HOUSE OF REPRESENTATIVES—*Friday, June 9, 1995*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. RADANOVICH].

DESIGNATION OF THE SPEAKER PRO TEMPORE

The Speaker pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
June 9, 1995.

I hereby designate the Honorable GEORGE P. RADANOVICH to act as Speaker pro tempore on this day.

NEWT GINGRICH,
Speaker of the House of Representatives.

PRAYER

The Reverend Douglas Tanner, Jr., Faith and Politics Institute of Washington, DC, offered the following prayer:

Almighty God, Creator of us all: We come before You on a day when the heat and humidity outside this Chamber tell us that summer is here, even though officially it has yet to arrive. We also know it is summer by the departure today of this year's page class, and we thank You for their work in the seasons past.

Grant us the capacity to discern with equal clarity the seasons of our own lives: the time to sow, the time to cultivate, the time to reap, the time to lie fallow. Help us to know when to water, and when to weed.

Help us to know good seed from bad as we choose what to sow in the fields of public policy. Enable our public leaders to appeal to what is noble in our nature, to our human dignity, to our sense of fairness, to our compassion, to our willingness to sacrifice, to our ability to forgive. Strengthen us to follow those who will lead. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The gentleman from Arizona [Mr. KOLBE] will lead the membership in the Pledge of Allegiance.

Mr. KOLBE led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Lundregan, one of its clerks, announced that the Senate had passed the following resolution:

S. Res. 131. *Resolved*, That the House of Representatives be notified of the election of the Honorable Kelly D. Johnston, of Oklahoma, as Secretary of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 735. An act to prevent and punish acts of terrorism, and for other purposes.

The message also announced that pursuant to Public Law 101–509, the Chair, on behalf of the Democratic leader, announces his appointment of John C. Waugh, of Texas, to the Advisory Committee on the Records of Congress.

TRIBUTE TO THE DEPARTING PAGES

Mr. KOLBE. Mr. Speaker, ladies and gentlemen, it is my pleasure once again to take the floor of this House at this time of year to say just a few words about the pages. This is their final day, and it is customary for us to say a word or two about the service that they have provided for us.

I will have an opportunity to say a few words to them this evening, because I am especially privileged and honored to have been chosen by them to be their speaker at their graduation or end-of-year exercises this evening, and I promised them that I would not speak for more than an hour and a half this evening, so perhaps if I say a few of the words here this morning, we can cut it a little short this evening.

I know that the pages have very mixed feelings about their departure. On the good side, they do not have to get up at 5:30 in the morning in order to get to school. They do not have to listen to more of these boring speeches on the floor of the House of Representatives. They do not have more flags they have to deliver to the offices.

But I know they also are going to be missing this wonderful learning environment that they have been in and, of course, leaving behind so many friends that they have made. But I can tell you, and I speak, as the pages know, with some experience, having served here as a page many years ago, all too many years ago. We will not name how many years ago it was, having served here as a page all those years ago.

I know that the friendships that you have made here will endure, will endure if you work at it, and I know the memories that you have of this will certainly continue. But, of course, it is the lessons that you learn from all of this that are important.

You have had an opportunity to see firsthand how government works. You have had an opportunity to see the good and the bad of this place, the good and the bad that are in people, whether it is in government, in the House of Representatives, or any place in our walk of life. The House of Representatives truly is the people's body, and it reflects in many ways the good and sometimes the bad that we see in our own society.

So I want to say thank you this morning to each and every one of you for what you have done to make our daily lives a little better.

I would be remiss if I did not particularly mention the two pages, and I am privileged to have two here this year, that have worked so hard and have been my pages, Francie Julien from Amphitheater High School in Tucson, and Nancy Grimm from University High School, and since they are mine, I mention them, but in mentioning them I am really mentioning each and every one of you for the wonderful jobs and the service that you have given us.

You really do do us a great service. You know, it takes a huge operation to make this place run, to keep it going. There are people that are all over this House of Representatives and this Congress of the United States, from the very rooftop of this building to the bowels of the building, that, in an unsung way, keep the place going every day, and you are part of that, you are a very visible part of it. You are visible to the public as you make your way around this building delivering the messages and the packages and doing the errands that you do. You are very visible to us here on the floor of the House of Representatives. You play a huge role in making our lives easier and making it work for us. And that is why you are so important to us in that sense.

But you are important to us in a much more important way, I think, that sometimes escapes the notice of you, and perhaps even of us. You are here as a daily reminder to us of what

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

this work that we do is all about, because you represent the next generation of America, and I think that we need to be reminded daily that the votes that we cast, the votes that we cast to make sure that this is a sound government, a sound society for the future, the votes that we cast are done not for ourselves but for our children, for the next generation, and you are the next generation. That is, after all, what this is all about, maintaining the future of our country.

So I wish you well in your endeavors in school next year and in the endeavors that go beyond that. Some of you, I suspect, well, I do not expect it, I guarantee it, there will be one or more of you among you that will be back here someday in the Congress of the United States serving in this body just as I have done, working as a staff person here on the Hill.

So I do not have to say do not forget us. You will not forget us. But you have to do the work of keeping up the friendships and of maintaining the contacts and relearning the lessons that you have learned from here, of maintaining the involvement and your concern in government.

You have a responsibility to take the lessons that you have learned here and will continue to learn throughout life and pass those lessons along to the next generation, for you, too, will be parents someday. You will have your own families, and that is the important, most important thing we do, not what we do here, not what we do in our workplace, but what we do in terms of passing the values of our society on to the next generation.

You have made a very good start of it, and I wish you all very well, and I am looking forward very much for the chance to talk to you again this evening.

Good luck, Godspeed, come back and see us.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of May 12, 1995, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. KOLBE) to revise and extend their remarks and include extraneous material:)

Ms. KAPTUR, for 5 minutes, today.

Mr. OWENS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Member (at the request of Mr. KOLBE) and to include extraneous matter:)

Mr. SKELTON in two instances.

(The following Members (at the request of Mr. KOLBE) and to include extraneous matter:)

Mr. ARCHER.

Mr. GOODLING.

ADJOURNMENT

Mr. KOLBE. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 10 o'clock and 11 minutes a.m.), under its previous order, the House adjourned until Tuesday, June 13, 1995, at 10:30 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1010. A letter from the Secretary, Department of Commerce, transmitting the semiannual report on the activities of the Office of Inspector General for the period October 1, 1994, through March 31, 1995, and semiannual management report for the same period, pursuant to 5 U.S.C. app. 5(b); to the Committee on Government Reform and Oversight.

1011. A letter from the Administrator, Environmental Protection Agency, transmitting the semiannual report of the Office of Inspector General covering the period October 1, 1994, through March 31, 1995, and the semiannual management report for the same period, pursuant to 5 U.S.C. app. 5(b); to the Committee on Government Reform and Oversight.

1012. A letter from the Chairman, Federal Trade Commission, transmitting the semiannual report on activities of the inspector general for the period October 1, 1994, through March 31, 1995, pursuant to 5 U.S.C. app. 5(b); to the Committee on Government Reform and Oversight.

1013. A letter from the Director, Office of Management and Budget, transmitting a report of activities under the Freedom of Information Act for calendar year 1994, pursuant to 5 U.S.C. 552(d); to the Committee on Government Reform and Oversight.

1014. A letter from the Inspector General, Resolution Trust Corporation, transmitting the semiannual report on activities of the inspector general for the period October 1, 1994, through March 31, 1995, pursuant to 5 U.S.C. app. 5(b); to the Committee on Government Reform and Oversight.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. MARTINI:

H.R. 1811. A bill to amend title 18, United States Code, to provide an additional aggravating factor for death penalty cases; to the Committee on the Judiciary.

By Mr. ARCHER (for himself and Mrs. JOHNSON of Connecticut):

H.R. 1812. A bill to amend the Internal Revenue Code of 1986 to revise the income, estate, and gift tax rules applicable to individuals who lose U.S. citizenship; to the Committee on Ways and Means.

By Mr. EHRLICH (for himself and Mr. RADANOVICH):

H.R. 1813. A bill to establish a Minerals Management Service within the Department of the Interior, and for other purposes; to the Committee on Resources.

MEMORIALS

Under clause 4 of rule XXII,

109. The SPEAKER presented a memorial of the Senate of the State of Louisiana, relative to memorializing the Congress of the United States to propose an amendment to the Constitution of the United States to prohibit burning of the U.S. flag; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 863: Ms. DANNER.

H.R. 1496: Mr. FALEOMAVAEGA, Mr. BRYANT of Texas, Mr. WOLF, Mr. TOWNS, Mr. MILLER of California, and Mr. DEFAZIO.

H.R. 1594: Mr. KOLBE and Mr. CHAMBLISS.

SENATE—*Friday, June 9, 1995*

(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:

Gracious God, there are five vandalizing words that confuse, hurt, and deplete. We hear these words spoken carelessly; we have said or thought them ourselves. These five words, "It won't make any difference!" cause discouragement, cut the slender thread of hope, and give us that bottomless inner feeling of frustration.

And then we come to prayer and we hear Your voice sounding in our souls, encouraging us to believe that we can make a difference. Help us to realize that You have all power and are ready to use us in the challenging relationships and heavy responsibilities we carry in the work of government.

We thank You that You have given us work to do that can be an expression of our worship of You. We have the privilege of spending our working hours in crucial matters that will make a difference for the future of America. Our work is not wasted, insignificant, or useless.

Today, as another week draws to a close and weariness threatens to invade, awaken us to the privilege of a new day filled with opportunities to serve You in our work. The vital telecommunications legislation is before us. Thank You for the care of Senators and staffs in drafting it and for thoughtful discussion and debate of it. Give us a fresh burst of enthusiasm. Help us to make our motto today five words of determination, "We are making a difference!" In the Name of Him whose grace has made all the difference. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

Mr. PRESSLER. Mr. President, for the information of my colleagues, this morning the Senate will immediately resume consideration of S. 652, the telecommunications bill.

Amendments are pending to the bill. Therefore, Senators should be aware that rollcall votes are expected throughout the day today and possibly as early as 10 a.m.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The PRESIDENT pro tempore. 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 pro-competitive, deregulatory national policy framework designed to accelerate rapidly private sector deployment of advanced telecommunications and information technologies and services to all Americans by opening all telecommunications markets to competition, and for other purposes.

The Senate resumed consideration of the bill.

Pending:

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

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.

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.

Hollings/Daschle amendment No. 1266, to clarify the requirements a Bell operating company must satisfy before being permitted to offer long distance services.

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

The PRESIDENT pro tempore. 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 (Mr. THOMAS). Without objection, it is so ordered.

AMENDMENT NO. 1265, AS MODIFIED, TO AMENDMENT NO. 1264, AS MODIFIED

Mr. KERREY. Mr. President, we now resume the discussion of S. 652, in particular the amendment before us, which is, as I understand it, the second-degree amendment offered by the Senator from South Carolina to the amendment from the Senator from North Dakota; is that correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. KERREY. I have not yet read, or we have not yet seen the amendment from the distinguished Senator from South Carolina. But I am going to make some presumptions here that I understand in general terms what it is about. I think in that amendment, there is a possibility of a compromise here, something that could satisfy both sides and get us to a point where we have a bill where we are going to get large numbers of people rather than a relatively smaller number of people supporting the legislation.

I believe that S. 652 in its current form, unamended, is not good for the American consumer. I will make it clear on that. I do not believe the American consumer will enjoy the full benefits of competition with S. 652 in its current form. The reason I believe that is that competition will not bring the kinds of benefits to the American consumer unless that competition comes from the bottom up, from entrepreneurs who have a chance to come to our households—100 million households total in the United States of America—and offer us packaged information services through two alternative lines coming into our home—a telephone line and a cable line.

If they have an opportunity to come into that environment and say, well, Mr. KERREY, we would like to sell you a packaged service of voice, video, or text; you are purchasing services today of $120 to $150 a month, and we can sell that to you for $75, $80, or $90 a month, in that kind of a competitive environment, the prices will come down and the quality is going to go up in the four big areas where households tend to see services.

No. 1, the price is going to go down for the switching services; that is, the movement of the bundled data from household to household or from household to business or vice versa.

We will see reductions in the cost of the manufactured hardware that is used in the home, regardless of what that hardware is, as the market tries to give better and better service.

We will see prices come down in the content—that package I described earlier—and we will see prices come down and quality come up in a range of services that household services buy.

My fear is that in a good faith effort to produce a means to replace the

VIII(c) test—I apologize for getting a little technical—what the committee did in a good faith effort to replace the VIII(c), test which I believe 18 members of the committee last year voted for in S. 1822 that was tied up late last fall, to replace that test, the committee came up with 134 individual things that the ARBOC, the local telephone company, has to have before they are allowed into long distance service.

That is kind of a summary, I believe, the distinguished Senator from South Carolina last evening gave as to how those 14 items did, in fact, replace this old test that was S. 1822, a bill that was supported by 18 members of the Commerce Committee last year.

The reason I say with respect that I do not feel that is adequate is, again, the Justice Department has the expertise of managing unprecedented movements from a monopoly situation to a competitive situation. We need that. That is a service that the people of the United States of America need. That is what this whole bill is about.

If we look at the title, title I is "Transition to Competition"; title II, "Removal of Restrictions to Competition"; title III, "An End to Regulation."

Mr. President, the only people in the U.S. Capital, the people's Capital, with experience in all these three of those areas is the Antitrust Division of the Department, approximately 800 people. We will not fall into the illusion that this is an enormous bureaucracy over there just busting at the seams with all sorts of people. It is approximately 800 people that run the Antitrust Division at Justice, and they managed the movement from a monopoly, AT&T, to our current competitive environment we have in long distance.

We are talking about doing the same thing with local telephone service. It seems to me, Mr. President, for those who want to survive this vote, who want to not just get a pat on the back as we walk out of here on final passage from those folks in industry that are out there hoping we vote the right way, whichever way that is, if we hope to get a pat on the back by our consumers, by our citizens, by our voters—and I would argue that is, in the end, the ultimate test—then we need to go to that agency that has experience in managing an unprecedented event, a movement from a monopoly situation at the local telephone service to a competitive environment.

This is going to be an extremely difficult thing to do. As I understand it, the distinguished Senator from South Carolina has proposed an amendment. I have not seen that amendment yet. He has proposed an amendment that might, in fact, solve problems that people have about having dual authority here. As I understand it, it may reduce the role of the FCC while giving the Department of Justice some additional authority. It seems to me that that is the right direction to go.

I want to walk through a little bit here this morning, and I will stop and yield afterward to anyone else that wants to talk on this issue.

There is, I think, legitimate concerns about what this will mean in terms of the time that is taken. In a time we are trying to get rid of regulation, which we are trying to do, we ought not have any unnecessary regulation.

I am prepared to support any person that has an amendment that says, here is something we will regulate that does not add any value at all; all it does is slow things down. I am prepared to vote for the elimination of any regulation that still is in the bill that might be unnecessary and that might add unnecessary costs.

The procedures for a Bell operating company entering into long distance—under the amendments proposed, the underlying Dorgan amendment, the Bell operating company would file an application to get into long distance. The Department of Justice and the Federal Communications Commission would review and proceed simultaneously. Their reviews go forward at the same time. We do not go to one and then to the other. We go to both simultaneously and each reviews something different. The Bell operating company has an answer within 90 days after application in accordance with a date certain established by Congress.

For Members that are wondering about how this will all work out and whether or not this is going to delay things, the language of the Dorgan amendment provides a date certain for an answer to be given by the Department of Justice to the Bell operating corporation applying for permission to get into long distance. The procedure is fast—90 days. It is fast.

We can set into the RECORD, with people who are experienced with how the courts work, if we need stronger colloquies filed so the courts understand that 90 days means 90 days, then we will do that and make certain that the time will be 90 days and that extensions are not granted for this particular procedure.

The standard for DOJ is clear, Mr. President. There is not ambiguity here. It is based on a well-established law applying both the Clayton Act and, by the way, the VIII(c) test under MFJ. The procedure will reduce litigation. Make no mistake about it. In my estimation, the existing law as written will encourage litigation and prolong the process. If Members believe it will do the opposite, come and say that it will do the opposite.

I am saying that my concern, as one Member that has one vote here, is that we come here and try to satisfy citizens—in this case, citizens as consumers—and I say that the existing law, in my judgment, will produce consumer confusion, it will produce consumer dissatisfaction, and it will produce problems that are going to cause Members who vote for it in its current form to say, well, I did not realize it would do that. Maybe we can come back in afterward and fix it with an amendment. Unfortunately, it is likely to be the very amendment we are considering today.

I said at the beginning that somewhere in the mix, somewhere in the mix, and I appreciate what we are basically doing is trying to figure out some way to continue the work that the senior Senator from Nebraska came up with this compromise language in committee. He is the one that has taken the lead on this. I understand the committee had a difficult time balancing and getting this stuff done.

Somewhere in the mix is a way for Members to give DOJ a role, perhaps limit and reduce some of the regulation that is at the FCC, and give those Members who are concerned about how we will manage this transition from monopoly to competition, give those Members that have that kind of concern some satisfaction.

I yield the floor.

Mr. DOLE. Mr. President, I wanted to inquire, if the regular order is called for, it is my understanding that the amendment I offered would be pending; is that correct?

The PRESIDING OFFICER. The majority leader is correct.

Mr. DOLE. That would be subject to a second-degree amendment?

The PRESIDING OFFICER. That is correct.

Mr. DOLE. I am not certain when we can agree on a vote. I know for the Senator from North Dakota, this is a central issue, the one we are debating now. I am not trying to crowd anyone. I want to try to make some headway this morning. If Members believe that Friday is Friday and we do not vote on Friday, nobody will ever be here on Friday.

We are going to have votes this morning, and I would like to accommodate everybody's request. I wonder if there is any objection—and I do not want to offend anyone—to calling for the regular order.

As I understand, the Senator from Pennsylvania has a second-degree amendment to my amendment. We are still trying to work out my amendment and the Daschle amendment, so we do not have one leader getting his adopted, the other not. We are trying to work that out.

Is there any objection if we proceed on that basis?

Mr. HOLLINGS. No objection.

Mr. DOLE. I ask unanimous consent to lay aside the pending amendment for Senator SANTORUM to offer an amendment.

Mr. KERREY. Reserving the right to object, I do not believe I intend to object. As I understand, the Senator is asking to proceed to the Santorum amendment with no agreement as to how long we will debate the Santorum amendment.

Mr. DOLE. Yes, we will lay aside the big amendment that the Senator is concerned about, Senator DORGAN's, and my amendment—just go ahead and offer it, period. That is all right.

Mr. DORGAN. Reserving the right to object. I would like to speak for a moment on the Department of Justice amendment, after which I have no objection to setting it aside and going to the Santorum amendment.

Mr. DOLE. I ask unanimous consent to lay aside the pending amendment for the Senator from Pennsylvania to offer an amendment with the understanding the Senator from North Dakota is going to be first recognized for a moment to make a statement.

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

The Senator from North Dakota is recognized for a moment.

Mr. DORGAN. Mr. President, the Senator from Nebraska, appropriately framed the issue of the role of the Department of Justice in the telecommunications legislation—or more appropriately put, the role the Department of Justice does not yet have in the telecommunications legislation and the reason many of us believe the legislation should be amended. For those who have not been involved in studying this legislation, I want to describe, again, why I think a role for the Justice Department is central to telecommunications legislation.

In 1934, when the Telecommunications Act was written originally, the issue was regulating a monopoly. Why must you regulate a monopoly? If you do not regulate a monopoly, a monopoly will do whatever it chooses to do to the American citizens and to the consumers. Regulating a monopoly was important in 1934.

Mr. President, we are rewriting that telecommunications law today in the Senate. The issue is no longer reregulating or regulating a monopoly; the issue is deregulation and competition. That requires a different legislative approach.

The breakup of AT&T into the regional Bell operating companies and the long distance companies, has created a substantially different kind of telecommunications network in our country.

In the long distance area we have robust, healthy, vibrant competition. Literally, hundreds of companies are involved in competitive efforts to market long distance services. These competitive efforts bring choice to consumers, generally at lower prices. We have seen a very substantial drop in charges for long distance services.

We have not seen similar circumstances in local service. This telecommunications bill must provide conditions under which local services will also have competition. The Bell operating companies are not now free to go out and compete with the long distance companies because they have a monopoly in most places in local service. It is not fair for the Bell operating companies to have a monopoly in local service, retain that monopoly and get involved in competitive circumstances in long distance service.

Most of the Bell companies want to get involved in the long distance business and this piece of legislation establishes the conditions under which that will occur.

The question before us is, When is competition in local service sufficient so that the Bell companies will be freed to provide long distance service? The piece of legislation before us establishes a role for the Federal Communications Commission to evaluate or to judge when that competition exists. Traditionally, that judgment role would be made at the Department of Justice. That is what the Justice Department does. That is their background and expertise. The Justice Department evaluates competition. It is the agency that deals with antitrust, monopoly, and competition issues.

The role of the Justice Department was, I assume, deliberately left out of this legislation for a number of reasons. I assume some people wanted there to be less aggressiveness in determining whether there is, in fact, real competition at the local level before the Bell operating companies are allowed to compete in the long distance area. One interesting point, last year, when the Senate Commerce Committee passed this legislation, and last year when the House of Representatives passed this legislation with 420 votes, a role for the Justice Department was in the telecommunications bill.

Last year the Justice Department was to have a full role in evaluating whether competition exists. This year, it does not. The question is, Why? What has changed? Nothing has changed. Consumers still need protection. Our responsibilities to make certain consumers are served the way they should be served has not changed. If we are moving from a period where we talked about regulated monopolies to a period where we are talking about deregulated competition, why should those who talked the loudest about deregulation not also be those who are most aggressive in making sure that competition really exists? Because competition, it seems to me, is the linchpin of a free market system.

If you have less competition, then your free market system does not work very well; it is not very free. If you have broader competition, robust, healthy competition, that is when the free market system works. In this legislation, the role of the Justice Department is to make sure that there is real competition before we release the Bell operating companies to get involved in long distance services.

I think a Department of Justice role is the most important issue we will deal with on the floor of the Senate in this legislation. It deals with literally hundreds of billions of dollars. The consumers are at substantial risk if we make the wrong decisions. I believe if we think our way through this issue as we construct this legislation on the floor of the Senate, we will reach the right result. And the right result clearly is for the Department of Justice to have a role.

The Senator from South Carolina believes it should happen. That is why he has offered an amendment. I believe it should happen that is why I offered an amendment. It is true we come at it in different ways, but they are, in many ways, not so far apart. And I am hoping in not too many hours we can reach some sort of common understanding between our amendments and resolve the differences we have. The technical difference is I am proposing what is called an VIII(c) standard, and he is dealing with a Clayton 7 standard. These standards are not so different. The best approach will be if we can, the Senator from South Carolina and others on both sides of this issue, find a way to merge these two approaches so the Justice Department retains a strong role in this legislation to protect the public interest. After all, protecting the public interest is what this legislation must do in the final analysis.

I appreciate very much the work and the words of my colleague from Nebraska, Senator KERREY.

I think the coalition of us, Senator KERREY, myself, Senator THURMOND, Senator LEAHY, Senator SIMON, and so many others, can amend this legislation before this debate is over.

If we do that, I think the winner will be the American people and the free market system in our country that works only when there is healthy and robust competition.

So I know we are going to set this legislation aside and go to a Santorum amendment, after which we will come back to it. There are a number of Members who wish to come to the floor and speak on this issue—Senator SIMON, Senator LEAHY, and others. I hope at the end of the debate we will have succeeded in amending the telecommunications bill to include a Justice Department role. I think it is important for the American people.

Mr. President, I yield the floor.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I ask unanimous consent to proceed as in morning business.

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

Mr. KERREY. Reserving the right to object. As in morning business? I thought the Senator was going to offer an amendment.

Mr. SANTORUM. I am still waiting to hear if there is an agreement on my offering the amendment. We are waiting to hear from Members on your side of the aisle.

Mr. KERREY. Did the majority leader not earlier ask? Is that what we are proceeding under? I thought we were going to——

Mr. DOLE. Mr. President, in response to the Senator from Nebraska, what we are trying to do is get an agreement on when we are going to vote, if we can get a 10:30 agreement to vote. Does anybody object to voting at 10:30? Otherwise, we will have a Sergeant at Arms vote. There is going to be a vote. Either vote on the amendment or have a live quorum and we will have a vote. It is up to the Senator from Nebraska.

Mr. KERREY. I just got this amendment. I am not going to agree to a time of 10:30 or any other time at the moment until I review this amendment.

Mr. DOLE. We had an agreement last night, I understand, with the Senator for 10 o'clock. He had the amendment in his hand last night.

Mr. KERREY. Mr. President, 10 o'clock—my understanding last night was we were going to take it up at 10 o'clock. I did not understand.

Mr. DOLE. Take it up at 9:15, vote at 10. Now we are going to take it up at 9:45, vote in 45 minutes. I understand it is a very technical amendment.

Mr. KERREY. Let me just continue what I am doing, which is reviewing the amendment which I am looking at now for the first time.

Mr. SANTORUM. Mr. President, I ask unanimous consent that I may proceed as in morning business.

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

The Senator from Pennsylvania.

Mr. SANTORUM. I thank the Chair.

LACK OF PRESIDENTIAL LEADERSHIP

Mr. SANTORUM. I rise to continue my vigil in pointing out the lack of leadership of the President in coming forward and offering a balanced budget resolution. I have been in the Chamber noting the days that have passed since the Republicans in the Senate brought to the floor a balanced budget resolution which lay out a chart, a plan in specific detail, of how we would achieve a balanced budget over the next 7 years. Since that time, the President has played coyly with this issue and unfortunately has not come to the table. In fact, he has done a whole lot of things that lead many of us to believe we are not so sure he is ever going to come to the table.

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

Mr. SANTORUM. I would be happy to yield for a question.

Mr. KERREY. Mr. President, I have not been in the Chamber before when the Senator brought this chart down. I am 51 years old, 51 years old. I spent 3 years in the world's largest, most powerful Navy. And I was taught, when I was in the Navy, the Commander in Chief, the President of the United States, deserved respect, and I never called the President of the United States by his first name in public, let alone on the floor of the Senate.

I just ask my colleague, do you feel this is respectful? You can disagree with the President, say you have something you do not like about what he is doing, but, for God sakes, "Where is Bill?" I ask my colleague——

Mr. SANTORUM. If I can reclaim my time, I would suggest to the Senator from Nebraska that the reason this chart was put forward really is as a response to some of the comments made by the Senator from Massachusetts about the previous President. You remember the famous statement repeated over and over and over again in the 1992 election, "Where is George?" How many times?

Mr. DORGAN. Mr. President, will the Senator yield?

Mr. SANTORUM. Excuse me. How many times did we hear that refrain throughout the course of the election? So I would just——

Mr. KERREY. Mr. President, will the Senator yield for a followup question on that?

Mr. SANTORUM. I would be happy to yield.

Mr. KERREY. Mr. President, is the Senator from Pennsylvania saying essentially then if somebody else does something that he finds objectionable, because the other person has done it, therefore it establishes a precedent and he does not mind doing it as well? Is the Senator from Pennsylvania saying he is following the example of the Senator from Massachusetts, that whenever the Senator from Massachusetts does something, even though he may object to it, he is going to cite it as a precedent? The question that I asked was, does he respect the Commander in Chief, the President of the United States, enough to call him by a name that is worthy of that respect, regardless of whether he disagrees? If you want to bring up these opinions, bring up these policies, bring up whatever you want to the floor——

Mr. SANTORUM. Mr. President, I would like to reclaim the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania has the time.

Mr. SANTORUM. I think you will find the dialog that has occurred in charting the number of days that the President has refused to offer a budget has been very respectful of the President in referring to him as the President.

The point of the chart is apparent.

I find it ironic that when this was going on by the Senator from Massachusetts, I do not remember anybody coming to the well, much less the Senator from Nebraska coming to the well, defending President Bush from those similar attacks. So I think it——

Mr. DORGAN. Will the Senator yield for a moment?

Mr. SANTORUM. Depends on whose ox is being gored as to who is offended by the remarks. I can appreciate the constructive dialog, but I think it is a suitable poster and will continue with it.

Mr. DORGAN. I wonder if the Senator would yield for a moment.

Mr. SANTORUM. I would be happy to yield for a question.

Mr. DORGAN. I appreciate it very much. The Senator refers to the Senator from Massachusetts. My recollection of the dialog "Where's George?" was that it occurred at a political convention. Is the Senator from Pennsylvania equating the floor of the Senate with a political convention?

Mr. SANTORUM. I am not equating the floor of the Senate with a political convention, no.

Mr. PRESSLER. If my friend will yield.

Mr. SANTORUM. I would be happy to yield to the Senator from South Dakota.

Mr. PRESSLER. I think in American society we refer respectfully to our President. I have heard various Presidents referred to by their first name on the Senate floor. I do not want to start digging it out. We have a friendly society. We refer to our President by first name or last name. We have good, healthy debate. I think that this whole objection here is nonsense. And I urge——

Mr. KERREY addressed the Chair.

Mr. PRESSLER. I urge the Senator from Pennsylvania to proceed.

Mr. SANTORUM. I thank the Senator from South Dakota.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania has the time.

Mr. KERREY. Parliamentary point.

The PRESIDING OFFICER. The Senator will state his point.

Mr. KERREY. I just heard my comment referred to as nonsense. Is that correct?

Mr. PRESSLER. I did not refer to the Senator's comment as nonsense. I just said this whole debate I think——

Mr. KERREY. Mr. President, I believe you have to look long and hard to find a Member who comes here and refers to the President by his first name, whether it is President Clinton, President Bush, or President Reagan. You have to look long and hard to find it. I appreciate the Senator from Pennsylvania thinks it is humorous. I do not.

Mr. DORGAN. Parliamentary inquiry.

The PRESIDING OFFICER. The time belongs to the Senator from Pennsylvania.

Mr. SANTORUM. I thank the Chair. He has done an effective job in moving this debate along to a vote at 10:30, and I appreciate the opportunity to have this discourse.

I think it may indicate that there is a sensitivity of the members of the President's party about the President's lack of leadership. And I understand that sensitivity. I understand that there may be justifiably some embarrassment about the lack of leadership by this President and jumping into his defense on something other than the substance of what we are discussing here.

We are not discussing substance in this little interplay. We sort of got off the track. Let us talk about the substance. The substance is that I have to put—I did not get a chance to get to the floor yesterday, but I have to put now "22"—22 days with no proposal to balance the budget from the President.

I will show you the chart I had the other day that was in the Washington Times. And again I understand the embarrassment of the other side on this issue. I understand they are a little sensitive about this because I am sure it is something I would not be proud of if it was my President on the Republican side.

But here is what Michael McCurry in a dialog with the reporter from the Washington Times said about the balanced budget amendment and the President on Larry King earlier this week suggesting that he may have a balanced budget resolution. The question was:

Where does President Clinton stand on writing his own budget now?

The answer from the press secretary:

As he indicated last night in his television interview, he's prepared to contribute his ideas to the budget at the appropriate time.

Washington Times question:

What does that mean?

Michael McCurry, White House Press Secretary:

It means we're ducking the question for now.

"We're ducking the question for now." The President of the United States, who has the responsibility to lead this Nation, is ducking the question for now.

I understand the embarrassment. I understand the sensitivity that many Democrats in this Chamber have about a President who is ducking the question, who is ducking the issue, who is refusing to lead, who is taking a back seat to all domestic policy in this country as we work here in the Congress to get it done and work, as we see in this case, on a bipartisan basis to get it done, but again without the leadership of the White House. Here we are debating probably one of the most important pieces of legislation that we are going to get a chance to debate that is going to affect our economy for a long, long time. We have very important fiscal matters to be concerned with here in getting our budget in order and tax policy and other Government program policies like welfare. But when it comes to regulating the private sector, this bill is probably as important as ever and the President has not been offering his own telecommunications bill, not putting forward leadership on that area, basically standing back and sniping, saying, well, I do not like this or I do not like that.

But where is the leadership? Where is the leadership on welfare reform as he goes around the country talking about how the Republican plan is mean spirited and terrible, and yet he has offered no plan this year. The plan he offered last year was cast aside by his own Congress, the Democratic Congress, as a joke, as irrelevant, as a nonstarter, as not even meeting the straight-faced test of incremental reform.

And so we have a President on that major issue domestically, who has just taken a walk and now this week he trots out the veto pen, on what? On reducing the deficit. On reducing the deficit, on a bill that was bipartisan, that was signed. This bill was signed on by the ranking member of the Appropriations Committee on the Democratic side as well as on the Republican side and passed with over 60 votes in the Senate, and he vetoed it.

I have to quote the Senator from Oregon, Senator HATFIELD, who came to the floor during the debate and said in his tenure on the Appropriations Committee, which spans six Presidents—six Presidents—he has never been in a conference committee where the President of the United States did not send a representative to negotiate the conference report. Every President has always sent a member of his staff to sit in the conference committee when they are drafting the report, to negotiate the final deal so we could settle it. The President did not send anybody. He said that is the first time in his history on the Appropriations Committee.

Now, there is a complete abdication of leadership. And so after an honest bipartisan effort was put together in the conference report, voila, the President decides it is not good enough for him even though he had no input into the process. I think it just goes to show you that what we have is a President who has decided to start running for the 1996 election and forget about serving in the office of the President. The whole concept now is just simply to run for office, to run against the Congress, not to offer anything, because if you offer anything, then you can be held down to specifics and people can criticize you. If you just criticize the other side, well, then all you do is pander to the different groups that you have to get to get elected.

And that is what is going on here. There is no substance coming out of that White House whether it is telecommunications, whether it is welfare, whether it is rescissions, whether it is balancing the budget. It is a continuation of, as the majority leader so eloquently said, the a.w.o.l. strategy of the President, absence without leadership. I think we should demand better.

And so I have set myself on this mission of coming here. I try to get here every day, but sometimes because of the floor schedule and the business we have at hand, I have not had a chance to do it every day. But I get here just about every day and put up the chart and count. I have been informed by my staff that we have, I think it was, 135 days between the time——

Mr. DORGAN. Parliamentary inquiry, Mr. President. Is the morning business time requested 5 minutes?

The PRESIDING OFFICER (Mr. ABRAHAM). There was no limit placed on the morning business.

Mr. SANTORUM. Mr. President, so I will probably have to have another little doohickey over here so we can put the "1" here, because it will be 135 days where the President is not going to offer a bill.

Again, he made comments on the Larry King show earlier this week that he was going to come up with a plan. He had talked about a plan that was going to balance the budget. This was, I think, day 6. He talked about a plan that was going to balance the budget over 10 years. That was his mission; that he was going to come up with that.

I did a little homework and found out that the last plan that was around here to balance the budget in 10 years that was offered never actually came to the floor of the House, but it was put together. It was by the chairman of the Budget Committee at the time. The chairman of the Budget Committee at that time was Leon Panetta, now Chief of Staff at the White House. But at the time of putting this budget together in 1991, he was chairman of the Budget Committee. This was after the Bush budget battle of 1990, and he thought it would be responsible.

I give him credit for this, because I was on the Budget Committee at the

time and worked very closely with then Chairman Panetta. I had the utmost respect for him and his ardor in putting forward plans to put this country back on sound fiscal footing. I was not always in agreement with how he did it, but I know then Chairman Panetta really had a strong motivation to deal with these problems, face up and to do it in a way that was honest, no gimmicks. This was a legitimate attempt by then Chairman Panetta to deal with these issues.

I found it ironic that when he actually put the document together—it was in late 1991—he not only did not even bring it up in the Budget Committee, but he was roundly criticized by those on his side of the aisle, so he pulled it down.

I must tell you, it was a budget to balance the budget over 10 years. There were some interesting points in it. What you find is that, very much like the Republican budget that was put forward and passed by the Senate and the House, it called for reductions in growth in entitlement spending. It called for reductions in growth in Medicare. It called for reductions in growth in Medicaid. It called for reductions in growth in Federal retirement programs. If you go on down the list on what the Republicans are now being roundly criticized for, the Panetta budget in 1991 was very similar in respect, maybe not to degree, but certainly similar in the programs that it went after, the recognition of where the problem was, and focused on entitlements as the biggest area for resolution of that problem.

The other interesting thing is that only two-thirds of the deficit reduction was achieved as a result of spending reductions. Two-thirds were achieved through spending reductions. The other one-third of deficit reduction was achieved through a tax increase. A little over $400 billion in new taxes, not specified, but new taxes that were going to be placed on the American public.

Maybe it goes back to the reason why the President has been so shy about offering this or bringing to light this 10-year budget. I am of the opinion that maybe what the Chief of Staff of the White House did was rummage through some of his old budget files when he was Budget chairman or have someone dig up his 1991 proposed budget and offered that to the President: "See, Mr. President, we can do it."

I know again how concerned the Chief of Staff is about the budget deficit and how honest he was in dealing with that. I believe he has been a voice in the White House saying, "Let's be responsible. Let's go out and show how we are going to do it, and let's bite the bullet like the Republicans have in the Congress, and lead this country into the future. Mr. President, here was my plan to get there. You should look at it."

So what the President probably did was read it and probably voiced he has a plan he is looking at, a 10-year plan, to balance the budget. But it, unfortunately, contains another big tax increase. This tax increase would actually pale by comparison to what the President and the last Congress passed in 1993. This was, as I said before, close to $½ trillion dollars in new taxes on the American public to solve this problem.

I think if you looked at the debate during consideration of the budget resolution, there certainly was not a fervor to go out and raise taxes. I know there were a couple of Members who voiced that concern, but frankly, that sentiment was roundly dismissed by both sides of the aisle as something that was not only not in the public's interest but certainly not in the interest of the economy.

If we look now at what is going on with the economy and the effect of the 1993 tax increase on the economy and the fact that we had the largest ever payment of taxes in April, the largest amount of money ever written to the Internal Revenue Service at tax time was this last April where they sent an enormous amount of money—I think the number is around $20 billion in tax payments paid over what the previous record was—some economists are suggesting that is one of the reasons we may be seeing the slowdown now, because that tax time and that tax increase drew so much money out of the economy that it had the dampening effect of reducing the rate of growth and possibly even spinning us into a recession.

So I think everyone realizes that tax increases are not the way to deal with the budget deficit. I think we saw from the debate just a few weeks ago—I do not remember an amendment that called for a tax increase—that in fact suggested we should solve the problem by instituting new taxes.

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

Mr. SANTORUM. I will be happy to yield for a question.

Mr. EXON. My question of the Senator from Pennsylvania is simply that we have, as I understand it, very important business to transact. Can the Senator advise me as to how long he intends to hold the floor on the matter that we have heard from him on several occasions?

Mr. SANTORUM. I expect I will be talking for a few more minutes. I know the leader would like to get a vote and is seeking a unanimous consent agreement to get a vote on a——

Mr. EXON. If I might, I simply advise my colleague, as I understand it, the Republicans have a golf game this afternoon. I am sure that is a high-priority item. But this measure before us, which I would like to get to, is a very important piece of legislation for America.

Mr. SANTORUM. Mr. President, I reclaim the floor.

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

Mr. SANTORUM. I do not know anything about that. I have some very pressing business of my own which, hopefully, can wait. My wife is expecting our third child, and we are hoping that will come tomorrow. We are very anxious about that. Things are looking good. I would like to be home tomorrow. But if Senate business calls, Senate business calls, and I will be here if I need be.

I know what we would like to do is proceed on some of these amendments. I have these notes passed to me saying no one wants to agree to vote on anything; we want to stall and delay.

Mr. PRESSLER. If my friend will yield, I think what is going on, Senator DOLE is trying to get an agreement for a vote at 10:30 and has been unable to do so. But I say respectfully to everybody, when I was a lieutenant in the Army—a mere second lieutenant—LBJ was referred to affectionately, at least by my superiors, as "LBJ."

Also on this floor I heard the term "Reaganomics" used a great deal back at the point when it was thought not to be popular. I am very respectful, as I am sure my friend is, of the President of the United States.

Let me say, whether it is Ike, FDR, LBJ, Reaganomics, Bush-whack—I have heard all these terms around the Senate over the years. I just want to point that out because I am very respectful, as I am sure the Senator from Pennsylvania is.

Military service was mentioned. When I was a second lieutenant, we used to affectionately and supportively refer to LBJ as LBJ. Maybe we need a new form of rules because past Presidents have been referred to in a variety of ways on the Senate floor.

Mr. SANTORUM. I thank the Senator.

Mr. KERREY. Will the Senator yield for an explanation? I say to my colleague——

Mr. SANTORUM. I will not yield.

Mr. KERREY. The Senator brings an amendment to the floor and then stands up for a discussion. It should not be a surprise the amendment is being delayed.

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

Mr. SANTORUM. Thank you, Mr. President. I will quickly wrap up my remarks, and, hopefully, we can move to the vote soon.

In response to some of the comments, I know this amendment was made available last night, and it is really a minor, technical amendment. I hope that is something we can agree to down the road.

I think it is important. I understand telecommunications is important, and if we can get agreements, we can move forward on it. But this is also important. The role of the President in this country over the next 18 months, and whether he is going to be a leader of this country in moving forward on the domestic agenda, whether it is telecommunications or balanced budget or welfare reform, or a whole host of other areas, is important.

The Presidency—an office I respect—is important to this country. In fact, that is the reason I am here, because I think it is important. I think it is necessary for the President to step forward and offer suggestions, to lead the country. If I did not think it was important, if I did not think the President had a role, if I did not think the President was in fact the leader of the free world, then I probably would not be here. He would be like any other American who did not have to participate in the process.

Well, he was elected to participate in the process; he was elected to lead this country; he was elected to change this country. What he has done is elected not to participate. I think we need to point that out. We need to continue to point that out until he elects to participate.

So I will be back and I will talk about the number of days with no proposal to balance the budget from President Clinton.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

Mr. SANTORUM. Objection.

The PRESIDING OFFICER. Objection is heard.

The clerk will continue calling the roll.

The legislative clerk resumed the call of the roll and the following Senators entered the Chamber and answered to their names:

Abraham	Kerrey	Santorum
Hollings	Pressler	

The PRESIDING OFFICER. A quorum is not present.

The clerk will call the names of the absent Senators.

Mr. SANTORUM. Mr. President, I move to instruct the Sergeant at Arms to request the attendance of absent Senators, 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 Pennsylvania. The yeas and nays were ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. ASHCROFT], the Senator from Georgia [Mr. COVERDELL], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Alabama [Mr. SHELBY], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. SPECTER], and the Senator from Alaska [Mr. STEVENS] are necessarily absent.

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

Mr. FORD. I announce that the Senator from California [Mrs. BOXER], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Georgia [Mr. NUNN] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of a funeral.

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

The result was announced—yeas 80, nays 8, as follows:

[Rollcall Vote No. 246 Leg.]

YEAS—80

Abraham	Feingold	Lieberman
Akaka	Feinstein	Lott
Baucus	Ford	Lugar
Bingaman	Frist	McConnell
Bond	Glenn	Mikulski
Bradley	Gorton	Moseley-Braun
Brown	Graham	Moynihan
Bryan	Grassley	Murkowski
Bumpers	Gregg	Murray
Burns	Harkin	Packwood
Byrd	Hatch	Pell
Campbell	Hatfield	Pressler
Chafee	Heflin	Pryor
Coats	Hollings	Reid
Cochran	Hutchison	Robb
Cohen	Inhofe	Rockefeller
Conrad	Inouye	Roth
Craig	Jeffords	Santorum
D'Amato	Johnston	Sarbanes
Daschle	Kassebaum	Simon
DeWine	Kerrey	Snowe
Dodd	Kerry	Thomas
Dole	Kohl	Thompson
Domenici	Kyl	Thurmond
Dorgan	Lautenberg	Warner
Exon	Leahy	Wellstone
Faircloth	Levin	

NAYS—8

Bennett	Kempthorne	Nickles
Breaux	Mack	Smith
Grams	McCain	

NOT VOTING—12

Ashcroft	Gramm	Shelby
Biden	Helms	Simpson
Boxer	Kennedy	Specter
Coverdell	Nunn	Stevens

So the motion was agreed to.

The PRESIDING OFFICER. With the addition of Senators voting who did not answer the quorum call, a quorum is now present.

The Senate will come to order.

The majority leader.

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

Mr. DOLE. Mr. President, let me indicate this is the first time we have had a vote like this all year. I do not like these kinds of votes because it punishes people who are not here for no good reason, but we could not get an agreement to vote on an amendment and, as I understand it, we are not going to get any time agreement on any amendment.

The managers have been doing an excellent job, I want to indicate, both to Senator PRESSLER and Senator HOLLINGS. I would like to complete action on this bill. It is a very important bill. No one is trying to rush it, but if we cannot get an agreement on a technical vote, I do not know what other recourse there is but sometime today to file cloture, have a pro forma session tomorrow, and then have a cloture vote on Monday around 5 o'clock to see if we cannot speed up movement of this bill.

If there is a willingness to agree to vote on the very important amendment offered by Senator DORGAN and Senator THURMOND from South Carolina, even at 5 o'clock on Monday, if we could agree to vote at 5 o'clock on Monday, agree to vote on the Santorum amendment here in the next 30 minutes? Failing that, we will have no recourse. Under the order, as I understand it, the Senator from Pennsylvania will be recognized to offer his amendment. We can have a vote, move to table the amendment, vote against tabling, and we can have another vote and another vote. But we do not make any progress.

