (a)(1) by the end of the 1-year period beginning on the date of the enactment of this Act, there shall be established on the day following the end of that period a commission to be known as the Television Rating Commission (hereafter in this section referred to as the ''Television Commission''). The Television Commission shall be an independent establishment in the executive branch as defined under section 104 of title 5, United States Code.

(2) MEMBERS.—

(A) IN GENERAL.—The Television Commission shall be composed of 5 members, of whom—

(i) three shall be appointed by the President, as representatives of the public by and with the advice and consent of the Senate; and

(ii) two shall be appointed by the President, as representatives of the broadcast television industry and the cable television industry, by and with the advice and consent of the Senate;

(B) NOMINATION.—Individuals shall be nominated for appointment under subparagraph (A)(i) not later than 60 days after the date of the establishment of the Television Commission.

(D) TERMS.—Each member of the Television Commission shall serve until the termination of the commission.

(E) VACANCIES.—A vacancy on the Television Commission shall be filled in the same manner as the original appointment.

(2) DUTIES OF TELEVISION COMMISSION.—The Television Commission shall establish rules for rating the level of violence or other objectionable content in television programming, including rules for the transmission by television broadcast stations and cable systems of—

(A) signals containing ratings of the level of violence or objectionable content in such programming; and

(B) signals containing specifications for blocking such programming.

(3) COMPENSATION OF MEMBERS.—

(A) CHAIRMAN.—The Chairman of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level IV of the Executive Schedule under section 5314 of title 5, United States Code, for each day (including traveltime) during which the Chairman is engaged in the performance of duties vested in the commission.

(B) OTHER MEMBERS.—Except for the Chairman who shall be paid as provided under subparagraph (A), each member of the Television Commission shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay payable for level V of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including traveltime) during which the member is engaged in the performance of duties vested in the commission.

(4) STAFF.—

(A) IN GENERAL.—The Chairman of the Television Commission may, without regard to the civil service laws and regulations, appoint and terminate an executive director and such other additional personnel as may be necessary to enable the commission to perform its duties. The employment of an executive director shall be subject to confirmation by the commission.

(B) COMPENSATION.—The Chairman of the Television Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for the executive director and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title.

(5) CONSULTANTS.—The Television Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants under section 3109 of title 5, United States Code. The commission shall give public notice of any such contract before entering into such contract.

(6) FUNDING.—Funds for the activities of the Television Commission shall be derived from fees imposed upon and collected from television broadcast stations and cable systems by the Federal Communications Commission. The Federal Communications Commission shall determine the amount of such fees in order to ensure that sufficient funds are available to the Television Commission to support the activities of the Television Commission under this subsection.

## BUMPERS (AND DASCHLE) AMENDMENT NO. 1348

Mr. BUMPERS (for himself and Mr. DASCHLE) proposed an amendment to the bill S. 652, supra as follows:

On page 76 after line 10, insert the following new subsection: ''AUTHORITY TO DISALLOW RECOVERY OF CERTAIN COSTS.—Section 318 of the Federal Power Act (16 U.S.C. 825q) is amended—

(A) by inserting ''(a)'' after ''Sec. 318.''; and

(B) by adding at the end of thereof the following:

''(b)(1) The Commission shall have the authority to disallow recovery in jurisdictional rates of any costs incurred by a public utility pursuant to a transaction that has been authorized under section 13(b) of the Public Utility Holding Company Act of 1935, including costs allocated to such public utility in accordance with paragraph (d), if the Commission determines that the recovery of such costs is unjust, unreasonable, or unduly preferential or discriminatory under sections 205 or 206 of this Act.

''(2) Nothing in the Public Utility Holding Company Act of 1935, or any actions taken thereunder, shall prevent a State Commission from exercising its jurisdiction to the extent otherwise authorized under applicable law with respect to the recovery of a public utility in its retail rates of costs incurred by such public utility pursuant to a transaction authorized by the Securities and Exchange Commission under section 13(b) between an associate company and such public utility, including costs allocated to such public utility in accordance with paragraph (d).

''(c) In any proceeding of the Commission to consider the recovery of costs described in subsection (b)(1), there shall be a rebuttable presumption that such costs are just, reasonable, and not unduly discriminatory or preferential within the meaning of this Act.

''(d)(1) In any proceeding of the Commission to consider the recovery of costs, the Commission shall give substantial deference to an allocation of charges for services, construction work, or goods among associate companies under section 13 of the Public Utility Holding Company Act of 1935, whether made by rule, regulation, or order of the Securities Exchange Commission prior to or following the enactment of the Telecommunications Competition and Deregulation Act of 1995.

''(2) If the Commission pursuant to paragraph (1) establishes an allocation of charges that differ from an allocation established by the Securities and Exchange Commission with respect to the same charges, the allocation established by the Federal Energy Regulatory Commission shall be effective 12 months from the date of the order of the Federal Energy Regulatory Commission establishing such allocation, and binding on the Securities and Exchange Commission as of that date.

''(e) An allocation of charges for services, construction work, or goods among associate companies under section 13 of the Public Utility Holding Company Act of 1935, whether made by rule, regulation, or order of the Securities and Exchange Commission prior to or following enactment of the Telecommunications Competition and Deregulation Act of 1995, shall prevent a State Commission from using a different allocation with respect to the assignment of costs to any associate company.

''(f) Subsection (b) shall not apply—

''(1) to any cost incurred and recovered prior to July 15, 1994, whether or not subject to refund or adjustment;

''(2) to any uncontested settlement approved by the Commission or State Commission prior to the enactment of the Telecommunications Competition and Deregulation Act of 1995''; or

''(3) to any cost incurred and recovered prior to September 1, 1994 pursuant to a contract or other arrangement for the sale of fuel from Windsor Coal Company or Central Ohio Coal Company which has been the subject of a determination by the Securities and Exchange Commission prior to September 1, 1994, or any cost prudently incurred after that date pursuant to such a contract or other such arrangement before January 1, 2001.''.

## SIMON (AND OTHERS) AMENDMENT NO. 1349

Mr. SIMON (for himself, Mr. DOLE, and Mr. PRESSLER) proposed an amendment to the bill S. 652, supra, as follows:

At the appropriate place add the following:

**SEC. : FINDINGS.**

The Senate finds that—

Violence is a pervasive and persistent feature of the entertainment industry. According to the Carnegie Council on Adolescent Development, by the age of 18, children will have been exposed to nearly 18,000 televised murders and 800 suicides.

Violence on television is likely to have a serious and harmful effect on the emotional development of young children. The American Psychological Association has reported that children who watch ''a large number of aggressive programs tend to hold attitudes and values that favor the use of aggression to solve conflicts.'' The National Institute of Mental health has stated similarly that ''violence on television does lead to aggressive behavior by children and teenagers.''

The Senate recognizes that television violence is not the sole cause of violence in society.

There is a broad recognition in the U.S. Congress that the television industry has an obligation to police the content of its own broadcasts to children. That understanding was reflected in the Television Violence Act of 1990, which was specifically designed to permit industry participants to work together to create a self-monitoring system.

After years of denying that television violence has any detrimental effect, the entertainment industry has begun to address the problem of television violence. In the Spring of 1994, for example, the network and cable industries announced the appointment of an independent monitoring group to assess the amount of violence on television. These reports are due out in the Fall of 1995 and Winter of 1996, respectively.

The Senate recognizes that self-regulation by the private sector is generally preferable to direct regulation by the federal government.

**SEC. : SENSE OF THE SENATE—.**

It is the Sense of the Senate that the entertainment industry should do everything possible to limit the amount of violent and aggressive entertainment programming, particularly during the hours when children are most likely to be watching.

## EXON (AND OTHERS) AMENDMENT NO. 1350

Mr. PRESSLER (for Mr. EXON, for himself, Mr. DORGAN, and Mr. BYRD) proposed an amendment to the bill, S. 652, supra; as follows:

On page 49, line 15 after ''Government (or its representative)'' add the following: ''provided that the President does not object within 15 days of such determination''

On page 50 between line 14 and 15 insert the following:

''(c) THE APPLICATION OF THE EXON-FLORIO LAW.—Nothing in this section (47 U.S.C. 310) shall limit in any way the application of 50 U.S.C. App. 2170 (the Exon-Florio law) to any transaction.''

## BYRD (AND EXON) AMENDMENT NO. 1351

Mr. PRESSLER (for Mr. BYRD, for himself and Mr. EXON) proposed an amendment to the bill S. 652, supra; as follows:

On page 1 of the amendment, line 4, strike out ''determination.'' and insert in lieu thereof the following: ''determination. If the President objects to a determination, the President shall, immediately upon such objection, submit to Congress a written report (in unclassified form, but with a classified annex if necessary) that sets forth a detailed explanation of the findings made and factors considered in objecting to the determination.''

On page 49, line 17, insert after the period the following: ''While determining whether such opportunities are equivalent on that basis, the Commission shall also conduct an evaluation of opportunities for access to all segments of the telecommunications market of the applicant.''

## LIEBERMAN AMENDMENTS NOS. 1352–1353

(Ordered to lie on the table.)

Mr. LIEBERMAN submitted two amendments intended to be proposed by him to an amendment to the bill, S. 652, supra, as follows:

AMENDMENT NO. 1352

Strike all after the first word in the pending amendment and insert the following:

At the appropriate place, insert the following new section:

**SEC. . DETERMINATION OF REASONABLENESS OF CABLE RATES.**

(a) COMMISSION CONSIDERATION.—Notwithstanding any other provision of this Act or section 623(c), as amended by this Act, for purposes of section 623(c), the Commission may only consider a rate for cable programming services to be unreasonable if it substantially exceeds the national average rate for comparable programming services in cable systems subject to effective competition.

(b) RATES OF SMALL CABLE COMPANIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or the amendments made by this Act, the regulations prescribed under section 623(c) shall not apply to the rates charged by small cable companies for the cable programming services provided by such companies.

(2) DEFINITION.—As used in this subsection, the term 'small cable company' means the following:

(A) A cable operator whose number of subscribers is less than 35,000.

(B) A cable operator that operates multiple cable systems, but only if the total number of subscribers of such operator is less than 400,000 and only with respect to each system of the operator that has less than 35,000 subscribers.

AMENDMENT NO. 1353

At the end of the amendment, add the following:

At the appropriate place, insert the following new section:

**SEC. . DETERMINATION OF REASONABLENESS OF CABLE RATES.**

(a) COMMISSION CONSIDERATION.—Notwithstanding any other provision of this Act or section 623(c), as amended by this Act, for purposes of section 623(c), the Commission may only consider a rate for cable programming services to be unreasonable if it substantially exceeds the national average rate for comparable programming services in cable systems subject to effective competition.

(b) RATES OF SMALL CABLE COMPANIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or the amendments made by this Act, the regulations prescribed under section 623(c) shall not apply to the rates charged by small cable companies for the cable programming services provided by such companies.

(2) DEFINITION.—As used in this subsection, the term 'small cable company' means the following:

(A) A cable operator whose number of subscribers is less than 35,000.

(B) A cable operator that operates multiple cable systems, but only if the total number of subscribers of such operator is less than 400,000 and only with respect to each system of the operator that has less than 35,000 subscribers.