But if the Senator from Nebraska is determined, as I believe he is, that we will not have any agreements or any votes, then we will just have to have some procedural votes between now and 2 o'clock.

If there is any inclination on anybody's part to make any kind of agreement, certainly I am prepared as the leader to try to accommodate all of my colleagues, many of whom are not here today, and many of whom would like not to be here today.

But, having said that, I yield the floor.

Several Senators addressed the Chair.

Mr. KERREY. Mr. President, if I may respond, what transpired here this morning was we were debating the second-degree amendment offered by the Senator from South Carolina to the underlying amendment offered last night by the Senator from North Dakota. We had a short period of debate last night.

We came in here early this morning. We had just begun the debate and the Senator from Pennsylvania came to the floor, I understood with an amendment, and asked for unanimous consent to go into morning business.

I did not, in good conscience, in good faith to a colleague, ask for any time limitation.

Then the distinguished Senator from Pennsylvania came—and not for the purpose of talking for a short period of time and then going to his amendment—with a very provocative, very effective, but very provocative political appeal against the President of the United States, to which I responded; to which I was quite willing to respond at an even longer time and had no opportunity. I had a very short exchange with the Senator from Pennsylvania on that issue.

I laid his amendment aside, which I think is appropriate for me to do. He has provoked an argument not on his amendment but on another issue. I did not choose to do that. He chose to come to the floor and, instead of addressing his amendment, provoked a debate on another subject. I laid that amendment aside and began to prepare my remarks to address the subject that he chose.

That is what happened here this morning. As to the underlying amendment, it is not that I am unwilling to set a time. I am not trying to filibuster this, I truly am not. I believe the differences between, in particular, Senator DORGAN and Senator THURMOND and myself, are not very far and there might be possibility for an agreement here on this particular proposal.

I heard the Senator from Arizona earlier, when he got up and made his opening remarks on this bill. He and I are not that far apart as to what we think the regulatory structure ought to be. I truly am trying to improve this bill. I am not trying to stop it. I am not trying to kill it. I am not trying to filibuster it indefinitely.

I would agree here this morning, if the Senator from Pennsylvania wants to lay his amendment down and you want to table it, I would like a short period of time at least to describe how I view this particular amendment in the brief period of time I have had to look at it.

Mr. DOLE. I certainly have no objection. I am not indicating any disagreement with the Senator from Nebraska. He has every right he wants, and has exercised his right.

I wonder if we might agree that there would be—the Senator does not want a vote up or down on the amendment, right? Will the Senator from Nebraska let us vote up or down on the amendment after 30 minutes of debate equally divided?

Mr. KERREY. What I am asking for, they came over to me earlier and said that the distinguished majority leader was going to table, and what I had asked for as opposed to putting us into a quorum call was just a little bit of time to offer some comments on the amendment itself. I do not want to agree to an up-or-down vote on it. I really have not had time to look at the amendment that carefully, but I was just with respect asking for a small period of time to make some comments on the amendment.

Mr. DOLE. I am not managing the bill, but I just suggest that maybe we vote at 11:30, and the Senator from Nebraska have half that time and the other half would be divided——

Mr. KERREY. I say to the majority leader, I would agree not to a time limit for an up-or-down vote, but I would definitely—I am asking if the Senator would agree to a unanimous consent that would give me 10 minutes to comment prior to a tabling motion.

Mr. DOLE. And then if the motion to table is not successful, would the Senator let us adopt the amendment?

Mr. KERREY. The answer is no. I say to the majority leader, I came—the distinguished Senator from Pennsylvania gave me his amendment. I was reading it over, and he got up and he provoked me. There is no other way to say it. So I took his amendment and put it in a little square thing over here called the trash can and started to make notes to respond to what he was arguing. He was not arguing his amendment.

Mr. DOLE. I do not know anything about that. If I could suggest this, that the Senator from Pennsylvania offer his amendment and after 20 minutes of debate, or 30 minutes of debate —the Senator from Nebraska 10 minutes, the managers or someone in opposition to the amendment, the Senator from Pennsylvania 10 minutes—that the Senator from South Dakota then be recognized to move to table the Santorum amendment.

Would that be satisfactory?

Mr. KERREY. That would be satisfactory.

Mr. DOLE. Is there any objection?

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

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 1267

(Purpose: To permit the Bell operating companies to provide interLATA commercial mobile services)

Mr. SANTORUM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SANTORUM] proposes an amendment numbered 1267.

Mr. SANTORUM. 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 24 and all that follows through page 97, line 22, and insert in lieu thereof the following:

"(C) 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,

"(D) providing signaling information used in connection with the provision of telephone exchange service or exchange access service to another local exchange carrier; or

"(E) 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 telephone exchange service or exchange access service.

"(2) LIMITATIONS.—The provisions of paragraph (1) are intended to be narrowly construed. The transmission facilities used by a Bell operating company or affiliate thereof to provide interLATA telecommunications under paragraph (1)(C) and subsection (f) 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 that Bell operating company receives authority to provide interLATA services 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. A Bell operating company may not provide telecommunications services not described in paragraph (1) without receiving the approvals required by subsection (c). The provision of services authorized under this subsection by a Bell operating company or its affiliate shall not adversely affect telephone exchange ratepayers or competition in any telecommunications market.

"(f) COMMERCIAL MOBILE SERVICE.—A Bell operating company may provide interLATA commercial mobile service except where such service is a replacement for land line telephone exchange service for a substantial portion of the land line telephone exchange service in a State in accordance with section 322(c) and with the regulations prescribed by the Commission.

"(g) DEFINITIONS.—As used in this section—

The PRESIDING OFFICER. The Senate will come to order. The Senator from Pennsylvania has the floor.

Mr. SANTORUM. I thank the Chair.

Mr. President, I rise today to offer an amendment which clarifies the intent of the current language in the bill regarding inter-LATA commercial mobile services. This amendment makes only a minor change to the bill, and my understanding is that the amendment is noncontroversial with respect to the managers of the bill. Both Senators PRESSLER and HOLLINGS see no problem with the amendment and we hope to get the support of the other Members of the Chamber.

Mr. President, as you know, the consent decree that broke up AT&T in 1984 divided up the territory served by the old Bell system into 160 LATA's, which are local access transport areas. The LATA boundaries were drawn based on the then existing wire-based telephone network. Since that time, these wireline LATA's have been applied to new wireless services offered by the Bell companies, services such as cellular telephone systems. This was done in spite of the fact that there is no particular relationship between the LATA's and the wireless area served.

As a result, the Bell operating companies have been placed at a competitive disadvantage vis-a-vis the other wireless communications services, because the other wireless providers are not required to adhere to these LATA boundary restrictions.

The current piece of legislation addresses this inequity in section 255, and I wish to commend the committee for doing so. Section 255 addresses when a Bell operating company may provide inter-LATA telecommunications services. Subsection (e) defines when a Bell operating company may provide inter-LATA services incidental to providing video and audio programming, storage and retrieval services, and commercial mobile services. The intent is to finally allow the Bell operating companies to provide these specific services free of inter-LATA restrictions.

However, Mr. President, I believe that with respect to commercial mobile services, the term "incidental" creates an unintended ambiguity. The non-Bell wireless providers that currently have advantage, as I said before, will argue down the road that the inter-LATA Bell services in any given case are not incidental to the commercial mobile services in question. As a result, the Bell operating companies are not guaranteed the full entry into the inter-LATA commercial mobile services that this bill intends to provide.

The problem is very simply in the processing of a cellular phone call, they use wire services, and so it is in fact integral to providing the wireless services that they use a wire communications network. So the term "incidental" can be used to say that they frankly cannot do it at all and then have to fall back into their LATA boundaries, which is not the intent of the bill.

My amendment clarifies the intent by doing two things. First, the amendment carves out commercial mobile services from the incidental services section.

Second, the amendment inserts this commercial mobile services paragraph into a new subsection, subsection (f), immediately following the incidental services section. By creating a new subsection, this amendment removes the ambiguity of the term "incidental" with respect to the commercial mobile services without affecting the other wireless service provisions in subsection (e). As a result, this amendment makes only a very slight change to current language, yet it guarantees a level playing field intended for the Bell operating companies' commercial mobile services and their competitors.

Wireless services are competitive today. There are two cellular carriers in every locale. The FCC has allotted additional spectrum for service providers which will compete with cellular carriers. Only Bell-affiliated wireless carriers are subject to the LATA constraints while all others can offer services in whatever way and configuration their customers want. The Bell companies' lack of a comparable freedom of flexibility puts them at this competitive disadvantage.

As I said before, the distinguished ranking member, the Senator from South Carolina, and the chairman of the Commerce Committee have agreed to this, and I commend their efforts in putting this provision in the bill in the first place. This is simply a technical correction to make the focus of the bill very clear and so it is not under litigation by competitors down the road.

I seek the support of the Senate on this amendment.

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

The PRESIDING OFFICER. Who yields time?

The Senators from South Dakota and Nebraska control 10 minutes.

Mr. SANTORUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I will be happy to yield to the Senator from South Dakota.

Mr. HOLLINGS. Mr. President, in just the minute yielded to me, we have reviewed the amendment and it is an incidental. The "incidental" amendment is incidental. It corrects a good part of it, and on this side we would approve the amendment.

Mr. SANTORUM. I thank the Senator from South Carolina.

The PRESIDING OFFICER. Who yields time?

Mr. PRESSLER. Mr. President, we also on this side of the aisle support this amendment, and we have no problem with it and look forward to working with the Senator from Pennsylvania.

The PRESIDING OFFICER. Who yields time? If nobody yields time, time will be subtracted equally from all three sides at this point.

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

The PRESIDING OFFICER. The absence of a quorum has been suggested. 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 no problem, as I understand it, with this amendment. As I see it, the Senator from Pennsylvania is bringing a request from the Bell operating companies to clear up this language so that the Bell operating companies will know with certainty that their companies can get into long distance cellular service.

The "Dear Colleague" sent out by the Senator from Pennsylvania explains it so far as it goes, talking about the difficulty that the Bell operating companies are having as a consequence of an unusual situation where the Federal Communications Commission has drawn up LATA's that determine what the local area is. Excuse me, the Justice Department. And the Federal Communications Commission, when they did the cellular lotteries, used MSA's, mobile service areas.

But let us be clear on this. The idea that the Bell operating companies that the amendment will protect have been somehow abused in this deal is stretching it a little far, in my judgment. They were given this cellular franchise in the local areas. They were given it. Everyone else had to go through a lottery process, so they were given this license to begin with. In my judgment, what the Bell operating companies are asking the Senator from Pennsylvania to do with this amendment is, it seems to me, quite reasonable and I will not oppose it.

Mr. HOLLINGS. Will the Senator from Nebraska yield?

Could it be then at the conclusion of the time that we could just have an up-or-down vote on the amendment?

Mr. KERREY. I do not object to that.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. SANTORUM. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. FRIST). The Senator from Pennsylvania yields back the remainder of his time.

Does the Senator seek to modify the previous consent agreement?

Mr. PRESSLER. Mr. President, I believe there are no more speakers.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. PRESSLER. Mr. President, I ask for the yeas and nays on the amendment before the Senate.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Does the Senator wish to vitiate the motion to table?

Mr. PRESSLER. Yes.

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

The PRESIDING OFFICER. All time is yielded back. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. LOTT. I announce that the Senator from Missouri [Mr. ASHCROFT], the Senator from Georgia [Mr. COVERDELL], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Alabama [Mr. SHELBY], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. STEVENS], and the Senator from Wyoming [Mr. THOMAS] are necessarily absent.

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

Mr. FORD. I announce that the Senator from California [Mrs. BOXER], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Georgia [Mr. NUNN] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of a funeral.

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

The result was announced—yeas 83, nays 4, as follows:

[Rollcall Vote No. 247 Leg.]

YEAS—83

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

NAYS—4

Byrd	Murray
Gorton	Reid

NOT VOTING—13

Ashcroft	Helms	Specter
Biden	Kennedy	Stevens
Boxer	Nunn	Thomas
Coverdell	Shelby	
Gramm	Simpson	

So the amendment (No. 1267) was agreed to.

Mr. DOLE. Mr. President, I call for the regular order, thereby making the pending business amendment No. 1255.

The PRESIDING OFFICER. Regular order has been called.

AMENDMENT NO. 1255, AS MODIFIED

Mr. DOLE. I send a modification of my amendment to the desk. This has been agreed to by the Democratic leader and the managers.

The PRESIDING OFFICER. The Senator has the right to modify the amendment. The amendment will be so modified.

The amendment (No. 1255), as modified, is as follows:

On page 9, strike lines 4 through 12 and insert the following:

(c) TRANSFER OF MFJ.—After the date of enactment of this Act, the Commission shall administer any provision of the Modification of Final Judgment not overridden or superseded by this Act. The District Court for the District of Columbia shall have no further jurisdiction over any provision of the Modification of Final Judgment administered by the Commission under this Act or the Communications Act of 1934. The Commission may, consistent with this Act (and the amendments made by this Act), modify any provision of the Modification of Final Judgment that it administers.

(d) GTE CONSENT DECREE.—This Act shall supersede the provisions of the Final Judgment entered in United States v. GTE Corp., No. 83-1298 (D.C. D.C.), and such Final Judgment shall not be enforced after the effective date of this Act.

On page 40, line 9, strike "to enable them" and insert "which are determined by the Commission to be essential in order for Americans".

On page 40, beginning on line 11, strike "Nation. At a minimum, universal service shall include any telecommunications services that" and insert "Nation, and which".

On page 70, between lines 21 and 22, insert the following:

(b) GREATER DEREGULATION FOR SMALLER CABLE COMPANIES.—Section 623 (47 U.S.C. 543) is amended by adding at the end thereof the following:

"(m) SPECIAL RULES FOR SMALL COMPANIES.—

"(1) IN GENERAL.—Subsection 9a), (b), or (c) does not apply to a small cable operator with respect to—

"(A) cable programming services, or

"(B) a basic service tier that was the only service tier subject to regulation as of December 31, 1994,

in any franchise area in which that operator serves 35,000 or fewer subscribers.

"(2) DEFINITION OF SMALL CABLE OPERATOR.—For purposes of this subsection, the term 'small cable operator' means a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and does not, directly or through an affiliate, own or control a daily newspaper or a tier 1 local exchange carrier.".

On page 70, line 22, strike "(b)" and inset "(c)".

On page 71, line 3, strike "(c)" and insert "(d)".

On page 79, strike lines 7 through 11 and insert the following:

(1) IN GENERAL.—The Commission shall modify its rules for multiple ownership set forth in 47 CFR 73.3555 by—

(A) eliminating the restrictions on the number of television stations owned under subdivisions (e)(1)(ii) and (iii); and

(B) changing the percentage set forth in subdivision (e)(2)(ii) from 25 percent to 35 percent.

(2) RADIO OWNERSHIP.—The Commission shall modify its rules set forth in 47 CFR 73.3555 by eliminating any provision limiting the number of AM or FM broadcast stations which may be owned or controlled by one entity either nationally or in a particular market. The Commission may refuse to approve the transfer or issuance of an AM or FM broadcast license to a particular entity if it finds that the entity would thereby obtain an undue concentration of control or would thereby harm competition. Nothing in this section shall require or prevent the Commission from modifying its rules contained in 47 CFR 73.3555(c) governing the ownership of both a radio and television broadcast stations in the same market.

On page 79, line 12, strike "(2)" and insert "(3)".

On page 79, line 18, strike "(3)" and insert "(4)".

On page 79, line 21, strike "(4)" and insert "(5)".

On page 79, line 22, strike "modification required by paragraph (1)" and insert "modifications required by paragraphs (1) and (2)".

On page 117, line 22, strike "**REGULATIONS.**." and insert "**REGULATIONS; ELIMINATION OF UNNECESSARY REGULATIONS AND FUNCTIONS.**".

On page 117, line 23, strike "(a) BIENNIAL REVIEW.—" before "Part".

On page 118, between lines 20 and 21, insert the following:

(b) ELIMINATION OF UNNECESSARY COMMISSION REGULATIONS AND FUNCTIONS.

(1) REPEAL SETTING OF DEPRECIATION RATES.—The first sentence of section 220(b) (47 U.S.C. 220(b)) is amended by striking "shall prescribe for such carriers" and inserting "may prescribe, for such carriers as it determines to be appropriate,".

(2) USE OF INDEPENDENT AUDITORS.—Section 220(c) (47 U.S.C. 220(c)) is amended by adding at the end thereof the following: "The Commission may obtain the services of any person licensed to provide public accounting

services under the law of any State to assist with, or conduct, audits under this section. While so employed or engaged in conducting an audit for the Commission under this section, any such person shall have the powers granted the Commission under this subsection and shall be subject to subsection (f) in the same manner as if that person were an employee of the Commission.".

(3) SIMPLIFICATION OF FEDERAL-STATE COORDINATION PROCESS.—The Commission shall simplify and expedite the Federal-State coordination process under section 410 of the Communications Act of 1934.

(4) PRIVATIZATION OF SHIP RADIO INSPECTIONS.—Section 385 (47 U.S.C. 385) is amended by adding at the end thereof the following: "In accordance with such other provisions of law as apply to government contracts, the Commission may enter into contracts with any person for the purpose of carrying out such inspections and certifying compliance with those requirements, and may, as part of any such contract, allow any such person to accept reimbursement from the license holder for travel and expense costs of any employee conducting an inspection or certification.".

(5) MODIFICATION OF CONSTRUCTION PERMIT REQUIREMENT.—Section 319(d) (47 U.S.C. 319(d)) is amended by striking the third sentence and inserting the following: "The Commission may waive the requirement for a construction permit with respect to a broadcasting station in circumstances in which it deems prior approval to be unnecessary. In those circumstances, a broadcaster shall file any related license application within 10 days after completing construction.".

(6) LIMITATION ON SILENT STATION AUTHORIZATIONS.—Section 312 (47 U.S.C. 312) is amended by adding at the end the following:

"(g) If a broadcasting station fails to transmit broadcast signals for any consecutive 12-month period, then the station license granted for the operation of that broadcast station expires at the end of that period, notwithstanding any provision, term, or condition of the license to the contrary.".

(7) EXPEDITING INSTRUCTIONAL TELEVISION FIXED SERVICE PROCESSING.—The Commission shall delegate, under section 5(c) of the Communications Act of 1934, the conduct of routine instructional television fixed service cases to its staff for consideration and final action.

(8) DELEGATION OF EQUIPMENT TESTING AND CERTIFICATION TO PRIVATE LABORATORIES.—Section 302 (47 U.S.C. 302) is amended by adding at the end the following:

"(e) The Commission may—

"(1) authorize the use of private organizations for testing and certifying the compliance of devices or home electronic equipment and systems with regulations promulgated under this section;

"(2) accept as prima facie evidence of such compliance the certification by any such organization; and

"(3) establish such qualifications and standards as it deems appropriate for such private organizations, testing, and certification.".

(9) MAKING LICENSE MODIFICATION UNIFORM.—Section 303(f) (47 U.S.C. 303(f)) is amended by striking "unless, after a public hearing," and inserting "unless".

(10) PERMIT OPERATION OF DOMESTIC SHIP AND AIRCRAFT RADIOS WITHOUT LICENSE.—Section 307(e) (47 U.S.C. 307(e)) is amended by—

(A) striking "service and the citizens band radio service" in paragraph (1) and inserting "service, citizens band radio service, domestic ship radio service, domestic aircraft radio service, and personal radio service"; and

(B) striking "service' and 'citizens band radio service' "in paragraph (3) and inserting "service', 'citizens band radio service', 'domestic ship radio service', 'domestic aircraft radio service', and 'personal radio service' ".

(11) EXPEDITED LICENSING FOR FIXED MICROWAVE SERVICE.—Section 309(b)(2) (47 U.S.C. 309(b)(2)) is amended by striking subparagraph (A) and redesignating subparagraphs (B) through (G) as (A) through (F), respectively.

(12) ELIMINATE FCC JURISDICTION OVER GOVERNMENT-OWNED SHIP RADIO STATIONS.—

(A) Section 305 (47 U.S.C. 305) is amended by striking subsection (b) and redesignating subsections (c) and (d) as (b) and (c), respectively.

(B) Section 382(2) (47 U.S.C. 382(2)) is amended by striking "except a vessel of the United States Maritime Administration, the Inland and Coastwise Waterways Service, or the Panama Canal Company,".

(13) MODIFICATION OF AMATEUR RADIO EXAMINATION PROCEDURES.—

(A) Section 4(f)(H)(N) (47 U.S.C. 4(f)(4)(B)) is amended by striking "transmissions, or in the preparation or distribution of any publication used in preparation for obtaining amateur station operator licenses," and inserting "transmission".

(B) The Commission shall modify its rules governing the amateur radio examination process by eliminating burdensome record maintenance and annual financial certification requirements.

(14) STREAMLINE NON-BROADCAST RADIO LICENSE RENEWALS.—The Commission shall modify its rules under section 309 of the Communications Act of 1934 (47 U.S.C. 309) relating to renewal of nonbroadcast radio licenses so as to streamline or eliminate comparative renewal hearings where such hearings are unnecessary or unduly burdensome.

On page 117, between lines 21 and 22, insert the following:

(d) REGULATORY RELIEF.—

(1) STREAMLINED PROCEDURES FOR CHANGES IN CHARGES, CLASSIFICATIONS, REGULATIONS, OR PRACTICES.—

(A) Section 204(a) (47 U.S.C. 204(a)) is amended—

(i) by striking "12 months" the first place it appears in paragraph (2)(A) and inserting "5 months";

(ii) by striking "effective," and all that follows in paragraph (2)(A) and inserting "effective."; and

(iii) by adding at the end thereof the following:

"(3) A local exchange carrier may file with the Commission a new or revised charge, classification, regulation, or practice on a streamlined basis. Any such charge, classification, regulation, or practice shall be deemed lawful and shall be effective 7 days (in the case of a reduction in rates) or 15 days (in the case of an increase in rates) after the date on which it is filed with the Commission unless the Commission takes action under paragraph (1) before the end of that 7-day or 15-day period, as is appropriate.".

(B) Section 208(b) (47 U.S.C. 208(b)) is amended—

(i) by striking "12 months" the first place it appears in paragraph (1) and inserting "5 months"; and

(ii) by striking "filed," and all that follows in paragraph (1) and inserting "filed.".

(2) EXTENSIONS OF LINES UNDER SECTION 214; ARMIS REPORTS.—Notwithstanding section 305, the Commission shall permit any local exchange carrier—

(A) to be exempt from the requirements of section 214 of the Communications Act of 1934 for the extension of any line; and

(B) to file cost allocation manuals and ARMIS reports annually, to the extent such carrier is required to file such manuals or reports.

(3) FOREBEARANCE AUTHORITY NOT LIMITED.—Nothing in this subsection shall be construed to limit the authority of the Commission or a State to waive, modify, or forebear from applying any of the requirements to which reference is made in paragraph (1) under any other provision of this Act other law.

On page 118, line 20, strike the closing quotation marks and the second period.

On page 118, between lines 20 and 21, insert the following:

"(c) CLASSIFICATION OF CARRIERS.—In classifying carriers according to 47 CFR 32.11 and in establishing reporting requirements pursuant to 47 CFR part 43 and 47 CFR 64.903, the Commission shall adjust the revenue requirements to account for inflation as of the release date of the Commission's Report and Order in CC Docket No. 91-141, and annually thereafter. This subsection shall take effect on the date of enactment of the Telecommunications Act of 1995.".

On page 119, line 4, strike "may" and insert "shall".

On page 120, between lines 3 and 4, insert the following:

"(c) END OF REGULATION PROCESS.—Any telecommunications carrier, or class of telecommunications carriers, may submit a petition to the Commission requesting that the Commission exercise the authority granted under this section with respect to that carrier or those carriers, or any service offered by that carrier or carriers. Any such petition shall be deemed granted if the Commission does not deny the petition for failure to meet the requirements for forebearance under subsection (a) within 90 days after the Commission receives it, unless the 90-day period is extended by the Commission. The Commission may extend the initial 90-day period by an additional 60 days if the Commission finds that an extension is necessary to meet the requirements of subsection (a). The Commission may grant or deny a petition in while or in part and shall explain its decision in writing.

On page 120, line 4, strike "(c) and insert "(d)".

On page 53, after line 25, insert the following:

SEC. 107. COORDINATION FOR TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.

(a) IN GENERAL.—To promote nondiscriminatory access to telecommunications networks by the broadest number of users and vendors of communications products and services through—

(1) coordinated telecommunications network planning and design by common carriers and other providers of telecommunications services, and

(2) interconnection of telecommunications networks, and of devices with such networks, to ensure the ability of users and information providers to seamlessly and transparently transmit and receive information between and across telecommunications networks,

the Commission may participate, in a manner consistent with its authority and practice prior to the date of enactment of this

Act, in the development by appropriate voluntary industry standards-setting organizations to promote telecommunications network-level interoperability.

(b) DEFINITION OF TELECOMMUNICATIONS NETWORK-LEVEL INTEROPERABILITY.—As used in this section, the term "telecommunications network-level interoperability" means the ability of 2 or more telecommunications networks to communicate and interact in concert with each other to exchange information without degeneration.

(c) COMMISSION'S AUTHORITY NOT LIMITED.—Nothing in this section shall be construed as limiting the existing authority of the Commission.

On page 66, line 13, strike the closing quotation marks and the second period.

On page 66, between lines 13 and 14, insert the following:

"(6) ACQUISITIONS; JOINT VENTURES; PARTNERSHIPS; JOINT USE OF FACILITIES.—

"(A) LOCAL EXCHANGE CARRIERS.—No local exchange carrier or any affiliate of such carrier owned by, operated by, controlled by, or under common control with such carrier may purchase or otherwise acquire more than a 10 percent financial interest, or any management interest, in any cable operator providing cable service within the local exchange carrier's telephone service area.

"(B) CABLE OPERATORS.—No cable operator or affiliate of a cable operator that is owned by, operated by, controlled by, or under common ownership with such cable operator may purchase or otherwise acquire, directly or indirectly, more than a 10 percent financial interest, or any management interest, in any local exchange carrier providing telephone exchange service within such cable operator's franchise area.

"(C) JOINT VENTURE.—A local exchange carrier and a cable operator whose telephone service area and cable franchise area, respectively, are in the same market may not enter into any joint venture or partnership to provide video programming directly to subscribers or to provide telecommunications services within such market.

"(D) EXCEPTION.—Notwithstanding subparagraphs (A), (B), and (C) of this paragraph, a local exchange carrier (with respect to a cable system located in its telephone service area) a cable operator (with respect to the facilities of a local exchange carrier used to provide telephone exchange service in its cable franchise area) may obtain a controlling interest in, management interest in, or enter into a joint venture or partnership with such system or facilities to the extent that such system or facilities only serve incorporated or unincorporated—

"(i) places or territories that have fewer than 50,000 inhabitants; and

"(ii) are outside an urbanized area, as defined by the Bureau of the Census.

"(E) WAIVER.—The Commission may waive the restrictions of subparagraph (A), (B), or (C) only if the Commission determines that, because of the nature of the market served by the affected cable system or facilities used to provide telephone exchange service—

"(i) the incumbent cable operator or local exchange carrier would be subjected to undue economic distress by the enforcement of such provisions,

"(ii) the system or facilities would not be economically viable if such provisions were enforced, or

"(iii) the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest by the probable effect of the transaction in meeting the convenience and needs of the community to be served.

"(F) JOINT USE.—Notwithstanding subparagraphs (A), (B), and (C), a telecommunications carrier may obtain within such carrier's telephone service area, with the concurrence of the cable operator on the rates, terms, and conditions, the use of that portion of the transmission facilities of such a cable system extending from the last multiuser terminal to the premises of the end user in excess of the capacity that the cable operator uses to provide its own cable services. A cable operator that provides access to such portion of its transmission facilities to one telecommunications carrier shall provide nondiscriminatory access to such portion of its transmission facilities to any other telecommunications carrier requesting such access.

"(G) SAVINGS CLAUSE.—Nothing in this paragraph affects: (i) the authority of a local franchising authority (in the case of the purchase or acquisition of a cable operator, or a joint venture to provide cable service) or a State Commission (in the case of the acquisition of a local exchange carrier, or a joint venture to provide telephone exchange service) to approve or disapprove a purchase, acquisition, or joint venture; or "(ii) the antitrust laws, as described in section 7(a) of the Telecommunications Competition and Deregulation Act of 1995.".

On page 70, line 7, strike "services." and insert "services provided by cable systems other than small cable systems, determined on a per-channel basis as of June 1, 1995, and redetermined, and adjusted if necessary, every 2 years thereafter.".

On page 70, line 21, strike "area." and insert "area, but only if the video programming services offered by the carrier in that area are comparable to the video programming services provided by the unaffiliated cable operator in that area.".

On page 79, before line 12, insert the following:

(3) LOCAL MARKETING AGREEMENT.—Nothing in this Act shall be construed to prohibit the continuation or renewal of any television local marketing agreement that is in effect on the date of enactment of this Act and that is in compliance with the Commission's regulations.

On page 88, line 4, strike "area," and insert "area or until 36 months have passed since the enactment of the Telecommunications Act of 1995, whichever is earlier,".

On page 88, line 5, after "carrier" insert "that serves greater than 5 percent of the nation's presubscribed access lines".

Mr. DASCHLE. Mr. President, Senator HOLLINGS and I have crafted a package of provisions designed to strike a better balance between consumer protections and market deregulation. These safeguards are designed to protect consumers by expanding services and keeping them affordable.

This is accomplished in four ways.

First, it improves the cable rate regulation provisions in the bill without compromising the important deregulatory changes that will spur competition and provide consumers with more choices.

Specifically, the amendment improves the cable rate regulation provision of the committee bill by strengthening the bad actor test. Rates for the upper tiers of cable service will be found unreasonable only if they significantly exceed the national average rate for comparable cable service for systems other than small cable systems determined on a per channel basis as of June 1, 1995, and adjusted every 2 years.

Additionally, the amendment will deregulate a cable company only after a telephone company begins to provide video programming service comparable to the video service provided by the cable company.

Second, this amendment places reasonable limitations on the ability of cable and telephone companies to eliminate each other as potential competitors through buyouts and mergers, except in rural areas where competition may not be viable. This is an important distinction to make. While the overall goal of this legislation is to increase competition, the universal service section and other pieces recognize the fact that competition will not work everywhere. This is especially true in rural areas like South Dakota.

The third important safeguard will allow small telephone companies to jointly market local exchange service with long distance service providers that carry less than 5 percent of the Nation's long distance business. This will allow consumers to realize the benefits of competition in the local telephone exchange, while preserving the competitive balance between the RBOC's and major long distance carriers. The amendment also will sunset the prohibition on joint marketing after 3 years.

Finally, a provision that was originally sponsored by Senator KERREY from Nebraska to promote network interoperability is a part of this package. Ensuring interoperability is an important part of building a seamless, national information infrastructure that will support education, business, and hospitals. This provision will not expand or limit the FCC's current authority over standards setting.

Mr. President, nothing in this agreement precludes existing local telephone marketing agreements from continuing. This amendment recognizes the need to help small broadcasters continue to diversify their broadcasts.

These steps are important not only to the successful passage of this legislation, but also the financial security of American consumers. It recognizes that companies need relief from burdensome Federal regulations, but also provides a mechanism that will protect consumers from unreasonable and unjustified rate hikes. Passage of S. 652 will require give and take on both sides. These measures are reasonable and prudent, and they ought to be adopted.

Mr. DOLE. I ask that the vote occur on this amendment at 12 noon and that the time be equally divided in the usual form.

Mr. KERREY. Reserving the right to object, Mr. President, I have not——

Mr. DOLE. This is Dole and Daschle combined.

Mr. HOLLINGS. It is the leadership amendment—Dole-Daschle amendment.

I am protecting the rights of Senator SIMON just for a minute. He wanted to be consulted on a particular section. If the Senator could withhold the request of time.

Mr. DASCHLE. For the information of all Senators, this is the combination of the legislation that the majority leader and I have been working on. He has a managers' amendment. I have been working with Senator HOLLINGS over the course of the last several days.

Instead of having two separate amendments, we have simply combined them. I think everyone is aware of the text of Senator HOLLINGS' and my amendment. We would be happy to share it with anybody. That is all we are doing, combining them into one vote, and limiting the time to about half an hour.

Mr. KERREY. Mr. President, I have to object until I have a chance to look at the amendment. I have looked at both amendments separately, but not together.

Mr. BUMPERS. Will this require a rollcall vote once we get consent?

Mr. DOLE. Not as far as I am concerned. The Senator from West Virginia would like a rollcall vote. That would be the last vote if we can work it out. If not, we will stay until we work it out.

Mr. DORGAN. Reserving the right to object, Mr. President.

Mr. DOLE. I withhold that request until the Senator from Nebraska has had an opportunity to look at the request.

The PRESIDING OFFICER. The request is withdrawn.

Mr. DORGAN. If I might be recognized, I would support the request and hope the Senator from Nebraska will, as well.

I would only say that I had intended to offer a second-degree amendment to this on the issue of the elimination of the restrictions on the number of television stations that can be owned.

My understanding, and I have agreed not to offer a second-degree here, with the understanding that my right will be protected to offer an amendment to the bill on this subject.

That also is an important issue and I want that issue debated. I will forego a second-degree amendment so we can move this ahead. I want to be protected on the right.

Mr. DOLE. The Senator is correct, he would have that right.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. LEAHY. Mr. President, I understand that some negotiations were going on while we were in the quorum call.

I would like to note some of my feelings on this bill, because I will have a number of amendments and will be joining with others on amendments, including, for example, the amendment of the Senator from North Dakota, on VIII(c) and others.

Mr. President, the telecommunications bill that we are considering will have an enormous impact on multibillion-dollar cable, phone, and broadcast industries.

But beyond that, it also affects the pocketbooks of every one of our constituents, and of every single American. It will affect the array of telecommunications services available for each of us, and the choices that we as Americans and as consumers will have.

Most of us and certainly this is true in Vermont, have no choice who gives us cable TV service or our local phone service. Whether or not the service is good, we are stuck with our local phone or cable company. We do not have any choice in the matter.

And, if the price is too high, our only choice is to cut-back on service or to drop it altogether. When I look at the telecommunications bill, my first question is will this foster competition, because competition will give consumers lower prices and more choices than simply cutting back or dropping a service altogether.

I think Congress has been behind the curve in telecommunications. We need to update our laws to take account of the blurring of the formerly distinct separation of cable, telephone, computer, and broadcast services, and encourage new competitors in each of these markets.

The distinguished Senator from South Carolina [Senator HOLLINGS], I know, worked at trying to bring out a bill to that effect last year. Efforts have been made between the distinguished managers, the chairman, and the ranking member this year.

The key, in my view, is providing a legal framework that promotes competition and protects consumers.

The Government's role in the future of telecommunications must be carefully defined. There is no question that bad regulation can stifle the growth of industry. There are other times, however, when both the Federal and the State agencies can foster the competition we need. And, of course, that is particularly important if you are dealing with monopoly industries.

Senator THURMOND, the chairman of the Antitrust Subcommittee, and I held a hearing on this bill a few weeks ago. One witness pointed out there are only two things standing between a monopolist and the consumer's wallet: Competition or regulation. You need one or the other, because if you get rid of both, the consumer may as well just hand over his wallet.

Some of the efforts made in doing away with regulation give some of the telecommunications giants a license to print money. They certainly will not reduce prices—if all regulation is done away with, and there is no competition there. What is their incentive? To lower costs? Of course not. That is as apt to happen as a belief in the Easter bunny. The fact is, they will raise costs.

So I have a number of questions. I hope with some amendments we can address some concerns I have with the bill.

First, the bill would permit our local phone monopoly to buy out our local cable monopoly so the consumers have even less choice. If you have just one monopoly cable company and one monopoly telephone company, and that telephone company buys out the cable company, do you really think rates are going to go down for your cable service? Of course not. We have not found any cable companies by themselves that have been eager to lower rates, and they do not. Suddenly, if there is no regulation and no possibility of competition, one company owns both the telephone and the cable, it does not take a genius to know what happens. The price goes up. In fact it is a new version of Willie Sutton, go to that monopoly because "that is where the money is."

So, as we stand on a precipice between a new world of healthy competition between telephone and cable companies to serve all consumers, let us not go back to a one-wire world, where one monopoly company does both cable and phone service.

The bill unleashes the Bell operating companies, which have monopoly control over the phone wires going into our homes, and lets them into the long-distance market without a formal Department of Justice analysis. I think that is wrong and I will speak more on it a little later on.

Then the bill takes the lid off cable rates before there is any competition in cable service.

If we had a nationwide referendum on taking the lid off cable rates, how do you think the American public would vote? It would be the most resounding "no" vote you ever heard. Yet the special interests want us to give a "yes" vote here.

Does anybody think if you have a totally unrestricted cable system—unrestricted because there is no competition or unrestricted because there is no

regulation—that they are going to lower their rates? If anybody believes that, I have a mountain in Vermont to sell you, a bridge in New York to sell you, and a place called the Grand Canyon, and I have the quit claim deeds all ready to go.

Cable rates are bound to go up. They are going to force consumers to make the hard choice of cutting back or turning off their cable service.

Fourth, the bill rolls back State efforts to promote competition. For instance, 10 States require "1-plus" dialing for in-State, short-haul toll calls so consumers do not have to dial cumbersome access codes for carriers other than the local exchange carrier. The bill would preempt these dialing parity requirements that would hurt competition in the in-State toll market, it would hurt the consumer, and again it removes choices of people.

Senators SIMPSON, KERREY, SIMON, and FEINGOLD are working with me on an amendment to restore State authority to require "1-plus" dialing. Other provisions in the bill that should be corrected would preempt State laws on judicial review of State regulatory commission decisions, and prohibit use of rate of return regulation.

Last, there are provisions in this bill that threaten to chill the flow of information and communications on the Internet. They undercut privacy of communications for on-line communications and the ability for the court to conduct court-authorized wiretaps for fighting crime. Users of the Internet are very concerned.

I saw on the Internet, as I was going through it—and I know the distinguished Presiding Officer is one who is familiar with that. I think he and I probably spend as much time using electronic communications as anybody here. I saw an electronic petition that was circulated on the Internet by a coalition of civil liberties groups, including Voters Telecommunications Watch and Center for Democracy and Technology, because I suggested I would offer an amendment which makes it very clear that every one of us are against kiddie porn and all those things, but would protect the integrity of the Internet.

In just a few days here is what happened. This. This. In just about 2 weeks: 25,000 electronic petitions from all over the country, every State in this Union, in support of my amendment. I hope Senators will consider what people have done. And I will speak more on that and we will have an amendment on that. But 25,000 people have already heard and expressed their concern.

This bill does contain provisions that I heartily endorse. I commend Senators PRESSLER and HOLLINGS, and the members of the Commerce Committee, for their attention to universal service and the special concerns that we share for rural customers and those in small towns. They have also attended to promoting access to networks and services by individuals with physical disabilities, and providing incremental rates for rural health clinics, schools and libraries. These are essential components of an effective national information policy. Like the Freedom of Information Act and public access channels, these concepts will help make increasing citizen participation a reality.

Telecommunications is critical to the economic health of our country, the education of our children, the delivery of health care services to our citizens and our overall quality of life. The explosion of new technologies in telecommunications has fueled many of our newest innovations and will continue to create new opportunities, some of them unimagined today.

Our challenge is to try to keep pace with changes in technology that are driving changes in the marketplace. With this legislation, we are making changes in the legal framework governing our telecommunications industries, and we must keep our eye on making our laws more procompetitive and proconsumer.

What I am saying is that our country has made enormous advances in telecommunications. But in those areas where we have not had real competition, we have stayed behind other parts of the world. With real competition we can not only catch up with the rest of the world, we can be in advance of the rest of the world. Let us make sure what we come up with here fosters real competition, gives consumers a choice, and does not allow a few monopolists to set the rates that all of us have to pay.

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. ROCKEFELLER. 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. ROCKEFELLER. Mr. President, I have a question to address to the majority leader or the minority leader.

Mr. President, I would be very pleased to ask my question to the Democratic leader, if that would be acceptable to him.

We are confronted with a situation here, the present posture, as I understand it, is that we are going to vote on a very complex series of aspects of this bill, and after we have voted time for debate.

What I think I have a real problem with is the fact that debate honestly changes people's minds, a good debate. I think as a result of the debate last night on one of our amendments a number of minds were changed. In this case, where we are dealing with cable rates, where there are less than 35,000 people within the system, and those would be completely regulated, that has enormous effect. And it may be that a lot of Senators do not know that this is in that legislation.

So the question I would have to the Democratic leader, is there anything inherently wrong in not trying to have the vote now but have the debate now, to try to debate this with our colleagues and then have the vote laid over until Monday? It just strikes me that in a democratic body having a debate after you have already cast your vote is not the way democracy usually works.

Mr. DASCHLE. If the Senator will yield, the managers as well as the two leaders have been working on this package for the better part of 3 or 4 days, and we have had a large number of consultations with Members on both sides of the aisle, in an effort to better accommodate concerns of Senators to address this managers' package as well as to address a number of schedules that are becoming increasingly jeopardized as a result of our delay.

We had hoped, after all of this consultation, to lay the amendment down and have a vote, but also ensure that everyone's rights are protected to amend the managers' package as they can amend the bill, just as we do with any other piece of legislation, so every Member is protected. And if there are provisions in this managers' amendment which would be part of the bill that they would not find in their interest, they are protected and would be encouraged to offer amendments to address those particular aspects.

But I must say a tremendous amount of effort has been put into accommodating everybody and to accomplish the point where we are now at legislatively. So I would hope that we could accommodate schedules as well as to accommodate those who have participated in this series of negotiations to get us to this point.

Mr. DOLE. If the Senator will yield, I would be prepared, and I think Senator DASCHLE, in any provision in our amendment to protect the rights of anyone. If it takes consent, I would give consent right now that the Senator would have the right to move to strike that section next week if the Senator wanted more debate at that time. I certainly do not want to take away anybody's rights, but I think what we are trying to do is get a lot of these things we have sort of agreed on into the package without any further delay. And then obviously I would be willing to agree right now if the Senator wanted to offer a motion to strike or whatever on Monday or Tuesday, we could debate it at that time.

Mr. ROCKEFELLER. That would be entirely satisfactory with this Senator. I thank the Chair.

Mr. DOLE. I think that would apply to Senator DASCHLE's provision, too.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I say to my colleagues, I have had, particularly with the amendments separately, when I urged them to come over the last couple days, particularly originally Daschle-Hollings and then Dole separately, I had some difficulties but in combined form I have not, and I have no difficulty in moving to a vote in an expeditious fashion.

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

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

Mr. DOLE. What is the pending business?

The PRESIDING OFFICER. The pending business is the majority leader's amendment, as modified.

Mr. DOLE. Let me just indicate for everybody—then we will have a vote in a minute—this is the provision, so-called Dole provision and the so-called Daschle provision combined. I have taken out one objection. We have indicated to Senator ROCKEFELLER, I have also indicated to Senator DORGAN that I would consent if they wanted to move to strike or whatever if they had problem with a section. I thank Senator DASCHLE.

Mr. DASCHLE. Senator SIMON.

Mr. DOLE. Senators SIMON and LOTT have reached the same agreement. I think with the Daschle amendment, if somebody had not approved, they would have that same right?

Mr. DASCHLE. Yes.

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

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE. This will be the last vote today.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

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

Mr. LOTT. I announce that the Senator from Missouri [Mr. ASHCROFT], the Senator from Georgia [Mr. COVERDELL], the Senator from Texas [Mr. GRAMM], the Senator from North Carolina [Mr. HELMS], the Senator from Arizona [Mr. KYL], the Senator from Alabama [Mr. SHELBY], the Senator from Wyoming [Mr. SIMPSON], the Senator from Pennsylvania [Mr. SPECTER], the Senator from Alaska [Mr. STEVENS], and the Senator from Wyoming [Mr. THOMAS] are necessarily absent.

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

Mr. FORD. I announce that the Senator from California [Mrs. BOXER], the Senator from Massachusetts [Mr. KENNEDY], and the Senator from Georgia [Mr. NUNN] are necessarily absent.

I also announce that the Senator from Delaware [Mr. BIDEN] is absent because of a funeral.

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

The result was announced—yeas 77, nays 8, as follows:

[Rollcall Vote No. 248 Leg.]