## BOXER (AND LEVIN) AMENDMENTS NOS. 1354–1355

(Ordered to lie on the table.)

Mrs. BOXER (for herself and Mr. LEVIN) submitted two amendments intended to be proposed by them to an amendment to the bill, S. 652, supra; as follows:

AMENDMENT NO. 1354

Strike all after ''(d)'' in the pending amendment and insert the following:

PRESERVATION OF BASIC TIER SERVICE.—Section 623 (47 U.S.C. 543) is further amended by adding at the end the following:

''(n) PRESERVATION OF BASIC TIER SERVICE.—A cable operator may not cease to furnish as part of its basic service tier any programming that is part of such basic service tier on January 1, 1995, unless the franchising authority for the franchise area concerned approves the action. This provision shall expire three (3) years after the date of enactment.''

AMENDMENT NO. 1355

At the end of the amendment, add the following; ''This provision shall expire three (3) years after the date of enactment.''

## LEAHY AMENDMENTS NOS. 1356–1358

(Ordered to lie on the table.)

Mr. LEAHY submitted three amendments intended to be proposed by him to an amendment to the bill, S. 652, supra; as follows:

AMENDMENT NO. 1356

On page 1, strike line 7 and all that follows through the end of the amendment and insert the following: ''amended by section 204 of this Act, for purposes of section 623(c), the Commission may only consider a rate for cable programming services to be unreasonable if it substantially exceeds the national average rate for comparable programming services in cable systems subject to effective competition.

''(b) RATES OF SMALL CABLE COMPANIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act or the amendments made by this Act, the regulations prescribed under section 623(c) shall not apply

to the rates charged by small cable companies for the cable programming services provided by such companies.

''(2) DEFINITION.—As used in this subsection, the term 'small cable company' means the following:

''(A) A cable operator whose number of subscribers in less than 35,000.

''(B) A cable operator that operates multiple cable systems, but only if the total number of subscribers of such operator is less than 400,000 and only with respect to each system of the operator that has less than 35,000 subscribers.''.

AMENDMENT NO. 1357

On page 1, strike line 7 and all that follows through the end of the amendment and insert the following: ''amended by section 204 of this Act, for purposes of section 623(c), the Commission may only consider a rate for cable programming services to be unreasonable if it substantially exceeds the national average rate for comparable programming services in cable systems subject to effective competition.

''(b) RATES OF SMALL CABLE COMPANIES.—

''(1) IN GENERAL.—Notwithstanding any other provision of this Act or the amendments made by this Act, the regulations prescribed under section 623(c) shall not apply to the rates charged by small cable companies for the cable programming services provided by such companies.

''(2) DEFINITION.—As used in this subsection, the term 'small cable company' means the following:

''(A) A cable operator whose number of subscribers in less than 35,000.

''(B) A cable operator that operates multiple cable systems, but only if the total number of subscribers of such operator is less than 400,000 and only with respect to each system of the operator that has less than 35,000 subscribers.''.

AMENDMENT NO. 1358

On page 2, strike out line 3 and all that follows through page 2, line 19, and insert in lieu thereof the following:

(b) RATES OF SMALL CABLE COMPANIES.—Notwithstanding any other provision of this Act or the amendments made by this Act, the regulations prescribed under section 623(c) of the Communications Act of 1934 shall not apply to the rates charged by small cable companies for the cable programming services provided by such companies.

## BREAUX AMENDMENTS NOS. 1359–1361

(Ordered to lie on the table.)

Mr. BREAUX submitted three amendments intended to be proposed by him to an amendment to the bill, S. 652, supra; as follows:

AMENDMENT NO. 1359

At the appropriate place add the following:

''Notwithstanding any other provisions of this act.

''(ii) Except for single-LATA States, a State may not require a Bell operating company to implement toll dialing parity in an intra-LATA area before a Bell operating company has been granted authority under this subsection to provide inter-LATA services in that area or before three years after the date of enactment of the Telecommunications Act, whichever is earlier. Nothing in this clause precludes a State from issuing an order requiring toll dialing parity in an intra-LATA area prior to either such date so long as such order does not take effect until after the earlier of either such dates.''

AMENDMENT NO. 1360

In the amendment, strike all after the first word and insert the following:

''Notwithstanding any other provisions of this act.

''(ii) Except for single-LATA States, a State may not require a Bell operating company to implement toll dialing parity in an intra-LATA area before a Bell operating company has been granted authority under this subsection to provide inter-LATA services in that area or before three years after the date of enactment of the Telecommunications Act, whichever is earlier. Nothing in this clause precludes a State from issuing an order requiring toll dialing parity in an intra-LATA area prior to either such date so long as such order does not take effect until after the earlier of either such dates.''

AMENDMENT NO. 1361

In lieu of the matter proposed to be inserted, insert the following:

''(ii) Except for single-LATA States, a State may not require a Bell operating company to implement toll dialing parity in an intra-LATA area before a Bell operating company has been granted authority under this subsection to provide inter-LATA services in that area or before three years after the date of enactment of the Telecommunications Act, whichever is earlier. Nothing in this clause precludes a State from issuing an order requiring toll dialing parity in an intra-LATA area prior to either such date so long as such order does not take effect until after the earlier of either such dates.''

## NOTICE OF HEARING

COMMITTEE ON ENERGY AND NATURAL RESOURCES AND COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MURKOWSKI. Mr. President, along with Senator CHAFEE, I would like to announce for the information of the Senate and the public that a hearing has been jointly scheduled before the Committee on Energy and Natural Resources and the Committee on Environment and Public Works.

The hearing will take place Thursday, June 29, 1995 at 10 a.m. in room SD–366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this oversight hearing is to receive testimony on the energy and environmental implications of the Komi oil spills in the former Soviet Union.

Those wishing to submit written statements should write to the Committed on Energy and Natural Resources or the Committee on Environment and Public Works, U.S. Senate, Washington, DC 20510. For further information please call Ms. Linda Jordan (Committee on Environment and Public Works) at 202–224–6176 or Mr. Howard Useem (Committee on Energy and Natural Resources) at 202–224–6567.

## AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION AND FORESTRY

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition, and Forestry be allowed to meet during the session of the Senate on Tuesday, June 13, 1995, at 9:30 a.m., in SR–332, to discuss commodity policy.

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

COMMITTEE ON ARMED SERVICES

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet at 10:00 a.m. on Tuesday, June 13, 1995, in open session, to hold a hearing to consider the nomination of John White to be Deputy Secretary of Defense.

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

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be allowed to meet during the Tuesday, June 13, 1995 session of the Senate for the purpose of conducting a hearing on the nomination of Roberta Gross to be Inspector General of NASA and an oversight hearing on NASA's Mission to Planet Earth program.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Tuesday, June 13, 1995, for purposes of conducting a Full Committee hearing which is scheduled to begin at 9:30 a.m. The purpose of this hearing is to receive testimony on S. 755, a bill to amend the Atomic Energy Act of 1954 to provide for the privatization of the United States Enrichment Corporation.

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

COMMITTEE ON FOREIGN RELATIONS

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 13, 1995, at 10:00 a.m.

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

SUBCOMMITTEE ON EAST ASIAN AND PACIFIC AFFAIRS

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Subcommittee on East Asian and Pacific Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, June 13, at 2:00 p.m.

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

SUBCOMMITTEE ON SOCIAL SECURITY AND FAMILY POLICY

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Subcommittee on Social Security and Family Policy of the Committee on Finance be permitted to meet on Tuesday, June 13, 1995 beginning at 10:00

a.m. in room SD–215, to conduct a hearing on the business and financial practices of the American Association of Retired Persons.

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

## ADDITIONAL STATEMENTS

### THE AGREEMENT BY GREAT BRITAIN AND CHINA ON THE ESTABLISHMENT OF HONG KONG'S COURT OF FINAL APPEAL

• Mr. MACK. Mr. President, the agreement reached last week by British and Chinese negotiators for a new Court of Final Appeal in Hong Kong is a grave setback to the rule of law in the territory. The deal violates the 1984 Sino-British Joint Declaration and its guarantees for Hong Kong's legal system by building on the 1991 secret deal on the Court, and using the 1990 Basic Law to make end runs around the Joint Declaration. In reaching this deal, the British side also conceded on the important matter of an early establishment of the court to prevent a gap in appellate jurisdiction in the colony during the transition from London's Privy Council to the new high court. Governor Patten claims that it was worth waiting until July 1, 1997, for the court to begin its work in exchange for an agreement. But this is really just postponement of a bad deal.

Under the Joint Declaration, Hong Kong's courts are vested with the judicial power, including the power of final adjudication. Also, under the Joint Declaration, judicial independence is explicitly guaranteed, and the elected legislature must confirm appointments to the Court of Final Appeal. Each of these explicit promises made in the Joint Declaration, signed in 1984 by Margaret Thatcher and Zhao Ziyang, is expressly violated in last week's deal.

I would like to address one aspect of the deal specifically—the provision under which Hong Kong's courts will, after 1997, be prevented from hearing and adjudicating matters known as ''acts of state.'' I specifically wish to address this because British and Hong Kong government officials are quietly advising that the act of state doctrine is extremely complicated and arcane. In effect, they are saying: ''Don't try and understand it.'' That is offensive.

The ''acts of state'' doctrine is not difficult to understand. In the common law, it is a well-known and narrow category involving actions by one sovereign vis-à-vis another, such as a declaration of war, or a treaty. The last such case arose in Hong Kong in 1947.

Under the terms of the agreement, Hong Kong's courts will be restricted from adjudicating ''acts of state'' as defined in the Basic Law of the Hong Kong Special Administrative Region. Beijing passed the Basic Law, often referred to as the colony's post-1997 constitution in 1990. The Basic Law contains numerous and substantial violations of the Joint Declaration, yet the uncritical acceptance of the document by Great Britain has allowed the Basic Law to play an insidious role in the transition to PRC rule.

Great Britain and the PRC have now agreed that Article 19 of the Basic Law will define the jurisdiction of Hong Kong courts. Article 19 provides that ''acts of state such as defence and foreign affairs'' will be outside the courts' jurisdiction. The deliberate ambiguity of this formulation leaves the matter up to Beijing which has already assigned the power of interpreting the Basic Law to the Standing Committee of the National People's Congress rather than Hong Kong's courts. The Basic Law's definition of acts of state now endorsed by the British government of Hong Kong is vague and will, without a doubt, be used by the People's Republic of China to deny Hong Kong's courts the ability to hear and adjudicate challenges to the Beijing-appointed government after 1997.

Both Britain and the People's Republic of China made specific and detailed commitments to preserving Hong Kong's legal system after 1997. In recent years, China has made its intentions regarding those commitments crystal clear: it will not honor them. Britain has been more subtle, styling itself as a defender of Hong Kong while engaging in diplomatic backsliding.