YEAS—77

Abraham	Feinstein	Levin
Akaka	Ford	Lott
Baucus	Frist	Lugar
Bennett	Glenn	McCain
Bingaman	Gorton	McConnell
Bond	Graham	Mikulski
Breaux	Grams	Moseley-Braun
Brown	Grassley	Moynihan
Bryan	Gregg	Murray
Bumpers	Harkin	Nickles
Burns	Hatch	Packwood
Campbell	Hatfield	Pell
Chafee	Heflin	Pressler
Coats	Hollings	Pryor
Cochran	Hutchison	Reid
Cohen	Inhofe	Robb
Craig	Inouye	Roth
D'Amato	Jeffords	Santorum
Daschle	Johnston	Sarbanes
DeWine	Kassebaum	Smith
Dodd	Kempthorne	Snowe
Dole	Kerrey	Thompson
Domenici	Kerry	Thurmond
Exon	Kohl	Warner
Faircloth	Lautenberg	Wellstone
Feingold	Leahy	

NAYS—8

Bradley	Dorgan	Rockefeller
Byrd	Lieberman	Simon
Conrad	Murkowski	

ANSWERED "PRESENT"—1

Mack

NOT VOTING—14

Ashcroft	Helms	Simpson
Biden	Kennedy	Specter
Boxer	Kyl	Stevens
Coverdell	Nunn	Thomas
Gramm	Shelby	

So the amendment (No. 1255), as modified, was agreed to.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. HARKIN. Mr. President, I wanted to make a couple of comments on the amendment just adopted. I support the long-term goal of this legislation to deregulate the telecommunications industry in this country and to bring vigorous competition to these markets. We can all envision the intended results in the not-too-distant future. The Bell companies, cable companies, long distance companies, all competing at a local level offering a wide variety of services—video, telephone, cellular, personal communications. All of these services will be offered in a vigorously competitive atmosphere where the companies are bending over backward to give the best and most innovative service for the dollar.

In the coming competitive environment after the lifting of regulations and the modification of final judgment, a business, for example, could call up one company and arrange for that company to provide local telephone service as well as long distance service at one low price, with only one vendor to deal with. But the fact is, in some areas, including in parts of my State of Iowa, these combined services exist now. These services are provided by smaller companies who are able to provide all of a business' telephone services for one price.

How do these companies do that? Well, they buy the local telephone lines in bulk and resell them at retail, just like millions of other small businesses all over the country do. They package the local service along with long distance service and sell them for one price. What does the buyer get? The buyer gets the convenience and low cost of having only one company to deal with, and they pass these savings along to their customers.

The company fills a niche currently unfilled in the market and is able to build capital to allow them to build the infrastructure that they would need to break through into real competition with the local telephone company.

In my home State of Iowa, an innovative telecommunications pioneer, Clark McLeod, has been offering these services in Cedar Rapids and other locations for several years. In the process, he has created thousands of jobs and filled a need for service.

We all talk about the need for competition in the local market. But we have to think about who that competition will come from. Do we think that the only ones who will compete for local phone service will be the big companies already providing telecommunications services? Is the goal here just to allow the big cable and long distance companies to get in and sort of duke it out with Ma Bell? Or should we not provide a regulatory framework that will allow new companies to grow, to build capital, and to break out into full competition?

Mr. President, I was a Member of the House when the cable business just started getting big, when the cable industry was in its infancy. They used to build cable systems just for the purpose of taking in a good quality signal from over the air stations and then piping it into homes where they could get

a clearer signal rather than just getting it over the air stations.

In other words, they took the programming from the broadcast stations and then resold it. When they collected sufficient capital, they started the many new cable channels. When MCI, for example, got started, it was renting long distance lines from Ma Bell and reselling them at discount prices.

In other words, the two large industry groups—cable and long distance—that are expected to provide much of the competition, arose from reselling of the services of existing large companies and doing it in a new form. These resellers are like the acorns from which a mighty oak might grow.

Unfortunately, one provision of this bill would have killed these fledgling services. In a supposed effort to be fair to the Bell companies, we would actually kill off companies that are currently providing these joint marketing services.

The joint marketing provision of the underlying bill would have prohibited companies from buying local service from a Bell company and then marketing it jointly with long distance service until the Bell company is allowed to offer long distance services.

This provision is anticompetitive and it is a job killer in my State. It ought to be fully stricken. I have been working with the managers of the bill to address this issue.

I am pleased to say that the leadership amendment that we just approved would take care of the most immediate part of this problem. It would make the ill-advised joint marketing provision apply to only those firms with more than 5 percent of the market nationally. It would sunset the prohibition for everyone in 3 years.

Mr. President, while I think we should strike the whole provision, the change in this amendment is a critically important first step. It would at least protect the many innovative smaller companies like Mr. McLeod and the others in my State, to continue their operations and continue to provide the services valued by so many Iowans.

Some will argue that this provision simply maintains fairness between the Bell companies and their potential competitors. They argue that it is unfair for the long distance companies to be able to offer a package to sell when the Bell companies cannot.

But the fact is, this is adding a new restriction that would kill thousands of jobs that already exist and thousands more that could be created in the interim. Worse yet, it would deprive those companies that want to get into the local market of their best opportunity to do so, impeding the competition that is supposed to be the whole point of this bill. This whole bill is about creating competition in the local market and allowing the power of competition to help the consumers and to expand the technology available to all. The Bell companies are unlikely to lose a significant portion of their business to resellers in the few years that it will take to open the local loop to competition.

So I am very pleased that first step has been taken through a component of the leadership amendment just adopted. I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. 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 want to give a little legislative history on the majority leader and minority leader's package, if I may, and if any Senator has pending business that they want to interrupt me with, I will be glad to do so.

I want to praise both Senator DOLE and Senator DASCHLE for their leadership on the amendments we just passed which have been worked out and negotiated over a number of weeks and days and down to the last minute.

The package of amendments that is the Dole-Daschle package is intended to modify a number of areas in the bill and thus improve the bill's deregulatory nature. It ensures that certain provisional intents usually apply the way they were meant to and provides exceptions where necessary.

The amendments end all rate regulations on small and rural cable companies. These companies cannot economically exist under such rate controls and are unable to provide basic and upper-tier services.

It also eliminates restrictions on the number of TV stations, 12 twelve, owned nationwide while maintaining the 35-percent national audience reach. It eliminates all ownership restrictions on radio, and the FCC is granted the authority to deny additional licenses if it thinks an entity is getting undue concentration.

It gets rid of the GTE consent decree arising from GTE's purchase of Sprint. GTE has sold Sprint. Therefore, the consent decree is no longer necessary. It eliminates unnecessary regulations and functions at the FCC. These items are noncontroversial, suggested by the FCC. The FCC will also be required to forbear from regulating when competition develops.

Telecommunications carriers will gain a petition process to seek repeal of the FCC and State regulations. The amendment redefines universal service to narrow its definitions to essential services—not entertainment services and equipment.

Finally, the amendment will require the FCC to complete a proceeding within 270 days, determining whether or not AT&T should continue to be regulated as a dominance carrier in the long distance market.

Again, this amendment seeks to improve the bill's deregulatory nature by addressing overlooked items but maintaining the bill's fundamental structure.

Mr. President, those are some comments on the Dole-Daschle package of amendments that we have just adopted, for purposes of legislative history.

Mr. President, I would like to make some remarks about the upcoming Department of Justice amendment that is being offered by my colleague from North Dakota and, in general, the DOJ.

I will proceed with these points on the DOJ and why I feel it is not appropriate to expand this bill to include a DOJ review.

First, DOJ proposed the line-of-business restrictions on the BOC's, not the Court, AT&T or the Bell Companies.

Second, DOJ and the Court both recognized that the line-of-business restrictions are anticompetitive due to the restriction on entry which actually reduces competition.

Third, consequently, DOJ did not follow its own internal policy of proposing a 10-year sunset, but instead promised to conduct triennial reviews.

Fourth, AT&T and the district court accepted the line-of-business restrictions on the basis that DOJ would conduct these triennial reviews and the BOC's could obtain waivers from the MFJ under section VIII(c)—the standard proposed in the Dorgan amendment.

Fifth, DOJ has abandoned its promise to conduct triennial reviews.

Sixth, DOJ fails to deal with waiver requests in a timely manner.

Seventh, yet, nearly, all requests for waivers from the line-of-business restrictions are supported by DOJ and approved by the district court.

Eighth, DOJ has announced new principles which must be met before it will support relief from the MFJ, thereby signaling its rejection of the section VIII(c) test.

THE UNITED STATES DOJ HAS FAILED TO FULFILL ITS OBLIGATIONS UNDER THE MODIFICATIONS OF FINAL JUDGMENT

First, DOJ proposed the line-of-business restrictions on the BOC's, not the Court, AT&T or the Bell companies.

The DOJ was the principal proponent of the line-of-business restrictions.—*United States* v. *Western Electric Co.*, 552 F. Supp. 131, 186 n.227 (D.D.C. 1982).

AT&T did not want the line-of-business restrictions imposed upon the BOC's, but accepted them as part of the bargain to settle the antitrust case with DOJ.

We do not want restrictions on those BOCs. That wasn't our idea. We understand the theory, we understand why that had to be part

of the bargain, but it wasn't our idea. . . . The last thing in the world you want to do is to impose some further restrictions on their efficiencies, . . . [W]e should be getting rid of restrictions. . . . They weren't our idea.—Comments of Howard Trienens, AT&T General Counsel, FCC En Banc Meeting (March 24, 1982).

I'm against restrictions. I'll be happy if nobody is restricted on anything. After this divestiture occurs, let [the BOCs] do what they want.—Comments of Howard Trienens, AT&T General Counsel, *United States* v. *Western Electric Co.*, Civil Action No. 82-0192, Hearing Transcript at 25210-25211 (June 29, 1982).

Second, DOJ and the Court both recognized that the line-of-business restrictions are anticompetitive due to the restrictions on entry which actually reduces competition.

The line-of-business restrictions "are generally anticompetitive and deserve the most careful scrutiny."—Response Of The United States To Public Comments On Proposed Modification Of Final Judgment at 56, *United States* v. *Western Electric Co.*, Civil Action No. 82-0192 (May 20, 1982).

A number of comments also expressed concern regarding the absence of any time limit on the BOC line of business restrictions. Some have suggested that in the absence of limitations on the duration of the restrictions, as technology changes, the modification will have unintended anticompetitive consequences by needlessly restricting entry. The Department believes that these concerns are valid. Id. at 61-62.

[S]uch restrictions deserve "the most careful scrutiny" to ensure both that they will have the desired effect and that they will not actually limit competition by unnecessarily barring a competitor from a market.—*United States* v. *Western Electric Co.*, 552 F. Supp. 131, 186 (D.D.C. 1982).

[T]he restrictions are, at least in one sense, directly anticompetitive because they prevent a potential competitor from entering the market. Id.

If the restrictions were to continue in effect, their sole effect would be to limit competition by preventing the entry of a viable competitor. Id. at 195 n.264.

Third, consequently, DOJ did not follow its own internal policy of proposing a 10-year sunset, but instead promised to conduct triennial reviews.

It has been DOJ Antitrust Division policy since 1979, and remains so today, that antitrust consent decrees should have an automatic sunset of 10 years or less. Most antitrust consent decrees contain this 10 year sunset language. The MFJ does not, and is one of the few exceptions to this Department policy.

The DOJ Antitrust Division Manual contains "standard language" to be contained in antitrust consent decrees, which states that the "final judgment will expire on the tenth anniversary of its date of entry or, with respect to any particular provision, on any earlier date specified."—U.S. Department of Justice, Antitrust Division Manual IV-76 (2d ed. 1987).

DOJ promised AT&T and the district court that it would examine the continuing need for the line-of-business restrictions on the third anniversary of its entry and every 3 years thereafter.

[T]he Department intends to review carefully the continuing need for the restrictions. In order to ensure that the Court is fully apprised of development in this area, the Department will undertake to make a formal report to the Court on the continuing need for the restrictions on the third anniversary of the date of divestiture, and every third year thereafter so long as the restrictions remain in force.—Response Of The United States To Public Comments On Proposed Modification Of Final Judgment at 62, *United States* v. *Western Electric Co.*, Civil Action No. 82-0192 (May 20, 1982).

The Department recognizes that as technology changes, the restrictions on the BOCs may outlive their usefulness, and indeed, become anticompetitive in effect. The Department has, therefore, committed to a regular review of the need for the restrictions with the intention of petitioning the Court for their removal at the earliest possible date consistent with technological and competitive conditions.—Brief Of The United States In Response To The Court's Memorandum of May 25, 1982, at 31, *United States* v. *Western Electric Co.*, Civil Action No. 82-0192 (June 14, 1982).

Fourth, AT&T and the district court accepted the line-of-business restrictions on the basis that DOJ would conduct these triennial reviews and the BOC's could obtain waivers from the MFJ under section VIII(C)—the standard in the Dorgan amendment.

AT&T's acceptance of the restrictions is based upon the Department's commitment to a periodic review of their reasonableness . . ., and upon the BOC's ability—independent of the Department's periodic review—to seek the Court's removal of the restrictions (Decree, § VII).—AT&T Brief In Response To The Court's Memorandum of May 25, 1982, *United States* v. *Western Electric Co.*, Civil Action No. 82-0192 (June 14, 1982).

The district court required that DOJ and AT&T agree to Section VIII(C) as a condition of its approval of the MFJ.

It is probable that, over time, the Operating Companies will lose the ability to leverage their monopoly power into the competitive markets from which they must now be barred. This change could occur as a result of technological developments which eliminate the Operating Companies' local exchange monopoly or from changes in the structures of competitive markets. . . . the decree should therefore contain a mechanism by which they may be removed.—*United States* v. *Western Electric Co.*, 552 F. Supp. 131, 194-195 (D.D.C. 1982).

Recognizing this fact, the Department of Justice has undertaken to report to the Court every three years concerning the continuing need for the restrictions imposed by the decree. (Citation omitted.) In addition, both parties have agreed that the restrictions may be removed over the opposition of a party to the decree when the Court finds that "the rationale for [the restriction] is outmoded by technical developments." Id.

Thus, a restriction will be removed upon a showing that there is no substantial possibility that an Operating Company could use its monopoly power to impede competition in the relevant market.

[T]he Court will approve the proposed decree as in the public interest provided that the parties agree to the addition of the following new section: VIII Modifications. . . . Id. at 225.

Fifth, DOJ has abandoned its promise to conduct triennial reviews.

DOJ conducted the first triennial review in 1987 and recommended removal of the interexchange restriction on mobile services, the manufacturing restriction, the information services restriction, and the restriction against the provision of nontelecommunications products and services.—Report and recommendations of the United States concerning the line of business restrictions imposed on the bell operating companies by the modification of final judgment at 56-57 (February 2, 1987); and response of the United States to comments on its report and recommendations concerning the line of business restrictions imposed on the bell operating companies by the modification of final judgment at 24, 60, 95, and 135 (April 27, 1987).

In 1987, during the first triennial review, the district court only adopted DOJ's recommendation to remove the restriction against the provision of nontelecommunications products and services, and granted limited information services infrastructure components.—*United States* v. *Western Electric Co.*, 673 F. Supp. 525 (D.D.C. 1987).

The court of appeals reversed and remanded the decision of the district court to not remove the information services restriction.—*United States* v. *Western Electric Co.*, 900 F.2d 283 (D.C. Cir. 1990).

The district court removed the information services restriction on remand.—*United States* v. *Western Electric Co.*, slip op. (D.D.C. July 25, 1991).

In 1989, while the appeal from the first triennial review decision by the district court was pending, DOJ advised the Court that it "remains committed to a periodic review of the decree's line of business restrictions," but that it "plans to defer the second general review of the decree restrictions until after the court of appeals decides the pending appeals."—Memorandum of the United States Concerning the second review of the line-of-business restrictions at 3 (July 3, 1989).

DOJ advised the district court that "[f]ollowing the Court of Appeals' decision, the Department will suggest to this Court a schedule and procedures for the next general review consistent with that decision." Id. at 3-4.

SBC, Bell Atlantic, and NYNEX sought a scheduling order which would require DOJ to submit a second triennial review report to the district court within 90 days after the Court of Appeals decision.

In response to DOJ's announcement that it was going to postpone the second triennial review, the district court held that:

[It] does not endorse the Department's recommendation that the triennial review be

postponed until after the Court of Appeals decides on currently pending appeals.

This Court has no intention of postponing any phases of its own responsibilities under the decree because appeals have been filed.

[W]hile the Court does not affirmatively endorse the Department's plans, it does not impose any particular timing requirements of its own.

[T]he Department has complete discretion on the question whether and when to file another report, and the Court will not attempt to interfere with the exercise of that discretion.—*United States* v. *Western Electric Co.*, slip op. at 4–5 (July 17, 1989).

DOJ has never conducted another triennial review.

Sixth, DOJ fails to deal with waiver requests in a timely manner.

Section VII of the MFJ contemplates that waivers may be filed directly with the District Court.

Section VII provides, in part, that:

Jurisdiction is retained by this Court for the purpose of enabling. . . a BOC to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Modification of Final Judgment, for the modification of any of the provisions thereof, ...

However, in 1984, the district court announced that it would consider waiver requests for removal of the line-of-business restrictions only after review by DOJ.—*United States* v. *Western Electric Co.*, 592 F. Supp. 846, 873–874 (D.D.C. 1984).

This procedure of requiring the BOCs to obtain DOJ review of waiver requests before filing them with the district court has given DOJ the ability to, in effect, deny relief from the line-of-business restrictions through inordinate delays.

In 1984, DOJ disposed of 23 waiver requests, with the average age of waivers pending at DOJ at the end of the year being approximately 2 months;

In 1992, DOJ disposed of 9 waiver requests, with the average age of waivers pending at DOJ at the end of the year being approximately 30 months;

In 1993, DOJ disposed of 7 waiver requests, with the average age of waivers pending at DOJ at the end of the year being approximately 36 months;

In 1994, DOJ disposed of 10 waiver requests, with the average age of waivers pending at DOJ at the end of the year being approximately 30 months;

On average, DOJ now takes almost as much time to consider a single waiver request as was intended to elapse between the comprehensive triennial reviews it promised, but has failed, to conduct.

Seventh, yet, nearly all requests for waivers from the line-of-business restrictions are supported by DOJ and approved by the district court.

DOJ has acted on 266 waiver requests and opposed relief in only 6 cases. In all others, DOJ supported relief either in whole or in part.

Of the same 266 waiver requests, the district court has approved 249 in their entirety and 5 in part. Only 6 were denied and 6 were pending as of the end of 1993.—Affidavit of Paul H. Rubin at ¶¶8 and 10, submitted in support of the Motion of Bell Atlantic Corp., BellSouth Corp., NYNEX Corp., and Southwestern Bell Corp. to vacate the decree, *United States* v. *Western Electric Co.*, Civil Action No. 82–0192 (filed July 6, 1994).

The district court has approved the vast majority—96 percent—of the waiver requests submitted to it.

Eighth, DOJ has announced "new principles"—as part of the Ameritech agreement—which must be met before it will support relief from the MFJ, Thereby signaling its rejection of the section VIII(C) test.

Section VIII(C) of the MFJ provides that:

the restrictions imposed upon the separated BOCs by virtue of section II(D) shall be removed upon a showing by the petitioning BOC that there is no substantial possibility that it could use its monopoly power to impede competition in the market it seeks to enter.

Section VIII(C) assumes that a local exchange monopoly will continue to exist, but nevertheless provides the BOC's with a basis for relief.

Under Section VIII(C), the only issue is whether there is a "substantial possibility" that a BOC can use its local exchange monopoly to "impede competition."

[U]nless the entering BOC will have the ability to raise prices or restrict output in the market it seeks to enter, there can be no substantial possibility that it could use its monopoly power to "impede competition".—*United States* v. *Western Electric Co.*, 900 F.2d 283, 295–296 (D.C. Cir. 1990).

According to the court of appeals,

. . . the importance of the word "substantial" should not be minimized. The ultimate burden under Section VIII(C) remains on the petitioning BOC, but the requirement that the possibility of using its monopoly power to impede competition be "substantial" relieves the BOC of the essentially impossible task of proving that there is absolutely no way for it to use its monopoly power to impede competition. Id. at 296.

According to the DOJ,

a BOC cannot impede competition in a given market unless it has market power—the ability to restrict output and/or raise prices. Id.

Whatever it means to "leverage" one's monopoly power, the DOJ is surely correct that no damage to competition—through "leverage" or otherwise—can occur unless the BOCs can exercise market power. Id.

Under Section VIII(C), the state of competition or lack thereof in the local exchange is irrelevant.

And while there may be some complexities in defining precise boundaries of the relevant market, one thing that is clear from section VIII(C) is that it is the "market [the BOC] seeks to enter" that matters, and *not* the local exchange market. Id.

On February 28, 1995, Assistant Attorney General Anne K. Bingaman gave an address to The National Press Club entitled "Promoting Competition In Telecommunications" (Bingaman Address) wherein she set forth new principles that would establish a basis for DOJ support for removal of the line-of-business restrictions.

Until Congress enacts reform legislation, we are prepared to recommend to Judge Greene that the Court move forward under the MFJ when three basic principles are satisfied:

First, steps to foster the emergency of local competition must be taken.

Second, the effectiveness of these steps must be tested by actual marketplace facts—by the state of competition.

Third, RBOC participation in other markets initially must be accompanied by appropriate safeguards." Bingaman Address at 12–13.

On March 2, 1995, David Turetsky, Senior Counsel to AAG Bingaman, gave an interview to Charles Jayco of KMOX Radio in St. Louis, MO, wherein he indicated that DOJ would recommend relief from the long distance [interexchange] restriction in court if the states take steps to foster local competition and choice is really available to consumers.

There is recognition that there is great need for competition, real competition in local telephone service and for that matter, cable television service, too. . . . The way we hope to get there, in the local market, is first of all, national legislation. . . . But this week we said that we have to do what we can with the tools we have in the Antitrust Division of the Department of Justice to try to foster local competition without national legislation. We can't wait. So really what we have done is announced that we're going to try to find a way to move forward. The first part of what we're trying to do is really up to the states. If they take steps to foster local competition and if we can test the steps they've taken to see that there are some actual marketplace facts that indicate that choice is really available for consumers, then what we'll do is we'll go to court, which we can do now, and recommend that local phone company be able to also compete in the long distance market, something they're not able to do today.—KMOX Newsmakers Broadcast Transcript at 2 (March 2, 1995).

DOJ's adoption of this new and different standard for removal of the line-of-business restrictions is inconsistent with the section VIII(C) test and inconsistent with the court of appeals' articulation of what the BOC's must demonstrate under section VIII(C) to obtain relief from the line-of-business restrictions.

In other words, DOJ has announced that it will not follow the law of the MFJ and apply the section VIII(C) test to BOC requests for relief from the line-of-business restrictions.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. PRESSLER. Mr. President, last night we had what I thought was a very stimulating debate on what makes technology move. And I pointed out that sometimes Government regulation is appropriate but in the computer industry there were no standards and there was no Government regulation and the computer industry moved forward very quickly.

I am very stimulated by discussions of what makes technology move forward, what kind of research really results in things moving forward.

COMPETITION IN THE COMPUTER AND TELEPHONE INDUSTRIES: A COMPARISON

By the early 1980's, AT&T and IBM were two of the largest and most powerful companies in the world. Both had been embroiled in antitrust litigation with the Department of Justice for over a decade.

Both the AT&T and IBM suits had focused on interconnection and bundling practices. The Government's complaint against IBM charged the company with "[m]aintain[ing] pricing policies, including the quoting of a single price for hardware, software and related support," which "discriminated among customers" and "limited the development and scope of activities of an independent software and computer support industry * * *." IBM was charged with monopolizing both the general market for electronic digital computer systems, and the submarkets of peripherals and other computer add-ons. The company had allegedly "[e]ngaged in various pricing and marketing practices" in order "to restrain its competitors from entering, remaining or expanding" in the general computer market, and its submarkets. IBM had allegedly pursued policies that maintained a "lease-oriented environment so as to raise the barriers to entry or expansion." IBM, in short, was allegedly refusing access to its closed, proprietary hardware systems, to stymie competition.

The Government's initial complaint against AT&T alleged very similar practices, centering on discriminatory interconnection of other providers of equipment and services, policies that centered on leasing rather than outright sales, and obstruction of competitive equipment providers through maintenance of proprietary standards. AT&T, in short, was allegedly refusing access to its hardware and network, to stymie competition.

The Government at first proposed similar remedies in the two cases. IBM was to offer and price separately its computer systems, peripheral equipment, and software and support services. The Government suggested a possible need for structural reorganization as well: it invited the court to grant further relief "by way of divorcement, divestiture and reorganization with respect to the business and properties of the defendant [IBM] as the Court may consider necessary or appropriate * * *"

On January 8, 1982, the Federal Government resolved both cases—but in fundamentally different ways. The Government simply dismissed the case against IBM. It hoped to achieve its objectives in the computer industry through the consent decree that it signed with AT&T. AT&T was broken up, but was freed from the antitrust quarantines imposed upon it by a previous antitrust decree entered in 1956, and so permitted to enter the computer business to challenge IBM.

EMERGENCE OF COMPETITION: COMPUTERS

By the time the Government had decided not to pursue its case against IBM, Intel was already over a decade old. Apple was growing fast. And IBM had just introduced a brand-new machine, based on an Intel microprocessor. Big Blue's new machine—its "personal computer"—was small and beige. Three weeks after the break-up of AT&T was complete, in January 1984, Steve Jobs stepped out on the podium at the annual stockholders' meeting of Apple Computer and unveiled the new Macintosh.

The Government's decision to allow competition, not regulation to guide the computer market, paid off handsomely. As the Department of Commerce has noted, "[c]ontinuously declining computer prices, steadily rising performance, and increasingly sophisticated uses have all stimulated domestic sales and exports." The Electronic Industries Association has reached a similar conclusion:

> Pushed by intense competition among PC suppliers, greater use of commodity-based mass marketing channels, and increased focus on the more price-sensitive buyers in homes, schools and small businesses, vendors continued to slash list prices, cut dealer margins, and introduce low-cost lines aimed at the consumer and home markets.

The impact of this unfettered competition has had its effect on IBM. IBM's market share, measured against overall industry revenues, had fallen to 20 percent by 1993. It has, however, recovered from the initial shock and is now holding its own against other competitors. IBM's stock, which had dropped to $41 a share by mid-1993, is now back near $100. In an attempt to shift its focus from mainframes to the PC market, IBM has introduced its OS/2 Warp operating system, which is fighting against Microsoft's Windows operating system.

It is important to note that while the industry moved from virtual monopoly to full competition, domestic manufacturers maintained their dominant position in the world market where they continue to account for some 75 percent of all computer hardware sales. United States based firms also dominate the world market for software.

EMERGENCE OF COMPETITION: TELEPHONY

Long Distance: In contrast, the markets for products and services provided by the predivestiture AT&T have languished. After an initial postdivestiture drop, AT&T's share of the overall interexchange market is now holding steady at about 60 percent even though AT&T charges higher prices than its rivals for comparable service. The combined market share of AT&T, MCI, and Sprint remains at 94 percent, down only 5 percent since divestiture.

Price competition has also not maintained pace with the computer industry. MCI and Sprint have brought their prices up to AT&T's since divestiture, and the three major carriers' prices now move almost monolithically. Long-distance prices actually fell faster before divestiture, when access charges are considered.

Equipment: AT&T has lost significant share in the market for telecommunications equipment. In the market for central office switching equipment, all market share lost by AT&T since divestiture has been gained by Canada's Northern Telecom. Foreign producers accounted for about one-fifth of U.S. switch sales in 1982, but they had more than half of the market 10 years later. Between them AT&T and Northern Telecom still controlled some 87 percent of sales in 1992, precisely the same combined share they held in 1982.

In the market for CPE, the vacuum created by AT&T's breakup and the line-of-business restrictions was filled by large foreign manufacturers. The Commerce Department has determined that "[t]here is very little U.S. production of commodity-type [CPE] products, such as telephone sets, telephone answering machines and facsimile machines" and that the country's trade deficit in CPE was approximately $3 billion in 1992.

COMPARATIVE MARKET PERFORMANCE

Price: Nowhere is difference between the IBM and AT&T approaches more apparent than in improvements in price performance ratios. A $5,000 PC in 1990—featuring a 486 microprocessor running at 25 MHz—had the processing power of a $250,000 minicomputer in the mid 1980's, and a million-dollar mainframe of the 1970's. Five years later, that same $5,000 PC is two generations out of date—with a third new generation on the horizon. Systems with nearly twice the processing power of that 1990 system—using a 486DX2—66 chip—are available for under $1,500 and advertisements are run which encourage owners of these chips to upgrade to newer ones. Systems with more than twice the processing power of that system—featuring a 120 MHZ Pentium

chip—are now available, most for under $5,000.

The upshot is that consumers can purchase systems with four times the power of 1980's mainframes at one-fiftieth of the price. Put another way, systems today have over 200 times the value of systems in 1984. By contrast, longdistance calls today represent only twice the value of long-distance calls in 1984. Had price-performance gains of the same magnitude occurred in the long-distance market since 1984, the results would have been equally stunning. For example, in 1984, a 10-minute call at day rates between New York and Los Angeles cost a little less than $7, in 1994 dollars. Today it costs $2.50. Had competition and technological advances developed in the long distance market as it did in the computer market, that same would cost less than 5 cents. Alternatively, a 10-minute call from New York to Japan cost roughly $25 in 1984, again in 1994 dollars, and $14 today. Had long-distance service advanced as rapidly as the personal computer industry, that call would cost less than 13 cents.

This same formula can be applied to all telecommunications markets. The price of a PBX, measured on a per-line basis and adjusted for inflation, has fallen by about half since 1984, from about $1,000 to a little over $500. Price and performance gains on par with the computer industry's would have brought that per-line price down to less than $4. Inflation adjusted per-line prices for central office switches went from $330 in 1984 to $165 today. Improvements in Central Office switch value comparable to that seen in PC's would have lowered that figure below $2. A typical telephone cost about $50 in 1985 and $25 today, but had CPE followed the trend in the PC industry, essentially the same functionality might cost under a dollar today.

Open Networks: Central to the Government's case against both companies was their attempts to maintain closed systems. Yet in scarcely a decade after the Government dismissed its suit against IBM, 99 percent of all computing power migrated out of the mainframe and on to dispersed, desktop machines. Driven entirely by market forces, IBM has since extensively unbundled its products and services. IBM has spun off its printer and keyboard division, Lexmark, and has entered into numerous joint ventures with former rivals. "The idea of open systems—that computers should easily share things and basically behave like friends—is what everyone is aiming for," IBM's advertising now declares. During that same time period, regulators and industry participants have been struggling to define the same types of interfaces.

Jobs: One measure of relative market health is growth in the number of employees. In 1980 there were a little more than 300,000 Americans employed in the computer industry while more than a million were engaged in the provision of telephone products and services. By 1993 computer products and services accounted for more than 1.2 million, a four-fold increase. At the same time, the number of telephone employees had dropped to less than 900,000.

CONCLUSION

In 1982, the Department of Justice was prosecuting two cases, one against AT&T and another against IBM. The theories of the two cases were virtually identical. The Government, however, chose to break up AT&T and prohibit its local companies from participating in the markets for long distance service and telecommunications equipment. At the same time, it chose to drop its suit against IBM and allow market forces to shape the computer industry. These two very different approaches have yielded very different results. Today AT&T remains dominant in the market for long distance services. In the market for telecommunications equipment, AT&T has seen erosion of its position, but almost all the new entry has been by foreign firms. IBM, by contrast, is now only the fourth largest personal computer manufacturer. The computer market is flourishing, domestic jobs are growing fast, and U.S. computers set the standard worldwide. These results confirm that in a rapidly developing market, competition will yield better results than will regulation and embargo.

Mr. President, I would like to summarize my statement by saying that I think all of us here have worked together on a bipartisan basis. We have some disagreements on some amendments to come, but I am sure we will work them out. I very much respect everyone's point of view, and I respect the need to debate these. And I welcome Senators to come to the floor to make their statements and to offer their amendments, for that matter.

It is my strongest feeling that the bill we worked out in the Commerce Committee—and we had input from a number of sources. Indeed, we have had meetings since January on this, and we invited other Senators who are not on the Commerce Committee to participate. I believe the very able staffer of my friend from Nebraska—and I wish to praise Carol Ann Bischoff. I had intended to praise her in my closing statement. It is not unusual to praise a staffer, but she did a great job. She was in many of the meetings, and we appreciate that very much.

So what I am saying is a number of people have worked on this legislation. I am not criticizing anyone for raising questions here. We will continue to work on it.

We did have meetings every night from about January on, including Saturdays and Sundays, for interested Senators, and we think that we have crafted a good bill. I want to praise Senator HOLLINGS and Senator INOUYE, all the Democrats and Republicans on the committee and off the committee who participated.

But we worked out this delicate balance on this bill, which provides for an FCC review. It provides for a checklist. It also has the public interest, convenience and necessity standard. We feel that going on to a Justice Department review would be duplicative.

But in any event, let me state the need to pass this bill. This bill will provide a road map for the next 15 years or 10 years or however long it takes to get into the wireless age. It will provide a basis for investment and for jobs, and it will be something like the Oklahoma land rush because right now our telecommunications sectors are an apartheid, an economic apartheid. They each have an economic sector. This bill is intended to get into everybody else's business, but also it takes off certain restrictions on our domestic companies that they spend their money in Europe.

So I hope we can pass it, and I wish to commend everybody for participating. We have tried to run as open a process as possible. Senator HOLLINGS and I have invited everybody to meetings. His staff has done an outstanding job and our staff on the Commerce Committee has done an outstanding job. We welcome amendments. We welcome digesting this further. I thank everybody for their participation.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER (Mr. GRAMS). The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I would like to take a few minutes and describe what was in the Hollings-Daschle amendment that was adopted earlier and describe why we believe it is important to have these things included in the bill.

Before I do, I would like to once again compliment and respond to the comments just made by the distinguished chairman of the Commerce Committee, the Senator from South Dakota.

Mr. President, what we are about to do in this legislation is without precedent. There is no legislative precedent for taking this large a sector of the economy. It is true we have deregulated other sectors of the economy but nothing that touches nearly half of all the U.S. economy, either directly or indirectly. It is a mammoth part of the economy.

Make no mistake about it, while it may be true that some Americans do not fly, and some Americans do not use a truck, every single American will be touched by this piece of legislation. If you have a telephone line coming into your home, if you watch broadcast television, if you buy records, if you have

cable service, if you use any consumer electronics, if you have a computer, if you have any contact at all with information industries or services, this bill will have an impact on you—a substantial impact on you.

I say this to my colleagues who are wondering why this is important. There will be precious little interest, I suspect, in this legislation, or a relatively small amount of interest in this legislation, while we are debating it as perhaps in the first 30 or 60 days after it is enacted.

For those who wonder what this bill will do, I urge you to go back and examine the 1984, 1985, 1986 period and try and reach back and test the waters to see what consumers and citizens were saying the last time we attempted to move from a monopoly to a competitive environment.

At that time, the Department of Justice managed that transition. That is why the role for the Department of Justice is so important. That is why the Dorgan amendment and the Thurmond amendment are so critical. The Department of Justice does have expertise in doing this. It is not duplicative. It is not additional bureaucracy, Mr. President.

Those who say that and who believe that is true should look at the long run. It requires a process to go forward simultaneously with the Department of Justice and with the FCC. In the Department of Justice, there is a 90-day time certain. That is not duplicative. That does not require people to go through a long, lengthy process. Indeed, I will predict with great confidence that if this bill is passed without—without—the DOJ language in there, what will happen is we will have extensive litigation, because the 14-part test that is required before a regional Bell operating company can get into long-distance service, before your local telephone company can do long-distance telephone service, has not been litigated. There is no precedent. There is no court history that can be referenced with clarity so that people understand what is going on. And it will be litigated.

I understand the delicate balance argument. I understand what the committee had to do. I understand what the committee had to try to balance in order to get this out. Indeed, it is the sole responsibility and credit of the senior Senator from Nebraska, Senator EXON, that the compromise that gives DOJ a consultative role was added by the committee prior to it being voted out.

Nonetheless, I say over and over and over, do not underestimate the difficulty this vote is going to produce for you unless the most experienced manager of taking a monopoly to a competitive environment has more involvement than just consultation. If you are uncomfortable with the bureaucracy argument, there are fewer than 900 employees over in antitrust at the Department of Justice. If the language troubles you in some fashion and you think we need to make certain that time certain is held to, that it is not delayed for a long period of time, come and argue for changes in that.

Second, the distinguished Senator from South Dakota lays out the differences in results with the Justice Department's action with IBM in the early 1980's—about 1982—and the action taken by the Justice Department in 1984.

I say to my colleagues, this makes the case for Justice involvement. They had a success in both cases. It is a completely different situation, however, when you are talking about a monopoly that has been created by law to perform a public service of providing telephone service to all American households.

The goal of the 1934 act says universal service and, indeed, as early as 20 years ago universal service had been attained, but it is a franchise, a monopoly franchise granted first to AT&T and second, after divestiture, to the regional Bell operating companies, and no one should suffer the belief that somehow these companies are not earning relatively high rates of return on equity. Their P&L's are quite impressive. Their performance has been quite impressive. We are not receiving complaints from citizens of this country who come back from Europe or Asia or South America or Australia or Africa saying, "Gosh, I wish I had as good a service as I got when I was outside the United States." We have exceptional service. We have high-quality service. We have high- and well-performing corporations that are providing that service.

So we are going to be asked by our people, the citizens who are not, in the main, asking for us to deregulate these industries, these companies, why we did this thing. It is fair to say, I think, this is a contract with America's corporations who are currently not allowed to do many things that this law will allow them to do. Corporations are saying to us, "Please let us do these things, because if you do, trust us, things are going to get better." But if they do not get better, Mr. President, it will be our vote and we, as Members of this body, will be responsible for it.

I hope the Senate will seriously consider next week when we vote on the Dorgan and the Thurmond amendments—my hope is we can bring the two amendments close enough together that we will have a vote on a single amendment—my hope is that my colleagues will look at this seriously and say this may be the only safety valve that I have on behalf of the consumers, the citizens, the voters of the State which I represent.

Mr. President, I was actually going to do this next week. I will start to do a little of this now.

This is the annual report of one of the companies. You hear people say—I heard it already in this debate—"Gee, the Government is sitting like a big animal in the middle of the road preventing this gold rush to occur, this stampede of innovation, this creation of new jobs."

Look at the job creation over the last 10 years created by the regional Bell operating companies, created by AT&T and other long-distance providers, created by the computer industry. The computer industry surprisingly has laid off 150,000 people over the last 9 years. Look at the existing industries that are coming and talking to us saying they need this change and you do not see much in the way of job creation. You do not see much in the way of job creation, indeed, with the exception of cellular and cable. The job growth has been going downward to the right.

So do not expect in your home States to be greeted by a round of applause that you are going to create jobs in the areas where you are currently being asked or lobbied to support one provision or another, with a few notable exceptions.

This is Southwestern Bell. The headline reads: "Southwestern Bell builds value, your $100 investment has grown to $173 in 10 years and we're ready for another decade of growth."

I have a whole stack of them. I suppose I will have a chance next week. I am sure somebody is going to come to the floor and talk about how we are blocking these companies; it is difficult for them to do well. Their P&L's are very impressive. They outperform most manufacturing businesses in America. They are doing quite well.

As I said, I do not object to many of the deregulatory efforts. I do not object to cutting the regulation. I am the only Member of Congress to have signed a deregulation bill. But I do not want the presumption that we need to deregulate be that these companies are really underperforming against other corporations in America or that somehow Congress has denied them a fair shake in the marketplace.

Mr. President, let me now go through the package of amendments that we took up earlier.

The Hollings-Daschle amendment was a package of provisions that attempted to strike a better balance between consumer protection and market deregulation. These were safeguards which were designed to protect consumers by expanding services and keeping them affordable.

The first amendment improved the cable rate regulation provision of the committee bill by strengthening what was known as the bad actor test. Rates

for the upper tiers of cable service will now only be found unreasonable if they significantly exceed the national average rate for comparable cable service for systems other than small cable systems determined on a per channel basis as of June 1, 1995.

It sounds arcane. It was significant. By excluding the small cable system, we raised the bar a bit—and I think quite appropriately so—to protect American consumers.

In addition, the amendment will deregulate a cable company only after a telephone company begins to provide video programming service that is comparable; not just a single channel, but comparable to the video service provided by the cable company.

A second amendment also prohibited buyouts in joint ventures by telephone companies and cable companies, except in areas below 50,000 and in a nonurbanized areas or if the FCC waives the provision. This places reasonable limitations on the ability of cable and telephone companies to eliminate each other as potential competitors through buyouts and mergers, except in rural areas where competition may not be viable. This change improves the bill.

I must tell you that I am still very much concerned about the potential for a telephone company to buy out a local cable company. Again, you can imagine your own household, where you have a telephone line coming in, a cable line coming in, and those two pipes give you the potential for a competitive environment. That environment is going to be substantially reduced if you allow that kind of acquisition which will reduce you from two to one line.

The Hollings-Daschle amendment will also allow small competitors to the telephone companies to jointly market local and long distance service, but not AT&T, MCI, and Sprint. It amends the provision on joint marketing to allow carriers with under 5 percent of the Nation's prescribers to engage in joint marketing and to sunset the prohibition on joint marketing after 3 years. With the earlier provision, this is something I have taken a particular interest in, as many colleagues have as well. It is unquestionably a procompetitive action.

I urge, again, upon my colleagues the idea that if we are going to have a competitive environment, the competition is going to come from start-up companies who are going to end up like Intel, having a microprocessor 12 years ago and now with tremendous market value, and a tremendous market net worth as a consequence of them having an idea, actually spun off from IBM, that they developed over that period of time. That is where the jobs are going to be created. They are going to be created from new competitors, not from the established businesses. We do not want to be unfair to established businesses, but what this change allows is for the smaller entrepreneurial companies to jointly market and, as a consequence, have a better chance of surviving in that market.

The amendment will allow consumers to realize the benefits of competition in the local telephone exchange, while preserving the competitive balance between the regional Bell operating companies and the major long distance carriers. The provision also promotes network interoperability by all communications carriers. This is a provision I was also personally involved in, having introduced legislation to this effect some months ago. This is an important part of building a seamless national information infrastructure that will enhance education, business, and health care providers.

This amendment would not expand or limit the FCC's current authority over standards setting. I emphasize that last part because, as originally introduced—and this is one of the dangers of these kinds of law-making efforts—it did in fact establish what are called de jure standards, a legal standard thus preventing de facto standards.

What is happening across the board in networking, in transmission, in hardware, in information services, in content, in the market sitting out there, businesses are out there and individuals are out there saying: These are my needs, this is what I need to get done; here is point A and here is point B. This is the kind of network requirements that I have, and the engineers and the innovators are coming up with new solutions constantly.

Thus, though it is terribly important for us to have interoperability in this network, particularly the network-to-network, and the ability to come on line anyplace you are, it is terribly important to have that. This legislation, I think, strikes a very good balance between that need and the comparable need to avoid establishing a standard that would restrict and constrict the development of technology itself.

Nothing in this amendment, Mr. President, precludes existing local telephone marketing agreements from continuing in effects. Many small broadcasters like the programming to fill an entire broadcast day, and consequently they often lease their facilities to other programmers. These are called local marketing agreements. This amendment I referenced earlier recognizes this need and will help small broadcasters continue to diversify their products.

Mr. President, as with the amendment offered by the majority leader, the amendment that was agreed to earlier, that was approved earlier on a rollcall vote, and offered by the distinguished Democratic leader and the distinguished ranking Democratic member of the Commerce Committee, comes to this law and says we are concerned about consumers, we are concerned about those individual families living in households, we are concerned about that small entrepreneur, that start up company that nobody even knows about today. We want to make sure that we give them a full and fair opportunity.

Mr. President, we are probably at a point where it is not worthwhile to continue this exchange. It looks to me like it might be the Senator from South Dakota and I alone sitting here all afternoon talking to one another. That would not necessarily be very constructive. Thus, I look forward to continuing the debate next week on the Department of Justice amendment offered by the Senator from North Dakota and the second-degree amendment offered by the senior Senator from South Carolina.

I yield the floor.

Mr. PRESSLER addressed the Chair.

The PRESIDING OFFICER. The chair states that when the majority leader modified his amendment, that subsumed the underlying Daschle amendment. That is for the information of the Senate.

The Senator from South Dakota.

Mr. PRESSLER. I say to my friend, the Senator from Nebraska, that my mother is watching in Sioux Falls. She might appreciate it if we can just talk all afternoon, but I think other than her, there might be some boredom.

I did want to praise Senator INOUYE for his leadership and willingness on the GTE consent decree. I thank the Senator very much.

Mr. President, I will go a bit further to describe in more detail some of the things in the Dole package this morning. I think all this was worked out in Dole-Daschle and others, including myself as a cosponsor.

In that package, the current law does not recognize the uncertainty and disproportionate burdens rate regulation imposes on small cable companies. Without relief, many small cable companies will be unable to rebuild and upgrade their systems; moreover, they may be unable to survive or compete in the telecommunications marketplace.

Small cable companies must spread high fixed costs over a small subscriber base, making it difficult to rebuild and upgrade facilities, to obtain a return on investment, and to service debt. At the same time, small cable companies typically incur a higher cost of capital than the industry as a whole.

The current regulatory scheme has required small cable companies to devote a substantial amount of their operating budgets to legal and accounting expenses simply to understand and comply with the complex regulations spawned by the Cable Act of 1992.

99-059 O—97 Vol. 141 (Pt. 11) 23

Rate regulations imposed on these companies have depressed their revenues and caused uncertainty in the financial sector, exacerbating the difficulty such companies have in attracting financing. The uncertainty caused by the threat of regulation alone has discouraged the banking community from extending financing to small cable companies. Without such financing, small cable companies will be unable to position themselves to meet competition, or in many cases, to stay in the cable business.

At the same time, small cable companies have been particularly hard-hit by the competitive challenges of direct broadcast satellite [DBS], which has become one of the fastest introductions ever of a new consumer electronics product since its launch in 1994. DBS services, which are expected to serve 2.2 million subscribers by the end of this year, deliver virtually every program network offered on cable, including movies, sports, and dozens of channels of pay-per-view movies.

Small cable companies need immediate rate relief in order to access the capital necessary to compete and to continue to provide services to customers. Consequently, telecommunications reform legislation should exempt small cable companies from rate regulation.

RADIO OWNERSHIP

The financial health and competitive viability of the Nation's radio industry is in our hands.

We all agree that the telecommunications legislation we are considering today is about competition, and not picking winners and losers. And we also agree that this legislation goes a long way toward giving cable, satellite, and the phone companies the freedoms they need to compete, but we now need to agree to extend these same freedoms to the over 11,000 radio broadcasters in this country.

No other audio service provider, be they cable, satellites, or telcos, has the multiple ownership restrictions that radio has. The language we are offering today eliminates these outdated radio-only rules. It is imperative that we in the Congress end this discrimination against radio sooner by adopting this language, rather than wait for the bureaucracy to come around to it later, as this legislation as currently drafted, would have it.

Immediate action is critical because the FCC is on the verge of authorizing digital satellite radio service, whereby 60 new radio signals will broadcast in every market in the United States. This satellite service will be mobile and available in automobiles, homes, and businesses. Also, cable already provides 30 channels of digital radio broadcasting in markets across the United States under a single operator. Obviously, an incredible diversity of voices has been achieved, with even more competition to radio quickly making its way down the information superhighway.

Yet let us not lose sight of the fact that all of these welcome new voices are also aggressive competitors for radio's listeners and advertisers. And unlike radio, these competitors are not burdened with radio's multiple ownership restrictions, nor do they have the same public service obligations are radio broadcasters.

Our Nation's radio broadcasters have a strong tradition of providing the American people with universal and free information services. In a telecommunications environment increasingly dominated by subscription services and pay-per-view, it is essential that we not foreclose the future of free, over-the-air radio by restricting ownership options. For radio, serving the public interest and competing are not mutually exclusive, they are complementary. So it is left up to us to empower radio so it can grow strong well into the next century, and continue to serve our communities as it has done so well for the past 70 years.

The last is perhaps the most important, relief from ownership rules works. In the early and mid-1980's, the FCC issued hundreds of new radio licenses and the market became oversaturated with radio stations without sufficient advertising revenue to support the increase.

However, in 1992, the FCC granted limited relief in radio ownership restrictions. After many years of financial losses, suddenly radio became an attractive area for investment, and alarmingly, multiyear stations going off the air was arrested.

The economies of scale kicked in, stations gained financial strength in consolidation, and competing for advertising improved.

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

In 1994, sale prices of single FM stations rose 12.7 percent from 1993's $743.5 million to $838 million.

From 1993 to 1994, the total volume of AM station sales shot up 84 percent, totaling $132 million.

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

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

Mr. President, I might say a word about the GTF consent decree. The GTE consent decree arose from the 1982 acquisition of Southern Pacific Communications Co., the forerunner of Sprint, and Southern Pacific Satellite Company, Spacenet.

The Justice Department, as part of its statutory Hart-Scott-Rodino review of the proposed acquisition, negotiated a consent decree based on section 7 of the Clayton Act.

Unrelated to the acquisition, the suit also claimed GTE's provision of information services created a substantial profitability, monopolizing the market in violation of section 2 of the Sherman Act. This portion was removed in 1991.

GTE was not found to have violated any antitrust statute. They voluntarily accepted the consent decree in December 1994, allowing the company to proceed with acquisition.

The primary restrictions of the decree are: Structural separation between GTE's telephone operating companies and Sprint; and GTE's telephone operating companies are prohibited from providing or joint marketing interLATA long distance companies.

The GTE consent decree should be vacated through the pending telecommunications reform legislation for three reasons: First, GTE no longer owns the Sprint or Spacenet assets that gave rise to the original suit. The Sprint assets were disposed of completely in 1992. Spacenet assets were sold to General Electric in late 1994.

The GTE consent decree is not related to the modified final judgment. The 1982 court order that resolved the AT&T antitrust case and broke up the Bell system restricts the regional Bell operating companies from entering the long distance and manufacturing businesses.

GTE is the only non-Bell telephone company with such cumbersome proceedings. These procedures resulted in higher costs and hamper GTE's ability to compete.

GTE also filed a motion with Judge Harold Greene in the U.S. district court to have the court vacate the GTE consent decree.

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

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

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

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

The PRESIDING OFFICER. The pending business is the telecommunications bill.

MORNING BUSINESS

Mr. DOLE. I ask unanimous consent that there now be a period for the transaction of morning business from now until 3 o'clock, with Members permitted to speak for 5 minutes therein.

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

Mr. DOLE. Mr. President, was leaders' time reserved?

The PRESIDING OFFICER. The leaders' time has been reserved.

EXERCISING GOOD CITIZENSHIP

Mr. DOLE. Mr. President, last week, I ventured out to Hollywood and called upon the executives of the entertainment industry to exercise some good citizenship and put an end to the steady flow of mindless violence and loveless sex they serve up each day to our young people. I said that a "line has been crossed—not just of taste, but of human dignity and decency. It is crossed every time sexual violence is given a catchy tune. When teen suicide is set to an appealing beat. When Hollywood's dream factories turn out nightmares of depravity."

Although I made it very clear that government censorship was not the answer, the response to my remarks has been predictable and predictably ferocious. All the usual suspects—Oliver Stone, Ed Asner, Norman Lear—have been out in force, rushing to Hollywood's defense and lashing out at anyone who would dare criticize the entertainment industry for its excesses.

I will continue to speak out because people like Bill Bennett, PAUL SIMON, PETE DOMENICI, BILL BRADLEY, and C. Delores Tucker all happen to be right: cultural messages can and do bore deep into the hearts and minds of our impressionable young. And when these messages are negative ones—repeated hour after hour, day after day, week after week—they can strip our children of that most precious gift of all: Their innocence.

Apparently, the American people share this concern, particularly when it comes to television, perhaps the most dominant cultural force in America today. A recent survey conducted by USA weekend magazine revealed that an astonishing 96 percent of the 65,000 readers surveyed are "very or somewhat concerned about sex on TV," 97 percent are "very or somewhat concerned" about the use of vulgar language on television shows, and another 97 percent are "very or somewhat concerned" about television violence. Jim Freese, the principal of Homestead High School in Fort Wayne, IN, put it this way: "I'm seeing more instances of inappropriate language around school. It is part of the vocabulary, and often they do not think about some of the words because they hear them so often on TV. It is a steady diet. Program after program has this inappropriate language."

According to a study commissioned by USA Weekend, 370 instances of "crude language or sexual situations" were recorded during a five-night period of prime-time programming, or one every 8.9 minutes. Two hundred and eight of these incidents occurred between 8 and 9 p.m., the so-called family hour.

Of course, we have more to lose than to gain by putting Washington in charge of our culture. Instead, it is my hope that the decision-makers within the entertainment industry will voluntarily accept a calling beyond the bottom line and help our Nation maintain the innocence of our children.

Mr. President, I ask unanimous consent that the cover article from the USA Weekend magazine be reprinted in the RECORD immediately after my remarks.

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

[From USA Weekend, June 2-4, 1995]

TURNED OFF

(By Dan Olmsted and Gigi Anders)

It was, in its crude way, a perfect TV moment for our times: 9 p.m. ET on a Wednesday this spring on Grace Under Fire, the top-5 ABC sitcom. Divorced mom Grace is talking in the kitchen with 10-year-old Quentin, who has been visiting his dad. Let's listen in, along with the 28.3 million people watching the show on a typical night, 5.6 million of them under age:

Grace: How come your daddy didn't come in and say hey?

Kid: Aw, he was in a hurry. He had a date with some slut.

Grace: Quentin? I'm going to wash your mouth out with fabric softener. Where did you hear that word?

Kid: Dad's house. It was a cable.

These days, that episode neatly demonstrates, the raw stuff isn't on just cable anymore. Sex, and what your mother called "vulgar language," now play nightly on the four major networks—for laughs, shock value, sizzle and ratings, and because producers say viewers want verisimilitude, and this is how reality looks and sounds in 1990s America.

But such programming may turn off a sizeable number of viewers—including 97 percent, or 63,000, of the 65,142 readers who took part in USA Weekend's survey on TV violence and vulgarity. The key finding: Many viewers want to wash out TV's mouth with something stronger than fabric softeners. They're especially upset that much of the unclean stuff is coming out of the mouths of relative babes like Quentin and into the eyes and ears of kids.

The written survey, which ran in our March 3-5 issue, follows a similar one two years ago that drew 71,000 responses. The earlier survey came amid concern about TV violence and congressional hearings on the subject; is showed violence was readers' top concern, with sexual content a close second.

This year the figures are reversed (see chart, opposite page): Sexual content tops the list of "troublesome programming," with violence second.

The results are not scientific, but they're over-whelming—make for a comparison with two years ago. Viewers still find TV violence troubling but seem increasingly concerned about rawness, especially on the networks' prime-time shows.

Concern over violence remains high, to be sure: 88 percent of readers who responded to the write-in are "very concerned" about it, compared with 95 percent in 1993.

"We limit our kids' TV viewing because of the violence, and because too much TV of any kind turns their minds to jelly," says Sue Sherer, 40, of Rochester, N.Y., a mother of three (ages 11, 9 and 7) and PTA president who filled out the survey. "We rob kids of innocence when we expect them to grow up so fast and mirror kids like those on Roseanne. I don't want them to be naive, either, but I'd like them to be children. And TV is a great vandal of that."

Responding to the concern over vulgarity, USA Weekend monitored five evenings of prime-time network TV (8-11 p.m. ET). We enlisted journalism students from The American University School of Communication in Washington, DC., who videotaped each program and noted incidents of crude language or sexual situations (see chart below).

The result: 370 incidents over five nights—after giving the tube the benefit of the doubt on close calls. "I was surprised," said Alan Tatum, one of the AU students who helped us. Even on "family" shows, "it almost seems the producers feel they need to throw in bodily humor every so often."

Every 8.9 minutes, on average. And 208 incidents—well over half—occurred in "the family hour."

A cultural Rubicon of sorts was crossed in the past few weeks, when ABC moved Roseanne to 8 p.m. ET and two family-hour staples, Blossom and Full House, went off the air.

First sanctioned by the National Association of Broadcasters code in the early 1970s, the family hour (8-9 p.m. Eastern and Pacific time; 7-8 p.m. elsewhere) was long considered the proper time to appeal to kids. It meant Happy Days and Laverne & Shirley, The Cosby Show and Family Ties. But in more recent years, thanks largely to competition from cable and the emergence of the Fox network in 1986, programmers have been so eager to recapture a dwindling TV audience that the family hour has become inhabited by adult and young-adult hits such as Mad About You, Martin, Melrose Place and Beverly Hills, 90210. In fact, following the stunning success of NBC's Thursday night comedy blitz, ABC has been trying to create a solid block of its own on Wednesday by reshuffling two of its edgier sitcoms, Roseanne and Ellen, into the family hour.

For all the national discussion about values, even such family-hour shows as Fresh Prince of Bel-Air and The Nanny are laden with sexual innuendo and hot-blooded humor. And Martin has all the subtlety of a Friar's Club roast.

There's a sense that TV, which in the '50s and early '60s made happily married couples like Ricky and Lucy and Rob and Laura sleep in separate beds, is making up for lost time.

Programmers say it's not that simple. "TV is changing," says James Anderson, a vice president of Carsey-Werner, which produces Roseanne. "The show reflects the climate we're in. There's a big discussion going on over what should be shown during the family hour. It's necessary, I guess, but any show that pushes the envelope usually gets penalized in some way. And Roseanne does push it."

He cites the show's complex treatment this season of Roseanne's pregnancy—worrying whether there was something wrong with the baby she was carrying—as an example of provocative but responsible programming. "Parents who say they dislike the show and wouldn't let their kids watch are uncomfortable about having to discuss the issues raised on the show with the children."

But, he suggests, the genie isn't going back into the bottle. "The face of TV is going to be seriously redefined over the next couple of years. I mean, Melrose Place is on at 8, and they have way more T&A than Roseanne does." Fox and Melrose Place did not respond to requests for comment.

CBS senior vice-president Martin Franks defended his network's programming, while acknowledging some early-evening broadcast fare is inappropriate for kids. "I have a 13-year-old and an 11-year-old, and I don't let them watch The Simpsons [Fox, 8 p.m. ET Sundays]. I don't want my kids talking that way."

He compared the high level of dissatisfaction recorded by the USA Weekend survey to asking viewers if they dislike "attack ads" during political campaigns: "Of course the answer is going to be yes, yet people watch them and are being affected." Many people who complain about network programs also would complain "if we pre-empted them for a presidential press conference," Franks argues.

"Adults ought to be able to watch something. Someone at this point who is surprised by The Simpsons or Roseanne or Seinfeld is living under a rock."

All four networks have offices of standards and practices that monitor shows for taste and content. (The industrywide National Association of Broadcasters code is defunct.) "You can argue they miss something or their judgment is different from yours," Franks says of the censors, but they take the job seriously: "They make suggestions to change scripts before they're even shot."

The bigger question: Is it worth wondering whether course language and risqué fare have any social impact? Or is that like Dan Quayle attacking Murphy Brown, easy to dismiss as an overblown attack on a fictional character? Educators, for one group, don't think it's far-fetched.

"I've been a principal for 20 years, and I've seen significant changes. And one of the factors is TV," says Jim Freese of Homestead High School in Fort Wayne, Ind., where students filled out the survey. "I'm seeing more instances of inappropriate language around school. It's part of the vocabulary, and often they don't think about some of the words because they hear them so often on TV. It's a steady diet: Program after program has this violence and inappropriate language."

Last month, U.S. Sen. Kay Bailey Hutchison, R-Texas, proposed legislation giving parents access to a "report card" rating the violence in TV shows. Funded by the government and compiled quarterly by a neutral organization such as a university, the report would list the most violent shows and their sponsors; viewers could then pressure the sponsors to withdraw their ads.

The movies' rating system "has worked very well," Hutchison told USA Weekend, adding that the magazine's survey reinforces other studies, as well as comments from her constituents. "Parents are sitting with their children thinking a show will be all right, and all of a sudden there is something very inappropriate." The report card would offer parents a "comfort level," knowing certain programs would not contain violence or vulgar language.

Not surprisingly, the older our survey respondents, the greater the concern. For instance, 95 percent of those over 65 are "very concerned" about TV violence, vs. 70 percent of those under 36. Older readers worry that younger viewers aren't concerned. "Most of my students find the issues under question acceptable," says Nancy Movall of Newell, Iowa, whose high school visual communications class took the survey. "I wonder if it's because they have been raised in a world that sees violence far too often and thus have become more tolerant of it."

Also filling out the survey: 14 inmates at the South Dakota State Penitentiary, who marked "very concerned" about either sex, violence or vulgarity on TV a total of 20 times.

Some language in prime time is now so strong, we've chosen not to print it on our cover:

From The Wright Verdicts, 9 p.m. ET Friday on CBS: "You lousy bastard!"

From NYPD Blue, 10 p.m. ET Tuesday on ABC: "You're lucky I don't kick your ass."

From the CBS movie With Hostile Intent, 9–11 p.m. ET: ". . . kiss my butt a little harder . . . probably getting laid . . . Let's go get naked . . . Aw, hell, I'm stuck with a bitch tonight . . . Roberta's on the rag . . . "

From Fox's Melrose Place, 8–9 p.m. ET: ". . . I want you to go home with me . . . I want you to unbutton my blouse and pull up my skirt . . . I'll be up for hours unless I can find a way to relieve my tension."

From NBC's Friends, 9:30 p.m. ET: "Now we need the semen of a righteous man."

Of course, Friends is a smash: Melrose fans aren't likely to picket Aaron Spelling because of too-steamy plots; and Roseanne, in many critics' eyes, is quality TV.

"Thinking adults are hardly going to turn into a heaping pile of gelatin because they hear the word "ass' on the air," argues Los Angeles Daily News television critic Ray Richmond. "I don't see this 'vulgarity' as a loosening of standards, but rather as a reflection of the reality around us."

Plus, more than two-thirds of U.S. homes now have cable, he notes, and the government's "set of rules for network TV doesn't apply to cable or pay-per-view programs, and they're all on the same remote control in people's living rooms and bedrooms. People who believe TV's going to hell in a handbasket are overreacting."

But is there a middle ground between prudery and prurience? Beneath the comic coarseness of Grace's response to Quentin's use of "slut" is advice that's hard to disagree with. "You shouldn't use that word," she tells her son. "It's demeaning to women, and men who say it. And furthermore, if it weren't for women like them, I wouldn't know how to rat my hair real big and put on blue eyeshadow.

"So show a little respect."

COMMENDATION OF CAPT. SCOTT F. O'GRADY AND U.S. AND NATO FORCES

Mr. DOLE. Mr. President, I send a resolution to the desk and ask it be read on behalf of myself, Senator HELMS, Senator WARNER, and many others. I am not certain of all the cosponsors. This has been cleared, I understand, on both sides.

The PRESIDING OFFICER. The clerk will read the resolution.

The assistant legislative clerk read as follows:

A resolution (S. Res. 132) commending Captain O'Grady and U.S. and NATO forces:

Whereas on June 2, 1995, Bosnian Serb forces using sophisticated surface to air missiles shot down a United States Air Force F-16 aircraft piloted by Captain Scott F. O'Grady while on combat patrol as part of NATO-commanded Operation Deny Flight;

Whereas in late 1994, reports indicate the United Nations vetoed NATO proposed operations to attack Bosnian Serb surface to air missile sites;

Whereas effective measures to defend against Bosnian Serb air defenses did not occur during Captain O'Grady's mission on June 2, 1995;

Whereas thousands of United States Armed Forces and armed forces of NATO allies were involved in search operations to recover Captain O'Grady;

Whereas Captain O'Grady, in the finest tradition of American military service, survived for six days and nights through courage, ingenuity and skill in territory occupied by hostile Bosnian Serb forces;

Whereas on June 8, 1995 Captain O'Grady was rescued in a daring operation by United States Marines;

Whereas aircraft involved in the rescue operation were attacked by Serb forces but no casualties occurred;

Therefore be it resolved by the Senate that it is the sense of the Senate that—

(1) Captain O'Grady deserves the respect and admiration of all Americans for his heroic conduct under life-threatening circumstances;

(2) the relief and happiness felt by the family of Captain O'Grady is shared by the United States Senate;

(3) all members of the United States and NATO armed forces involved in the search and rescue operations, in particular the members of the United States Marine Corps involved in the extraction of Captain O'Grady, are to be commended for their brave efforts and devotion to duty;

(4) U.S. and NATO air crews should not be put at risk in future operations over Bosnia unless all necessary actions to address the threat posed by hostile Serbian air defenses are taken.

Mr. DOLE. Mr. President, this is a time for celebration—a brave American pilot, Capt. Scott O'Grady, has been rescued from Bosnian Serb-held territory. He is back at Aviano Air Base in Italy and will soon be on his way home to see his family.

I am pleased to submit this resolution on behalf of myself and many of my colleagues on both sides of the aisle commending Captain O'Grady, and the U.S. marines who rescued him, for their courage and professionalism.

In the interests of getting this resolution adopted today, I agreed to modify several provisions, although I have a hard time to understand why they are objectionable. But first it was objected to stating the obvious—that many missions prior to Captain O'Grady's were not accompanied by adequate action against hostile air defenses. And second, objection to urging

appropriate responses to the attack on Captain O'Grady. The term "appropriate" covers a lot, but apparently some want no response at all to the attack on Captain O'Grady or the attack on the rescue aircraft. But having said that, those provisions have been removed to satisfy my colleagues on the other side of the aisle. I think we all want to make a statement and I believe this resolution makes an appropriate statement. The distinguished Senator from Massachusetts, one of the Senate's combat veterans, said yesterday that it would be appropriate to respond to this incident by bombing Serb missile sites.

Mr. President, events like this should make all Americans proud and appreciative of the sacrifices made by men and women in the U.S. military. They should also make us realize that courageous airmen like Captain O'Grady are the reason why our Armed Forces are second to none.

Captain O'Grady was shot down by Bosnian Serb Forces and remarkably survived for 6 days in the forest—in hostile territory—by eating grass, leaves, and bugs and drinking rainwater, and evaded capture by Bosnian Serb troops.

It was not only superb military training that enabled Scott O'Grady to survive, but his own personal intelligence and dogged determination.

This same combination of fine training and individual strength also characterizes the U.S. Marines and the other personnel aboard the U.S.S. *Kearsarge* who were involved in this dramatic rescue operation.

No doubt about it, these men and women are American heroes. In addition to giving them the respect and commendation they are due, we have a responsibility—a responsibility to ensure that they are not exposed to unnecessary risk.

Every man and woman in the military has signed up knowing that there are risks involved and that one day their lives may be on the line. However, this does not mean that we take steps that unnecessarily increase risks or fail to take steps to address risks.

Last fall, NATO commanders noted an increase in the deployment of surface-to-air missiles by Bosnian Serb forces. Under the dual-key procedure, NATO sought to take out these SAM sites, but the plans were vetoed by the UNPROFOR command. It is likely that had NATO gone ahead 6 months ago, Captain O'Grady never would have been shot down.

So in addition to retaliating for this hostile action—and we do not need the permission of the United Nations or NATO to retaliate—we must take action to suppress the threat posed by the remaining SAM sites. We cannot in good conscience continue to send our pilots to patrol the no-fly zone without taking such measures.

Furthermore, as this incident and recent developments underline, we must start a new approach in Bosnia. The bigger picture is that the United States and our Armed Forces are participating in a failure.

It is high time to end this U.N. farce—to withdraw the U.N. Forces and lift the arms embargo on Bosnia. Prime Minister Haris Silajdzic reiterated yesterday in his meetings with Members of the Congress that the Bosnians do not want our troops on the ground; they have their own. They only want weapons to defend themselves. That is their fundamental right.

I am encouraged by the overwhelming vote in the House to lift the arms embargo. It was a strong bipartisan vote on an amendment offered by a Democrat colleague in the House, Congressman STENY HOYER. Clearly the tide has turned. The White House needs to move with this tide rather than try to swim against it.

Mr. DOLE. I ask unanimous consent that Senator THURMOND and Senator MCCAIN be added as original cosponsors.

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

Mr. WARNER. Mr. President, I am particularly privileged to join the distinguished majority leader in sponsoring this resolution. The majority leader speaks with a voice of great experience when it comes to military matters, having experienced firsthand himself the tragedies of war and the courage and stamina it takes to carry the wounds of those wars through for these many years. He draws on a vast knowledge, corporate knowledge of the conflicts that have occurred in our lifetimes—World War II, Korea, Vietnam. In all of those conflicts he has taken a role, first as a soldier and then as a statesman.

We are particularly fortunate to have Senator DOLE as our leader at these perilous times. I heed his words and his messages very carefully.

Mr. President, I also had the distinct privilege this morning of speaking by telephone to the father. And in the course of that conversation, with a sense of humility, we talked about the message and the courage his son has sent to all America, a message in a sense that says through these many years, this Nation has put an enormous investment in the equipment and in the training of our fine men and women who proudly wear the uniform of our Nation and, most importantly, the investment in the individuals who wear the uniform, as well as their families.

This investment has paid off. This is a very clear example today of how our investment has paid off in the cause of freedom.

I hope this also provides a message to the U.S. Senate and, indeed, the Congress as a whole that we must continue to find the necessary funds to support these courageous men and women. We see this one example, but every day, whether it is in the Bosnian theater or a thousand other places at different times, these men and women take risks for which we should always express our gratitude.

In training at home and far away places across the world, they do it today with the same patriotism as generations of Americans have done it in years past. It is my hope that the Congress will give these individuals today the adequate funds that they need to carry their missions, the funds not only to provide for the training today, the equipment today, but for the generations of tomorrow.

I am deeply concerned about the current level of defense spending. We have had 10 consecutive years of real reduction in defense spending, and now is the time, in my judgment, for the Congress of the United States to stand firm with the men and women of the Armed Forces, for those who serve today and those who serve in the future.

I am thankful for the opportunity to have participated with my distinguished majority leader.

I yield the floor.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, let me commend the majority leader for his resolution and I ask unanimous consent to be listed as a cosponsor.

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

Mr. DASCHLE. Mr. President, there is much to celebrate on a day like this, as the distinguished Senator from Virginia has just articulated so eloquently, to celebrate the fact that there are young men and women willing to commit their lives for the security interests of this country, whatever they may be. Young Scott O'Grady understood that when he took on the responsibilities of flying an F-16. He understood that when he climbed into his fighter plane on that day a week ago, completely aware of the enemy fire that he could be subjected to as he flew over those dangerous areas. He understood that as he ejected from his crippled plane, and he understood that during the dangerous period of time that he evaded those who were seeking to capture him, all the time wondering whether or not he would found.

There are men and women like him in the military in every branch of service who are willing to commit themselves, willing to commit their lives to the mission that is put before them in the interest of patriotism, in the interest of the defense and strength of this country.

So today we celebrate that heroism, that willingness to put patriotism

ahead of self-interest. And certainly we have seen a clear demonstration of that in the heroic actions of Capt. Scott O'Grady. Patriotism and the life of a hero is something we can celebrate with great pride today as we consider the fact that Scott O'Grady is safely back with us.

Second, I think we can be very appreciative of the tremendous job done by the Marine rescue crew who saw fit to take extraordinarily hazardous risks to retrieve Captain O'Grady and to do all that they could to see that he was brought back safely.

As somebody who has had the opportunity on occasion to talk to rescue crews and to realize what danger they put themselves through to accomplish extraordinarily difficult missions, I can certainly appreciate the magnificent efforts of these brave marines.

So it is with immense pride and gratitude that I salute Captain O'Grady and the brave men who carried out his breathtaking rescue. We all share in the joy of their safe return.

They, too, ought to be recognized and certainly deserve the tremendous accolades they have been given for what has been an extremely dangerous rescue mission. So we thank them, as well.

Times like this bring out the best in many people. Yesterday, we had the opportunity to talk to the Prime Minister of Bosnia and Herzegovina and he, too, is rising to the occasion under what are extraordinarily precarious conditions. We, as Americans, watch with great interest and empathy as he tries in as many ways as possible to achieve a meaningful effort at resisting the extraordinary dangers that his people face day after day.

So whether it is the Prime Minister, a pilot, or a rescue mission, there is a lot to celebrate today. This resolution gives us an opportunity to say with some clarity how much we appreciate the patriotism, the determination, the extraordinary willingness to subject oneself to danger, as we have seen just in the last 6 days.

So, again, I rise in support of the resolution. I am proud to be a cosponsor. I certainly urge its approval.

I yield the floor.

The PRESIDING OFFICER (Mr. KEMPTHORNE). The majority leader.

Mr. DOLE. Mr. President, I ask unanimous consent that Senator DASCHLE's name appear immediately following mine on the leadership resolution.

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

Mr. PRESSLER. Mr. President, I also ask unanimous consent to be added as a cosponsor.

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

Mr. FORD. Mr. President, will the majority leader yield?

Mr. DOLE. I will be happy to yield.

Mr. FORD. Mr. President, it may be wise, since not all Senators knew that this resolution was coming, and I think most, if not all, would support it, that we have a timeframe in which all Senators would have an opportunity to become cosponsors.

Would that be agreeable? I do not know what time would be right or sufficient, but I do think it is important that others not feel left out. I am sure the Senator does not want that, either. With that, Mr. President, I ask unanimous consent that I be added as a cosponsor.

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

Mr. DOLE. Mr. President, I also ask unanimous consent to add Senators MCCAIN and THURMOND and the Presiding Officer, Senator KEMPTHORNE, as cosponsors.

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

Mr. DOLE. I think we can take action on it and still give, say, to 5 o'clock for anybody else who wants to be added as a cosponsor. I ask unanimous consent that that be permissible.

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

The question is on agreeing to the resolution.

So the resolution (S. Res. 132) was agreed to.

The preamble was agreed to.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

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

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I note we are in a period of morning business right now. We are trying to get some agreement on gift ban and lobbying reform. I am prepared, if we can get that agreement, to proceed to it. I need to be absent for 5 minutes from the Chamber.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The Democratic leader is recognized.

IN MEMORY OF GRANT KOPPELMAN

Mr. DASCHLE. Mr. President, I was recently presented with tragic news regarding the death of a unique and talented young man. Grant Koppelman, a native of Rapid City, SD, who worked in my office in 1986, was killed while traveling overseas. He was 30 years old.

My heartfelt condolences go out to his family. Few individuals are blessed with the combination of intelligence, compassion, and personality that Grant possessed. With his disarming smile and quick wit, Grant could dissolve tension into humor, negating interpersonal conflict with great ease.

At the same time, his ability to instantaneously analyze situations and articulate brilliant responses earned him instant respect from those who challenged him. Those skills served Grant well through his years in high school debate, his time spent working for me, his years at Harvard Law School, and his successful private practice.

His professional life, however, was only a small part of this remarkable man's persona. Grant's love of knowledge and adventure continuously led him abroad. Members of my staff often would remark to me that they had heard from Grant while he was in Europe, or that Grant had written them about the political situation in Burma. Most recently he had sent out postcards from the Maldives Islands off the coast of India, with his usual promise that he would stay in contact.

Grant had always made good on that commitment to stay connected to his friends. That fact, in part, helps explain the devastating shock we felt over his death. The few details we know tell us that Grant was hitchhiking in Ethiopia and that someone tossed a grenade into the car in which he and a friend were riding.

Although a senseless act of violence took Grant from us at such a young age, he filled his life as completely as he was able, always looking for his next opportunity to learn, to challenge himself and to grow. His spirit greatly enriched those he touched, and we will miss him.

I yield the floor.

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

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

Mr. DOLE. Mr. President, I ask that I may use some additional leader time.

The PRESIDING OFFICER. The majority leader has that right.

MISPLACED SYMPATHIES

Mr. DOLE. Mr. President, last year, I spoke out against National Public Radio's stunningly misguided proposal to hire convicted cop-killer Mumia Abu-Jamal to provide a series of "Death-Row Commentaries." Fortunately, NPR had the good sense to cancel its contract with Mr. Abu-Jamal, who was convicted 13 years ago of murdering Daniel Faulkner, a 25-year-old member of the Philadelphia police force. Mr. Abu-Jamal remains on death row to this very day.

Despite a 4-week trial and despite a case that Assistant District Attorney

Arnold Gordon describes as "one of the strongest I have seen in 24 years as a prosecutor," there are still those who believe that Mr. Abu-Jamal is the victim of a political witchhunt. Some even go so far as to consider him a political prisoner. A bevy of left-leaning Hollywood celebrities have apparently rallied to Mr. Abu-Jamal's defense, raising money for a legal defense fund and helping to promote Mr. Abu-Jamal's new book, "Live From Death Row." According to news accounts, the Addison-Wesley Publishing Co. has paid an advance of nearly $30,000 for Mr. Abu-Jamal's latest creative venture.

Of course, most Americans are right to wonder why a person convicted and sentenced to death for viciously murdering a police officer more than 13 years ago is still sitting on death row. This only serves to underscore the wide gap between crime and punishment in America. Americans are also fed up with the tiresome criminal-as-a-victim-of-society philosophy, apparently embraced by Mr. Abu-Jamal's most ardent supporters. As Richard Costello, the president of the Philadelphia Fraternal Order of Police, recently explained:

> This pseudo-political garb Jamal has tried to wrap himself in is just a sleazy attempt to save his own hide. . . . This is not a political case; this is the case of the cold-blooded killing of a police officer doing his job. . . . It is well past time for the jury's sentence to be fulfilled.

Keep in mind it has been 13 years. The victim has been long forgotten, and the victim's family, but this man is still around.

Just last Friday, Pennsylvania's Governor Tom Ridge took a big step to ensure that the Jury's sentence is fulfilled by signing Mr. Abu-Jamal's death warrant. Governor Ridge could have taken the easy way out by avoiding this politically contentious issue, but instead he has stood his ground and confronted it head-on. He deserved our praise.

I also want to commend Governor Ridge for his efforts over the years to enact meaningful habeas corpus reform. On Wednesday, the Senate passed a series of reform proposals that, if enacted into law, will go a long way to end the endless appeals and delays that have done so much to weaken public confidence in our system of criminal justice. Although Governor Ridge is no longer in the House of Representatives, having gone on to bigger and better things as Governor of the Keystone State, his hard work in Congress on behalf of habeas reform may finally be paying off.

Mr. President, I ask unanimous consent that an article that recently appeared in The Washington Post be reprinted in the RECORD immediately after my remarks.

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

(See exhibit 1.)

Mr. DOLE. The article is all about his book, "Live From Death Row."

I also say that people wonder why some of us are frustrated with National Public Radio and the Corporation for Public Broadcasting, when they use taxpayer's funds. If it had not been for Members of Congress—in this case, probably taxpayers out there, citizens calling it to our attention—you would have been hearing this cop killer on National Public Radio with commentaries, and they were going to pay him, I think, $120 per commentary.

So when we talk about a waste of taxpayers' money and about National Public Radio—which could be an arm of the Democratic party as far as I am concerned—and the Corporation for Public Broadcasting, I hope the American people understand the kind of things they are willing to put on the air. This happened to be one of them that was stopped because of a firestorm that developed. But it seems to me that it is another indication that we can probably use that taxpayer money in some more useful way.

EXHIBIT 1

[From the Washington Post, May 18, 1995]

CONDEMNED TO SILENCE?

(By Megan Resenfeld)

There is an image from Mumia Abu-Jamal's trial that stays with Maureen Faulkner, even now, 13 years later. Abu-Jamal was charged with killing Faulkner's husband, Daniel, a 25-year-old Philadelphia policemen, by shooting him first in the back and then pumping four bullets into his prone body. When the ballistics expert held up her husband's bloody blue shirt to display the bullet holes, Abu-Jamal, seated at the defense table, turned around and looked at Maureen Faulkner.

"He smiled at me," she says.

Abu-Jamal, then a freelance radio journalist and part-time cab driver, was convicted of Daniel Faulkner's murder and sentenced to death. But today he has become a cause célebre among a segment of literary names, his case taken up by well-known civil liberties lawyer Leonard Weinglass, the NAACP Legal Defense Fund, Rep. Ron Dellums (D-Calif.) and actors Whoopi Goldberg, Ossie Davis, Ruby Dee and Ed Asner, among others. They claim Abu-Jamal was wrongly convicted and sentenced, despite what the prosecution, and a jury, believed was convincing testimony from eyewitnesses and unrefuted ballistics evidence. Two other groups, Amnesty International and PEN, a writers' free-speech advocacy association, take no position on Abu-Jamal's guilt or innocence, but question the fairness of his trial and sentencing.

But what really has Faulkner upset is that Abu-Jamal has just published a book, "Live From Death Row," for which an advance of about $30,000 was paid—although it is unclear to whom. Nether Weinglass not the publisher, Addision-Wesley would confirm the amount or say who got the money. A first printing of 32,500 copies has been shipped to bookstores around the country.

"A rare and courageous voice speaking from a place we fear to know: Mumia Abu-Jamal must be heard," writes prize-winning author Alice Walker in a book jacket blurb.

And: "Everyone interested in justice should read the words of this innocent man," declares lawyer William Kunstler.

"Does an innocent person turn and smile at the widow when the bloody shirt is held up?" Faulkner asks.

As far as Maureen Faulkner is concerned, the celebrities and human rights activists are remnants of the radical chic who have lined up like leftist lemmings and signed on to a bad deal. The claims that Abu-Jamal has a freedom-of-speech right to be heard, as expressed by his publisher and his supporters, strike her as lame. "He is a convicted murderer," she says. "Just as felons lose their right to vote, I think that by taking another man's life, he forfeits the right to freedom of speech."

A DELICATE BALANCE

It's an argument as old as crime. How, in a nation ruled by law, are the rights of the accused and the convicted protecteu without abusing the survivors and victims? Like a tipsy boat trying to right itself, we shift from one side to the other, focusing first on the perpetrators and then on the perpetrated upon. And when the death penalty is involved, the emotion of the argument is even more intense, and the cries of injustice from both sides increase in pitch. The battles are as often fought in the arena of public opinion as in the courtroom, and this is where Faulkner has taken up her battle station.

Abu-Jamal, now 41, will file his next appeal in June, said Weinglass. He has already been rebuffed twice by both the Pennsylvania Supreme Court and the U.S. Supreme Court. His death warrant has not been signed, but the new governor of Pennsylvania, Thomas J. Ridge, campaigned as a pro-death-penalty Republican.

Abu-Jamal's profile has never been higher. He has become a virtual folk hero. Even as the book reviews start coming in, benefits for his defense fund—at least three committees are raising money for him in different cities—are planned for this weekend in New York City. John Edgar Wideman, who wrote an introduction to the book; Melvin Van Peebles; two members of the MOVE group in Philadelphia with which Abu-Jamal was associated; Weinglass and others are giving a public reading from the book Saturday afternoon for $15 a ticket. Another reading, by actor Giancarlo Esposito, will be held that night for $250 a ticket. Spokesmen at two of Abu-Jamal's legal defense committees yesterday declined to say how much money has been raised. There have been rallies of support here and overseas. A typical pamphlet, published by the liberal-leaning Quixote Center in Hyattsville, is headlined: "A Saga of Shame."

So Faulkner has decided to raise her profile too. This week she was in Washington for the annual National Police Week, lobbying cops and their families to boycott the book. She is starting a nonprofit organization, with some help from Philadelphia's Fraternal Order of Police, to counter the attention give to Abu-Jamal's case. She is spending her weekends and Wednesdays writing to schools and school boards, urging them to boycott Addison-Wesley's large text-book operation.

And she's gone even further. Last week she hired a plane to fly over Addison-Wesley headquarters in Reading, Mass., trailing a 30-foot banner. It said: "Addison-Wesley Supports Convicted Cop Killer."

"I and all of us at Addison-Wesley feel great sympathy for Mrs. Faulkner and the terrible ordeal she suffered," said David

Goehring, head of the firm's trade publishing division. "But this is a book with an important message. I think this is a highly disturbing book, challenging our assumptions of the death penalty. Is that a reason to deny someone his freedom of speech?"

'LIFE GOES ON'

Maureen Faulkner is a small, blond, determined woman who has done as well as she could to cope with her young husband's murder. She was only 25 when he died, before they'd had a chance to finish their college degrees, buy a house, have children.

Both were the youngest of large families, born and raised in Philadelphia. She was aware of the dangers of her husband's career. They had a pact always to kiss good night, and kiss goodbuy, regardless of marital ups and downs, because life was so uncertain. And they had discussed the possibility of his death.

"He said, 'If anything happens to me, I died doing the work I love most. Life goes on. I want you to be happy,'" she says. And Faulkner has had a full life—no professional widowhood for her.

After the four-week trial, she left her job as an accountant for a Philadelphia corporation and worked for Trans World Airlines in New York, selling tickets. She backpacked around the world, trekked in Nepal, climbed the foothills of Everest. After she moved to Southern California about 10 years ago, she owned and operated a deli with one of her brothers. She earned a private pilot's license and started to raise show dogs—Hungarian Viszlas. For the past seven years she has worked as a medical assistant for an office of obstetricians. Although she has not remarried, she lives with a boyfriend.

She still is afraid to give out information about where she lives or works, because all during the trial she got nasty phone calls, which she attributes to supporters of Abu-Jamal. She changed her unlisted number more than a dozen times, but somehow they always got it.

Her anger, long dormant, was rekindled last year when she heard that Abu-Jamal had been hired by National Public Radio to do a series of commentaries from prison for $150 each. She protested, and then got a list of NPR's contributors and wrote to hundreds of them. In the ensuing storm of argument, NPR canceled the contract. The canceled commentaries form the bulk of "Live From Death Row."

Then, in March, her uncle sent her a clipping about the book. "I couldn't sleep all night," she says. "I screamed, I cried, I didn't know what to do." At 5 a.m. California time, she called Addison-Wesley in Massachusetts, and thus began her ongoing battle with the publisher—and with David Goehring personally.

"I think it is immoral to reward a convicted cop killer financially," she says. Even after 13 years away, her Philadelphia accent is strong. "And I think David Goehring is going to look at himself in the mirror one day and realize he made a mistake."

But the two are arguing from such differing perspectives that they will probably never agree. Faulkner operates from an unshakable belief in Abu-Jamal's guilt, while Goehring says the question of guilt or innocence is not relevant to what he sees as the power of Abu-Jamal's description of what it's like to be on death row. He does not see the book as part of Abu-Jamal's quest for vindication, or as part of a campaign against the death penalty. "We are making his voice available," he said. "Our role is not to take sides." Indeed, he said, the company has published a book arguing for victims' rights, "With Justice for Some," by law professor George Fletcher. Goehring declined to say how many copies were printed.

But for Faulkner, guilt is everything. Freedom of speech? Does every prisoner have the right to a book contract? "What does eloquence have to do with a convicted murderer?" she asks.

EAGER FOR JUSTICE

Daniel Faulkner was killed early one cold December morning, two weeks before Christmas, in 1981. His widow believes the evidence of Abu-Jamal's guilt can be pinned to two things: Five bullets were emptied into her husband, and five bullets of the same type were missing from Abu-Jamal's gun. They were high-velocity, +P-type bullets that fragmented so completely police could not match them to Abu-Jamal's gun, which was found on the sidewalk, next to Abu-Jamal. He too was wounded, shot in the stomach by Faulkner. Abu-Jamal had a license for the gun, and a store owner testified to selling him the bullets. Two people testified that he shouted in the emergency room, "I shot the [expletive]."

"From an evidentiary standpoint, the case against Mumia Abu-Jamal was . . . one of the strongest I have seen in 24 years as a prosecutor," wrote Assistant District Attorney Arnold H. Gordon to NPR chief Delano E. Lewis a year ago. "Abu-Jamal was identified . . . by three eyewitnesses who had never lost sight of him during the entire incident," he wrote.

But Weinglass, in his afterword to "Live From Death Row," claims there were witnesses who saw another man fleeing the scene, and that Abu-Jamal was denied the right to represent himself and given an unprepared court-assigned lawyer. His sentencing was tainted by prosecutorial misuse of information about Abu-Jamal's teenage involvement with the Black Panthers as well, Weinglass asserts.

Faulkner hopes her campaign will tap into public frustration with the criminal justice system. Daniel Faulkner, she says, would have fought just as hard in her memory. She supports the death penalty, and is eager for Abu-Jamal's death sentence to be imposed.

"I'd like to be there," she says.

COMMENDING CAPTAIN O'GRADY AND HIS RESCUERS

Mrs. KASSEBAUM. Mr. President, I was not present on the floor earlier today when the Senate adopted the resolution introduced by Senator DOLE to commend the heroic efforts of Capt. Scott O'Grady and the United States Armed Forces who were involved in his rescue in Bosnia. I strongly support this very appropriate resolution, and I understand that the resolution has been left open for cosponsors until 5 p.m. today. Therefore, I ask unanimous consent that I be added as a cosponsor to the Dole resolution commending Captain O'Grady and his rescuers.

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

TRIBUTE TO CHICK REYNOLDS

Mr. DOLE. Mr. President, I want to take a moment to pay tribute to Chick Reynolds, former Chief Reporter of the Office of the Official Reporters of debate, who I understand passed away early this morning. For over 45 years, Chick brought a keen eye and a quick mind to the world of stenographic reporting. From his first job at the Department of Defense to his official post in the Senate, Chick often found himself in the center of newsmaking headlines. Whether it was the Joseph McCarthy or Jimmy Hoffa hearings or the tragic day of President John Kennedy's assassination, Chick preserved many moments of history with speed and accuracy second to none.

I know I speak for my colleagues when I recognize Chick Reynolds who served the Senate with distinction and loyalty for the past 21 years. Our thoughts and prayers are with his wife, Lucille.

TRIBUTE TO CHICK REYNOLDS

Mr. DASCHLE. Mr. President, today the Senate lost a very valuable member of the family. Chick Reynolds, the Chief Reporter of Debates, passed away early this morning.

Mr. President, Chick's career in stenotype reporting began in 1949 at the Department of Defense. He was appointed an official reporter with the Senate Official Reporters in 1974 and became its chief reporter in 1988, where he served with distinction and loyalty.

As many Members are aware, Chick's career as a stenotype reporter put him in the center of the headlines of the day. He reported the McCarthy and Hoffa hearings on Capitol Hill, as well as covering the administrations of Presidents Kennedy, Johnson, and Nixon. In fact, Chick was in Berlin to cover the famous speech by President Kennedy.

Chick was slated to retire, after 21 distinguished years of service in the Senate, on July 7. I know all Members of the Senate join with me in extending our sympathies to his wife, Lucille, on her loss. Chick will be missed by all who knew him, admired his abilities and knew the quality of his work.