Great Britain's failure to meet its commitments regarding the rule of law will irreparably damage its historical legacy in the colony. I hope that in light of the strong criticism and concern that have been expressed at the announcement of this deal, Great Britain will revise its legislation on the Court of Final Appeal to make it consistent with the Joint Declaration. Furthermore, Great Britain and the Hong Kong government should move with speed and conviction to repeal colonial laws and establish an official human rights commission.•

## ORDERS FOR WEDNESDAY, JUNE 14, 1995

Mr. COCHRAN. Mr. President, at the request of the majority leader, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 a.m. on Wednesday, June 14, 1995; that following the prayer the Journal of proceedings be deemed approved to date, the time for the two leaders be reserved for their use later in the day, and there then be a period for morning business until the hour of 9:30 a.m., with the 30 minutes equally divided between Senators MACK and BRADLEY; further, that at the hour of 9:30 a.m. the Senate resume consideration of S. 652, the telecommunications bill, and there be 20 minutes for debate on the Feinstein amendment to be equally divided in the usual form, to be followed immediately by a vote on or in relation to the Feinstein amendment No. 1270, to be followed by a vote on or in relation to the Gorton amendment No. 1277, to be followed by a vote on the motion to invoke cloture on S. 652, with the mandatory live quorum waived.

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

## ORDER TO FILE SECOND-DEGREE AMENDMENTS

Mr. COCHRAN. I now ask unanimous consent that notwithstanding the provisions of rule XXII, all Members have until the hour of 9:30 a.m. in order to file second-degree amendments to S. 652.

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

## PROGRAM

Mr. COCHRAN. For the information of my colleagues, there will be three consecutive rollcall votes beginning at 9:50 tomorrow morning. The third vote in the order is the motion to invoke cloture. If cloture is invoked, it is the intention of the majority leader to stay in session late into the evening on Wednesday with votes in order to complete action on the bill.

## ORDER FOR RECESS

Mr. COCHRAN. If there be no further business to come before the Senate, I now ask unanimous consent that the Senate stand in recess under the previous order following the remarks of Senator SANTORUM.

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

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Chair. I appreciate the Senator from Mississippi providing this time for me.

## THE PRESIDENT'S BALANCED BUDGET

Mr. SANTORUM. I rise to keep vigil with the President on his plans to introduce a balanced budget under the same circumstances that we had to in the Senate, with precise cuts, precise reductions in the rate of growth in some programs, changes in the tax law that would get us to a balanced budget.

Just a few minutes ago, the President concluded what he termed —this is from the White House press release— The President's Economic Plan: A Balanced Budget That Puts People First.

He just concluded a minute or two ago. Obviously, I was here on the Senate floor. I was not able to see the actual address, but I have before me—I feel like Johnny Carson—I have before me the actual press release that outlines how he is going to get to a balanced budget over 10 years. Now, it is interesting that he is going to take it over a 10-year period. You would think that balancing the budget over a 10-

year period would make it easier to balance the budget in the longer time to do it. That is not the case, however. Because of the demographic trends in our society and the entitlement nature of a lot of Government programs we have, spending actually kicks up higher and goes up faster in the years 2003, 2004, and 2005, those last 3 years of the 10-year budget, and therefore it is actually harder to get to a balanced budget over a 10-year period. In fact, while it takes under our proposal here that passed the Senate roughly $1.2 trillion in spending cuts and interest savings to get to a balanced budget in 7 years, it takes about $1.6 trillion in spending cuts and interest savings to get to a balanced budget over 10 years. So of this $1.6 trillion, what does the President come up with? Well, here are the specifics.

And before I put this number up, we have had 25 days, counting yesterday, 25 days with no proposal to balance the budget from President Clinton. Now, we are waiting to see whether I have to put 26 up or whether the proposal put forward by the President tonight meets the straight-face test, whether the President actually has put forward a budget that accomplishes balance. This is the operative word—balance the budget, not plan for economic future, not Putting People First but balance the budget in 10 years.

So we are going to withhold judgment for now as to whether the President with the specifics he has offered tonight balances the budget. That is not to say that once he releases his document, which I am sure they are working on feverishly over at the White House, once they release this document and have all the specifics down that we will not give the President credit, but all we have is the information presented to us at this time, and since the Senate is recessing we have to go only by the information that the President provided us. So we will hold 26 here for a minute.

Here is what the President has provided in his plan. First steps toward health care reform while strengthening the Medicare trust fund—strengthening, not solving the problems with the Medicare trust fund. The President's plan calls for half the Medicare savings of the Republican plans ($130 billion).

For those of you who do not have calculators at home, do not worry. I will in fact be keeping track of the savings here, and I will make sure we add them up and we do get the numbers the President needs to balance the budget.

So it is $130 billion in savings for the President for Medicare cuts, but there would be no beneficiary cuts. He does not explain how he does that, but he suggests that he can do it without cutting beneficiaries. Fine, $130 billion in deficit reduction.

Second is $55 billion in Medicaid cuts. Again, that is a third of the level of what the Republicans proposed in our budgets. That is $55 billion plus $130 billion for the President.

Then he goes on and talks about protecting investment in education and training. That is paragraph 2 here in his press release. And he says, ''The President's plan puts people first by preserving investments in education and training, with significant increases in Head Start, Goals 2000, AmeriCorps, student aid, a new GI bill of rights for workers that increases training through skill grants, and a $10,000 education tax deduction.''

Now, there is nothing in here that reduces the deficit. In fact, everything in here increases the deficit and increases spending. We do not know how much, though. He does not tell us exactly how much. All we know is that there are increases in spending in the President's budget that look to be, with a $10,000 education tax deduction, potentially a significant amount of money, but again we do not know, we do not know whether any of these are new entitlements and how they will grow in the next 10 years. But we do see, I suggest, significant increases here, but we cannot account for those.

Next is a tax cut targeted only to working families. Again, no deficit reduction here. We are talking about the President's middle-income tax cut which he has proposed, which is the education deduction, tax credit for children and expanded IRA's.

Under the President's original proposal when he proposed his budget in February, that plan cost about $65 billion over 5 years. Over 10 years, that number, you would think, would be double that but, in fact, because of the way it is back-end loaded—he back-end loads that tax cut—it is actually dramatically more. We do not have a score in on that, but I suspect it is at least $150 billion, or more, in costs.