WAS CONGRESS IRRESPONSIBLE? THE VOTERS HAVE SAID YES

Mr. HELMS. Mr. President, as of the close of business yesterday, Thursday, June 8, the Federal debt stood at $4,898,195,057,095.85. On a per capita basis, every man, woman, and child in America owes $18,593.63 as his or her share of that debt.

TARGETING ESTATE TAX RELIEF TO FAMILY-OWNED BUSINESSES

Mr. DOLE. Mr. President, I am pleased to note that a Treasury official appearing before the Finance Committee this week testified in support of

targeting estate tax relief to family-owned businesses.

Time and time again, family business owners across the country have told me about the unfairness of the current estate tax and its 55 percent rate. Too often heirs are forced to sell the family business or farm just to pay the estate tax. And too often the buyer of the family business is a large corporation that does not necessarily have the best interests of the community or the business employees at heart.

I will be introducing legislation in the coming weeks that will allow family-owned and other closely held businesses to remain in the family after the death of an owner. I intend to drastically reduce the estate tax rates for the value of a closely held business. For the smallest of businesses, the estate tax should be virtually eliminated.

Without the estate tax burden on the backs of American families, they can continue to prosper. And when families continue to operate their businesses we all benefit—the business employees keep their jobs, the Government receives income taxes on business profits, and the families retain their livelihood.

The estate tax is not a Democratic or a Republican problem, or one that affects only rural or urban families. That is why I am working with Members of both sides of the aisle to develop broad, bipartisan support for the legislation. There are farmers, ranchers, or family businesses in each State that would benefit from the legislation.

I welcome all Senators to join this effort. I am already working with Senators ROTH, BAUCUS, GRASSLEY, PRYOR, SIMPSON, BREAUX, PRESSLER, D'AMATO, NICKLES, BURNS, and others to design targeted estate tax relief for family-owned businesses.

The legislation will provide relief to those that need it most—families whose estates are made up primarily of a family business. It is these families who would otherwise be forced to sell their business to pay the estate tax. And in determining whether a family business is comprised primarily of an estate, I would like to exclude the family's principal residence. This would ensure that heirs won't have to sell their residence to keep their business.

Because this legislation is designed to help families that hold on to their businesses, if a family chooses to sell a substantial portion of the business within a period of time after the decedent dies, all or part of the reduced tax rate may be recaptured.

The legislation will allow families to leave their businesses in the hands of family members, or trusted, long-term employees of the business.

The bill will also extend the period of time available to compute the alternative valuation date for the family business. This will help resolve disputes with the Internal Revenue Service about the value of the business when the value is closely tied to the skills of the decedent.

Family-owned businesses are the job creators in this country. In the 1980's they accounted for an increase of more than 20 million private sector jobs. I look forward to working with the farm, ranch, and small business community, and Members of the House and Senate, to provide relief for out most precious resource—the family business entrepreneur.

KRESIMIR COSIC

Mr. HATCH. Mr. President, a beloved friend and adopted son of Utah, Kresimir Cosic, passed away May 25. At that time I paid a tribute to him on the floor of the Senate. Since then, others have also paid tribute in Utah newspaper articles. I ask unanimous consent that these comments be printed in the RECORD.

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

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

[From The Deseret News, June 3, 1995]

(By Lee Davidson)

COSIC WAS A TRUE MAN OF PRINCIPLE

WASHINGTON.—He skipped the chance to be a basketball-star millionaire and never looked back. Instead, he choose to sacrifice for his God, his country, his friends and his family.

But that made Kresimir Cosic, 46, who died last week, among the happiest people I've ever known, even when he suffered from cancer.

As Sen. Orrin Hatch, R-Utah, said—giving maybe the highest honor I've seen a politican offer at the death of another—"I never saw Kres without a smile."

That's hard to say about other sports stars and celebrities who spend millions or act outrageously thinking it will make them happy. Cosic found the type of joy through service that money cannot buy, nor can sickness or even death destroy.

My own story of Cosic begins where most others end—after his basketball career, mostly because I didn't meet him until he arrived in Washington as deputy ambassador for Croatia. That's when I wanted to find out how an athlete became an ambassador.

Of course, Cosic was among the greatest of all basketball stars at Brigham Young University and led the former Yugoslavia to many Olympic medals (including a gold in 1980) as a player and a coach.

But Cosic's power in politics (and religion) came because the 6-foot-11 center—who could dribble, pass and score from three-point range as well as a guard—turned down offers from the Los Angeles Lakers and others that would have made him a millionaire.

Cosic said riches weren't as important as his country and helping The Church of Jesus Christ of Latterday Saints.

He returned to Yugoslavia and almost single-handedly turned it into a basketball powerhouse with world and European championships. He found and developed players such as the Chicago Bulls' Toni Kukoc (a Croat) and the Lakers' Vlade Divac (a Serb).

They would become millionaires, unlike Cosic. That didn't bother him. During an interview at his middle-class home last year, Cosic would not dwell on unfound riches, but instead his eyes twinkled when he told how rewarding it was to coach such players from differing (and now warring) ethnic backgrounds.

He didn't return to Yugoslavia just to build a basketball team. He wanted to build principles of democracy and sought to reconcile ethnic groups of Yugoslavia. Such work would later win him the prestigious Freedom Award.

He also wanted to build up the LDS Church there and at age 23 became the country's presiding elder. He even translated and published The Book of Mormon in Serbo-Croatian and assumed all responsibility for it before the Communist hierarchy.

Cosic's politics and religion were an irritant to Communist leaders—but his popularity and talent on the basketball court made them withhold action against him.

His patriotism showed again when Yugoslavia dissolved into a multisided civil war at the end of communism. At the time, Cosic was coaching a professional team in Greece—and could easily have stayed far from the conflict.

But he contacted leaders of Croatia (whom he knew because he was a sports hero) to volunteer for whatever they needed. Because he has lived in the United States and had contacts with key members of Congress, they sent him to Washington as a deputy ambassador to tell their story.

After a year into his assignment, the cancer was discovered.

Even with it, Cosic looked—as always—for a bright spot. The energy-depleting treatments forced him to stay at home. Instead of complaining, he spoke with a smile about how nice it was to have more time with his wife and three children.

He said it also gave him a chance to work on his family history, which he said he had been too busy for too long to research well.

Even with illness, he seemed to be almost always at the LDS Church's Washington Temple. Some church assignments of my own often took me there, and I always ran into Cosic. I joked that the must live there. He smiled and said he enjoyed the peace he found there—and enjoyed being near a temple, which he lacked for most of his years as a member of the LDS Church.

That's how I will remember Cosic. Always finding a reason to be happy no matter what problems he faced or opportunities he had to skip—even though they were often not only big, but monumental.

[From the Deseret News, May 26, 1995]

(By Brad Rock)

COLORFUL COSIC BROUGHT JOY TO BYU BASKETBALL

Pete Witbeck can see him even now, dark hair tousled and untamed, laughing in the doorway of the coaches' office 25 years ago. Which is how he wants to remember Kresimir Cosic.

Cosic, one of the legendary basketball players in BYU history, died early Thursday in a Washington D.C. hospital at 46, after fighting cancer for over a year.

The loss cast a pall over the athletic department at BYU. It wasn't only that they lost a former player; it's that with the passing of Cosic, a little of the joy was lost from the game, too. Because nobody played for the joy of it all like Cosic.

He arrived on the BYU varsity basketball scene in 1970 like a cool wind off the Adriatic Sea, where he played as a child. He was a gangly summation of tendons and bones,

loping down the court and driving everyone—the opposition, the coaches, the fans—a little crazy. He had an 18-foot skyhook and a baseline hook and a set shot beyond what is now the 3-point arc. His game ranged from unorthodox to unpredictable to flat-out weird.

"Everyone just fell in love with the guy and the way he played," says Witbeck.

When Witbeck, now BYU's associate athletic director, was an assistant basketball coach for the Cougars, he recruited Cosic from the former Yugoslavia. Since Cosic lived under a Communist regime, contact was limited.

Several years after first being contacted by BYU, when the Yugoslavian national team was in Naples, Cosic defected. He arrived in Salt Lake City in the still-dark hours of the early morning, where Cougar officials picked him up at the airport. "It was like an episode from 'Mission Impossible,'" says Witbeck. "Cloak-and-dagger."

Once in Provo, though, Cosic never turned back. As anyone who ever saw him lead a fast break can attest, Cosic wasn't one to turn back. "When you got Kres, you got 110 percent of him," says his friend, Bill Nixon.

Bursting to the forefront after a year on the freshman team, Cosic caught the fans, the opposition and even the coaches by surprise. He was a reedlike 195-pound, 6-11 center who loved bringing the ball up the court. The guards complained that centers shouldn't be leading the break, but to no avail. Cosic would smile engagingly and protest that he only brought the ball up because he was open.

Cosic's versatility was astounding for his era. In a time of mostly slow, post-up centers, Cosic ranged across the court. Before David Robinson, Hakeem Olajuwon or Sam Perkins, there was Cosic. He could make a wraparound pass, dribble between his legs, put up a finger roll or nail the perimeter shot with surprising adeptness. He was Pete Maravich with six more inches. Fans packed the Smith Fieldhouse and later the Marriott Center to see him cast his spell.

Witbeck's enduring memory is of a tight game for the conference championship against rival Utah. Cosic was bringing the ball down the middle on a fast break, when Utah guard Mike Newlin came over to check Cosic, expecting him to pass it to the wing. But Cosic unexpectedly lifted into the air near the free throw line, tucking his knees under his chin like a 737 folding up its landing gear, and laying the ball off the glass.

Cosic looped out from under the basket, trying hard not to smile. The coaches, who had been worrying about Cosic losing the ball out of bounds, exhaled. The Utah players gaped in astonishment. "The things he'd do were unbelievable," says Witbeck.

Cosic ignored overtures from the NBA in order to return to Yugoslavia, where he spent most of the rest of his life in church and civic work. When he died, he was serving as Croatia's deputy ambassador to the U.S.

But it's his career at BYU for which he will be most remembered. Of all the stars in the school's history, none could turn heads like Cosic. As fierce a competitor as was Danny Ainge, as dramatic as Michael Smith, as accurate as Devin Durrant, as spectacular as Jeff Congdon, as unstoppable as Mel Hutchins . . . nobody could bring the crowd to its feet like Cosic.

"Nobody who ever played for us was in his class," says Witbeck.

And none exuded the elation of basketball in quite that way. In a sport now dominated by trash talk and shattered backboards, navel rings and disrespect, there is something sweetly appealing in the long-ago memory of Cosic, racing exuberantly down the court, wondering what to do with the ball, once he got to the hoop. Wondering if there were anything in the world quite so much fun.

"I can see him now," says Witbeck.

Witbeck can still see Cosic, all elbows and knees, taking in a rebound and turning to start the break. He pictures the 18-foot hooks and the court-length passes. He envisions the angular shoulders filling up the frame of his office door. And when he does, for just for a moment, he too can feel the joy of the game.

Mr. HATCH. In these articles you find that Kresimir Cosic dazzled many with his grace on the basketball court at Brigham Young University and wherever he played or coached. He is also remembered as a devoted patriot who served his country, Croatia, and ours, as Croatia's Deputy Ambassador to the United States.

Although Cosic suffered later in his life from cancer, he still remained in service to his faith, family, and country.

I hope my colleagues will take the opportunity to read these articles, because they truly describe the great man Kresimir Cosic was.

PEOPLE'S REPUBLIC OF CHINA

Mr. THOMAS. Mr. President, if I had to come up with a title for the short statement I would like to make this morning, I would call it something along the lines of: "Look which pot is calling the kettle black." Anyone even fleetingly familiar with the People's Republic of China will recognize the Beijing Government's frequent admonitions to us about "interfering in China's internal affairs." We express concern about the PRC's deplorable treatment of hundreds of prodemocracy students at Tiananmen Square in 1989, and we are told not to interfere in China's internal affairs. We worry about how Chinese policies may affect our economic interests in Hong Kong, and we are told not to interfere in China's internal affairs. Myriad statements made just this month by the Foreign Ministry, the State-controlled press, party and government cadres are replete with these references.

For example, the PRC's Xinhua domestic service on May 11 carried the following statement in reaction to the Senate vote urging the administration to admit Taiwan's President Lee to this country for a private visit: "The U.S. Senate, in passing the resolution in disregard of the solemn position of the Chinese side, has constituted a gross interference in China's internal affairs." When our government last week protested the recent arrests of several members of China's prodemocracy movement for no apparent reason other than the approach of the June 4 anniversary of Tiananmen, the reaction of the Foreign Ministry's spokesman Shen Guofang was this:

"A very evil shortcoming of the U.S. Government is that it always criticizes the internal affairs of other countries * * *. It would be advisable for the U.S. Government to mind its own affairs."

When the State Department urged the parties to the Spratly Island dispute to come to a peaceful solution thereto because of the serious effect any regional conflict might have on world trade, we were reminded that the PRC is opposed to "other countries' interference in the matter.

It is clear to me, though, that our Chinese friends are in no position to lecture this country on the topic of meddling; they are better at it than most. For example, in regards to the visit of President Lee, which individuals we admit to this country for private visits pursuant to our immigration laws is purely an internal affair of the United States in which China has no business meddling; yet the PRC has raised a furor over the decision and has sought to impose its will on us by dictating our internal policies to us. Similarly, the Chinese Foreign Ministry derided the administration's recent decision to impose a trade embargo on Iran because of the latter's penchant for sponsoring terrorism; yet that decision is inarguably a bilateral issue between us and Iran in which China has no license to interfere.

Related examples of China seeking to inject itself into the purely internal affairs of other countries are legion. For instance, China consistently denounces the government of Israel in that country's various dealings with its Arab neighbors; yet these issues are strictly bilateral ones between Israel and the country concerned and China has no place in concerning itself with them. The PRC has a long history of condemning the government of the Republic of Korea in its dealings with North Korea, but China has no business meddling in such a uniquely bilateral relationship.

Vice-Premier and PRC Foreign Minister Qian Qichen recently quoted a saying from the Confucian Analects: "What you do not want done to yourself, do not do to others." Yet, every day the PRC comments on issues which clearly, unambiguously do not concern it. So, Mr. President, the next time the PRC feels the urge to trot out the rather hackneyed phrase about us "interfering in their internal affairs" they should pause and remember a variation of another famous saying: "Governments that live in glass houses shouldn't throw stones."

PROTECTION OF CHILDREN FROM COMPUTER PORNOGRAPHY ACT

Mr. DOLE. Mr. President, at Senator GRASSLEY's request, I have cosponsored

the Protection of Children from Computer Pornography Act, which he introduced earlier this week.

Since coming to Washington, Senator GRASSLEY has been a leader in the fight to protect our children from the evils of pornography and sexual abuse. In 1994, for example, Senator GRASSLEY was successful in passing a law that made it a Federal crime to produce child pornography in a foreign country with the intent to distribute it in the United States. And, in 1993, I joined with my colleague from Iowa in supporting a sense of the Senate resolution opposing the Clinton administration's attempt to weaken the Federal child pornography laws with its misguided legal brief in the Knox case.

Senator GRASSLEY's bill raises many technical issues that must be carefully examined before the Senate reaches any final conclusions. And, of course, whatever we do must be absolutely consistent with the first amendment.

I look forward to hearings on Senator GRASSLEY's bill and to a full exposition of the complicated issues involved here. But, in the meantime, I wanted to show my support for my colleague from Iowa, whose commitment to protecting our children has never waivered.

WELCOME TO KELLY JOHNSTON AND TRIBUTE TO SHEILA BURKE

Mr. DOLE. Mr. President, I join with all Senators in welcoming Kelly Johnston as secretary of the Senate.

For the past 3 years, Kelly has served as staff director of the Senate Republican Policy Committee, where he has won the respect of all Senators—Republican and Democrat—for his intelligence and integrity. Kelly has an impressive 14-year career working in the legislative and executive branch, and I am confident he will do an outstanding job in overseeing the legislative administration of the Senate.

Kelly will succeed Sheila Burke, who has served as secretary since the beginning of this Congress.

During that time, Sheila succeeded in creating a secretary's office that was both smaller and smarter.

Under her leadership, a 12.5-percent reduction in the secretary's budget was achieved, without cutting needed services to Members and the public.

Sheila also took the lead in bringing many advancements in technology to the secretary's office, including many that will result in long-term savings of tax dollars.

Under her guidance, improvements were made in the Senate page school—improvements that will ensure a quality education for the pages, and ones that saved the Senate close to $100,000.

Sheila was also the guiding force behind the family night, in the Senate dining room, allowing all of us to spend more time with our most important constituents—our families.

Sheila will continue to serve as my chief-of-staff, and I know all Senators join me in thanking this dedicated public servant for a job well done.

PROPOSED SIMON AMENDMENT TO S. 652

Mr. SIMON. Mr. President, today I submit an amendment that I plan to offer to S. 652, the telecommunications bill, next week. The amendment will ensure that when the Regional Bell Operating Companies enter the business of manufacturing, the consumer will be protected against possible price increases as a result of cross-subsidization and self-dealing. While some of us may disagree on the wisdom of allowing the Bell companies into manufacturing, no one should disagree on the need to ensure the consumer is protected against possible rate increases.

I applaud the authors of the legislation for including certain safeguards already in the legislation. My amendment would take these protections one step further by requiring an audit conducted at the direction of the State. The language, which is based on last year's telecommunications bill, is simple and straightforward.

I hope that my colleagues will agree and adopt this important amendment. I ask unanimous consent that my amendment be printed in the RECORD.

On page 31, between lines 18 and 19, insert 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 particularly 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.".

On page 31, line 19, strike out "(d)" and insert in lieu thereof "(e)".

On page 32, line 10, strike out "(e)" and insert in lieu thereof "(f)".

On page 33, line 12, strike out "(f)" and insert in lieu thereof "(g)".

On page 34, line 20, strike out "(g)" and insert in lieu thereof "(h)".

On page 34, line 25, strike out "(h)" and insert in lieu thereof "(i)".

On page 36, line 1, strike out "(i)" and insert in lieu thereof "(j)".

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

Mr. DOLE. Mr. President, we are still in a period for morning business. I wanted to indicate that the chairman of the Commerce Committee, Senator PRESSLER, is standing by. He is prepared to do business. He is sincere about finishing the telecommunications bill, and he is prepared to stay here for the rest of the afternoon and on into the night. But in order for him to do business, somebody has to offer an amendment.

Now, it is my hope that we can finish this bill by next Tuesday evening. Senators PRESSLER and HOLLINGS think that may be possible. I understand that there are some who wanted to debate and said they were not getting time to debate, and they are not here at the present time—Senator DORGAN and Senator KERREY. Senator PRESSLER is on the floor. If you want to debate your amendment, this is a good opportunity. We want to finish this bill and move on to either welfare reform or regulatory reform next week.

So, hopefully, we will finish the bill no later than Tuesday evening. We will not file cloture today. This is an important bill. We should have a lengthy debate. A lot of people have different ideas on this bill. Certainly, we should be able to complete action on the bill by Tuesday. That would give us the better part of about 4½ to 5 days, which seems to be a considerable length of time, considering the importance of the bill.

But I just say that Senator PRESSLER is here and ready to do business. If the Senator from Iowa has an amendment,

we would be happy to engage in a debate.

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

(The remarks of Mr. CHAFEE pertaining to the introduction of S. 910 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. CHAFEE. 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. WELLSTONE. 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. WELLSTONE. Mr. President, since I have to catch a flight back to Minnesota, and I understand the majority leader is going to be coming out in a moment, I just wanted to say to all who have been involved in these negotiations I am very pleased. I know that Senator LEVIN, Senator FEINGOLD, and Senator LAUTENBERG join me.

I thank Senator FORD from Kentucky and my colleagues on the other side of the aisle. It seems as if what we are going to have is an announcement that will make it clear that in July, and certainly no later than the end of the month, we will have an opportunity to have both lobby disclosure and the gift ban in this Chamber, and we will have the debate and we will have votes.

I think that is the way it should be. I am very pleased with what I understand is certainly going to be an agreement. The majority leader will go into this in more detail, and he will read the terms of the agreement, but this is what we have all been working for. It is what we have all been negotiating about. And from my own point of view, I think the most important thing is that this will be an opportunity for the Senate to go on record, this will be an opportunity for the Senate to, I think, really lead the way on a measure that has everything to do with openness in the political process, with accountability, with changing matters for the better.

People in the country really believe in public service, want to believe in public service. All of us do, Democrats and Republicans alike. I think this moment in July and this debate, this discussion and the final action by the Senate will be a very strong and positive reform.

So I am very pleased that finally these negotiations have borne fruit, and I am pleased that the majority leader will be out here to announce this. I thank the Chair.

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

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

UNANIMOUS-CONSENT AGREEMENT

Mr. DOLE. Mr. President, we have had some ongoing negotiations the last several days on lobbying reform legislation and gift ban legislation as it affects the Senate or affects Congress, depending on which prevails.

We have a unanimous-consent agreement. It is fairly lengthy, but I can read it. In any event, I ask that it be printed in the RECORD.

I ask unanimous consent that not later than Friday, July 28, and after notification of the minority leader, that we proceed to S. 101, a lobbying gift ban bill, the bill having been discharged and placed on the calendar by this consent agreement; that the motion to proceed be agreed to and the bill then be automatically divided into two separate pieces of legislation; the first measure embodying the text of title I regarding lobbying reform, and the second measure embodying the text of title II regarding gift rules; that the clerk be authorized to make the necessary changes in the form of the measure or matter that are appropriate, so that each measure stands on its own; that the Senate then begin consideration of the measure embodying title I; that immediately upon the disposition of that measure, the Senate turn to the consideration of the measure embodying title II; and that the preceding all occur without any intervening action or debate.

That is the first part of the request.

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

Mr. DOLE. And the second part.

I further ask unanimous consent that if, after third reading of the second bill, which is gift rules, that bill contains matter which only applies to the Senate, the Senate then immediately turn to the consideration of a Senate resolution that contains the text of that language; that a vote occur on the resolution, without any intervening action or debate; and that the Senate bill be indefinitely postponed.

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

Mr. DOLE. I further ask unanimous consent that this agreement be null and void if a unanimous-consent agreement can be subsequently reached governing the Senate's consideration of legislation regarding the congressional gift rules and an original bill regarding lobbying reform, or a bill that encompasses both proposals.

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

Mr. DOLE. Finally, I ask unanimous consent that no bill, resolution, or amendment regarding the congressional gift ban rule or lobbying reform bill be in order prior to the execution of this agreement.

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

The text of the agreement is as follows:

Ordered, That prior to the August recess, but not later than Friday, July 28, 1995, the Majority Leader, after notification of the Minority Leader, shall proceed to S. 101, a Lobbying Gift Ban Bill.

Ordered further, That the motion to proceed be agreed to and the bill then be automatically divided into two separate pieces of legislation: the first measure embodying the text of Title I regarding lobbying reform, and the second measure embodying the text of Title II regarding gift rules: *Provided*, That the Clerk be authorized to make the necessary changes in the form of the measure or matter that are appropriate, so that each measure stands on its own.

Ordered further, That the Senate then begin consideration of the measure embodying Title I, that immediately upon the disposition of that measure, the Senate turn to the consideration of the measure embodying Title II, and that the preceding all occur without any intervening action or debate.

Ordered further, That if after third reading of the second bill, that bill contains matter which only applies to the Senate, the Senate then immediately turn to the consideration of a Senate resolution that contains the text of that language, and that a vote occur on the resolution, without any intervening action or debate, and that the Senate bill be indefinitely postponed.

Ordered further, That this agreement be null and void if a unanimous consent agreement can be subsequently reached governing the Senate's consideration of legislation regarding the Congressional gift rules and an original bill regarding lobbying reform, or a bill that encompasses both proposals.

Ordered further, That no bill, resolution, or amendment regarding the Congressional gift ban rule or the lobbying reform bill be in order prior to the execution of this agreement.

Mr. DOLE. Mr. President, having gotten the consent agreement, let me indicate what it does.

We have been trying for some time to come together on a lobbying reform bill and gift rule changes. We are not there yet, but there is, I think it is fair to say, honest negotiation going on on both sides. This is not a partisan matter. I do not know of anybody here who does not want lobbying reform, depending on how you define "reform."

And I do not know of anybody who does not believe we can improve the gift rules that apply to Members of Congress. We have been working with the distinguished Senator from Kentucky, Senator FORD, and others on that side of the aisle. As I understand,

there will be a number of us on each side of the aisle working together in the next few weeks to see if we can come up with a separate package, but, if not, then we will proceed to S. 101.

If we come up with a package and we agree on it, obviously, we have now consent to go to that. That is precisely what it is. I hope that we can do this. We will take it up no later than Friday, July 28, and if we have some agreement, or even without an agreement, it should not take more than 2 or 3 days of the Senate's time.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. FORD. Mr. President, I want to thank the majority leader for his patience, Senator LOTT's patience, and others as we have tried to move through this, because it is complicated. If it is a resolution, it only applies to the Senate. If it is a bill, it applies to the House and Senate.

There are different views on lobbying reform and on gift ban. But this S. 101 is a bipartisan piece of legislation. It is COHEN, LEVIN, WELLSTONE, and others as it relates to bipartisanship. So there is an interest on both sides of the aisle to work something out. Senator LEVIN has worked very hard, as the majority leader knows, to put this together and to bring this bill to the attention of the Senate and to have a stand-alone vote. Also, Senator WELLSTONE, Senator FEINGOLD, Senator LAUTENBERG—very sincere and like-minded individuals—and others.

I hope we at some point, as the majority leader says, can come together with a bipartisan effort so we can agree on it. If we do, I think it will be a bellwether day. Let me thank him and others who have been so diligent in this. We all understand the give and take, and sometimes we have to walk off and let it cool a little and come back and go after it again. That is the system. That is the institution. As of today, I am proud I am here. I thank the Chair.

Mr. DOLE. I thank the Senator from Kentucky. I just hope this is something on which the leadership, including the Senator from Kentucky, obviously the Senator from Mississippi, Senator LOTT, myself, and Senator DASCHLE, will have some input.

It seems to me we have to take some responsibility for changes in the lobbying procedures and also gift rules. I am prepared to do that. I know the Senator from Kentucky and I assume the Senators from South Dakota and Mississippi are, too, working with other Senators, because different people have different ideas on what reform is and what rule changes ought to be made.

As far as I am concerned, they can go as far as they want. It does not make any difference to this Senator. But I think we can work out a reasonable approach to get it done and get it behind us either before or during the August recess, let us put it that way, because we are not certain when the August recess will begin.

Mr. FORD. Mr. President, will the Senator qualify during the recess? Work on it after we go or is he indicating we may not go out?

Mr. DOLE. In fact, I should say, in all candor, we are working this weekend—my staff has been directed to work with others to see how much we really believe we can finish by the date of the normal August recess, which is scheduled to begin on Friday, August 4, and scheduled to conclude on September 5.

Obviously, all Senators hope we can keep that entire period of time. It is my hope we can also do that. But I must say to my colleagues, we need to take a hard look at where we are. It is a question of how long we stay out in August or how long we stay here in November. So it will be one way or the other. We will try to give everybody some indication by the end of next week whether we will start the August recess on the 4th or the 11th or the 18th or thereafter.

ORDERS FOR MONDAY, JUNE 12, 1995

Mr. DOLE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 12 noon on Monday, June 12, 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 be a period for the transaction of morning business not to extend beyond the hour of 1 p.m., with Senators permitted to speak for up to 5 minutes each.

Further, that at the hour of 1 p.m., the Senate resume consideration of S. 652, the telecommunications bill and the pending Thurmond second-degree amendment to the Dorgan amendment No. 1264.

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

PROGRAM

Mr. DOLE. Mr. President, all Members should be aware that the Senate will resume consideration of the telecommunications bill at 1 o'clock on Monday. The chairman is here. He is ready to do business now. He will be ready to do business on Monday. Senator PRESSLER is available. Senators should, therefore, be aware that rollcall votes can be expected throughout Monday's session of the Senate, however, not before 5 p.m. on Monday.

Let me indicate to my colleagues who will say, "Well, we didn't have enough time for debate," we have time right now. It is 3:10. For 3, 4, 5 hours, the Senator from South Dakota is willing to stay on into the evening and will be here all day Monday. So I hope people do not come back at 5 and say, "We didn't have time to debate."

We have all day today and all day Monday starting at 1 o'clock. I just said if we cannot get an up-or-down vote on the pending amendment, then all the recourse the manager would have would be to make a motion to table sometime on Monday. I did not file cloture to shut off debate. It is a very important amendment. It is a very important bill. I am not trying to take time away from any Senators. You can see there is nobody here. So all those people who complain Monday about having time to debate, they could have been here today. Right?

Mr. PRESSLER. Right.

Mr. DOLE. And they can be here Monday. So I just hope if we are told we have not had time, we need more time to debate, that they will think about what they did not do on Friday and what they could have done on Monday.

ORDER FOR RECESS

Mr. DOLE. Mr. President, if there is nobody here to debate the telecommunications bill, I ask unanimous consent that the Senate stand in recess under the previous order, following the outstanding remarks about to be made by the Senator from Nebraska—I added that "outstanding"—Senator EXON.

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

The Senator from Nebraska is recognized.

COMMUNICATIONS DECENCY ACT

Mr. EXON. Mr. President, I have delayed bringing up this matter until an appropriate time when I would not necessarily inconvenience all of my colleagues with the very important amendments that I have had a part in developing as a member of the committee of jurisdiction, the Commerce Committee.

I will be back on the floor on this matter, though, next week before the vote or votes are held on the matter on which I wish to address the Senate today. There has been a great amount of behind-the-scenes activity. There has been a great amount of activity on the Internet system, and I am here today to outline the measure that I will offer as a substitute to the measure that was reported unanimously out of the Commerce Committee, called the Exon decency bill with regard to the Internet.

I cannot think of a more appropriate means of bringing this to the attention of the Senate and the American people than in our debate and eventual enactment of the telecommunications legislation, which is the most far-reaching legislation dating back to 1934. Obviously, everyone knows of the dramatic developments in telecommunications since 1934. It is about time we do something.

But as we are doing this, and with the many important factors that we have considered and deliberated on for a long, long time, including last year when the Commerce Committee had extensive hearings on the whole matter and scope of telecommunications, what we should do and should not do, what we should try to do, and what we can do—unfortunately, the Senate adjourned before that bill was reported out of the Commerce Committee last year and was considered and enacted into law.

When Senator PRESSLER took over as the very distinguished chairman of the Commerce Committee this year, Senator PRESSLER, rightfully, in company with the Democratic leader on the Commerce Committee, Senator HOLLINGS, moved very aggressively on, once again, bringing forth a piece of legislation not distinctly different from the legislation that we reported after extensive hearings and deliberations and brought to the floor last year.

So here we are, Mr. President, making some very significant changes. One of the things this Senator feels we should properly address, and will address and, hopefully, act on in a fair and reasonable fashion, with full understanding, absent of outlandish claims and charges, is the matter of trying to clean up the Internet—or the information superhighway, as it is frequently called—to make that superhighway a safe place for our children and our families to travel on.

Mr. President, at this time, I send an amendment to the desk and ask unanimous consent that it be printed in the RECORD and held at the desk. I will formally call it up for consideration sometime next week.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator has that right.

(The text of the amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. EXON. Mr. President, earlier this week, I circulated a "Dear Colleague" letter which explained the revisions in the communications decency provision. In title IV of the telecommunications reform bill, as my colleagues know, title IV includes legislation that I have worked on for about a year to make the Internet and other aspects of the information superhighway safer for our families and for our children to travel.

It seems an appropriate time to explain these revisions and file my amendment so that it may be printed in the RECORD, as I have just asked for and received consent for—primarily, for the convenience and review of my colleagues before we debate this matter further next week and eventually come to a vote.

Mr. President, some basic rules of the road need to be established. As the information superhighway rolls up to the front door of every household and school and library in America, this bill will bring exciting, revolutionary, and new information technologies within the reach of every American. There has not been anything that I think is more exciting that has ever been developed than the information superhighway and what it is going to do to make more information and more education readily accessible to any who seek it.

I have said on many occasions that I happen to believe the whole computer Internet system is the most important, the most revolutionary development since the printing press. Eventually, I predict, it will do as much good for circulation of information as the printing press. I support the development of this so very, very strongly.

I simply cite that there are some dangerous places, Mr. President, on the information superhighway. I think that while we are creating this as an important part of our new telecommunications bill, we who are charged with the responsibilities to pass laws that are reasonable and proper should emphasize a little in our thinking what is proper and what is not proper.

It is my intention to point out to the U.S. Senate some of what I think is highly improper, what I think is eroding the society and will continue to erode the society of America, unless we have the courage to stand up and do something about it, despite the minority of naysayers in the United States of America who do not want to change anything.

Mr. President, the Snowe-Rockefeller-Exon-Kerrey amendment that assures that schools and libraries will gain affordable access to the digital world, including the Library of Congress, the great universities, and the museums, will remain in place.

The Communications Decency Act is proposed in the context of this information revolution that is exploding in our society. Just as we modernize the rules which apply to the telecommunications industry, we need to modernize the rules which apply to the use of their products and their services that are going to be distributed in a form that we never even imagined previously.

Unfortunately, the current laws, which clearly protect young and old users from harassment and obscenity and indecency, are woefully out of date with this new challenge and this new opportunity. The current law is drafted in the technology, primarily, of the telephone, dating back to 1934. Our efforts today, and in the coming weeks, bring closer the day of technological convergence. Soon the concept of a telephone will be as relevant as today's concept of the telegraph.

The principles that I have proposed in the Communications Decency Act are simple and constitutional. Telecommunications devices should not be used to distribute obscenity, indecency to minors, or used to harass the innocent.

The revisions offered to the committee-reported bill are in response to concerns raised by the Justice Department, the profamily and antipornography groups, and the first amendment scholars. If anyone would take the time to look through them and study them, I think most, but not all, would conclude that they are reasonable and proper.

I have also had a great deal of cooperation from the online service providers. The online service providers, of course, are those entrepreneurs who have assisted us in providing services to the many outlets that are anxious to have their services in America. These service providers are key members of this new industry.

Certainly, what we are trying to do here is to only craft and put into law some of the provisions that have been in existence for a long, long time, way back to 1934, to make sure that the same restrictions that were necessary and have been placed into law, and have been held constitutional time and time again by the courts, have a role to play in the new Internet system and how that Internet system reacts, as best explained on this chart, which I will get to in a few moments.

So I have had good cooperation from many, many people who are truly experts in this area, including members of the telephone industry who have worked and operated without problems under very similar, if not identical, restraints in the law that everyone thought had been good.

The proposed revisions that I have submitted to the desk that passed unanimously out of the Commerce Committee, follow closely the confines of several Supreme Court cases. I am very confident that this legislation will withstand a constitutional challenge.

I am not interested, Mr. President, in passing a piece of legislation here, and then say, "Look what a good job we did," and then have that matter in the very near future declared unconstitutional by the Supreme Court. We would have to start all over again.

I assure all from the beginning, I have put out the hand of cooperation to all parties—even those most opposed to any action whatever in this area—and I find that there are a great number of well-intentioned people who shudder at the thought of passing any kind of legislation in this area.

They are not bad people. I just do not think they fully understand, as I think I do and as I think 9 out of 10 Americans do, when they find out what is going on, on the information superhighway today.

Mr. President, a few days ago I had a remarkable demonstration, in more detail than I had even fully known, of

what is readily available to any child with the very basic Internet access. I want to repeat that, Mr. President: Of what is readily available to any child with the basic Internet access. It is not an exaggeration to say that the worst, most vile, most perverse pornography is only a few click-click-clicks away from any child on the Internet.

I have talked to so many people about this and had so many interviews and read so much material. There have been many experiences during these last few months, people have told me of the fact that they knew nothing about what was on the Internet with regard to what I was concerned about.

Only last week I had a journalist who was doing a story on this who conceded—this was a woman—when she started writing this story she was extremely skeptical of what my motives were and whether there truly was a problem. It just happened that very recently, though, during the process of writing the article that she was doing for a national publication, she put her computer at home on the Internet system and was sitting with her 8- or 9-year-old daughter one evening.

She said, "Senator, I got my eyes opened very wide, very quickly." She said, "I was astonished at what I came across accidentally. Even more astonished when I started doing even preliminary searches of what we were getting into. Finally, I recognized it was not something I wanted my daughter to see, let alone me sharing it with her."

I did a television show on this subject. Half the people that called in were very upset that I was not for free speech, I wanted to violate the Constitution.

The most rewarding of those who supported it was a call out of the blue from an obviously very young person who identified himself as a 12-year-old boy. He said, "Senator EXON, I want to salute you for doing this. I am a 12-year-old. I am completely literate on the computer. I have seen and observed the material that you are talking about. It is common talk among all of us my age and younger, and, of course, older, in school." He said, "I appreciate the fact you are trying to do something about it, because someone has to." That word from a 12-year-old really meant more to me, Mr. President, than all of the brickbats that have been thrown my way from, basically, people that I think are uninformed in what this Senator is trying to do.

The fundamental purpose of the Communications Decency Act is to provide much-needed protection for children. Throughout the process of refining this legislation, I have held out the hand of friendship and understanding and cooperation to those who have had different ideas, and I have made revisions in many instances that I think are very appropriate and help in our effort rather than hurt us.

I responded to the concerns raised over the last several months and those raised earlier today by my friend and colleague from the State of Vermont, Senator LEAHY. I have publicly and privately expressed support for Senator LEAHY's study. But not as a substitute for or at the expense of these critical provisions which are designed to allow children and families to share and enjoy the many wonderful benefits of the information revolution that are taking part on the Internet.

The reason that I am concerned is that I am afraid that there are some of my colleagues in the Senate on both sides of the aisle that might be tempted by Senator LEAHY's efforts, that have been primarily sponsored, as I understand it, by the Clinton administration people, primarily in the Justice Department.

What the Clinton administration and the Justice Department is trying to do is punt—punt like in football. We happen to know something about football in Nebraska. I would simply say that any time Nebraska has a fourth down and 37 yards on our own 3-yard line, they always punt. But this is not a time to punt on this important matter, if it concerns my colleagues as much as it does me.

I think if they will take time to study it, most of my colleagues would agree that we cannot punt. Even though it is third down or fourth down and 37, we better act.

In response to the concerns that have been raised by the Justice Department and others, the Exon revision drops the bill's definition of "knowing" and the so-called "predominant defense issue."

The remaining defenses are narrow and streamlined and limited to the new revised section 223. A new section is added to assure that no other Federal statute will be limited or affected by the Communications Decency Act.

I want to repeat that, Mr. President: The new section is added to assure that no other Federal statute will be limited or affected by the Communications Decency Act.

This is important to many Members and pro-family groups. The current dial-a-porn statute would be left untouched and unamended by the decency provisions. We have made that clear.

Furthermore, the bill's narrow, streamlined defenses would not apply to the current dial-a-porn law or any other Federal statute. We are leaving that measure that has been heavily debated, on which there have been court cases alone, to stand exactly like it is.

The Exon Decency Act does not touch it.

With these revisions, decency provisions pose no risk to any current or future dial-a-porn, obscenity, or indecency prosecution. The State preemption provision in the committee-reported bill is clarified, in that its application is limited to commercial activities and consistent with the interstate commerce clause. This provision will assure that businesses and nonprofit services and access providers know that State and Federal rules and obligations with respect to the Communications Decency Act are consistent and are predictable. This assurance is critical to any interstate enterprise.

In addition, new language is added to this provision to assure that the State preemption provision in no way limits State authority over activities not covered by the Communications Decency Act. In other words, State child endangerment or delinquency statutes will in no way be adversely affected by this legislation.

The heart and the soul of the Communications Decency Act are its protection for families and children. The distribution of obscenity and indecency to minors by means of telecommunications devices would be covered by new sections in the revised language. Unlike the current dial-a-porn statute, there would be no noncommercial loophole in the new provisions. I am saddened to report that there is a great deal of grossly obscene and indecent material on the Internet available to anyone free of charge. The decency revisions strengthen the committee-reported bill by providing clear, constitutional, and much-needed protections for users of the telecommunications services.

I look forward to discussing this critical piece of legislation as the Senate further considers the telecommunications reform bill, as I indicated earlier, next week.

Mr. President, given the floor debate will be a key part of the legislative history for these new provisions, I ask unanimous consent that a section-by-section analysis, as well as the text of my amendment, be printed in the RECORD following my remarks.

The Chair had previously given authority for those to be printed. I am asking that they be printed following the conclusion of my remarks today.

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

(See exhibit 1.)

Mr. EXON. I also ask that a copy of an Omaha World-Herald article, which appeared in the Seattle Times, entitled, "Police Cruise the Information Highway" appear in the RECORD, also following my remarks.

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

(See exhibit 2.)

Mr. EXON. I send those to the desk for action, as has been agreed to.

Mr. President, let me, if I might at this juncture, go into a little further discussion as best I can, and as I think decency would allow me to proceed. This is the blue book. This is a sample of what is available today free of charge: Click, click, click on the computer, on the information superhighway. This will be available for any

of my colleagues who are not familiar with what is going on on the Internet today, to have a firsthand look at the listings of materials that are available free of charge and pictures of what is being shown. To give an idea, let me read through some of the listings that appear on the bulletin boards.

The computer is a wonderful device for arranging, storing, and making it relatively easy for anyone to call up information or pictures on any subject they want. That is part of the beauty of the Internet system. This is on some of these bulletin boards, and there is such a long list it would take a big binder to cover all of them, but let me read through what is in the form of pictures that have been taken on computer screens on the Internet. I have several pages of them here. I am going to just go through some of them and tell you any child who can read—and of course anyone else, too—could click onto this kind of an index that tells them what to do to punch in very easily to any of these types of things.

Multimedia erotica; erotica fetish; nude celebrities; pictures black, erotic females; pictures boys; pictures celebrities; pictures children; pictures erotic children; pictures erotica; pictures erotica amateur; pictures erotica amateur females; pictures erotica amateur males; erotica animal; erotica auto; erotica bestiality; erotica bestiality, hamster, duct tape; bestiality, hamster, duct tape; [two of those] erotica black females; erotica black males; erotica blondes; erotica bondage; erotica breasts. Here is a good one: Erotica cartoons; erotica children; erotica female; erotica female, anal; erotica fetish; erotica fury; erotica gay men; erotica male; erotica male, anal; erotica Oriental; erotica porn star.

This goes on and on and on—so much repetition. But it is startling, page after page after page, on screen after screen after screen—free, free of charge, with a click, click, click.

The blue book will be available to any who want to see how bad this is. I hope if any of my colleagues are not familiar with it, they become familiar.

Mr. President, I draw the Senate's attention to the chart that I have before me. I have been here in the Senate for 17 years. I think this is the second time I have ever used charts. We never had charts in the Senate until we had television. But now we talk to our American citizens, many of whom watch us very religiously from their homes throughout the Nation, as much as we do to our colleagues on the floor.

To try to explain this as briefly as I can, and I certainly do not claim to be an expert at it, the Internet system here in the center is the information system and the information system explosion that I have been talking about. When we look at what is good about this system, it is the Internet, the information, and all the multitude of good that is coming out of this today and is going to be further exploding in the future.

Then we have people at home on the Internet and children at home on the Internet. Under the system that the Exon Decency Act would provide and protect is this kind of a system with those at home, the children, having direct and full access to the Internet. After they get on the Internet, there would be a degree of protection to keep them from going on to the pornography bulletin boards.

That is what I am talking about here. The child at home, the adult at home could get on the Internet and they could go to the Library of Congress, the museums or any of the other magnificent sources of information we have. But anyone who pollutes that system over here on the pornography bulletin board would be subjected to the restraints in the law that the Exon decency provision tries to put in place.

Let me describe this for just a moment, if I might, and emphasize once again that we have today laws against—and providing fines and jail terms—people who misuse the telephone system to promiscuously spread pornography.

We also have in like manner in that regard laws prohibiting the use of United States mail for pornography.

Obviously, Mr. President, under the present law we do not put the innocent mailman in jail for delivering pornography, which is prevented by the law, from one place into a home.

This is a way that I would like to see, and I think most people would like to see, the Internet operate. But that is not the way the system works today and is the reason for the Exon decency provisions.

This is the way it works, Mr. President. You will notice in the previous chart that there are lines connecting these entities. On this chart, I simply say to you this is the way it is today. This is the way it is today where either the child or the adult at home enters the Internet system and is automatically connected with an additional click to the pornography bulletin board which is the material in the blue book and everything that I connected with it that I call smut. They are all connected together.

I happen to feel, if we make law the Exon decency bill, the Exon decency bill would not prevent or eliminate people from seeking the pornography bulletin board, and if they are adults and if the material on that is designed for and dedicated to adults, whom I would basically describe perhaps for these purposes as someone 18 years of age or more, then they could seek out the pornography bulletin board, and any of the people on the Internet, who have been claiming that Senator Exon's bill wants to close them down, if they want to watch pornography on the Internet, should have that right. I agree. I do not like it but I agree. It would be unconstitutional I think if we tried to eliminate that totally.

What I am trying to do with the Exon Decency Act is make the Internet like this rather than the direct connection accidentally to this system.