So on the one side you have $130 billion—try to keep this in your mind—on Medicare, $55 billion on Medicaid, and on the other side you have a questionable amount of money on education and about $150 billion plus in tax cuts. OK? This is not exactly the straight road to a balanced budget, but we are not done yet.

No. 3, components of savings for the balanced budget. Here is where we really get down to the brass tacks and get serious about balancing the budget. He restates his Medicare and Medicaid savings. I hope he does not count them twice because they appear twice in this document, but they are here for repetition sake. Welfare reform has savings of $35 billion—$35 billion. That now goes on the cut side, and we add that to the $130 billion and $55 billion. By the way, that is half of what the Republicans have proposed in the budget resolution that passed the Senate.

Corporate contributions of $25 billion over 7 years through a bipartisan effort to close corporate loopholes, special interest tax breaks and unwarranted corporate subsidies. OK, that is another $25 billion on the tax-increase side, but deficit reduction side.

Now we go to the last page of these three pages. Other than education, research and selected investments in the environment and other areas, domestic discretionary spending is cut by over 20 percent in real terms near the end of the plan—near the end of the plan.

So what he is suggesting is that over 10 years, we will take the number of about, I think it is, $270 billion today is what we spend on discretionary spending overall. Obviously, a chunk of that is education and other things he says is taken off the sheet and says we are not going to cut that. I do not know how much that is. I am working off the back of an envelope here. You might not be able to tell that.

We have a number less than $270 billion that he is going to reduce by 20 percent over 10 years. So we are going to get from $270 billion roughly down to $215 billion over 10 years.

The Republicans, in their budget, I think, get down to over 7 years about $225 billion. So they only take it down a little more than where the Republicans already had it, which is not a substantial savings. I do not know how they do that. I would suspect you are going to see savings generally in the area of around $75 billion overall. So we will give him that amount of money roughly, although we do not know the specifics. I think that is a generous allocation.

Finally, defense outlays in the President's plan are above both the House and Senate levels. Let me repeat that. Defense outlays in the President's plan are above both the House and Senate levels in fiscal year 2002. So he is talking about higher defense spending than what we passed here. Yet, savings are achieved by keeping budget authority constant from 2002 to 2005. In other words, we are going to spend more money the first 7 years but less money the last 3 years, and that will offset the spending here.

What it sounds like is defense is a wash. In other words, we are not going to spend any more or less; there is no real reduction in spending in defense. So how do these numbers add up, because that is it, there are no more specifics on how the President gets to a balanced budget.

I remind you, going back to the beginning of this talk, the President, in order to balance the budget, has to come up with spending cuts and interest savings that total $1.6 trillion over 10 years, and they have to be scored by someone other than someone who is working for the Democratic National Committee, someone who is independent, like the Congressional Budget Office, to look at this and score it as to whether these are real: $1.6 trillion, specified cuts in the Clinton bill—specified—$245 billion out of $1.6 trillion, $245 billion are specified.

Another $75 billion, I figured out, in discretionary spending could be cut. That is a rough estimate. So we will give the President the benefit of the doubt of $315 billion in spending cuts

and offset that with at least $150 billion in increases because of his tax cut, which gives you a net of about $165 billion.

Tonight, the President of the United States went on national television for 5 minutes with a plan that he submitted—here—to all of us and gave us a little cheat sheet on what he was going to talk about that cuts 10 percent of what he needs to get to a balanced budget over 10 years—10 percent. He puts forward 10 percent of the cuts he needs to balance the budget over 10 years.

I do not know if that meets the straight-face test. I do not think it does. I think when the President of the United States comes and says he is going to present an economic plan to balance the budget over 10 years, then comes before the American public on national TV, which the Vice President was able to ascertain for him, and then comes up with only 10 percent of the cuts necessary to get to a balanced budget, I am not too sure that this number ''6'' does not belong up on that board. I am not too sure that the President has come to the table yet with a serious plan that scores as a balanced budget.

Certainly, the details that he has offered and the notes that have been haphazardly slipped to me by my staff as he listened to his speech certainly do not give me any further indication, any further specifics about how the President accomplishes this goal. But to come forward on national television—on national television—saying he is going to balance the budget and come forward with 10 percent, that is an insult. It is an insult. It is an insult to all of us who sit there and work hard to try to make this happen, and it does not do much to elevate the stature of the President's office.

If you are going to come to the American public, if you are going to say you will play straight, if you are going to be specific on how to do it, do not try to finesse them again. Someone is watching. Someone is going to pay attention to the details, and you are not going to be able to keep fudging the fact that you are not coming forward with the tough decisions. And stretching it out over 10 years, you will find, does not make it any easier.

So tonight I have to put up number ''6.'' Five-minute speeches on national television do not count. Facts, specifics, documents, vision, plans count. All of those were in the Senate-passed budget resolution, every one of them. They changed the dynamics of Government. They provided vision of how we are going to challenge the problems, to take those challenges on in the future. We solve the Medicare trust fund problem. The President does not do any of those things. He felt the pressure.

I do not know whether he started off his speech saying, ''Here I am,'' in response to my talks on the Senate floor, but if he did, he came up short. He, in fact, is not found yet. We still do not know where the President is when it comes to putting forth measures to balance this budget.

And so while there are many other things I would like to do at 9:20 in the evening than come and talk about the President and his inability to lead this country, I will continue to come back until I get the specifics of how the President is going to put forward a plan to lead this country into the future. And to date, day 26, the President is still absent without leadership, and has still refused to come to the table.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Under a previous order, the Senate would have stood in recess until 9 a.m. on June 14. Does the Senator from Connecticut rise to ask unanimous consent to speak?

Mr. DODD. Mr. President, I do. I ask unanimous consent that I may be able to proceed for 5 minutes.

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

## SUCCESSFUL EFFORTS AT DEFICIT REDUCTION

Mr. DODD. Mr. President, I did not intend to come on over to the floor, but I wanted to respond to some of the comments I heard being made about the President's brief remarks this evening on national television and the majority leader's remarks which followed the President's comments, the distinguished Senator from Kansas, Senator DOLE.

I know it is not typical at this kind of a moment to want to commend, I suppose, the leadership, but I want to do so. I thought the President gave a very fine speech this evening, and I want to commend the majority leader for his remarks.

One thing that is clear to me is that people in this country would like to see the people in this town put aside the partisan bickering and try to come up with some answers to a problem that has been growing over the last 15 or 16 years.

This President arrived in this town 30 months ago, having served as the Governor of a State, not unlike the Presiding Officer tonight in the Senate, and was not a party to the events which unfolded beginning in early 1980.

I noted earlier that this President for 30 months now has made a significant effort, and a successful one, in deficit reduction. For the first time in many, many years, going back to the Truman administration, we have now had 3 years of significant deficit reduction, $600 billion. We still have a long way to go to achieve that goal.

I looked at the candidates running for the Presidency, the announced candidates, and I am looking at 100 years collectively of experience in this town. Some go back to 1960; many go back to the 1970's. They were here as this mountain of debt was accumulated. So to point an accusing finger at this President as if somehow it was his fault for what has happened over the last 15 or 16 years I think is unfair.

Mr. President, the point is this: We can go through this process over the next 7 or 8 weeks or months and score our political points one on the other, and maybe one party or the other will prevail in the elections of November 1996, but if at the end of all of that we have not really done what the American public has asked us to do, then one party or one candidate or another may be successful, but the country will be that much worse off 9 or 10 months from tonight.

So I rise to commend the President for offering a proposal, laying one on the table which is different than what was passed in the House and the Senate, but does lay out some options for us to consider; hopefully, for some common ground to come around the issue of how we reduce this deficit and do so in a balanced and fair way so that the country moves forward.

Deficit reduction is a critically important issue. But the wealth of this Nation is not merely tied to just deficit reduction. It is also the investments we make. It is also the pace at which we achieve that deficit reduction.

Who pays in the process for trying to achieve that goal? The President this evening laid out a 10-year proposal rather than a 7-year proposal. He offers to cut Medicare by one-third the cuts that have been proposed by the budget that was adopted in this body and the other. He does so by suggesting that those cuts could come not from the beneficiaries but from providers and others.

I have my concerns about it, but I see it as a more moderate proposal as we try and beef up and shore up the Medicare trust fund.

The President has offered a tax cut. I, frankly, would not have any tax cuts over the next several years. I think, frankly, deficit reduction is a far more important goal. Incorporating the tax cuts in that mix, I think, is unwise.

But the President's tax cut proposal is some $66 billion over 7 years, rather than something between $250 and $300 billion over the same period. His tax cuts go toward middle-income people in this country, particularly those with children and those who have children of college age, to try and defer, or at least lessen some of those costs.

The President also suggests that we can do this, achieve this balanced budget, in 10 years, by cutting some 20 percent out of the existing programs. That, I am sure, will be a tremendous battle here over the coming months.

However, he has put a proposal on the table. He has extended the hand. He is not a Member of Congress. He is not the head of the political party. He is not a Governor. He is the President of our country. He will be so until January 20, 1997, if he is not reelected.

The President is leading. He is offering all—Republicans and Democrats in this body—an opportunity to put aside that bickering, to put aside that name-calling, and to come to the table and deal with America's problems.

People in this country do not wake up in the morning thinking of themselves as Democrats or Republicans, conservatives or liberals. They get up in the morning and think of themselves in terms of the problems they face—their jobs, their kids' education, their health care. Those are things that most Americans worry about—not the process in Washington.

They would like to see those Members elected to office to try and put aside some of that political campaign rhetoric, at least for a time, and wrestle with their problem.

The President has put an offer on the table, and BOB DOLE, to his credit, I think, has extended up to that offer, and has suggested that we might come together here and work out these differences.

I think the country was well served by both comments tonight, by the President's speech and by the majority leader's response.

I think all in this body have an opportunity now to reach that judgment of history and to step forward and try to solve this problem.

Stop pointing the fingers. Stop the accusing and name calling. Let Members go to work on the problems that we will all be judged, historically, as to whether or not we have the courage to meet the challenge.

I thank Members for the opportunity to share these few short comments.

Mr. SANTORUM. Mr. President, I ask unanimous consent we vitiate the previous order for the Senate to be in recess.

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

## UNANIMOUS CONSENT AGREEMENT—AMENDMENT NO. 1351

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Pressler amendment numbered 1351 be in order.

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

## RECESS UNTIL 9 A.M. TOMORROW

Mr. SANTORUM. Mr. President, I now ask unanimous consent that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 9:28 p.m., recessed until Wednesday, June 14, 1995, at 9 a.m.

## NOMINATIONS

Executive nominations received by the Senate June 13, 1995:

### DEPARTMENT OF JUSTICE

EDWARD SCOTT BLAIR, OF TENNESSEE, TO BE U.S. MARSHAL FOR THE MIDDLE DISTRICT OF TENNESSEE FOR THE TERM OF 4 YEARS, VICE CHARLES F. GOGGIN III.

### DEPARTMENT OF STATE

MICHAEL WILLIAM COTTER, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF TURKMENISTAN.