Over here in the pornography bulletin board we have entrepreneurs, entrepreneurs who are seeking money, cash money-making opportunities. They have facilities to where you dial into these bulletin boards, and they will through a credit card system allow you to subscribe whenever you want to the whole galaxy of things that they have, some of which I read out of the blue book. And that would continue, that would be allowed for adults under the Exon Decency Act.

What would be prevented under the Exon Decency Act is that these people who make lots of money, hundreds of millions of dollars selling smut, people on this pornography bulletin board, not unlike the Library of Congress, if I dare use that example, have a complete library of anything and everything that you could possibly imagine that you might see in an adult bookstore. If it is pocketed over there where it is very difficult to reach and you have to pay for it, that is one thing. But that is not the way it is.

What do these entrepreneurs over here do, Mr. President? What they do is to use the free access, without charge advertising with the best of some of their pornographic, obscene material, and they put it over here on the Internet with their printing press. That is a printing press and everybody has one. They can enter their computer, and they can take off anything that is in the Internet and store it, if they have the proper equipment. And people do.

Let me emphasize once again what I am trying to do, Mr. President, is to stop these people over here essentially from using teasers, not unlike coming attractions that we see when we go to the movies—best of the coming shows that will be here 2 weeks from today. And obviously when you get into movies you see some of the most violent explosions on previews of things to come.

When they, the pornographers over here, the money-making pornographers enter the free system of advertising, you do not even have to pay the price of going in and sitting down in a seat at a movie theater. What they do is take the best and most enticing pictures of whatever they want to sell that particular day or that particular week and they enter it over here on the Internet. They are posted on the bulletin board. And those are the ones, those are the pictures, those are the articles that are freely, without charge, accessible to very young children and to anyone else who wants to see them.

Among other things, the Exon bill would prevent the money makers over here—and many of them are perverts but very smart perverts—from advertising free on the Internet system to pollute, in the view of this Senator, our children and our grandchildren.

Simply stated, Mr. President, I have tried to summarize this as best I can in the 20 or 30 minutes' time I have taken of the Senate today, and I will be talking more about it next week as we come to a vote on this matter. I hope that most of my colleagues would recognize and realize that this is not the time to punt. This is the timely way to take action with regard to the telecommunications measure before us. I say today, as I have said before to my colleagues and all others outside the Senate who have an interest in this, many of them legitimate, I invite once again, if there is any particular problem you have with the Exon language, come let us reason together. I am not an unreasonable individual as my colleagues on both sides of the aisle in the Senate recognize.

There has been nothing that has concerned me more in my 8 years as Governor of Nebraska and my 17 years of having the great opportunity to serve my State in the Senate, there is nothing that I feel more strongly about than this piece of legislation, because I think it is more than just a piece of legislation. It is a time I suggest to step up to the plate and not offer excuses, not go along with those who say I wish to do what I wish to do, when and in whatever form I want, and I do not care what it might do to others.

I am going to do everything I can to see that a constitutional remedy is offered. If it is offered exactly as I am recommending or will recommend in future, if changes are in order, will that stop all of this and end the problem? No, it will not. It is too big for that. We still have obviously pornography through the mails, yet we have laws against it. We have pornography on the telephone. I guess that we do not have, though, anywhere near the stalking that is going on with regard to children by deviants. The newspapers have been full of that material very recently. And there are many hundreds of cases that take place all of the time that never reach the press, for obvious reasons.

I simply say, Mr. President, that this Senator is very dedicated to this cause.

I have no ill will toward those who do not agree with me, but I hope that after studying this they would at least agree that there is a problem that we should do something about.

I thank the Chair, and I yield the floor.

EXHIBIT 1

AMENDMENT 1268

Beginning on page 137 line 12 through page 143 line 10, strike all therein and insert in lieu thereof:

(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) Section 223 (47 U.S.C. 223) is further amended 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—

"(A) makes, creates, or solicits, and

"(B) initiates the transmission of or purposefully makes available,

any comment, request, suggestion, proposal, image, or other communication which is obscene, 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—

"(A) makes, creates, or solicits, and

"(B) initiates the transmission of, or purposefully makes available,

any indecent comment, request, suggestion, proposal, image, or other communication 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 an 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) 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) The provision of access by a person, to a person including transmission, downloading, storage, navigational tools, and related capabilities which are incidental to the transmission of communications, and not involving the creation or editing of the content of the communications, for another person's communications to or from a service, facility, system, or network not under the access provider's control shall by itself not be a violation of subsection (a), (d), or (e). 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) It is a defense to prosecution under subsection (a)(2), (d)(2), or (e)(2) that a person did not have editorial control over the communication specified in this section. This defense shall not be available to an individual who ceded editorial control to an entity which the defendant knew or had reason to know intended to engage in conduct that was likely to violate this section.

"(3) It is a defense to prosecution under subsection (a), (d)(2), or (e) that a person has taken good faith, reasonable and appropriate steps, to restrict or prevent the transmission of, or access to, communications described in such provisions according to such procedures as the Commission may prescribe by regulation. 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), (b)(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 an 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 Commission and covered by obscenity and indecency provisions elsewhere in this Act.".

On page 144, strike lines 1 through 17.

SECTION BY SECTION ANALYSIS—EXON REVISIONS TO THE COMMUNICATIONS DECENCY ACT

Section 223(a) of the Communications Act is amended to modernize its application to

new technologies and to codify Court and FCC interpretations that this section applies to communications between non-consenting parties. This revision would make Section 223(a) Constitutional on its face. Section 223(a) would become the key Federal telecommunications anti-harassment provision.

Sections 223 (b) and (c), the current law "dial-a-porn" statute provisions are left untouched. The "dial-a-porn" statute remains drafted in the technology of the telephone. This "overlap" remains as an "insurance policy" against challenges to new sections.

A new Section 223(d) is added. Whoever knowingly by means of telecommunications device "makes, creates or solicits" and "initiates the transmission of or purposefully makes available" an obscene communication could be subject to penalty.

A new Section 223(e) is added. Whoever knowingly by means of telecommunications device "makes, creates or solicits" and "initiates the transmission of or purposefully makes available" an indecent communication to a minor could be subject to penalty.

The section (f) defenses of the Committee-reported bill are narrowed, and streamlined. Similar defenses exist in the current "dial-a-porn" statute. These new defenses are necessary because information service providers are not common carriers and the total absence of defenses would expose the statute to Constitutional invalidation.

Defense (f)(1) (the access defense) is narrowed from the Committee-reported bill. This defense can not be used by one owned, controlled or a conspirator with a violator of this section.

Defense (f)(2) (the editorial control defense) is narrowed and not available to one who cedes editorial control to another likely to use that control to violate this section.

Defense (f)(3) (the good faith defense) is narrowed and the illustrative list of options in the Committee-reported bill is dropped. The FCC would determine by regulation "good faith, reasonable and appropriate" steps to restrict access to prohibited communications.

Defense (f)(4) assures that service providers will not be prosecuted for implementing a defense which is not a violation of law.

The State pre-emption provision in Section (g) limited to "commercial" activities and savings language is added to assure that States retain full rights to prosecute activities not covered by this section.

A new section (h) is added to assure that the Communications Decency Act in no way adversely affects prosecutions under other federal laws.

And finally, a new section (i) is added to clarify that one-way broadcasters and cable operators already covered by other obscenity and indecency provisions in the Communications Act of 1934 as amended incur no new obligations under this section.

EXHIBIT 2

[From the Omaha World-Herald, June 8, 1995]

POLICE CRUISE INFORMATION HIGHWAY

Police in Fresno, Calif., have a quick and dirty way to show parents how easily their children find sexually explicit material over computers: They bring parents in for show and tell.

Surfing the Internet, police have unearthed sexually graphic conversations, photographs and X-rated movie clips, complete with audio.

"(Parents) come up and go, 'What? Computers can do that?'" said Ken Diliberto, a network-systems specialist who helps detectives in Fresno, one of few cities whose police departments are using sophisticated methods to catch computer-aided criminals.

A Maple Valley, Wash., youth's disappearance for 18 days after meeting a San Francisco teen in an America Online "chat room" for gays and lesbians startled parents and raised questions about just what can happen in cyberspace.

Just as pedophiles and stalkers exist in society, there are electronic predators, police and prosecutors say. Though parents warn children not to talk to strangers on the street, few are as vigilant with people their kids meet via computer.

"There's nothing from the message itself that tells you anything about the person," said Ivan Orton, a King County, Wash. senior deputy prosecutor who handles technology crimes.

"You've got nothing but the words, and lots of people adopt different personas when they go on-line," he said. "Men become women. Women become men. You don't know who you're dealing with."

The FBI has pursued charges against people who transmit pornography, including child pornography, on-line, or who entice children with e-mail messages to cross state lines for sexual purposes.

Diliberto and Fresno detectives suggest that parents be aware of their children's computer use.

ATTENTION SURPRISES ON-LINE RUNAWAY

MAPLE VALLEY, WA.—When Daniel Montgomery took a bus to San Francisco to meet a friend he had encountered on-line, he figured he might get some attention from his parents.

But Daniel, who turned 16 Monday, had no idea he'd draw the attention of the nation.

"I didn't think it was going to get this big" he said, clicking the mouse of a computer in his Maple Valley house Tuesday. "I don't know, maybe it was stupidity."

Nearly three weeks after he disappeared to meet a mystery person called Damien Starr, fueling speculation of abduction and pedophilla, Daniel explained publicly that his departure was neither a kidnapping nor a luring. Instead, he said, it was something closer to running away with the encouragement of an on-line friend.

Sitting at the computer where he first communicated with Starr in a gay-and-lesbian "chat room" on America Online, Daniel said his friend was not an older man looking to exploit him sexually but rather a teenager, 16 or 17, who had been kicked out of his own house because he was gay.

While he would not reveal Damien Starr's real name or say much about the three men in their 30s who live with Starr in a San Francisco apartment. Daniel did say none of them tried to harm him in any way.

Daniel, who described his adventure as an "uninformed" vacation, said he was never hurt or in danger.

"I want people to understand there was nothing but friendly contact," he said.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I ask unanimous consent that I be allowed to speak for 15 additional minutes as in morning business.

The PRESIDING OFFICER (Mr. PRESSLER). Without objection, it is so ordered.

TELECOMMUNICATIONS BILL

Mr. KERREY. Mr. President, I thought we were finished earlier. I listened carefully to the senior Senator from Nebraska on this issue. I come to make final statements. I do not know if I will take the whole 15 minutes. I appreciate that the Presiding Officer and others were expecting to leave when the senior Senator was done.

I must say, as I have on a number of other occasions, I am not sure most Americans know what it is we are about to do. I expect this bill is going to be enacted sometime in the next 4, 5, 6 days. It is 146 or so pages long, I believe, and it is going to touch every single American. If you have a phone, if you have a cable, if you use broadcast, if you buy records, if you are connected at all to the information services industry, you will be affected by this law.

I have said, and I believe it to be the case, that it is not something that is occurring as a consequence of Americans saying we want to change our laws, we are unhappy with our phone service, we are unhappy with our cable service, we are unhappy with what we have. Typically, what we do around here is we try to make adjustments according to the agendas as we observe Americans saying that they have for themselves—the deficit, crime, education, all sorts of things that tend to dominate our debates.

This one is being driven by corporations who have a desire to do things they currently are prohibited from doing under our laws. So we are rewriting our laws. I do not object to that. In fact, I have been an advocate for a number of years of deregulating the telecommunications industry, and I am enthusiastic about doing so.

I just want to make it clear that the laws of this land will have ultimately an effect, and this law will have about as large an effect on the American people as anything that I have been a part of in the 7 years that I have been in the U.S. Senate. I do not want anybody to suffer under the illusion that we are just dealing with something relatively minor here.

I cannot, and I said it before, support this legislation in its current form. The debate that we were having earlier on the Department of Justice role—indeed, the compromise that was produced in this legislation was produced by the senior Senator from Nebraska in the committee to try to give DOJ, the Department of Justice, a role to consult as the application for permission to do long distance was being processed by a regional Bell operating company or local telephone company trying to get into long distance.

But I must say, of all the things that had provoked interest in and by the American people, the title IV provision, the Communications Decency Act, sponsored by the senior Senator from Nebraska, has received the most interest. I will say directly that my own first amendment tendencies to

support the first amendment cause me to sort of immediately say there must be something wrong with this thing.

I am not familiar with the things that were available that the senior Senator showed earlier in the blue book, but I am a regular user of the Internet and I have used E-mail and the computer for last 12 or so years and consider myself to be relatively literate, though I will say I am not familiar with the items in question.

I am prepared to acknowledge, and I think we all should acknowledge, there is a serious problem here. I have noted with a considerable amount of concern, since the senior Senator from Nebraska was successful in getting this attached to this bill, that he has been subject to a considerable amount of abuse and a considerable amount of attacks and a considerable amount of criticism from all sorts of sources, I suspect many of whom are not terribly informed what is in his bill or what is available over the Internet.

Not surprisingly, the senior Senator from Nebraska has not withered under that fire and has not backed off from a legitimate concern, as I say, that may be one of the few real concerns that we are getting from the American people.

If you asked me today in the area of communications what is on people's minds, what sort of things are people bothered by, it may, in fact, be the violence, indecency in broadcasting that tops the list. It may be the only thing.

I ask my senior colleague, if you went to a townhall meeting, let us say in Broken Bow or Omaha, Lincoln, and you just raised the question of telecommunications and you define it as the media, telephone, so forth and ask them, "Of all the things about this, what's the problem for you," they may complain the rates are too high with cable, or they have some broadcast problems out in the western part of the State, like we had at Scottsbluff a couple years ago. But this one does come up in townhall meetings. This issue does get raised. Parents are concerned. Citizens at the local level are concerned about this particular subject.

I do not know exactly where the efforts to amend this legislation will go. I have not looked at the details of the changes the senior Senator has proposed, but I am not unmindful, at least in this particular area, of all the things we are debating, this is something regarded by citizens as something that needs to be addressed.

Earlier in the comments of Senator EXON, he used the word "punt" and brought up the Nebraska football team. After Nebraska won the national championship, Senator EXON just sort of clapped his hands and thunderously here comes the team to Washington, down to the White House.

It was a very moving moment for those of us who waited a long time for this to happen. In a conversation with Coach Osborne that I had that day at the White House, I asked Coach Osborne—he is the football coach for the University of Nebraska. He has been giving many speeches and expressed some real concern of what is going on with young people today, particularly in Nebraska but throughout the country, since he recruits throughout the country.

I do not know if the senior Senator had just introduced the bill at that time, but he said he did not know if this particular piece of legislation was good or not because he had not read the details of it, but it addressed a problem that he thought was real and present at the local community. It addressed a problem that he himself is personally terribly concerned about.

Mr. President, I hope that in the process starting Monday, Tuesday, Wednesday—whenever it is we reach a final vote—that we will begin to generate some enthusiasm amongst Americans to pay attention to these 146 pages that we are about to enact in some shape or form.

I personally hope, though I know it is going to be difficult to do, and I am here to put out an appeal to the Presiding Officer and the senior Senator from Nebraska who were very much a part of the committee's deliberation—I am not on the Commerce Committee; I was allowed to have a staffer sit in on much of the deliberation—I hope that we can get a good-faith effort to narrow the differences between the Dorgan amendment and the Thurmond amendment on this DOJ role.

It is a very serious matter. It is a very serious matter to me personally. I cannot support this legislation unless there is a role for the Department of Justice. I intend to oppose it strongly unless there is.

I am very much concerned about what is going to happen to the American consumer as we move from a regulated monopoly at the local level to competition at the local level—very much concerned about it.

As I paid attention, I must say, this has been my dominant concern right from the opening bell. I do not know if the senior Senator from Nebraska has any way to try to help us bring Senator THURMOND and Senator DORGAN together and maybe perhaps bring a majority around some increase in strength in the role for DOJ, but it seems to me we can do it in a fashion that addresses the concerns of the senior Senator from South Dakota.

The chairman of the committee has expressed over and over concerns for duplication, excess bureaucracy. We drafted at least that portion of the amendment that deals with bureaucracy, so there is a time period, a 90-day commitment.

The Senator from South Carolina, Senator THURMOND, has decreased some of the role for the FCC, not dramatically but enough.

It seems to me what we are trying to do is address the problems that some have, and I think they are legitimate concerns, for tying down and tying up companies too much as they try to get into long distance.

But, Mr. President, if the consumers of America, who are truly, in my judgment, likely to be unaware of what we are about to do, if they are really going to benefit from the corporations' new rights to get into long distance, if they are truly going to benefit from competition, then the benefits are going to have to come from entrepreneurs that do not exist today, businesses that will be startup businesses, that will be coming into households and offering services that will be packaged.

The only way, in my judgment, that we are going to get decreased prices and increased quality is if you get ferocious competition at the local level. As much as I am enthusiastic about the 14 points that are required, the 14 actions that are required by the Bell operating companies before they can make an application, I am troubled that we do not have any case law on it. I fear we are going to have lots of litigation on it. And I fear as well that rather than having immediate competition, you are going to have a slowing of entry into competition, and, as a consequence, we are going to find ourselves with consumers, citizens, voters, taxpayers, who are not terribly pleased with the net result.

Once again, I look forward next week to the continuation of this debate. I hope it is constructive and that it does, in the end, lead to a piece of legislation that I am able to enthusiastically support.

Mr. President, I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska [Mr. EXON] is recognized.

Mr. EXON. Mr. President, I am going to be very brief. I thank my friend and colleague from Nebraska for his remarks. I simply say that I did not use coach Tom Osborne's name. He has called me on the telephone and written me a letter. He does support this legislation. And for whatever that is worth, I think you and I have the highest respect for Tom Osborne, the man, as well as Tom Osborne, the football coach, and for what he has done for young people.

I want to ask my colleague from Nebraska a question with regard to the matter that he just brought up. We are going to vote next week on the amendments being offered by the Senator from North Dakota, and I think cosponsored by my colleague from Nebraska, with regard to the Justice Department.

I have been following this, and I am not quite sure I understand the Senator's objections. I had a great deal to do with this during the last 2 years—

the whole bill, in the Commerce Committee.

On page 8 of S. 652, there was specifically put in the legislation on line 20, section 7:

Effect on other law. A, antitrust laws. Except as provided in subsection B and C, nothing in this act shall be construed to modify, impair, or supersede the actions of the antitrust laws.

I am sure that my colleague from Nebraska knows of that provision. I have always thought that was put in there specifically to make certain that the Justice Department of the United States would maintain their traditional role of enforcing the antitrust laws in America. Does that not satisfy the concerns of the Senator from Nebraska, or does he feel that that particular quote from the law impairs, in any way, the responsibility that the Justice Department has under the antitrust laws, that they will have the full right, as I understand it, to pursue in the future as they have in the past?

Mr. KERREY. That provision is very important. That language the Senator mentioned is a very important provision. It would make certain that the Department of Justice continues to have its historical antitrust role. That is very important.

The problem that I have with that being sufficient is that it does not go as far as 1822 did last year, in that it is after the fact.

In other words, let us pick the regional Bell operating company in our area, U.S. West. Let us say U.S. West now does all 14 of the things that are required in order to get into the interLATA, in order to do the long distance, and they come to the FCC and get permission to do long distance service. Well, the problem is, if the Department of Justice wants to take action, they have to take action after the fact, after permission is granted; after they are in long distance, then they have to come and take action. What I would feel more comfortable with is if we had DOJ involved, as 1822 did, in a parallel fashion, not in addition to. What I was most interested in was making sure that there was a parallel process with a time certain. And in the language of the Dorgan amendment, as amended, as well by the Senator from South Carolina, there is a 90-day time certain, and a parallel process occurs. You do not file to one and then go to the other.

The precedent that I am trying to use repeatedly—and I think it is a good one—is that in 1984 the Department of Justice was the one that managed the transition from a monopoly to a competitive environment in long distance.

Mr. PRESSLER. Mr. President, I would like to be able to enter into this colloquy. What is the parliamentary situation?

The PRESIDING OFFICER. At present, if I might state it, there is a previous order that we were to recess after the senior Senator from Nebraska completed his statement, which has been completed.

Mr. KERREY. Should I be asking unanimous consent to speak until the presiding officer has to leave?

Mr. PRESSLER. Mr. President, I would like to get into this colloquy.

Mr. KERREY. I ask unanimous consent that the earlier unanimous-consent order be revised and that we will go out at 4:30.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. PRESSLER. Will my friend yield so I can get a question in?

Mr. KERREY. Yes, if I can first finish the answer I was giving to Senator EXON.

I deeply hope that this colloquy can result in you helping me. I am not trying to get you to necessarily say, gee, yes, I am going to vote for this amendment. But I am trying to enlist your help in getting a larger role for DOJ to allay the concerns that I have that permission is going to be granted to get into the long distance service, and then the only opportunity that consumers would have to make sure that there is competition is to be for an action to be filed after the fact.

Again, what I am expressing is a concern that we may not have real local competition. What the committee did—and I think it was good work—was come up with this 14-part checklist and say this is going to replace the VIII(c) test we had in last year's legislation. This will be sort of in lieu of. It is quite good. It does not give me confidence. I know that the senior Senator understands this as well, that when it comes time to starting a business as an entrepreneur, typically, you do not have enough money to be able to hire your own lawyer. These larger companies have whole dump trucks full of lawyers that work for them.

When you are dealing in that kind of environment, I want to make sure that this entrepreneur that wants to come to Omaha, Grand Islands, or Hastings, or Scottsbluff, and come to the household and say I want to deliver a competitive information product, which the playing field allows them to do it, I want to make sure they have the Department of Justice signing off in a parallel process to do so.

Mr. PRESSLER. If my friend will yield for a question, is there another area of the Justice Department where they have a decisionmaking role? Earlier this year, we had this process that we went through, and both Senators from Nebraska had their staffs there and could have been their personally, night after night, and they both did a good job. They wrestled with this Justice Department thing over and over and could not find another area of American life where the Justice Department has a decisionmaking role, such as this amendment wants to add.

Mr. KERREY. You have asked me a question; let me answer. We have had this colloquy a couple of times before. My answer, with great respect—and I am not trying to argue—I am trying to, hopefully, get some change that enables me to support the legislation. What I said before I will say again—we had a role with the Department of Justice when we did this thing once before 10 years ago. The Department of Justice had the most important role in taking us from a monopoly in long distance to a competitive marketplace.

The answer to your question is that the Department of Justice had the principal role. We are not asking the—in this proposal we are not giving the Department of Justice the ability to manage this thing unnecessarily. We are simply saying that there is a review process and they have the authority to sign off on it, and they have to answer in a 90-day period.

Mr. PRESSLER. If my friend will yield, there is no other area of American economy—and it is true since Judge Greene's order, and he has 200 staff attorneys over there, basically. But there is no need to continue having that just for one sector of our economy in the Justice Department, a decisionmaking role.

Mr. KERREY. If there is a need for this law—the law is unprecedented. We are doing something extremely unprecedented. Ask the ratepayers, the taxpayers and citizens in the households. We are taking your comfortable telephone service, your comfortable cable service—you have it now and it is a monopoly, you know it is there—and subsidize rates and keep the rates down in residential. We are transitioning where those protections are not going to be there any longer. It is an unprecedented move from a monopoly to a competitive environment.

I am suggesting that because of that lack of precedent, it is reasonable to look for an unprecedented way to manage, as the bill itself describes—manage from that monopoly situation to a competitive situation. I believe that it is possible and perhaps, even desirable, to put some limitations, if you want to, on what the Department of justice can do.

There have been earlier suggestions on how to do that. But to give them only a consultative role, I just genuinely, sincerely believe that that risks this entire venture. It places this entire venture into the hands of corporations to say we know that you want to do the right thing, so we know you are going to allow competition. I think it is more than reasonable to expect of anybody. If I am a business—even a small business—I can talk all I want to about competition and how I favor it. But the truth of the matter is, given a choice, I would rather not have it.

Mr. PRESSLER. Under the consent decree that broke up AT&T, DOJ is not the decisionmaker; it was the court, Judge Greene. Now we are making DOJ the decisionmaker under the Dorgan proposed amendment.

Mr. KERREY. No.

Mr. PRESSLER. They will make the final decision.

Mr. KERREY. It does exactly what the consent decree did, as well.

It basically says, "You are going to have multiple consent decrees." What happens when, say U.S. West buys a long-distance company. What happens then? I tell you what happens. The Justice Department has to approve it. The Department of Justice would have to approve a merger of a local company acquiring a long-distance company.

The senior Senator from South Dakota would not object to that.

Mr. PRESSLER. But under the Clayton and Sherman Acts, as my distinguished friend pointed out, the language in the bill, they already have antitrust power.

We are setting up a permanent administrative bureaucracy in the Department of Justice that is supposed to be done over at the FCC, and we have it done in the FCC in two ways. One is the public interest convenience and necessity; and two is the checklist that Senator HOLLINGS and Senator EXON and Senator KERREY of Nebraska had there with staff.

This was all worked out. We spent night after night. Never has there been a more bipartisan effort in this Senate, preparing a bill, if I may say so. We invited everybody. I talked to all 100 Senators.

There is an implication by the Senator from Nebraska that all this was sprung upon him suddenly.

Mr. KERREY. I knew precisely what was in the bill. If I were in the committee, I would vote "no" entirely based on that provision.

Mr. PRESSLER. There is an implication that the bill is driven by corporate interests.

Mr. KERREY. It unquestionably is, Senator. That is very difficult not to deny.

I do not say that there is a dark and mysterious and evil aspect to that at all.

Mr. PRESSLER. From this Senator's point of view, the public interest is very much at heart throughout these considerations. I think all the Senators who worked on this bill have had the public interest. I do not accept that conclusion about the Senate of the United States.

Mr. KERREY. There is nothing wrong with the Senate of the United States considering and worrying about what corporate America wants. I am not saying that just because corporate America is asking for this that corporate America somehow is bad. I am not implying they are bad at all.

I am saying when I talk to people about this issue, when I get phone calls on this issue, it is rarely a citizen that is calling up and saying, "Senator, I really am concerned. I heard you talk about the Justice Department having a role in the application for interLATA freedom." Citizens do not ask about interLATA.

Mr. PRESSLER. Your staff was in the room where the bill was drafted.

Mr. KERREY. I am not a member of the committee and I did not vote on this. I am approaching a moment where I will have an opportunity to vote. I understand that my staff was involved in the deliberations. I appreciate that opportunity.

Mr. PRESSLER. I want to say how hard that staff and Senators involved worked through the weekends. A lot of Members have not had a day off since Christmas.

I find the suggestion that this bill is a result of corporate interests in the Senate of these United States, when we had a discussion this morning about assuming language, or whatever people are saying, and so forth, and maybe I misspoke. I do not know. I raised some points. I consider the Senator from Nebraska a good friend.

We have done everything we can to do what is right for the American people. If we do not pass this bill in this Congress, it will fall over to 1997 and we will lose 2 years of jobs and creativity.

This is not a perfect bill. I welcome the participation of the Senator from Nebraska.

Mr. KERREY. I think this bill will pass. It has a lot of steam behind it, and I think it is likely to pass. I am just saying it will not have my vote unless there is a strong Justice Department role.

I do not think what I am asking for is unreasonable.

Mr. PRESSLER. I find it unreasonable for the suggestion that this is a bill of corporate interests. I believe the Senators involved have acted in the public interest.

Mr. KERREY. I do not doubt they are acting in the public interest or that the senior Senator from Nebraska is acting in the public interest. I do not doubt that. That is not the point I am making.

I am saying, look out there for who it is that is asking for change. It is corporate America.

If I polled the people of Nebraska to rank this on their agenda, the only thing they would mention is probably the Communication Decency Act.

Mr. PRESSLER. There is a large part of corporate America for the Justice Department review which the Senator is supporting.

Mr. KERREY. That is true.

Mr. PRESSLER. But I am not accusing the Senator of responding to corporate America. I think we are asking, in the public interest.

Mr. KERREY. That is my point, Senator.

Corporate America has weighed in on this issue. Corporate America has contacted me on this particular issue, as they have contacted the Senator.

The point I am trying to make is that the dominant interest in this piece of legislation is a relatively small group of corporations that are currently regulated and that want to do something that the current law does not allow them to do. That is the point I have made before, that I will continue to make.

Mr. PRESSLER. Some of the biggest corporations in America want a Justice Department review.

Mr. KERREY. I agree, some of the biggest corporations in America do not want the Justice Department review.

That merely makes the point that this is largely the kind of an argument driven by concerns of corporations who either want to do something or do not want somebody else to do something in this area.

The PRESIDING OFFICER. I notify all Senators that it is now 4:30. Based on the previous agreement, all discussion was to cease at 4:30.

Mr. EXON. I ask unanimous consent I be allowed to continue for 5 minutes as in morning business.

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

Mr. EXON. First, to be facetious, I would like to advise my colleague from Nebraska that unless he misspoke or unless I heard him wrong, he said something to the effect that he sees nothing wrong with the U.S. Senate. If somebody would take that out of context, it would be the end of his political career. It might be a good time to ask that be stricken from the record.

Seriously speaking, I had cited earlier the section on page 8. I would also like to cite an additional paragraph from page 89 of the same act which says "before making any determination under this subparagraph, the commission shall consult with the Attorney General regarding the application."

I would simply advise both of my colleagues that this Senator has had considerable experience over the years in dealing with the bureaucracy. We have dealt for a long time, and my colleague from Nebraska has been involved in many of the interstate commerce decisions.

In no case does the Justice Department have prior consideration with regard to the Interstate Commerce Commission. Therefore, I think the point the Senator from South Dakota is trying to make is that we are treating the various agencies of the Federal Government—either independent agencies or agencies under the direct control of the President—the same as we have treated them previously.

I think that my colleague from Nebraska makes a pretty good point. I think I understand his concern.

I just want to say, as one involved in S. 1822, the predecessor of this, and this piece of legislation, the original draft that came to the committee after our distinguished colleague from South Dakota became chairman, contained no information or statement whatever to help address the concerns that have been raised, and I think to some degree, legitimately raised by my colleague from Nebraska.

It had nothing in there at all. That proposal came that would have, for all practical purposes, ignored the Justice Department.

I have cited two instances where, during the cooperation, during the discussion, during the compromise that we worked very hard to maintain, we came up with something that I think would allow the Justice Department to play a key role.

One thing I would suggest might be wrong, to go back to the illustration used by my colleague from Nebraska, U.S. West, for example, wanted to go into some kind of a network they had not previously been allowed to do.

According to the feelings, unless they were spelled out in the law, they would have to act after the fact. Of course, that is the way they always do, act after the fact.

The problem that the company, in that particular situation, I am fearful, was that they would have two different agencies of the Federal Government to go to for clearance, the Justice Department on one hand and the Federal Communications Commission on the other.

I simply say that I happen to feel that the hard-driven compromise that was worked on this by members of the committee may not be perfect, but as both Senators know, I have never voted for a perfect law since I have been here.

I will study the matter over the weekend further. I appreciate the discussion I had with my good friend and colleague from Nebraska and my colleague from the State to the north, South Dakota, where I was born. Thank you both very much.

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 treaties.

MESSAGES FROM THE HOUSE

At 9:48 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bills, without amendment:

S. 349. An act to reauthorize appropriations for the Navajo-Hopi Relocation Housing Program.

S. 441. An act to reauthorize appropriations for certain programs under the Indian Child Protection and Family Violence Prevention Act, and for other purposes.

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-206. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Agriculture, Nutrition, and Forestry.

"SENATE CONCURRENT RESOLUTION NO. 28

"Whereas, Michigan's farmers represent an important element of our state's increasingly diversified economy. American consumers purchase ever higher amounts of high quality fresh produce, and Michigan farmers continue to meet that demand. Fresh produce, by its nature, is also highly perishable with a relatively short shelf life compared to manufactured products. This characteristic of fresh fruits and vegetables imposes a burden on farmers unique to them. Specifically, the need to sell produce quickly means that fruits and vegetables may actually be consumed before the farmer can even receive payment. If farmers sell their goods to customers who are slow to pay or who fail to pay at all, farmers have few means to recoup their losses. Consumed goods can hardly be reclaimed, and the costs associated with pursuing a claim through the courts make this avenue futile in many cases; and

"Whereas, fortunately, our nation's farmers have been protected from such problems for sixty-five years by the Perishable Agricultural Commodities Act (PACA). Enacted in 1930, the PACA enforces fair trading practices in the marketing of fresh and frozen fruits and vegetables. It is administered by the Fruit and Vegetable Division of the Agricultural Marketing Service and allows farmers to ship their produce across our country in a timely fashion with confidence that they will be paid for their labor and goods. Should a contract dispute emerge, the PACA provides a means to resolve the problem without further burdening our court system; and

"Whereas, consumers benefit in many ways from this act. Not only can consumers purchase high quality produce fresh from the field because farmers may rapidly ship their goods confident that they will be paid, but other protections exist as well. For example, our schools, hospitals, and restaurants cannot be over-charged for produce because the PACA prohibits a produce dealer from hiding the true wholesale cost received by farmers for the fruits and vegetables; and

"Whereas, defenders of the PACA recognize that the act can be improved and have been willing to compromise in order to address the concerns of retailers. Unfortunately, legislation has been introduced into the United States House of Representatives that undermines efforts to preserve the PACA while improving it to correct certain shortcomings. HR 669 has been introduced into the 104th Congress to repeal the Perishable Agricultural Commodities Act. Rather than being a bill to eliminate unneeded regulations, this bill would impose a severe hardship on our state's farmers, and ultimately all people who purchase and enjoy high quality fruits and vegetables. HR 669, or any other bill that would repeal the PACA, must not be passed for the sake of our farmers and consumers: Now, therefore, be it

"*Resolved by the Senate (the House of Representatives concurring)*, That we memorialize the United States Congress to reject any efforts to repeal the Perishable Agricultural Commodities Act; and be it further

"*Resolved*, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation."

POM-207. A resolution adopted by the Senate of the Legislature of the Commonwealth of Pennsylvania; to the Committee on Armed Services.

"RESOLUTION

"Whereas, Tobyhanna Army Depot in Monroe County provides employment for 3,500 Pennsylvanians; and

"Whereas, Tobyhanna Army Depot is the nation's most productive and cost efficient maintenance facility, having a highly skilled and technologically advanced mission of designing, building, repairing and overhauling a wide range of communications and electronics systems for the Department of Defense; and

"Whereas, the closure of Tobyhanna Army Depot could result in the termination of not only those jobs on the operating base, but also hundreds of base-related jobs and the loss of thousands of dollars in total income; and

"Whereas, this Commonwealth has lost 11.5% of all defense jobs eliminated in the United States as a result of the Defense Base Closure and Realignment Commission's 1991 and 1993 recommendations; therefore be it

"*Resolved*, That the Senate of the Commonwealth of Pennsylvania memorialize the President of the United States and Congress to oppose the closure of Tobyhanna Army Depot in Monroe County for the reasons stated in this resolution; and be it further

"*Resolved*, That copies of this resolution be transmitted to the President of the United States, to the presiding officers of each house of Congress, to each member of Congress from Pennsylvania and to the members of the Defense Base Closure and Realignment Commission."

POM-208. A resolution adopted by the Council of the Village of Silver Lake, Summit County, Ohio relative to telecommunications legislation; to the Committee on Commerce, Science, and Transportation.

POM-209. A resolution adopted by the Council of the City of Upper Arlington County, Ohio relative to public rights-of-way; to the Committee on Commerce, Science, and Transportation.

POM-210. A resolution adopted by the Council of the City of Garfield Heights, Ohio relative to public rights-of-way; to the Committee on Commerce, Science, and Transportation.

POM-211. A resolution adopted by the City Council of the City of Nassau Bay, Texas relative to NASA's Johnson Space Center; to the Committee on Commerce, Science, and Transportation.

POM-212. A resolution adopted by the Council of the City of Newton Fall, Ohio relative to telecommunications legislation; to the Committee on Commerce, Science, and Transportation.

POM-213. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works.

"A CONCURRENT RESOLUTION

"Whereas, the mainline levee portion of the Mississippi River and Tributaries (MR&T) project has resulted in the loss of hundreds of thousands of acres of bottomland forests in Arkansas, Louisiana, Mississippi, Tennessee, Missouri, and Kentucky; and

"Whereas, the Corps, Vicksburg District, proposes to continue work on the mainline levee that would clear an additional 11,400 acres of forested wetlands in Arkansas, Louisiana, and Mississippi; and

"Whereas, this proposed work would destroy valuable fish and wildlife resources, including fish spawning habitat, in the batture lands along the Mississippi River without minimizing environmental impacts or without providing adequate compensation; and

"Whereas, the Corps maintains that they do not have to coordinate with the federal or state agencies as required by the Fish and Wildlife Coordination Act (FWCA) since greater than 60 percent of the project costs were obligated before the FWCA was enacted; and

"Whereas, the 1976 Environmental Impact Statement for this work is outdated and the last opportunity for public comment was in 1978; and

"Whereas, there are a number of significant issues which need to be addressed including a range of alternatives, mitigation loss of bottomland hardwoods, water quality, and potential impacts to the federally listed threatened Louisiana black bear: Therefore, be it

"*Resolved* That the Legislature of Louisiana memorializes the Congress of the United States to cause the Corps' MR&T Mainline Levee Construction Program to adequately mitigate for the loss of valuable forested wetlands and update its 1976 Environmental Impact Statement and open hearings for additional public comment; be it further

"*Resolved* That a duly attested copy of this Resolution be immediately transmitted to the president of the United States, to the secretary of the United States Senate, to the clerk of the United States House of Representatives, and to each member of the Louisiana delegation to the United States Congress."

POM-214. A concurrent resolution adopted by the Legislature of the State of Louisiana to the Committee on Environment and Public Works.

"A CONCURRENT RESOLUTION

"Whereas, the Nuclear Waste Policy Act established a federal program for managing and disposing of spent nuclear fuel and required that the program be fully funded by electric utility customers who benefit from the electricity generated at nuclear power plants; and

"Whereas, the United States Department of Energy is obligated under the Nuclear Waste Policy Act to begin storing spent nuclear fuel by January 31, 1998; and

"Whereas, the Department of Energy has not made significant progress in meeting its statutory obligation to take title to and remove spent nuclear fuel from nuclear power plants; and

"Whereas, the Nuclear Waste Policy Act requires customers who benefit from the electricity generated by nuclear power plants to pay a fee of one-tenth of a cent per kilowatt hour of electricity produced by nuclear power plants; and

"Whereas, this fee generates approximately $600 million per year and since its inception in 1983, has provided more than $10.5 billion, including interest, to the federal Nuclear Waste Fund; and

"Whereas, monies received by the Nuclear Waste Fund have not been committed to the Nuclear Waste Program, such that a significant portion of Nuclear Waste Fund receipts have been relied on the offset the federal budget deficit; and

"Whereas, approximately 25% of the electricity consumed by Louisiana is provided by nuclear power plants based located in the state of Louisiana; and

"Whereas, electric utility customers in the state of Louisiana have paid millions of dollars into the Nuclear Waste Fund; and

"Whereas, the Department of Energy's failure to begin accepting spent nuclear fuel may result in millions of Louisiana's electric utility customers having to pay for the additional costs of expanding on-site storage capacity, thereby causing customers to pay twice for the storage of spent nuclear fuel; and

"Whereas, the United States Congress should address the programmatic and budgetary shortfall that has plagued the Nuclear Waste Program: Therefore, be it

"*Resolved* That the Legislature of Louisiana does hereby memorialize the Congress of the United States to establish an integrated spent fuel management storage facility which includes the following:

"(1) A central, interim spent fuel storage facility capable of allowing the Department of Energy to begin accepting spent nuclear fuel in 1998;

"(2) A storage and shipping canister system which will minimize the costs of transportation spent nuclear fuel;

"(3) Removal of the Nuclear Waste Fund from the federal budget process in order for the department to have adequate access to the funds supplied by utility customers and to timely remove spent fuel from this state's nuclear power plants; and

"(4) Require that all nuclear waste shall be taken to the Yucca Mountain Nuclear Depository located in Nevada; be it further

"*Resolved* That a copy of this Resolution shall be transmitted to the secretary of the United States Senate and the clerk of the United States House of Representatives and to each member of the Louisiana congressional delegation.

POM-215. A concurrent resolution adopted by the Legislature of the State of Texas; to the Committee on Environment and Public Works.

"HOUSE CONCURRENT RESOLUTION

"Whereas, enacted by the United States Congress in 1973, the Endangered Species Act was designed to promote the laudable goal of protecting threatened and endangered plant and animal species; and

"Whereas, the act was widely viewed at the time as the most comprehensive environmental protection law in history but has evolved into a well-meaning but misguided federal policy; and

"Whereas, due for authorization by the Congress of the United States, the Endangered Species Act should strike a balance between environmental and resource protection and the social and economic consequences resulting from the listing of threatened or endangered species; and

"Whereas, the current Endangered Species Act does not adequately consider the role of states in species protection, nor does it consider the social and economic implications of critical habitat designation or recovery plan development and implementation; and

"Whereas, the Endangered Species Act has resulted in complete and partial takings of private property and has threatened the rights of Americans to own and control their own property; and

"Whereas, such intrusion by the federal government poses a real and substantial economic and social threat to Texans and all citizens of the United States; and

"Whereas, it is imperative that the Congress of the United States re-open the debate on the Endangered Species Act and apply a more balanced, common sense approach to habitat and species protection that does not jeopardize this nation's economic and social well-being or endanger the constitutional rights of property owners. Now, therefore, be it

"*Resolved*, That the 74th legislature of the State of Texas hereby strongly urge the Congress of the United States to amend the Endangered Species Act to require a stronger role for the states, consideration of private property rights, and consideration of the social and economic consequences in the listing and delisting of species, in the designation of critical habitats, and in the development and implementation of recovery programs for threatened or endangered species; and, be it further

"*Resolved*, That the Texas secretary of state forward official copies of this resolution to the Speaker of the House of Representatives and president of the Senate of the United States Congress and to all members of the Texas delegation to the congress with the request that it be officially entered in the Congressional Record as a memorial to the Congress of the United States of America."

POM-216. A resolution adopted by the Legislature of the State of Rhode Island; to the Committee on Finance.

"SENATE RESOLUTION

"Whereas, the proposed "Personal Responsibility Act" would impose new restrictions on virtually every program funded by federal, state and local governments. Legal immigrants, with only a few exceptions, would become ineligible for the five major federal programs: AFDC, Food Stamps, SSI, Medicaid and Social Services Block Grants; and

"Whereas, additionally, most legal immigrants would be denied all other needs-based benefits via a PRA provision that would impose a "deeming" requirement in all needs based programs other than housing programs. Under deeming, the income of the sponsor is counted as though available to the immigrant, regardless of actual availability to the immigrant, to determine if the immigrant meets the income and resource eligibility criteria of any given program. Deeming also disqualifies the immigrant if the immigrant's sponsor is unavailable or unwilling to cooperate by providing evidence of income and property; and

"Whereas, the deeming provision contains no exceptions for emergency services. Deeming would apply to almost all emergency services such as church meals provided with public funds, battered women's shelters and child protective services to rescue battered children; and

"Whereas, the deeming provision does not contain a time limit. Therefore, a legal immigrant who has lived in the United States and paid taxes for thirty or forty years would be disqualified from benefits solely because he or she is unable to locate their sponsor; and

"Whereas, the deeming provision does not contain an exception for battered spouses. Because women are frequently sponsored by their husbands, the PRA would create a situation where a battered woman would be unable to qualify for basic services to escape family violence because she cannot obtain the cooperation of the very husband she seeks to escape; and

"Whereas, because the deeming requirement applies to all needs-based programs at the state and local levels, any entity receiving government-funded assistance, including churches, schools, English as a Second Language classes, health care clinics, soup kitchens and shelters would be required to check immigrant status and to obtain financial assistance from immigrant sponsors. The time-consuming nature of this process and the difficulty of ascertaining much of the necessary information would create a tremendous administrative burden for these entities, many of which are already operating on a very limited budget; and

"Whereas, Congress recently passed legislation which would prohibit "Unfunded Mandates". One could argue that the Personal Responsibility Act is an unfunded mandate of enormous magnitude. Lawfully admitted immigrants in need of services to improve their futures will not suddenly disappear following enactment of the PRA, and it will fall to the states to pay the social and economic costs of relegating them to a new class of poor and downtrodden: Now, therefore, be it

"*Resolved*, That this Senate of the State of Rhode Island and Providence Plantations hereby respectfully requests that the United States Senate not pass the "Personal Responsibility Act" for the reasons stated previously; and be it further

"*Resolved*, That the Secretary of State be and he hereby is authorized and directed to transmit a duly certified copy of this resolution to the United States Senate."

POM-217. A resolution adopted by the City Council of the City of Pinole, California relative to the semi-automatic assault weapons ban; to the Committee on the Judiciary.

POM-218. A resolution adopted by the Senate of the Legislature of the State of Hawaii; to the Committee on Veterans' Affairs.