JAMES E. GOODBY, OF THE DISTRICT OF COLUMBIA, FOR THE RANK OF AMBASSADOR DURING HIS TENURE OF SERVICE AS PRINCIPAL NEGOTIATOR AND SPECIAL REPRESENTATIVE OF THE PRESIDENT FOR NUCLEAR SAFETY AND DISMANTLEMENT.

VICTOR JACKOVICH, OF IOWA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF SLOVENIA.

A. ELIZABETH JONES, OF MARYLAND, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF KAZAKHSTAN.

JOHN RAYMOND MALOTT, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MALAYSIA.

JOHN K. MENZIES, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF BOSNIA AND HERZEGOVINA.

KENNETH MICHAEL QUINN, OF IOWA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO CAMBODIA.

JOHN TODD STEWART, OF CALIFORNIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MOLDOVA.

### IN THE NAVY

THE FOLLOWING-NAMED NAVY OFFICERS TO BE APPOINTED PERMANENT LIEUTENANT IN THE JUDGE ADVOCATE GENERAL CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

LAWRENCE D. HILL, JR., 000–00–0000
BARBARA S. HUNDLEY, 000–00–0000
KRISTIN E. KEIDEL, 000–00–0000
BRIAN H. SULLIVAN, 000–00–0000

THE FOLLOWING-NAMED DISTINGUISHED NAVAL GRADUATES TO BE APPOINTED PERMANENT ENSIGN IN THE LINE OR STAFF CORPS OF THE U.S. NAVY, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 531:

STEWART L. BATESHANSKY, 000–00–0000
BRIAN C. BLUE, 000–00–0000
JAMES H. BOLIN, 000–00–0000
MATTHEW S. BURTON, 000–00–0000
MICHAEL S. FABEL, 000–00–0000
CHRISTOPHER HEWLETT, 000–00–0000
CHARLES T. HUBBARD, 000–00–0000
CHARLES B. JOHNSTON, 000–00–0000
TREVOR L. MILLWARD, 000–00–0000
PATRICK L. PFANZ, 000–00–0000
LAWRENCE E. SHAFFIELD, 000–00–0000
AMY M. WINTHEISER, 000–00–0000

THE FOLLOWING-NAMED U.S. NAVY OFFICER TO BE APPOINTED CAPTAIN IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 12203.

JAMES D. TALLEY, 000–00–0000

THE FOLLOWING-NAMED U.S. NAVY OFFICERS TO BE APPOINTED COMMANDER IN THE MEDICAL CORPS OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 12203:

JOHN H. EDMUNDS, 000–00–0000
OLEH HALUSZKA, 000–00–0000
DAVID L. WILKEY, 000–00–0000

THE FOLLOWING-NAMED U.S. NAVY OFFICER TO BE APPOINTED COMMANDER IN THE LINE OF THE U.S. NAVAL RESERVE, PURSUANT TO TITLE 10, UNITED STATES CODE, SECTION 12203:

JOSEPH M. MARLOWE, 000–00–0000

### IN THE AIR FORCE

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR PROMOTION IN THE RESERVE OF THE AIR FORCE UNDER THE PROVISIONS OF SECTIONS 12203 AND 8379, TITLE 10 OF THE UNITED STATES CODE. PROMOTIONS MADE UNDER SECTION 8379 AND CONFIRMED BY THE SENATE UNDER SECTION 12203 SHALL BEAR AN EFFECTIVE DATE ESTABLISHED IN ACCORDANCE WITH SECTION 8374, TITLE 10 OF THE UNITED STATES CODE.

#### LINE

*To be lieutenant colonel*

MAJ. GAYLE W. BOTLEY, 000–00–0000
MAJ. STEPHEN D. COTTER, 000–00–0000
MAJ. NINA S. GREELEY, 000–00–0000
MAJ. KENNETH M. HATCHER, 000–00–0000
MAJ. GARY T. MAGONIGLE, 000–00–0000
MAJ. CHARLES W. MANLEY II, 000–00–0000
MAJ. MICHAEL J. MCDONALD, 000–00–0000
MAJ. PETER W. PALFREYMAN, 000–00–0000
MAJ. RONNIE W. PERRY, 000–00–0000
MAJ. JAMES V. QUEEN, 000–00–0000
MAJ. JUSTE R. SANCHEZ, 000–00–0000
MAJ. SAM E. THOMAS, JR., 000–00–0000
MAJ. VICTOR L. THREATT, 000–00–0000
MAJ. CHARLES C. VADEN, JR., 000–00–0000
MAJ. NORMA E. WELSH, 000–00–0000
MAJ. WOODIE P. WHITE, JR., 000–00–0000

#### CHAPLAIN CORPS

*To be lietenant colonel*

MAJ. ROBERT C. NORTON, 000–00–0000
MAJ. STEPHEN R. SUTTON, 000–00–0000
MAJ. LARRY E. WRIGHT, 000–00–0000

#### NURSE CORPS

*To be lieutenant colonel*

MAJ. CHERIE L. FITZPATRICK, 000–00–0000
MAJ. STEPHEN S. FLOWERS, 000–00–0000
MAJ. JON E. ROGERS, 000–00–0000

## CONFIRMATIONS

Executive nominations confirmed by the Senate June 13, 1995:

### DEPARTMENT OF THE TREASURY

JOHN D. HAWKE, JR., OF NEW YORK, TO BE UNDER SECRETARY OF THE TREASURY.

LINDA LEE ROBERTSON, OF OKLAHOMA, TO BE A DEPUTY UNDER SECRETARY OF THE TREASURY.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

### U.S. POSTAL SERVICE

ROBERT F. RIDER, OF DELAWARE, TO BE A GOVERNOR OF THE U.S. POSTAL SERVICE FOR THE TERM EXPIRING DECEMBER 8, 2004.