"SENATE CONCURRENT RESOLUTION

"Whereas, service-connected disability compensation for veterans from World War I, World War II, the Korean War, the Vietnam War, and the Persian Gulf War and any other conflicts, as designated by the President of the United States, is compensation for wounds or injuries, or both, sustained while on active duty; and

"Whereas, social security disability compensation for these same veterans injured while in the service of their country is vital to the health and welfare of disabled veterans and their families; and

"Whereas, the reduction, taxation, or elimination of veterans' disability compensation and social security disability compensation would, in effect, penalize the service-connected disabled, who by the grace of opportunity and the success of unusual determination, have overcome or lessened the economic loss associated with their disabilities; and

"Whereas, any taxation, reduction, or elimination of these benefits will guarantee that disabled veterans and their families can never enjoy the potential to rise above a governmentally-mandated economic status and station in life without being penalized; and

"Whereas, veterans are not responsible for the current federal deficit; and

"Whereas, these disabled veterans, in good faith, have served their country in support of those ideals upon which this country was founded and have answered the call to protect and defend the Constitution of the United States; and

"Whereas, this nation has a solemn contract with her veterans to provide health care and compensation for wounds or injuries sustained; Now, therefore, be it

"*Resolved by the Senate of the Eighteenth Legislature of the State of Hawaii, Regular Session of 1995, the House of Representatives concurring*, That the Legislature urges Congress to support legislation to safeguard veterans' disability compensation and social security disability compensation from elimination, reduction, or taxation; and be it further

"*Resolved* That certified copies of this Concurrent Resolution be transmitted to the President of the United States Senate, the Speaker of the House of the United States House of Representatives, the United States Secretary for Veterans' Affairs, the members of Hawaii's congressional delegation, and the Director of the State Office of Veterans' Services."

POM-219. A resolution adopted by the City Commission of the City of Lake Wales, Florida relative to tobacco; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted.

By Mr. HELMS, from the Committee on Foreign Relations, without amendment:

S. 908. An original bill to authorize appropriations for the Department of State for fiscal years 1996 through 1999 and to abolish the United States Information Agency, the United States Arms Control and Disarmament Agency, and the Agency for International Development, and for other purposes. (Rept. No. 104-95).

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. BRYAN (for himself and Mr. REID):

S. 903. A bill to designate the Nellis Federal Hospital in Las Vegas, Nevada, as the "Mike O'Callaghan Military Hospital", and for other purposes; to the Committee on Armed Services.

By Mr. LUGAR:

S. 904. A bill to provide flexibility to States to administer, and control the cost of, the food stamp and child nutrition programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. AKAKA:

S. 905. A bill to provide for the management of the airplane over units of the National Park System, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. BRADLEY:

S. 906. A bill to amend title 18, United States Code, to add multiple deaths as an aggravating factor in determining whether a sentence of deaths as an aggravating factor in determining whether a sentence of death is to be imposed on a defendant, and for other purposes; to the Committee on the Judiciary.

By Mr. MURKOWSKI (for himself, Mr. LEAHY, Mr. CAMPBELL, Mr. KYL, Mr. BROWN, Mr. GREGG, Mr. CRAIG, and Mr. DOMENICI):

S. 907. A bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws; to the Committee on Energy and Natural Resources.

By Mr. HELMS:

S. 908. An original bill to authorize appropriations for the Department of State for fiscal years 1996 through 1999 and to abolish the United States Information Agency, the United States Arms Control and Disarmament Agency, and the Agency for International Development, and for other purposes; from the Committee on Foreign Relations; placed on the calendar.

By Mr. LIEBERMAN:

S. 909. A bill to amend part I of title 35, United States Code, to provide for the protection of inventors contracting for invention development services; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself and Mr. BAUCUS):

S. 910. A bill to amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules; to the Committee on Finance.

By Mr. ROBB:

S. 911. A bill to authorize the Secretary to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *Sea Mistress;* to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL:

S. 912. A bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. INOUYE, Mr. MCCAIN, and Mr. BENNETT):

S. 913. A bill to amend section 17 of the Act of August 27, 1954 (25 U.S.C. 677p), relating to the distribution and taxation of assets and earnings, to clarify that distributions of rents and royalties derived from assets held in continued trust by the Government, and paid to the mixed-blood members of the Ute Indian tribe, their Ute Indian heirs, or Ute Indian legatees, are not subject to Federal or State taxation at the time of distribution, and for other purposes; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DOLE (for himself, Mr. DASCHLE, Mr. HELMS, Mr. WARNER, Mr. COVERDELL, Mr. THURMOND, Mr. MCCAIN, Mr. PRESSLER, Mr. ROBB, Mr. PELL, Mr. GRAHAM, Mrs. MURRAY, Mr. KEMPTHORNE, Mr. LEVIN, Mr. BRYAN, Mr. REID, Mr. KENNEDY, Mr. BRADLEY, Mr. COHEN, Mrs. KASSEBAUM, Mr. FORD, Mr. BINGAMAN, Mrs. BOXER, Mr. BUMPERS, Mrs. FEINSTEIN,

Mr. GLENN, Mr. HARKIN, Mr. JOHNSTON, Mr. KOHL, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. SARBANES, Mr. GRAMS, Mr. MURKOWSKI, and Mr. NICKLES):

S. Res. 132. A resolution commending Captain O'Grady and U.S. and NATO Forces; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BRYAN (for himself and Mr. REID):

S. 903. A bill to designate the Nellis Federal Hospital in Las Vegas, NV, as the "Mike O'Callaghan Military Hospital," and for other purposes; to the Committee on Armed Services.

THE MIKE O'CALLAGHAN MILITARY HOSPITAL DESIGNATION ACT OF 1995

Mr. BRYAN. Mr. President, it is my privilege today to introduce legislation to designate the Nellis Federal Hospital in Las Vegas, NV, as the "Mike O'Callaghan Military Hospital."

The Nellis Federal Hospital is a newly constructed joint venture hospital facility in Las Vegas, NV. The facility is operated jointly by the U.S. Department of Defense through the Nellis Air Force Base, and the U.S. Department of Veterans Affairs through the Las Vegas Veterans Affairs Outpatient Clinic.

This medical facility is the culmination of years of cooperative efforts between the Departments of Defense and Veterans Affairs to address the health care needs of both active duty military at Nellis Air Force Base and their families, and the rapidly increasing southern Nevada veterans population.

The Federal hospital, formally dedicated on July 8, 1994, was opened to patients on August 1, 1994. It was my pleasure to attend the July dedication of this remarkable joint facility. For Nellis Air Force Base, the Federal hospital provides base personnel access to a new medical facility to provide quality health care. For southern Nevada veterans, the Federal hospital represents their first permanent veterans inpatient hospital in the Las Vegas area. For many of these veterans, hospital care can now be provided in State, rather than in a different State hundreds of miles away from home.

This hospital will serve many Nevadans—those who, while serving at the Nellis Air Force Base, call Nevada their home temporarily, and those who, as retired veterans, call Nevada their home permanently.

It is, therefore, only appropriate to name this vital health care facility after a man who has served his country militarily with honor in three branches of the armed services; the Air Force, the Army, and the Marine Corps. A man who, as disabled veteran, is reminded every day of the sacrifice of that service. A man who has spent his entire career working tirelessly to make life a little bit better for all Nevadans

It is, therefore, truly a privilege for me to introduce this legislation today to name the Federal hospital for Mike O'Callaghan.

Mike O'Callaghan and I both have had the honor of serving the people of Nevada as their Governor. In fact, Governor O'Callaghan is one of only five two-term Governors in Nevada's history.

As Nevada's Governor, Mike O'Callaghan was a hands on worker. The lights in the Governor's office were always the first ones on, and the ones out when he was the occupant. He was always the man in charge, and he always got the job done for Nevadans.

Governor O'Callaghan is also a most compassionate, caring and sensitive human being, both in his instincts and in his actions. While Governor, he always worked for the underdog. For people who could not speak for themselves, Governor O'Callaghan was their voice. He made sure they were heard.

One of the highlights of his terms as Governor was passage of Nevada's fair housing law to ensure all Nevadans equal access to a home of their own. He understood how very important it is for people to have a place of their own to call home wherever they choose to live.

Governor O'Callaghan's military career began early. At 16 years of age, he enlisted in the U.S. Marine Corps to serve during the period ending in World War II.

During the Korean conflict, he served with both the Air Force and the Army. While in Korea, he was wounded in combat, forcing amputation of his left leg. His unflinching courage was recognized through the awarding of the Silver Star, the Bronze Star with Valor Device, and the Purple Heart.

Following his Army service in Korea, Governor O'Callaghan spent the next years as a teacher and journalist. He earned a master's degree at the University of Idaho. He then taught economics, government, and history in Henderson, NV, for several years. One of his students, my colleague, Senator HARRY REID, took those classes to heart.

In 1963, Governor O'Callaghan began his public service career when he became the first director of Nevada's Health and Welfare Department. He also served almost 2 years as a project manager for the Job Corps Conservation Centers.

His professional career continued in 1969 when Governor O'Callaghan founded a research-planning firm in Carson City, NV. He then started his political career entering the race for Nevada's Governor as a Democrat in 1970. He was reelected in 1974, winning by an overwhelming majority. He was also honored that year by Time Magazine as one of the Nation's top 200 promising young Americans. Instead of running for a third gubernatorial term, he retired from elected office in 1978.

Today, Governor O'Callaghan is currently the chairman and executive editor of the Las Vegas Sun. He continues to write provocative editorials on Nevada and national political issues, continuing always to speak for those without a voice.

He is also publisher of the Henderson Home News and the Boulder City News. He travels every year to Israel, where as a private citizen, he gives his time to help work on military tank maintenance.

His interest in the concerns of those currently serving in the military and in those who have already served their country has not waned. In recognition of that continued commitment, former Governor O'Callaghan was presented the Air Force Exceptional Service Award in 1982.

We in Nevada are proud to have the Nellis Federal Hospital in Las Vegas. To name the hospital after Mike O'Callaghan would commemorate not only his valuable personal contributions to Nevada, but would honor all those who answer the call of duty to their country.

By Mr. LUGAR:

S. 904. A bill to provide flexibility to States to administer and control the cost of the food stamp and child nutrition programs, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE NUTRITION ASSISTANCE REFORM ACT OF 1995

• Mr. LUGAR. Mr. President, most Americans now recognize the need to reform our welfare system. U.S. welfare policy has encouraged dependency, has failed to encourage work effort, and has contributed to runaway entitlement spending.

These failures do not mean that we have been wrong to assist needy Americans. A just society makes provision for its less fortunate members.

But what is the best way to do that? What policies offer the best prospect of helping the needy to become independent? What are the unintended consequences of the modern welfare state? What is the cost of the culture of dependency?

These are questions with which we must grapple. Most accounts of the welfare reform debate focus solely on the prospect that someone's benefits will be reduced.

That is the wrong question. The right question is: What will happen if we refuse to reform welfare because we are afraid of the political consequences? How many more generations of dependency will we foster? How many people will fail to break out of the welfare trap who otherwise might have gotten jobs, or started businesses, or sent children to college?

Is compassion always and everywhere defined by spending more money?

Our society's compassion must now be reflected in tough choices, not blank

checks. It is easy to write repetitive stories about cuts in benefits. More understanding is required to note the effect of changing incentives, encouraging work effort, and insisting on independence.

I chair the Committee on Agriculture, Nutrition, and Forestry, which has jurisdiction over the Food Stamp program and child nutrition spending. We are not the primary committee of jurisdiction on welfare matters, but the programs we oversee are a vital part of the Nation's social safety net.

Today, I am introducing legislation that represents my best effort at a consensus bill that reflects the range of views on our committees. That range is a broad one, comprising Senators who favor block grants and those who do not. Some committee members on both sides of the aisle and prepared for sharp reductions in nutrition spending, while other are not.

I was prepared to act boldly. I agreed with many of our Nation's Governors that the States deserve the change to try new approaches to delivering nutrition assistance.

The legislation I introduce today will not convert the Food Stamp Program to block grants. I made this decision consciously because I believe committee consensus is preferable to contention if the latter would divert us from the real issues.

Welfare reform should not, at the end of the day, be measured by whether or not it converts all programs to block grants. Block grants are a means, not an end.

Instead, I ask my colleagues to measure welfare reform proposals by these tests: Do they give States more freedom to try new approaches? Do they encourage work and responsibility? And do they reduce the runaway expenditure of taxpayer funds?

I hope Senators will agree that the bill I introduce today does all these things. First, it gives the States wider latitude to reform the Food Stamp Program. The bill allows States to try a variety of approaches to delivering benefits, structuring incentives and encouraging independence. Many current Federal requirements are ended, and States are granted more authority to modify the program in light of their unique circumstances. Under this bill, States could restrict eligibility for benefits, create work supplementation initiatives where food stamp benefits would be used to leverage job incentives, and undertake other reforms.

Second, the bill promotes work and responsibility. The bill will enforce strict work requirements, allow States to crack down on food stamp recipients who fail to pay child support or cooperate with the child support enforcement system, and put real sanctions on recipients who violate work requirements or voluntarily quit a job.

Finally, this legislation will reduce Federal spending. It is designed to achieve approximately the level of savings in the budget resolution approved by the Senate. This legislation will pay food stamp benefits based on 100 percent of the low-cost thrifty food plan, instead of the present 103 percent. It will also modify income deductions and asset tests used in calculating eligibility and benefit levels. The bill achieves savings in other nutrition programs while retaining the Federal responsibility for these programs. For example, the legislation will reduce subsidies for meals served in day care homes in upper- and middle-income areas.

Mr. President, a just nation does not cast its poor out on the street. But neither does it absolve them of personal responsibility. As we reform welfare programs, we must count the cost to both society and welfare recipients of retaining the old, failed system. That cost is too high. Instead, we must try new approaches and provide new incentives. Some may fail. But the greater failure of the old order is manifest.

We owe it to every American to try new approaches and question old ways. We must enter the new century as a nation whose watchword is independence, not dependency.

Mr. President, I ask unanimous consent that the test of the bill I introduce, along with a summary of its provisions, be printed in the RECORD.

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

S. 904

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 "Nutrition Assistance Reform Act of 1995".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—FOOD STAMP PROGRAM

Sec. 101. Certification period.
Sec. 102. Treatment of minors.
Sec. 103. Optional additional criteria for separate household determinations.
Sec. 104. Adjustment of thrifty food plan.
Sec. 105. Definition of homeless individual.
Sec. 106. Earnings of students.
Sec. 107. Energy assistance.
Sec. 108. Deductions from income.
Sec. 109. Amount of vehicle asset limitation.
Sec. 110. Benefits for aliens.
Sec. 111. Disqualification.
Sec. 112. Caretaker exemption.
Sec. 113. Employment and training.
Sec. 114. Comparable treatment for disqualification.
Sec. 115. Cooperation with child support agencies.
Sec. 116. Disqualification for child support arrears.
Sec. 117. Permanent disqualification for participating in 2 or more States.
Sec. 118. Work requirement.
Sec. 119. Electronic benefit transfers.
Sec. 120. Minimum benefit.
Sec. 121. Benefits on recertification.
Sec. 122. Optional combined allotment for expedited households.
Sec. 123. Failure to comply with other welfare and public assistance programs.
Sec. 124. Allotments for households residing in institutions.
Sec. 125. Operation of food stamp offices.
Sec. 126. State employee and training standards.
Sec. 127. Expedited coupon service.
Sec. 128. Fair hearings.
Sec. 129. Income and eligibility verification system.
Sec. 130. Collection of overissuances.
Sec. 131. Termination of Federal match for optional information activities.
Sec. 132. Standards for administration.
Sec. 133. Work supplementation or support program.
Sec. 134. Waiver authority.
Sec. 135. Authorization of pilot projects.
Sec. 136. Response to waivers.
Sec. 137. Private sector employment initiatives.
Sec. 138. Reauthorization of appropriations.
Sec. 139. Reauthorization of Puerto Rico block grant.
Sec. 140. Simplified food stamp program.
Sec. 141. Effective date.

TITLE II—CHILD NUTRITION PROGRAMS

Subtitle A—Reimbursement Rates

Sec. 201. Termination of additional payment for lunches served in high free and reduced price participation schools.
Sec. 202. Value of food assistance.
Sec. 203. Lunches, breakfasts, and supplements.
Sec. 204. Summer food service program for children.
Sec. 205. Special milk program.
Sec. 206. Free and reduced price breakfasts.
Sec. 207. Conforming reimbursement for paid breakfasts and lunches.

Subtitle B—Grant Programs

Sec. 211. School breakfast startup grants.
Sec. 212. Nutrition education and training programs.
Sec. 213. Effective date.

Subtitle C—Other Amendments

Sec. 221. Free and reduced price policy statement.
Sec. 222. Summer food service program for children.
Sec. 223. Child and adult care food program.
Sec. 224. Reducing required reports to State agencies and schools.

TITLE III—REAUTHORIZATION

Sec. 301. Commodity distribution program; commodity supplemental food programs.
Sec. 302. Emergency food assistance program.
Sec. 303. Soup kitchens program.
Sec. 304. National commodity processing.

TITLE I—FOOD STAMP PROGRAM

SEC. 101. CERTIFICATION PERIOD.

Section 3(c) of the Food Stamp Act of 1977 (7 U.S.C. 2012(c)) is amended by striking "Except as provided" and all that follows and inserting the following: "The certification period shall not exceed 12 months, except that the certification period may be up to 24 months if all adult household members are elderly, disabled, or primarily self-employed. A State agency shall have at least 1 personal contact with each certified household every 12 months.".

SEC. 102. TREATMENT OF MINORS.

The second sentence of section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is

amended by striking "(who are not themselves parents living with their children or married and living with their spouses)".

SEC. 103. OPTIONAL ADDITIONAL CRITERIA FOR SEPARATE HOUSEHOLD DETERMINATIONS.

(a) IN GENERAL.—Section 3(i) of the Food Stamp Act of 1977 (7 U.S.C. 2012(i)) is amended by inserting after the second sentence the following: "Notwithstanding the preceding sentences, a State may establish criteria that prescribe when individuals who live together, and who would be allowed to participate as separate households under the preceding sentences, shall be considered a single household, without regard to the purchase of food and the preparation of meals.".

(b) CONFORMING AMENDMENT.—The second sentence of section 5(a) of the Act (7 U.S.C. 2014(a)) is amended by striking "the third sentence of section 3(i)" and inserting "the fourth sentence of section 3(i)".

SEC. 104. ADJUSTMENT OF THRIFTY FOOD PLAN.

The second sentence of section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) by striking "shall (1) make" and inserting the following: "shall—

"(1) make";

(2) by striking "scale, (2) make" and inserting "scale;

"(2) make";

(3) by striking "Alaska, (3) make" and inserting the following: "Alaska;

"(3) make"; and

(4) by striking "Columbia, (4) through" and all that follows through the end of the subsection and inserting the following: "Columbia; and

"(4) on October 1, 1995, and each October 1 thereafter, adjust the cost of the diet to reflect the cost of the diet, in the preceding June, and round the result to the nearest lower dollar increment for each household size, except that on October 1, 1995, the Secretary may not reduce the cost of the diet in effect on September 30, 1995.".

SEC. 105. DEFINITION OF HOMELESS INDIVIDUAL.

Section 3(s)(2)(C) of the Food Stamp Act of 1977 (7 U.S.C. 2012(s)(2)(C)) is amended by inserting "for not more than 90 days" after "temporary accommodation".

SEC. 106. EARNINGS OF STUDENTS.

Section 5(d)(7) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)(7)) is amended by striking "21" and inserting "19".

SEC. 107. ENERGY ASSISTANCE.

(a) IN GENERAL.—Section 5(d) of the Food Stamp Act of 1977 (7 U.S.C. 2014(d)) is amended—

(1) by striking paragraph (11); and

(2) by redesignating paragraphs (12) through (16) as paragraphs (11) through (15), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 5 of the Act (7 U.S.C. 2014) is amended—

(A) in subsection (k)(1)(A), by striking "plan for aid to families with dependent children approved" and inserting "program funded"; and

(B) in subsection (m), by striking "(d)(13)" and inserting "(d)(12)".

(2) Section 2605(f) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8624(f)) is amended—

(A) by striking "(f)(1) Notwithstanding" and inserting "(f) Notwithstanding";

(B) in paragraph (1), by striking "food stamps,"; and

(C) by striking paragraph (2).

SEC. 108. DEDUCTIONS FROM INCOME.

(a) IN GENERAL.—Section 5 of the Food Stamp Act of 1977 (7 U.S.C. 2014) is amended by striking subsection (e) and inserting the following:

"(e) DEDUCTIONS FROM INCOME.—

"(1) STANDARD DEDUCTION.—

"(A) IN GENERAL.—The Secretary shall allow a standard deduction for each household in the 48 contiguous States and the District of Columbia, Alaska, Hawaii, Guam, and the Virgin Islands of the United States of—

"(i) for fiscal year 1995, $134, $229, $189, $269, and $118, respectively;

"(ii) for fiscal year 1996, $132, $225, $186, $265, and $116, respectively;

"(iii) for fiscal year 1997, $130, $222, $183, $261, and $114, respectively;

"(iv) for fiscal year 1998, $128, $218, $180, $257, and $112, respectively;

"(v) for fiscal year 1999, $126, $215, $177, $252, and $111, respectively; and

"(vi) for fiscal year 2000, $124, $211, $174, $248, and $109, respectively.

"(B) ADJUSTMENT FOR INFLATION.—On October 1, 2000, and each October 1 thereafter, the Secretary shall adjust the standard deduction to the nearest lower dollar increment to reflect changes in the Consumer Price Index for all urban consumers published by the Bureau of Labor Statistics, for items other than food, for the 12-month period ending the preceding June 30.

"(2) EARNED INCOME DEDUCTION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a household with earned income shall be allowed a deduction of 20 percent of all earned income (other than income excluded by subsection (d)), to compensate for taxes, other mandatory deductions from salary, and work expenses.

"(B) EXCEPTION.—The deduction described in subparagraph (A) shall not be allowed with respect to determining an overissuance due to the failure of a household to report earned income in a timely manner.

"(3) DEPENDENT CARE DEDUCTION.—

"(A) IN GENERAL.—A household shall be entitled, with respect to expenses (other than excluded expenses described in subparagraph (B)) for dependent care, to a dependent care deduction, the maximum allowable level of which shall be $200 per month for each dependent child under 2 years of age and $175 per month for each other dependent, for the actual cost of payments necessary for the care of a dependent if the care enables a household member to accept or continue employment, or training or education that is preparatory for employment.

"(B) EXCLUDED EXPENSES.—The excluded expenses referred to in subparagraph (A) are—

"(i) expenses paid on behalf of the household by a third party;

"(ii) amounts made available and excluded for the expenses referred to in subparagraph (A) under subsection (d)(3); and

"(iii) expenses that are paid under section 6(d)(4).

"(4) DEDUCTION FOR CHILD SUPPORT PAYMENTS.—

"(A) IN GENERAL.—A household shall be entitled to a deduction for child support payments made by a household member to or for an individual who is not a member of the household if the household member is legally obligated to make the payments.

"(B) METHODS FOR DETERMINING AMOUNT.—The Secretary may prescribe by regulation the methods, including calculation on a retrospective basis, that a State agency shall use to determine the amount of the deduction for child support payments.

"(5) HOMELESS SHELTER DEDUCTION.—A State agency may develop a standard homeless shelter deduction, which shall not exceed $139 per month, for such expenses as may reasonably be expected to be incurred by households in which all members are homeless individuals but are not receiving free shelter throughout the month. A State agency that develops the deduction may use the deduction in determining eligibility and allotments for the households, except that the State agency may prohibit the use of the deduction for households with extremely low shelter costs.

"(6) EXCESS MEDICAL EXPENSE DEDUCTION.—

"(A) IN GENERAL.—A household containing an elderly or disabled member shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess medical expense deduction for the portion of the actual costs of allowable medical expenses, incurred by the elderly or disabled member, exclusive of special diets, that exceeds $35 per month.

"(B) METHOD OF CLAIMING DEDUCTION.—

"(i) IN GENERAL.—A State agency shall offer an eligible household under subparagraph (A) a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction in lieu of submitting information or verification on actual expenses on a monthly basis.

"(ii) METHOD.—The method described in clause (i) shall—

"(I) be designed to minimize the burden for the eligible elderly or disabled household member choosing to deduct the recurrent medical expenses of the member pursuant to the method;

"(II) rely on reasonable estimates of the expected medical expenses of the member for the certification period (including changes that can be reasonably anticipated based on available information about the medical condition of the member, public or private medical insurance coverage, and the current verified medical expenses incurred by the member); and

"(III) not require further reporting or verification of a change in medical expenses if such a change has been anticipated for the certification period.

"(7) EXCESS SHELTER EXPENSE DEDUCTION.—

"(A) IN GENERAL.—A household shall be entitled, with respect to expenses other than expenses paid on behalf of the household by a third party, to an excess shelter expense deduction to the extent that the monthly amount expended by a household for shelter exceeds an amount equal to 50 percent of monthly household income after all other applicable deductions have been allowed.

"(B) MAXIMUM AMOUNT OF DEDUCTION.—

"(i) PRIOR TO SEPTEMBER 30, 1995.—In the case of a household that does not contain an elderly or disabled individual, during the 15-month period ending September 30, 1995, the excess shelter expense deduction shall not exceed—

"(I) in the 48 contiguous States and the District of Columbia, $231 per month; and

"(II) in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $402, $330, $280, and $171 per month, respectively.

"(ii) AFTER SEPTEMBER 30, 1995.—In the case of a household that does not contain an elderly or disabled individual, during the 15-month period ending December 31, 1996, the excess shelter expense deduction shall not exceed—

"(I) in the 48 contiguous States and the District of Columbia, $247 per month; and

"(II) in Alaska, Hawaii, Guam, and the Virgin Islands of the United States, $429, $353, $300, and $182 per month, respectively.

"(C) STANDARD UTILITY ALLOWANCE.—

"(i) IN GENERAL.—In computing the excess shelter expense deduction, a State agency may use a standard utility allowance in accordance with regulations promulgated by the Secretary, except that a State agency may use an allowance that does not fluctuate within a year to reflect seasonal variations.

"(ii) RESTRICTIONS ON HEATING AND COOLING EXPENSES.—An allowance for a heating or cooling expense may not be used in the case of a household that—

"(I) does not incur a heating or cooling expense, as the case may be;

"(II) does incur a heating or cooling expense but is located in a public housing unit that has central utility meters and charges households, with regard to the expense, only for excess utility costs; or

"(III) shares the expense with, and lives with, another individual not participating in the food stamp program, another household participating in the food stamp program, or both, unless the allowance is prorated between the household and the other individual, household, or both.

"(iii) MANDATORY ALLOWANCE.—

"(I) IN GENERAL.—A State agency may make the use of a standard utility allowance mandatory for all households with qualifying utility costs if—

"(aa) the State agency has developed 1 or more standards that include the cost of heating and cooling and 1 or more standards that do not include the cost of heating and cooling; and

"(bb) the Secretary finds that the standards will not result in an increased cost to the Secretary.

"(II) HOUSEHOLD ELECTION.—A State agency that has not made the use of a standard utility allowance mandatory under subclause (I) shall allow a household to switch, at the end of a certification period, between the standard utility allowance and a deduction based on the actual utility costs of the household.

"(iv) AVAILABILITY OF ALLOWANCE TO RECIPIENTS OF ENERGY ASSISTANCE.—

"(I) IN GENERAL.—Subject to subclause (II), if a State agency elects to use a standard utility allowance that reflects heating or cooling costs, the standard utility allowance shall be made available to households receiving a payment, or on behalf of which a payment is made, under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) or other similar energy assistance program, if the household still incurs out-of-pocket heating or cooling expenses in excess of any assistance paid on behalf of the household to an energy provider.

"(II) SEPARATE ALLOWANCE.—A State agency may use a separate standard utility allowance for households on behalf of which a payment described in subclause (I) is made, but may not be required to do so.

"(III) STATES NOT ELECTING TO USE SEPARATE ALLOWANCE.—A State agency that does not elect to use a separate allowance but makes a single standard utility allowance available to households incurring heating or cooling expenses (other than a household described in subclause (I) or (II) of subparagraph (C)(ii)) may not be required to reduce the allowance due to the provision (directly or indirectly) of assistance under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.).

"(IV) PRORATION OF ASSISTANCE.—For the purpose of the food stamp program, assistance provided under the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8621 et seq.) shall be considered to be prorated over the entire heating or cooling season for which the assistance was provided.".

(b) CONFORMING AMENDMENT.—Section 11(e)(3) of the Act (7 U.S.C. 2020(e)(3)) is amended by striking "Under rules prescribed" and all that follows through "verifies higher expenses".

SEC. 109. AMOUNT OF VEHICLE ASSET LIMITATION.

The first sentence of section 5(g)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(g)(2)) is amended by striking "through September 30, 1995" and all that follows through "such date and on" and inserting "and shall be adjusted on October 1, 1996, and".

SEC. 110. BENEFITS FOR ALIENS.

Section 5(i) of the Food Stamp Act of 1977 (7 U.S.C. 2014(i)) is amended—

(1) in the first sentence of paragraph (1)—

(A) by inserting "or who executed such an affidavit or similar agreement to enable the individual to lawfully remain in the United States," after "respect to such individual,"; and

(B) by striking "for a period" and all that follows through the period at the end and inserting "until the end of the period ending on the later of the date agreed to in the affidavit or agreement or the date that is 5 years after the date on which the individual was first lawfully admitted into the United States following the execution of the affidavit or agreement."; and

(2) in paragraph (2)—

(A) in subparagraph (C)(i), by striking "of three years after entry into the United States" and inserting "determined under paragraph (1)"; and

(B) in subparagraph (D), by striking "of three years after such alien's entry into the United States" and inserting "determined under paragraph (1)".

SEC. 111. DISQUALIFICATION.

(a) IN GENERAL.—Section 6(d) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)) is amended by striking "(d)(1) Unless otherwise exempted by the provisions" and all that follows through the end of paragraph (1) and inserting the following:

"(d) CONDITIONS OF PARTICIPATION.—

"(1) WORK REQUIREMENTS.—

"(A) IN GENERAL.—No physically and mentally fit individual over the age of 15 and under the age of 60 shall be eligible to participate in the food stamp program if the individual—

"(i) refuses, at the time of application and every 12 months thereafter, to register for employment in a manner prescribed by the Secretary;

"(ii) refuses without good cause to participate in an employment and training program under paragraph (4), to the extent required by the State agency;

"(iii) refuses without good cause to accept an offer of employment, at a site or plant not subject to a strike or lockout at the time of the refusal, at a wage not less than the higher of—

"(I) the applicable Federal or State minimum wage; or

"(II) 80 percent of the wage that would have governed had the minimum hourly rate under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) been applicable to the offer of employment;

"(iv) refuses without good cause to provide a State agency with sufficient information to allow the State agency to determine the employment status or the job availability of the individual;

"(v) voluntarily and without good cause—

"(I) quits a job; or

"(II) reduces work effort and, after the reduction, the individual is working less than 30 hours per week; or

"(vi) fails to comply with section 20.

"(B) HOUSEHOLD INELIGIBILITY.—If an individual who is the head of a household becomes ineligible to participate in the food stamp program under subparagraph (A), the household shall, at the option of the State agency, become ineligible to participate in the food stamp program for a period, determined by the State agency, that does not exceed the lesser of—

"(i) the duration of the ineligibility of the individual determined under subparagraph (C); or

"(ii) 180 days.

"(C) DURATION OF INELIGIBILITY.—

"(i) FIRST VIOLATION.—The first time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 1 month after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 3 months after the date the individual became ineligible.

"(ii) SECOND VIOLATION.—The second time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 3 months after the date the individual became ineligible; or

"(III) a date determined by the State agency that is not later than 6 months after the date the individual became ineligible.

"(iii) THIRD OR SUBSEQUENT VIOLATION.—The third or subsequent time that an individual becomes ineligible to participate in the food stamp program under subparagraph (A), the individual shall remain ineligible until the later of—

"(I) the date the individual becomes eligible under subparagraph (A);

"(II) the date that is 6 months after the date the individual became ineligible;

"(III) a date determined by the State agency; or

"(IV) at the option of the State agency, permanently.

"(D) ADMINISTRATION.—

"(i) GOOD CAUSE.—

"(I) STANDARD.—The Secretary shall determine the meaning of good cause for the purpose of this paragraph.

"(II) PROCEDURE.—A State agency shall determine the procedure for determining whether an individual acted with good cause for the purpose of this paragraph.

"(III) ADEQUATE CHILD CARE.—In this paragraph, the term 'good cause' includes the lack of adequate child care for a dependent child under the age of 12.

"(ii) VOLUNTARY QUIT.—

"(I) STANDARD.—The Secretary shall determine the meaning of voluntarily quitting for the purpose of this paragraph.

"(II) PROCEDURE.—The Secretary shall determine the procedure for determining whether an individual voluntarily quit for the purpose of this paragraph.

"(iii) DETERMINATION BY STATE AGENCY.—Subject to clauses (i) and (ii), a State agency shall determine—

"(I) the meaning of any term in subparagraph (A);

"(II) the procedures for determining whether an individual is in compliance with a requirement under subparagraph (A); and

"(III) whether an individual is in compliance with a requirement under subparagraph (A).

"(iv) STRIKE AGAINST THE GOVERNMENT.—For the purpose of subparagraph (A)(v), an employee of the Federal Government, a State, or a political subdivision of a State, who is dismissed for participating in a strike against the Federal Government, the State, or the political subdivision of the State shall be considered to have voluntarily quit without good cause.

"(v) SELECTING A HEAD OF HOUSEHOLD.—

"(I) IN GENERAL.—For the purpose of this paragraph, the State agency shall allow the household to select any adult parent of a child in the household as the head of the household if all adult household members making application under the food stamp program agree to the selection.

"(II) TIME FOR MAKING DESIGNATION.—A household may designate the head of the household under subclause (I) each time the household is certified for participation in the food stamp program, but may not change the designation during a certification period unless there is a change in the composition of the household.

"(vi) CHANGE IN HEAD OF HOUSEHOLD.—If the head of a household leaves the household during a period in which the household is ineligible to participate in the food stamp program under subparagraph (B)—

"(I) the household shall, if otherwise eligible, become eligible to participate in the food stamp program; and

"(II) if the head of the household becomes the head of another household, the household that becomes headed by the individual shall become ineligible to participate in the food stamp program for the remaining period of ineligibility.".

(b) CONFORMING AMENDMENT.—

(1) The second sentence of section 17(b)(2) of the Act (7 U.S.C. 2026(b)(2)) is amended by striking "6(d)(1)(i)" and inserting "6(d)(1)(A)(i)".

(2) Section 20 of the Act (7 U.S.C. 2029) is amended by striking subsection (f) and inserting the following:

"(f) DISQUALIFICATION.—An individual or a household may become ineligible under section 6(d)(1) to participate in the food stamp program for failing to comply with this section.".

SEC. 112. CARETAKER EXEMPTION.

Section 6(d)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(2)) is amended by striking subparagraph (B) and inserting the following: "(B) a parent or other member of a household with responsibility for the care of (i) a dependent child under the age of 6 or any lower age designated by the State agency that is not under the age of 1, or (ii) an incapacitated person;".

SEC. 113. EMPLOYMENT AND TRAINING.

(a) IN GENERAL.—Section 6(d)(4) of the Food Stamp Act of 1977 (7 U.S.C. 2015(d)(4)) is amended—

(1) in subparagraph (A)—

(A) by striking "Not later than April 1, 1987, each" and inserting "Each";

(B) by striking "and approved by the Secretary"; and

(C) by striking "program in gaining skills, training, or experience" and inserting "program, but not a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), in gaining skills, training, work, or experience";

(2) in subparagraph (B)—

(A) in the matter preceding clause (i)—

(i) by inserting "with terms and conditions set by a State agency" after "means a program"; and

(ii) by striking the colon at the end and inserting the following: ", except that the State agency shall retain the option to apply employment requirements prescribed under this subparagraph to a program applicant at the time of application:";

(B) in clause (i), by striking "with terms and conditions" and all that follows through "time of application";

(C) in clause (iv)—

(i) by striking subclauses (I) and (II); and

(ii) by redesignating subclauses (III) and (IV) as subclauses (I) and (II), respectively; and

(D) in clause (vii), by striking "As approved" and all that follows through "other employment" and inserting "Other employment";

(3) in subparagraph (D)—

(A) in clause (i), by striking "to which the application" and all that follows through "30 days or less";

(B) in clause (ii), by striking "but with respect" and all that follows through "child care"; and

(C) in clause (iii), by striking ", on the basis of" and all that follows through "clause (ii)" and inserting "the exemption continues to be valid";

(4) in subparagraph (E), by striking the third sentence;

(5) in subparagraph (G)—

(A) by striking "(G)(i) The State" and inserting "(G) The State"; and

(B) by striking clause (ii);

(6) in subparagraph (H), by striking "(H)(i) The Secretary" and all that follows through "(ii) Federal funds" and inserting "(H) Federal funds";

(7) in subparagraph (I)(i)—

(A) in the matter preceding subclause (I), by inserting "not" after "paragraph,"; and

(B) in subclause (II), by striking ", or was in operation," and all that follows through "Social Security Act" and inserting the following: "), except that no such payment or reimbursement shall exceed the applicable local market rate";

(8)(A) by striking subparagraphs (K) and (L); and

(B) by redesignating subparagraphs (M) and (N) as subparagraphs (K) and (L), respectively; and

(9) in subparagraph (K) (as redesignated by paragraph (8)(B))—

(A) by striking "(K)(i) The Secretary" and inserting "(K) The Secretary"; and

(B) by striking clause (ii).

(b) FUNDING.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended by striking "(h)(1)(A) The Secretary" and all that follows through the end of paragraph (1) and inserting the following:

"(h) FUNDING OF EMPLOYMENT AND TRAINING PROGRAMS.—

"(1) IN GENERAL.—

"(A) AMOUNTS.—To carry out employment and training programs, the Secretary shall reserve for allocation to State agencies from funds made available for each fiscal year under section 18(a)(1) the amount of—

"(i) for fiscal year 1996, $77,000,000;

"(ii) for fiscal year 1997, $80,000,000;

"(iii) for fiscal year 1998, $83,000,000;

"(iv) for fiscal year 1999, $86,000,000; and

"(v) for fiscal year 2000, $89,000,000.

"(B) ALLOCATION.—The Secretary shall allocate the amounts reserved under subparagraph (A) among the State agencies using a reasonable formula (as determined by the Secretary) that gives consideration to the population in each State affected by section 6(n).

"(C) REALLOCATION.—

"(i) NOTIFICATION.—A State agency shall promptly notify the Secretary if the State agency determines that the State agency will not expend all of the funds allocated to the State agency under subparagraph (B).

"(ii) REALLOCATION.—On notification under clause (i), the Secretary shall reallocate the funds that the State agency will not expend as the Secretary considers appropriate and equitable.

"(D) MINIMUM ALLOCATION.—Notwithstanding subparagraphs (A) through (C), the Secretary shall ensure that each State agency operating an employment and training program shall receive not less than $50,000 in each fiscal year.".

(c) REPORTS.—Section 16(h) of the Act (7 U.S.C. 2025(h)) is amended—

(1) in paragraph (5)—

(A) by striking "(5)(A) The Secretary" and inserting "(5) The Secretary"; and

(B) by striking subparagraph (B); and

(2) by striking paragraph (6).

SEC. 114. COMPARABLE TREATMENT FOR DISQUALIFICATION.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) is amended by adding at the end the following:

"(i) COMPARABLE TREATMENT FOR DISQUALIFICATION.—

"(1) IN GENERAL.—If a disqualification is imposed on a member of a household for failure of that member to perform an action required under a Federal, State, or local law relating to welfare or a public assistance program, the State agency may impose the same disqualification on the member of the household under the food stamp program.

"(2) APPLICATION AFTER DISQUALIFICATION PERIOD.—A member of a household disqualified under paragraph (1) may, after the disqualification period has expired, apply for benefits under this Act and shall be treated as a new applicant.".

(b) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2020(e)) is amended—

(1) in paragraph (24), by striking "and" at the end;

(2) in paragraph (25), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(26) the guidelines the State agency uses in carrying out section 6(i).".

(c) CONFORMING AMENDMENT.—Section 6(d)(2)(A) of the Act (7 U.S.C. 2015(d)(2)(A)) is amended by striking "that is comparable to a requirement of paragraph (1)".

SEC. 115. COOPERATION WITH CHILD SUPPORT AGENCIES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 114) is further amended by adding at the end the following:

"(j) CUSTODIAL PARENT'S COOPERATION WITH CHILD SUPPORT AGENCIES.—

"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), no natural or adoptive parent or other individual (collectively referred to in this subsection as 'the individual') who is living with and exercising parental control over a child under the age of 18 who has an absent parent shall be eligible to participate in the food stamp program unless the individual cooperates with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in obtaining support for—

"(i) the child; or

"(ii) the individual and the child.

"(2) GOOD CAUSE FOR NON-COOPERATION.—Paragraph (1) shall not apply to the individual if good cause is found for refusing to cooperate, as determined by the State agency in accordance with standards prescribed by the Secretary in consultation with the Secretary of Health and Human Services. The standards shall take into consideration circumstances under which cooperation may be against the best interests of the child.

"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(k) NON-CUSTODIAL PARENTS' COOPERATION WITH CHILD SUPPORT AGENCIES.—

"(1) IN GENERAL.—At the option of a State agency, subject to paragraphs (2) and (3), a putative non-custodial parent of a child under the age of 18 (referred to in this subsection as 'the individual') shall not be eligible to participate in the food stamp program if the individual refuses to cooperate with the State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.)—

"(A) in establishing the paternity of the child (if the child is born out of wedlock); and

"(B) in providing support for the child.

"(2) REFUSAL TO COOPERATE.—

"(A) GUIDELINES.—The Secretary, in consultation with the Secretary of Health and Human Services, shall develop guidelines on what constitutes a refusal to cooperate under paragraph (1).

"(B) PROCEDURES.—The State agency shall develop procedures, using guidelines developed under subparagraph (A), for determining whether an individual is refusing to cooperate under paragraph (1).

"(3) FEES.—Paragraph (1) shall not require the payment of a fee or other cost for services provided under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.).

"(4) PRIVACY.—The State agency shall provide safeguards to restrict the use of information collected by a State agency administering the program established under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to purposes for which the information is collected.".

SEC. 116. DISQUALIFICATION FOR CHILD SUPPORT ARREARS.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 115) is further amended by adding at the end the following:

"(l) DISQUALIFICATION FOR CHILD SUPPORT ARREARS.—

"(1) IN GENERAL.—At the option of a State agency, except as provided in paragraph (2), no individual shall be eligible to participate in the food stamp program as a member of any household during any month that the individual is delinquent in any payment due under a court order for the support of a child of the individual.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply if—

"(A) a court is allowing the individual to delay payment; or

"(B) the individual is complying with a payment plan approved by a court or the State agency designated under part D of title IV of the Social Security Act (42 U.S.C. 651 et seq.) to provide support for the child of the individual.".

SEC. 117. PERMANENT DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.

Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 116) is further amended by adding at the end the following:

"(m) PERMANENT DISQUALIFICATION FOR PARTICIPATING IN 2 OR MORE STATES.—An individual shall be permanently ineligible to participate in the food stamp program as a member of any household if the individual is found by a State agency to have made, or is convicted in Federal or State court of having made, a fraudulent statement or representation with respect to the place of residence of the individual in order to receive benefits simultaneously from 2 or more States under the food stamp program.".

SEC. 118. WORK REQUIREMENT.

(a) IN GENERAL.—Section 6 of the Food Stamp Act of 1977 (7 U.S.C. 2015) (as amended by section 117) is further amended by adding at the end the following:

"(n) WORK REQUIREMENT.—

"(1) DEFINITION OF WORK PROGRAM.—In this subsection, the term 'work program' means—

"(A) a program under the Job Training Partnership Act (29 U.S.C. 1501 et seq.);

"(B) a program under section 236 of the Trade Act of 1974 (19 U.S.C. 2296); or

"(C) a program of employment or training operated or supervised by a State or political subdivision of a State that meets standards approved by the Governor of the State, including a program under section 6(d)(4) other than a job search program or a job search training program under clause (i) or (ii) of section 6(d)(4)(B).

"(2) WORK REQUIREMENT.—No individual shall be eligible to participate in the food stamp program as a member of any household if, during the preceding 12 months, the individual received food stamp benefits for not less than 6 months during which the individual did not—

"(A) work 20 hours or more per week, averaged monthly; or

"(B) participate in and comply with the requirements of a work program for 20 hours or more per week, as determined by the State agency.

"(3) EXCEPTION.—Paragraph (2) shall not apply to an individual if the individual is—

"(A) under 18 or over 50 years of age;

"(B) medically certified as physically or mentally unfit for employment;

"(C) a parent or other member of a household with a dependent child; or

"(D) otherwise exempt under section 6(d)(2).

"(4) WAIVER.—

"(A) IN GENERAL.—On the request of a State agency, the Secretary may waive the applicability of paragraph (2) to any group of individuals in the State if the Secretary makes a determination that the area in which the individuals reside—

"(i) has an unemployment rate of over 8 percent; or

"(ii) does not have a sufficient number of jobs to provide employment for the individuals.

"(B) REPORT.—The Secretary shall report the basis for a waiver under subparagraph (A) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on July 1, 1996.

SEC. 119. ELECTRONIC BENEFIT TRANSFERS.

Section 7 of the Food Stamp Act of 1977 (7 U.S.C. 2016) is amended by adding at the end the following:

"(j) ELECTRONIC BENEFIT TRANSFERS.—

"(1) APPLICABLE LAW.—

"(A) IN GENERAL.—Disclosures, protections, responsibilities, and remedies established by the Federal Reserve Board under section 904 of the Electronic Fund Transfer Act (15 U.S.C. 1693b) shall not apply to benefits under this Act delivered through any electronic benefit transfer system.

"(B) DEFINITION OF ELECTRONIC BENEFIT TRANSFER SYSTEM.—In this paragraph, the term 'electronic benefit transfer system' means a system under which a governmental entity distributes benefits under this Act or other benefits or payments by establishing accounts to be accessed by recipients of the benefits electronically, including through the use of an automated teller machine or an intelligent benefit card.

"(2) CHARGING FOR ELECTRONIC BENEFIT TRANSFER CARD REPLACEMENT.—

"(A) IN GENERAL.—A State agency may charge an individual for the cost of replacing a lost or stolen electronic benefit transfer card.

"(B) REDUCING ALLOTMENT.—A State agency may collect a charge imposed under subparagraph (A) by reducing the monthly allotment of the household of which the individual is a member.".

SEC. 120. MINIMUM BENEFIT.

The proviso in section 8(a) of the Food Stamp Act of 1977 (7 U.S.C. 2017(a)) is amended by striking ", and shall be adjusted" and all that follows through "$5".

SEC. 121. BENEFITS ON RECERTIFICATION.

Section 8(c)(2)(B) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)(2)(B)) is amended by striking "of more than one month".

SEC. 122. OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.

Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by striking paragraph (3) and inserting the following:

"(3) OPTIONAL COMBINED ALLOTMENT FOR EXPEDITED HOUSEHOLDS.—A State agency may provide to an eligible household applying after the 15th day of a month, in lieu of the initial allotment of the household and the regular allotment of the household for the following month, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with section 11(e)(3) in the case of a household that is not entitled to expedited service or in accordance with paragraphs (3) and (9) of section 11(e) in the case of a household that is entitled to expedited service.".

SEC. 123. FAILURE TO COMPLY WITH OTHER WELFARE AND PUBLIC ASSISTANCE PROGRAMS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by striking subsection (d) and inserting the following:

"(d) REDUCTION OF PUBLIC ASSISTANCE BENEFITS.—

"(1) IN GENERAL.—If the benefits of a household are reduced under a Federal, State, or local law relating to welfare or a public assistance program for the failure to perform an action required under the law or program, for the duration of the reduction—

"(A) the household may not receive an increased allotment as the result of a decrease in the income of the household to the extent that the decrease is the result of the reduction; and

"(B) the State agency may reduce the allotment of the household by not more than 25 percent.

"(2) OPTIONAL METHOD.—In carrying out paragraph (1), a State agency may consider, for the duration of a reduction referred to under paragraph (1), the benefits of the household before the reduction as income of the household after the reduction.".

SEC. 124. ALLOTMENTS FOR HOUSEHOLDS RESIDING IN INSTITUTIONS.

Section 8 of the Food Stamp Act of 1977 (7 U.S.C. 2017) is amended by adding at the end the following:

"(f) ALLOTMENTS FOR HOUSEHOLDS RESIDING IN INSTITUTIONS.—

"(1) IN GENERAL.—In the case of an individual who resides in a homeless shelter, or in an institution or center for the purpose of a drug or alcoholic treatment program, described in the last sentence of section 3(i), a State agency may provide an allotment for the individual to—

"(A) the institution as an authorized representative for the individual for a period that is less than 1 month; and

"(B) the individual, if the individual leaves the institution.

"(2) DIRECT PAYMENT.—A State agency may require an individual referred to in paragraph (1) to designate the shelter, institution, or center in which the individual resides as the authorized representative of the individual for the purpose of receiving an allotment.".

SEC. 125. OPERATION OF FOOD STAMP OFFICES.

Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended—

(1) in subsection (e)—

(A) by striking paragraph (2) and inserting the following:

"(2)(A) that the State agency shall establish procedures governing the operation of food stamp offices that the State agency determines best serve households in the State, including households with special needs, such as households with elderly or disabled members, households in rural areas with low-income members, homeless individuals, households residing on reservations, and households in which a substantial number of members speak a language other than English.

"(B) In carrying out subparagraph (A), a State agency—

"(i) shall provide timely, accurate, and fair service to applicants for, and participants in, the food stamp program;

"(ii) shall permit an applicant household to apply to participate in the program on the same day that the household first contacts a food stamp office in person during office hours;

"(iii) shall consider an application filed on the date the applicant submits an application that contains the name, address, and signature of the applicant; and

"(iv) may establish operating procedures that vary for local food stamp offices to reflect regional and local differences within the State;";

(B) in paragraph (3)—

(i) by striking "shall—" and all that follows through "provide each" and inserting "shall provide each"; and

(ii) by striking "(B) assist" and all that follows through "representative of the State agency.";

(C) by striking paragraph (14) and inserting the following:

"(14) the standards and procedures used by the State agency under section 6(d)(1)(D) to determine whether an individual is eligible to participate under section 6(d)(1)(A);"; and

(D) by striking paragraph (25) and inserting the following:

"(25) a description of the work supplementation or support program, if any, carried out by the State agency under section 16(b).'; and

(2) in subsection (i)—

(A) by striking "(i) Notwithstanding" and all that follows through "(2)" and inserting the following:

"(i) APPLICATION AND DENIAL PROCEDURES.—

"(1) APPLICATION PROCEDURES.—Notwithstanding any other provision of law,"; and

(B) by striking "; (3) households" and all that follows through "title IV of the Social Security Act. No" and inserting a period and the following:

"(2) DENIAL AND TERMINATION.—Other than in a case of disqualification as a penalty for failure to comply with a public assistance program rule or regulation, no".

SEC. 126. STATE EMPLOYEE AND TRAINING STANDARDS.

Section 11(e)(6) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(6)) is amended—

(1) by striking "(A)"; and

(2) by striking subparagraphs (B) through (E).

SEC. 127. EXPEDITED COUPON SERVICE.

Section 11(e)(9) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(9)) is amended—

(1) in subparagraph (A)—

(A) by striking "five days" and inserting "7 business days"; and

(B) by inserting "and" at the end;

(2) by striking subparagraphs (B) and (C);

(3) by redesignating subparagraph (D) as subparagraph (B); and

(4) in subparagraph (B) (as redesignated by paragraph (3)), by striking ", (B), or (C)".

SEC. 128. FAIR HEARINGS.

Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) is amended by adding at the end the following:

"(p) WITHDRAWING FAIR HEARING REQUESTS.—A household may withdraw, orally or in writing, a request by the household for a fair hearing under subsection (e)(10). If the withdrawal request is an oral request, the State agency shall provide a written notice to the household confirming the request and providing the household with an opportunity to request a hearing.".

SEC. 129. INCOME AND ELIGIBILITY VERIFICATION SYSTEM.

Section 11 of the Food Stamp Act of 1977 (7 U.S.C. 2020) (as amended by section 128) is further amended by adding at the end the following:

"(q) STATE VERIFICATION OPTION.—Notwithstanding any other provision of law, a State agency shall not be required to use an income and eligibility verification system established under section 1137 of the Social Security Act (42 U.S.C. 1320b-7).".

SEC. 130. COLLECTION OF OVERISSUANCES.

(a) IN GENERAL.—Section 13 of the Food Stamp Act of 1977 (7 U.S.C. 2022) is amended—

(1) by striking subsection (b) and inserting the following:

"(b) COLLECTION OF OVERISSUANCES.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, a State agency shall collect any overissuance of coupons issued to a household by—

"(A) reducing the allotment of the household;

"(B) withholding unemployment compensation from a member of the household under subsection (c);

"(C) recovering from Federal pay or a Federal income tax refund under subsection (d); or

"(D) any other means.

"(2) COST EFFECTIVENESS.—Paragraph (1) shall not apply if the State agency demonstrates to the satisfaction of the Secretary that all of the means referred to in paragraph (1) are not cost effective.

"(3) HARDSHIPS.—A State agency may not use an allotment reduction under paragraph (1)(A) as a means collecting an overissuance from a household if the allotment reduction would cause a hardship on the household, as determined by the State agency.

"(4) MAXIMUM REDUCTION ABSENT FRAUD.—If a household received an overissuance of coupons without any member of the household being found ineligible to participate in the program under section 6(b)(1) and a State agency elects to reduce the allotment of the household under paragraph (1)(A), the State agency shall reduce the monthly allotment of the household under paragraph (1)(A) by the greater of—

"(A) 10 percent of the monthly allotment of the household; or

"(B) $10.

"(5) PROCEDURES.—A State agency shall collect an overissuance of coupons issued to a household under paragraph (1) in accordance with requirements established by the State agency for providing notice, electing a means of payment, and establishing a time schedule for payment."; and

(2) in subsection (d)—

(A) by striking "as determined under subsection (b) and except for claims arising from an error of the State agency," and inserting ", as determined under subsection (b)(1),"; and

(B) by inserting before the period at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

(b) CONFORMING AMENDMENT.—Section 11(e)(8) of the Act (7 U.S.C. 2020(e)(8)) is amended—

(1) by striking "and excluding claims" and all that follows through "such section,"; and

(2) by inserting before the semicolon at the end the following: "or a Federal income tax refund as authorized by section 3720A of title 31, United States Code".

SEC. 131. TERMINATION OF FEDERAL MATCH FOR OPTIONAL INFORMATION ACTIVITIES.

(a) IN GENERAL.—Section 16(a) of the Food Stamp Act of 1977 (7 U.S.C. 2025(a)) is amended—

(1) by striking paragraph (4); and

(2) by redesignating paragraphs (5) through (8) as paragraphs (4) through (7), respectively.

(b) CONFORMING AMENDMENT.—Section 16(g) of the Act (7 U.S.C. 2025(g)) is amended by striking "an amount equal to" and all that follows through "1991, of" and inserting "the amount provided under subsection (a)(5) for".

SEC. 132. STANDARDS FOR ADMINISTRATION.

(a) IN GENERAL.—Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended by striking subsection (b).

(b) CONFORMING AMENDMENTS.—

(1) The first sentence of section 11(g) of the Act (7 U.S.C. 2020(g)) is amended by striking "the Secretary's standards for the efficient and effective administration of the program established under section 16(b)(1) or".

(2) Section 16(c)(1)(B) of the Act (7 U.S.C. 2025(c)(1)(B)) is amended by striking "pursuant to subsection (b)".

SEC. 133. WORK SUPPLEMENTATION OR SUPPORT PROGRAM.

Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) (as amended by section 132(a)) is further amended by inserting after subsection (a) the following:

"(b) WORK SUPPLEMENTATION OR SUPPORT PROGRAM.—

"(1) DEFINITION.—In this subsection, the term 'work supplementation or support program' means a program in which, as determined by the Secretary, public assistance

(including any benefits provided under a program established by the State and the food stamp program) is provided to an employer to be used for hiring and employing a new employee who is a public assistance recipient.

"(2) PROGRAM.—A State agency may elect to use amounts equal to the allotment that would otherwise be allotted to a household under the food stamp program, but for the operation of this subsection, for the purpose of subsidizing or supporting jobs under a work supplementation or support program established by the State.

"(3) PROCEDURE.—If a State agency makes an election under paragraph (2) and identifies each household that participates in the food stamp program that contains an individual who is participating in the work supplementation or support program—

"(A) the Secretary shall pay to the State agency an amount equal to the value of the allotment that the household would be eligible to receive but for the operation of this subsection;

"(B) the State agency shall expend the amount paid under subparagraph (A) in accordance with the work supplementation or support program in lieu of providing the allotment that the household would receive but for the operation of this subsection;

"(C) for purposes of—

"(i) sections 5 and 8(a), the amount received under this subsection shall be excluded from household income and resources; and

"(ii) section 8(b), the amount received under this subsection shall be considered to be the value of an allotment provided to the household; and

"(D) the household shall not receive an allotment from the State agency for the period during which the member continues to participate in the work supplementation or support program.

"(4) OTHER WORK REQUIREMENTS.—No individual shall be excused, by reason of the fact that a State has a work supplementation or support program, from any work requirement under section 6(d), except during the periods in which the individual is employed under the work supplementation or support program.

"(5) MAXIMUM LENGTH OF PARTICIPATION.—A work supplementation or support program may not allow the participation of any individual for longer than 6 months, unless the Secretary approves a longer period.".

SEC. 134. WAIVER AUTHORITY.

Section 17(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(A)) is amended—

(1) by striking "benefits to eligible households, including" and inserting the following: "benefits to eligible households. The Secretary may waive the requirements of this Act to the extent necessary to conduct a pilot or experimental project, including a project designed to test innovative welfare reform, promote work, and allow conformity with other Federal, State, and local government assistance programs, except that a project involving the payment of benefits in the form of cash shall maintain the average value of allotments for affected households as a group. Pilot or experimental projects may include"; and

(2) by striking "The Secretary may waive" and all that follows through "sections 5 and 8 of this Act.".

SEC. 135. AUTHORIZATION OF PILOT PROJECTS.

The last sentence of section 17(b)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)(A)) is amended by striking "1995" and inserting "2000".

SEC. 136. RESPONSE TO WAIVERS.

Section 17(b)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2026(b)(1)) is amended by adding at the end the following:

"(C) RESPONSE TO WAIVERS.—

"(i) RESPONSE.—Not later than 60 days after the date of receiving a request for a waiver under subparagraph (A), the Secretary shall provide a response that—

"(I) approves the waiver request;

"(II) denies the waiver request and explains any modification needed for approval of the waiver request;

"(III) denies the waiver request and explains the grounds for the denial; or

"(IV) requests clarification of the waiver request.

"(ii) FAILURE TO RESPOND.—If the Secretary does not provide a response under clause (i) not later than 60 days after receiving a request for a waiver, the waiver shall be considered approved.

"(iii) NOTICE OF DENIAL.—On denial of a waiver request under clause (i)(III), the Secretary shall provide a copy of the waiver request and the grounds for the denial to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.".

SEC. 137. PRIVATE SECTOR EMPLOYMENT INITIATIVES.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by adding at the end the following:

"(m) PRIVATE SECTOR EMPLOYMENT INITIATIVES.—

"(1) ELECTION TO PARTICIPATE.—

"(A) IN GENERAL.—Subject to the other provisions of this subsection, a State may elect to carry out a private sector employment initiative program under this subsection.

"(B) REQUIREMENT.—A State shall be eligible to carry out a private sector employment initiative under this subsection only if not less than 50 percent of the households that received food stamp benefits during the summer of 1993 also received benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) during the summer of 1993.

"(2) PROCEDURE.—A State that has elected to carry out a private sector employment initiative under paragraph (1) may use amounts equal to the food stamp allotments that would otherwise be allotted to a household under the food stamp program, but for the operation of this subsection, to provide cash benefits in lieu of the food stamp allotments to the household if the household is eligible under paragraph (3).

"(3) ELIGIBILITY.—A household shall be eligible to receive cash benefits under paragraph (2) if an adult member of the household—

"(A) has worked in unsubsidized employment in the private sector for not less than the preceding 90 days;

"(B) has earned not less than $350 per month from the employer referred to in subparagraph (A) for not less than the preceding 90 days;

"(C)(i) is eligible to receive benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) was eligible to receive benefits under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) at the time the member first received cash benefits under this subsection and is no longer eligible for the State program because of earned income;

"(D) is continuing to earn not less than $350 per month from the employment referred to in subparagraph (A); and

"(E) elects to receive cash benefits in lieu of food stamp benefits under this subsection.

"(4) EVALUATION.—A State that operates a program under this subsection for 2 years shall provide to the Secretary a written evaluation of the impact of cash assistance under this subsection. The State agency shall determine the content of the evaluation.".

SEC. 138. REAUTHORIZATION OF APPROPRIATIONS.

The first sentence of section 18(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2027(a)(1)) is amended by striking "1995" and inserting "2000".

SEC. 139. REAUTHORIZATION OF PUERTO RICO BLOCK GRANT.

The first sentence of section 19(a)(1)(A) of the Food Stamp Act of 1977 (7 U.S.C. 2028(a)(1)(A)) is amended by striking "$974,000,000" and all that follows through "fiscal year 1995" and inserting the following: "$1,143,000,000 for each of fiscal years 1995 and 1996, $1,182,000,000 for fiscal year 1997, $1,223,000,000 for fiscal year 1998, $1,266,000,000 for fiscal year 1999, and $1,310,000,000 for fiscal year 2000"

SEC. 140. SIMPLIFIED FOOD STAMP PROGRAM.

(a) IN GENERAL.—The Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) is amended by adding at the end the following:

"SEC. 24. SIMPLIFIED FOOD STAMP PROGRAM.

"(a) ELECTION.—Subject to subsection (c), a State agency may elect to carry out a Simplified Food Stamp Program (referred to in this section as a 'Program') under this section.

"(b) OPERATION OF PROGRAM.—

"(1) IN GENERAL.—If a State agency elects to carry out a Program, within the State or a political subdivision of the State—

"(A) a household in which all members receive assistance under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) shall automatically be eligible to participate in the Program; and

"(B) subject to subsection (e), benefits under the Program shall be determined under rules and procedures established by the State under—

"(i) a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(ii) the food stamp program; or

"(iii) a combination of a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) and the food stamp program.

"(2) SHELTER STANDARD.—The State agency may elect to apply 1 shelter standard to a household that receives a housing subsidy and another shelter standard to a household that does not receive the subsidy.

"(c) APPROVAL OF PROGRAM.—

"(1) STATE PLAN.—A State agency may not operate a Program unless the Secretary approves a State plan for the operation of the Program under paragraph (2).

"(2) APPROVAL OF PLAN.—

"(A) IN GENERAL.—The Secretary shall approve any State plan to carry out a Program if the Secretary determines that the plan—

"(i) complies with this section; and

"(ii) would not increase Federal costs incurred under this Act.

"(B) DEFINITION OF FEDERAL COSTS.—In this section, the term 'Federal costs' does not include any Federal costs incurred under section 17.

"(d) INCREASED FEDERAL COSTS.—

"(1) DETERMINATION.—

"(A) IN GENERAL.—The Secretary shall determine whether a Program being carried out by a State agency is increasing Federal costs under this Act.

"(B) NO EXCLUDED HOUSEHOLDS.—In making a determination under subparagraph (A), the Secretary shall not require the State agency to collect or report any information on households not included in the Program.

"(C) ALTERNATIVE ACCOUNTING PERIODS.—The Secretary may approve the request of a State agency to apply alternative accounting periods to determine if Federal costs do not exceed the Federal costs had the State agency not elected to carry out the Program.

"(2) NOTIFICATION.—If the Secretary determines that the Program has increased Federal costs under this Act for any fiscal year, the Secretary shall notify the State agency not later than January 1 of the immediately succeeding fiscal year.

"(3) RETURN OF FUNDS.—

"(A) IN GENERAL.—If the Secretary determines that the Program has increased Federal costs under this Act for a 2-year period, including a fiscal year for which notice was given under paragraph (2) and an immediately succeeding fiscal year, the State agency shall pay to the Treasury of the United States the amount of the increased costs.

"(B) ENFORCEMENT.—If the State agency does not pay an amount due under subparagraph (A) on a date that is not later than 90 days after the date of the determination, the Secretary shall reduce amounts otherwise due to the State agency for administrative costs under section 16(a).

"(e) RULES AND PROCEDURES.—

"(1) IN GENERAL.—Except as provided by paragraph (2), a State may apply—

"(A) the rules and procedures established by the State under—

"(i) the State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); or

"(ii) the food stamp program; or

"(B) the rules and procedures of 1 of the programs to certain matters and the rules and procedures of the other program to all remaining matters.

"(2) STANDARDIZED DEDUCTIONS.—The State may standardize the deductions provided under section 5(e). In developing the standardized deduction, the State shall give consideration to the work expenses, dependent care costs, and shelter costs of participating households.

"(3) REQUIREMENTS.—In operating a Program, the State shall comply with—

"(A) subsections (a) through (g) of section 7;

"(B) section 8(a), except that the income of a household may be determined under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.);

"(C) subsections (b) and (d) of section 8;

"(D) subsections (a), (c), (d), and (n) of section 11;

"(E) paragraph (3) of section 11(e), to the extent that the paragraph requires that an eligible household be certified and receive an allotment for the period of application not later than 30 days after filing an application;

"(F) paragraphs (8), (9), (12), (17), (19), (21), and (27) of section 11(e);

"(G) section 11(e)(10) or a comparable requirement established by the State under a State program funded under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.); and

"(H) section 16.".

(b) STATE PLAN PROVISIONS.—Section 11(e) of the Act (7 U.S.C. 2020(e)) (as amended by section 114(b)) is further amended—

(1) in paragraph (25), by striking "and" at the end;

(2) in paragraph (26), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(27) the plans of the State agency for operating, at the election of the State, a program under section 24, including—

"(A) the rules and procedures to be followed by the State to determine food stamp benefits;

"(B) how the State will address the needs of households that experience high shelter costs in relation to the incomes of the households; and

"(C) a description of the method by which the State will carry out a quality control system under section 16(c).".

(c) CONFORMING AMENDMENTS.—

(1) Section 8 of the Act (7 U.S.C. 2017) (as amended by section 124) is further amended—

(A) by striking subsection (e); and

(B) by redesignating subsection (f) as subsection (e).

(2) Section 17 of the Act (7 U.S.C. 2026) (as amended by section 137) is further amended—

(A) by striking subsection (i); and

(B) by redesignating subsections (j) through (m) as subsections (i) through (l), respectively.

SEC. 141. EFFECTIVE DATE.

Except as otherwise provided in this title, this title and the amendments made by this title shall become effective on October 1, 1995.

TITLE II—CHILD NUTRITION PROGRAMS

Subtitle A—Reimbursement Rates

SEC. 201. TERMINATION OF ADDITIONAL PAYMENT FOR LUNCHES SERVED IN HIGH FREE AND REDUCED PRICE PARTICIPATION SCHOOLS.

(a) IN GENERAL.—Section 4(b)(2) of the National School Lunch Act (42 U.S.C. 1753(b)(2)) is amended by striking "except that" and all that follows through "2 cents more".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on July 1, 1996.

SEC. 202. VALUE OF FOOD ASSISTANCE.

(a) IN GENERAL.—Section 6(e)(1) of the National School Lunch Act (42 U.S.C. 1755(e)(1)) is amended by striking subparagraph (B) and inserting the following:

"(B) ADJUSTMENTS.—

"(i) IN GENERAL.—The value of food assistance for each meal shall be adjusted each July 1 by the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May each year.

"(ii) ADJUSTMENTS.—Except as otherwise provided in this subparagraph, in the case of each school year, the Secretary shall—

"(I) base the adjustment made under clause (i) on the amount of the unrounded adjustment for the preceding school year;

"(II) adjust the resulting amount in accordance with clause (i); and

"(III) round the result to the nearest lower cent increment.

"(iii) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall round the value of food assistance referred to in clause (i) to the nearest lower cent increment.

"(iv) ADJUSTMENT FOR 1996–97 SCHOOL YEAR.—In the case of the school year beginning July 1, 1996, the value of food assistance shall be the same as the value of food assistance for the school year beginning July 1, 1995, rounded to the nearest lower cent increment.

"(v) ADJUSTMENT FOR 1997–98 SCHOOL YEAR.—In the case of the school year beginning July 1, 1997, the Secretary shall—

"(I) base the adjustment made under clause (i) on the amount of the unrounded adjustment for the value of food assistance for the school year beginning July 1, 1995;

"(II) adjust the resulting amount to reflect the annual percentage change in a 3-month average value of the Price Index for Foods Used in Schools and Institutions for March, April, and May for the most recent 12-month period for which the data are available; and

"(III) round the result to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 203. LUNCHES, BREAKFASTS, AND SUPPLEMENTS.

(a) IN GENERAL.—Section 11(a)(3)(B) of the National School Lunch Act (42 U.S.C. 1759a(a)(3)(B)) is amended—

(1) by designating the second and third sentences as subparagraphs (C) and (D), respectively; and

(2) by striking subparagraph (D) (as so designated) and inserting the following:

"(D) ROUNDING.—Except as otherwise provided in this paragraph, in the case of each 12-month period, the Secretary shall—

"(i) base the adjustment made under this paragraph on the amount of the unrounded adjustment for the preceding 12-month period;

"(ii) adjust the resulting amount in accordance with subparagraph (C); and

"(iii) round the result to the nearest lower cent increment.

"(E) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall round the rates and factor referred to in subparagraph (A) to the nearest lower cent increment.

"(F) ADJUSTMENT FOR 24-MONTH PERIOD BEGINNING JULY 1, 1996.—In the case of the 24-month period beginning July 1, 1996, the national average payment rates for paid lunches, paid breakfasts, and paid supplements shall be the same as the national average payment rate for paid lunches, paid breakfasts, and paid supplements, respectively, for the 12-month period beginning July 1, 1995, rounded to the nearest lower cent increment.

"(G) ADJUSTMENT FOR 12-MONTH PERIOD BEGINNING JULY 1, 1998.—In the case of the 12-month period beginning July 1, 1998, the Secretary shall—

"(i) base the adjustments made under this paragraph for—

"(I) paid lunches and paid breakfasts on the amount of the unrounded adjustment for paid lunches for the 12-month period beginning July 1, 1995; and

"(II) paid supplements on the amount of the unrounded adjustment for paid supplements for the 12-month period beginning July 1, 1995;

"(ii) adjust each resulting amount in accordance with subparagraph (C); and

"(iii) round each result to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 204. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) IN GENERAL.—Section 13(b) of the National School Lunch Act (42 U.S.C. 1761(b)) is amended—

(1) by striking "(b)(1)" and all that follows through the end of paragraph (1) and inserting the following:

"(b) SERVICE INSTITUTIONS.—

"(1) PAYMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, payments to service

institutions shall equal the full cost of food service operations (which cost shall include the costs of obtaining, preparing, and serving food, but shall not include administrative costs).

"(B) MAXIMUM AMOUNTS.—Subject to subparagraph (C), payments to any institution under subparagraph (A) shall not exceed—

"(i) $2 for each lunch and supper served;

"(ii) $1.20 for each breakfast served; and

"(iii) 50 cents for each meal supplement served.

"(C) ADJUSTMENTS.—Amounts specified in subparagraph (B) shall be adjusted each January 1 to the nearest lower cent increment in accordance with the changes for the 12-month period ending the preceding November 30 in the series for food away from home of the Consumer Price Index for All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor. Each adjustment shall be based on the unrounded adjustment for the prior 12-month period."; and

(2) by striking paragraph (4).

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on January 1, 1996.

SEC. 205. SPECIAL MILK PROGRAM.

(a) IN GENERAL.—Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended by striking paragraph (8) and inserting the following:

"(8) ADJUSTMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, in the case of each school year, the Secretary shall—

"(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the preceding school year;

"(ii) adjust the resulting amount in accordance with paragraph (7); and

"(iii) round the result to the nearest lower cent increment.

"(B) ADJUSTMENT ON JANUARY 1, 1996.—On January 1, 1996, the Secretary shall round the minimum rate referred to in paragraph (7) to the nearest lower cent increment.

"(C) ADJUSTMENT FOR 1996–97 SCHOOL YEAR.—In the case of the school year beginning July 1, 1996, the minimum rate shall be the same as the minimum rate for the school year beginning July 1, 1995, rounded to the nearest lower cent increment.

"(D) ADJUSTMENT FOR 1997–98 SCHOOL YEAR.—In the case of the school year beginning July 1, 1997, the Secretary shall—

"(i) base the adjustment made under paragraph (7) on the amount of the unrounded adjustment for the minimum rate for the school year beginning July 1, 1995;

"(ii) adjust the resulting amount to reflect changes in the Producer Price Index for Fresh Processed Milk published by the Bureau of Labor Statistics of the Department of Labor for the most recent 12-month period for which the data are available; and

"(iii) round the result to the nearest lower cent increment.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.

SEC. 206. FREE AND REDUCED PRICE BREAKFASTS.

(a) IN GENERAL.—Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended—

(1) in the second sentence of paragraph (1)(B), by striking ", adjusted to the nearest one-fourth cent" and inserting "(as adjusted pursuant to section 11(a) of the National School Lunch Act (42 U.S.C. 1759a(a))"; and

(2) in paragraph (2)(B)(ii)—

(A) by striking "nearest one-fourth cent" and inserting "nearest lower cent increment for the applicable school year"; and

(B) by inserting before the period at the end the following: ", and the adjustment required by this clause shall be based on the unrounded adjustment for the preceding school year".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on July 1, 1996.

SEC. 207. CONFORMING REIMBURSEMENT FOR PAID BREAKFASTS AND LUNCHES.

(a) IN GENERAL.—The last sentence of section 4(b)(1)(B) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)(B)) is amended by striking "8.25 cents" and all that follows through "Act)" and inserting "the same as the national average lunch payment established under section 4(b) of the National School Lunch Act (42 U.S.C. 1753(b))".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on January 1, 1996.

Subtitle B—Grant Programs

SEC. 211. SCHOOL BREAKFAST STARTUP GRANTS.

Section 4 of the Child Nutrition Act of 1966 (42 U.S.C. 1773) is amended by striking subsection (g).

SEC. 212. NUTRITION EDUCATION AND TRAINING PROGRAMS.

Section 19(i)(2)(A) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(i)(2)(A)) is amended by striking "$10,000,000" and inserting "$7,000,000".

SEC. 213. EFFECTIVE DATE.

The amendments made by this subtitle shall become effective on October 1, 1996.

Subtitle C—Other Amendments

SEC. 221. FREE AND REDUCED PRICE POLICY STATEMENT.

(a) SCHOOL LUNCH PROGRAM.—Section 9(b)(2) of the National School Lunch Act (42 U.S.C. 1758(b)(2)) is amended by adding at the end the following:

"(D) FREE AND REDUCED PRICE POLICY STATEMENT.—A school shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school. A routine change in the policy of a school, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school to submit a policy statement.".

(b) SCHOOL BREAKFAST PROGRAM.—Section 4(b)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(1)) is amended by adding at the end the following:

"(E) FREE AND REDUCED PRICE POLICY STATEMENT.—A school shall not be required to submit a free and reduced price policy statement to a State educational agency under this Act unless there is a substantive change in the free and reduced price policy of the school. A routine change in the policy of a school, such as an annual adjustment of the income eligibility guidelines for free and reduced price meals, shall not be sufficient cause for requiring the school to submit a policy statement.".

SEC. 222. SUMMER FOOD SERVICE PROGRAM FOR CHILDREN.

(a) PERMITTING OFFER VERSUS SERVE.—Section 13(f) of the National School Lunch Act (42 U.S.C. 1761(f)) is amended—

(1) by striking "(f) Service" and inserting the following:

"(f) NUTRITIONAL STANDARDS.—

"(1) IN GENERAL.—Service"; and

(2) by adding at the end the following:

"(2) OFFER VERSUS SERVE.—At the option of a local school food authority, a student in a school under the authority that participates in the program may be allowed to refuse not more than 1 item of a meal that the student does not intend to consume. A refusal of an offered food item shall not affect the amount of payments made under this section to a school for the meal.".

(b) REMOVING MANDATORY NOTICE TO INSTITUTIONS.—Section 13(n)(2) of the Act is amended by striking "and its plans and schedule" and inserting "except that the Secretary may not require a State to submit a plan or schedule".

SEC. 223. CHILD AND ADULT CARE FOOD PROGRAM.

(a) PAYMENTS TO SPONSOR EMPLOYEES.—Paragraph (2) of the last sentence of section 17(a) of the National School Lunch Act (42 U.S.C. 1766(a)) is amended—

(1) by striking "and" at the end of subparagraph (B);

(2) by striking the period at the end of subparagraph (C) and inserting "; and"; and

(3) by adding at the end the following:

"(D) in the case of a family or group day care home sponsoring organization that employs more than 1 employee, the organization does not base payments to an employee of the organization on the number of family or group day care homes recruited, managed, or monitored.".

(b) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—

(1) RESTRUCTURED DAY CARE HOME REIMBURSEMENTS.—Section 17(f)(3) of the Act is amended by striking "(3)(A) Institutions" and all that follows through the end of subparagraph (A) and inserting the following:

"(3) REIMBURSEMENT OF FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(A) REIMBURSEMENT FACTOR.—

"(i) IN GENERAL.—An institution that participates in the program under this section as a family or group day care home sponsoring organization shall be provided, for payment to a home of the organization, reimbursement factors in accordance with this subparagraph for the cost of obtaining and preparing food and prescribed labor costs involved in providing meals under this section.

"(ii) TIER I FAMILY OR GROUP DAY CARE HOMES.—

"(I) DEFINITION.—In this paragraph, the term 'tier I family or group day care home' means—

"(aa) a family or group day care home that is located in a geographic area, as defined by the Secretary based on census data, in which at least 50 percent of the children residing in the area are members of households whose incomes meet the eligibility standards for free or reduced price meals under section 9;

"(bb) a family or group day care home that is located in an area served by a school enrolling elementary students in which at least 50 percent of the total number of children enrolled are certified eligible to receive free or reduced price school meals under this Act or the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.); or

"(cc) a family or group day care home that is operated by a provider whose household meets the eligibility standards for free or reduced price meals under section 9 and whose

income is verified by a sponsoring organization under regulations established by the Secretary.

"(II) REIMBURSEMENT.—Except as provided in subclause (III), a tier I family or group day care home shall be provided reimbursement factors under this clause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

"(III) FACTORS.—Except as provided in subclause (IV), the reimbursement factors applied to a home referred to in subclause (II) shall be the factors in effect on the date of enactment of this subclause.

"(IV) ADJUSTMENTS.—The reimbursement factors under this subparagraph shall be adjusted on August 1, 1996, July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this subparagraph shall be rounded to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(iii) TIER II FAMILY OR GROUP DAY CARE HOMES.—

"(I) IN GENERAL.—

"(aa) FACTORS.—Except as provided in subclause (II), with respect to meals or supplements served under this clause by a family or group day care home that does not meet the criteria set forth in clause (ii)(I), the reimbursement factors shall be $1 for lunches and suppers, 30 cents for breakfasts, and 15 cents for supplements.

"(bb) ADJUSTMENTS.—The factors shall be adjusted on July 1, 1997, and each July 1 thereafter, to reflect changes in the Consumer Price Index for food at home for the most recent 12-month period for which the data are available. The reimbursement factors under this item shall be rounded down to the nearest lower cent increment and based on the unrounded adjustment for the preceding 12-month period.

"(cc) REIMBURSEMENT.—A family or group day care home shall be provided reimbursement factors under this subclause without a requirement for documentation of the costs described in clause (i), except that reimbursement shall not be provided under this subclause for meals or supplements served to the children of a person acting as a family or group day care home provider unless the children meet the eligibility standards for free or reduced price meals under section 9.

"(II) OTHER FACTORS.—A family or group day care home that does not meet the criteria set forth in clause (ii)(I) may elect to be provided reimbursement factors determined in accordance with the following requirements:

"(aa) CHILDREN ELIGIBLE FOR FREE OR REDUCED PRICE MEALS.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes meet the eligibility standards for free or reduced price meals under section 9, the family or group day care home shall be provided reimbursement factors set by the Secretary in accordance with clause (ii)(III).

"(bb) INELIGIBLE CHILDREN.—In the case of meals or supplements served under this subsection to children who are members of households whose incomes do not meet the eligibility standards, the family or group day care home shall be provided reimbursement factors in accordance with subclause (I).

"(III) INFORMATION AND DETERMINATIONS.—

"(aa) IN GENERAL.—If a family or group day care home elects to claim the factors described in subclause (II), the family or group day care home sponsoring organization serving the home shall collect the necessary income information, as determined by the Secretary, from any parent or other caretaker to make the determinations specified in subclause (II) and shall make the determinations in accordance with rules prescribed by the Secretary.

"(bb) CATEGORICAL ELIGIBILITY.—In making a determination under item (aa), a family or group day care home sponsoring organization may consider a child participating in or subsidized under, or a child with a parent participating in or subsidized under, a federally or State supported child care or other benefit program with an income eligibility limit that does not exceed the eligibility standard for free or reduced price meals under section 9 to be a child who is a member of a household whose income meets the eligibility standards under section 9.

"(cc) FACTORS FOR CHILDREN ONLY.—A family or group day care home may elect to receive the reimbursement factors prescribed under clause (ii)(III) solely for the children participating in a program referred to in item (bb) if the home elects not to have income statements collected from parents or other caretakers.

"(IV) SIMPLIFIED MEAL COUNTING AND REPORTING PROCEDURES.—The Secretary shall prescribe simplified meal counting and reporting procedures for use by a family or group day care home that elects to claim the factors under subclause (II) and by a family or group day care home sponsoring organization that serves the home. The procedures the Secretary prescribes may include 1 or more of the following:

"(aa) Setting an annual percentage for each home of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (ii)(III) and an annual percentage of the number of meals served that are to be reimbursed in accordance with the reimbursement factors prescribed under clause (iii)(I), based on the family income of children enrolled in the home in a specified month or other period.

"(bb) Placing a home into 1 of 2 or more reimbursement categories annually based on the percentage of children in the home whose households have incomes that meet the eligibility standards under section 9, with each such reimbursement category carrying a set of reimbursement factors such as the factors prescribed under clause (ii)(II) or subclause (I) or factors established within the range of factors prescribed under clause (ii)(II) and subclause (I).

"(cc) Such other simplified procedures as the Secretary may prescribe.

"(V) MINIMUM VERIFICATION REQUIREMENTS.—The Secretary may establish any necessary minimum verification requirements.".

(2) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—Section 17(f)(3) of the Act is amended by adding at the end the following:

"(D) GRANTS TO STATES TO PROVIDE ASSISTANCE TO FAMILY OR GROUP DAY CARE HOMES.—

"(i) IN GENERAL.—

"(I) RESERVATION.—From amounts made available to carry out this section, the Secretary shall reserve $5,000,000 of the amount made available for fiscal year 1996.

"(II) PURPOSE.—The Secretary shall use the funds made available under subclause (I) to provide grants to States for the purpose of providing—

"(aa) assistance, including grants, to family and day care home sponsoring organizations and other appropriate organizations, in securing and providing training, materials, automated data processing assistance, and other assistance for the staff of the sponsoring organizations; and

"(bb) training and other assistance to family and group day care homes in the implementation of the amendments to subparagraph (A) made by section 574(b)(1) of the Family Self-Sufficiency Act of 1995.

"(ii) ALLOCATION.—The Secretary shall allocate from the funds reserved under clause (i)(II)—

"(I) $30,000 in base funding to each State; and

"(II) any remaining amount among the States, based on the number of family day care homes participating in the program in a State in 1994 as a percentage of the number of all family day care homes participating in the program in 1994.

"(iii) RETENTION OF FUNDS.—Of the amount of funds made available to a State for a fiscal year under clause (i), the State may retain not to exceed 30 percent of the amount to carry out this subparagraph.

"(iv) ADDITIONAL PAYMENTS.—Any payments received under this subparagraph shall be in addition to payments that a State receives under subparagraph (A) (as amended by section 134(b)(1) of the Family Self-Sufficiency Act of 1995).".

(3) PROVISION OF DATA.—Section 17(f)(3) of the Act (as amended by paragraph (2)) is further amended by adding at the end the following:

"(E) PROVISION OF DATA TO FAMILY OR GROUP DAY CARE HOME SPONSORING ORGANIZATIONS.—

"(i) CENSUS DATA.—The Secretary shall provide to each State agency administering a child and adult care food program under this section data from the most recent decennial census survey or other appropriate census survey for which the data are available showing which areas in the State meet the requirements of subparagraph (A)(ii)(I)(aa). The State agency shall provide the data to family or group day care home sponsoring organizations located in the State.

"(ii) SCHOOL DATA.—

"(I) IN GENERAL.—A State agency administering the school lunch program under this Act or the school breakfast program under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) shall provide data for each elementary school in the State, or shall direct each school within the State to provide data for the school, to approved family or group day care home sponsoring organizations that request the data, on the percentage of enrolled children who are eligible for free or reduced price meals.

"(II) USE OF DATA FROM PRECEDING SCHOOL YEAR.—In determining for a fiscal year or other annual period whether a home qualifies as a tier I family or group day care home under subparagraph (A)(ii)(I), the State agency administering the program under this section, and a family or group day care

home sponsoring organization, shall use the most current available data at the time of the determination.

"(iii) DURATION OF DETERMINATION.—For purposes of this section, a determination that a family or group day care home is located in an area that qualifies the home as a tier I family or group day care home (as the term is defined in subparagraph (A)(ii)(I)), shall be in effect for 3 years (unless the determination is made on the basis of census data, in which case the determination shall remain in effect until more recent census data are available) unless the State agency determines that the area in which the home is located no longer qualifies the home as a tier I family or group day care home.".

(4) CONFORMING AMENDMENTS.—Section 17(c) of the Act is amended by inserting "except as provided in subsection (f)(3)," after "For purposes of this section," each place it appears in paragraphs (1), (2), and (3).

(c) DISALLOWING MEAL CLAIMS.—The fourth sentence of section 17(f)(4) of the Act is amended by inserting "(including institutions that are not family or group day care home sponsoring organizations)" after "institutions".

(d) ELIMINATION OF STATE PAPERWORK AND OUTREACH BURDEN.—Section 17 of the Act is amended by striking subsection (k) and inserting the following:

"(k) TRAINING AND TECHNICAL ASSISTANCE.—A State participating in the program established under this section shall provide sufficient training, technical assistance, and monitoring to facilitate effective operation of the program. The Secretary shall assist the State in developing plans to fulfill the requirements of this subsection.".

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) IMPROVED TARGETING OF DAY CARE HOME REIMBURSEMENTS.—The amendments made by paragraphs (1), (3), and (4) of subsection (b) shall become effective on August 1, 1996.

SEC. 224. REDUCING REQUIRED REPORTS TO STATE AGENCIES AND SCHOOLS.

Section 19 of the National School Lunch Act (42 U.S.C. 1769a) is amended by striking subsection (c) and inserting the following:

"(c) REPORT.—Not later than 1 year after the date of enactment of the Family Self-Sufficiency Act of 1995, the Secretary shall—

"(1) review all reporting requirements under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) that are in effect, as of the date of enactment of the Family Self-Sufficiency Act of 1995, for agencies and schools referred to in subsection (a); and

"(2) provide a report to the Committee on Economic and Educational Opportunities of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that—

"(A) describes the reporting requirements described in paragraph (1) that are required by law;

"(B) makes recommendations concerning the elimination of any requirement described in subparagraph (A) because the contribution of the requirement to program effectiveness is not sufficient to warrant the paperwork burden that is placed on agencies and schools referred to in subsection (a); and

"(C) provides a justification for reporting requirements described in paragraph (1) that are required solely by regulation.".

TITLE III—REAUTHORIZATION

SEC. 301. COMMODITY DISTRIBUTION PROGRAM; COMMODITY SUPPLEMENTAL FOOD PROGRAMS.

(a) REAUTHORIZATION.—The first sentence of section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2000".

(b) ADMINISTRATIVE FUNDING.—Section 5(a)(2) of the Act (Public Law 93-86; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2000".

SEC. 302. EMERGENCY FOOD ASSISTANCE PROGRAM.

(a) REAUTHORIZATION.—The first sentence of section 204(a)(1) of the Emergency Food Assistance Act of 1983 (Public Law 98-8; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2000".

(b) PROGRAM TERMINATION.—Section 212 of the Act (Public Law 98-8; 7 U.S.C. 612c note) is amended by striking "1995" and inserting "2000".

(c) REQUIRED PURCHASES OF COMMODITIES.—Section 214 of the Act (Public Law 98-8; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "2000"; and

(2) in subsection (e), by striking "1995" each place it appears and inserting "2000".

SEC. 303. SOUP KITCHENS PROGRAM.

Section 110 of the Hunger Prevention Act of 1988 (Public Law 100-435; 7 U.S.C. 612c note) is amended—

(1) in the first sentence of subsection (a), by striking "1995" and inserting "2000"; and

(2) in subsection (c)(2)—

(A) in the paragraph heading, by striking "1995" and inserting "2000"; and

(B) by striking "1995" each place it appears and inserting "2000".

SEC. 304. NATIONAL COMMODITY PROCESSING.

The first sentence of section 1775(2)(A) of the Agriculture and Food Act of 1981 (7 U.S.C. 1431e(2)(A)) is amended by striking "1995" and inserting "2000".

SENATE AGRICULTURE COMMITTEE WELFARE REFORM PROVISIONS

MORE AUTHORITY AND FLEXIBILITY FOR STATES

The bill gives states more freedom and choice in administering the Food Stamp program. The bill will:

Allow states to operate a simplified and state-designed Food Stamp program for cash welfare recipients, as long as federal costs do not increase.

Let states tighten the definition of a "household" so that people living under a single roof could be considered one household. For example, under current law, unmarried couples may qualify for more Food Stamp benefits than a married couple—in effect, a "marriage penalty."

Delete laws that micromanage state Food Stamp administration. Such laws now go so far as to specify when to use boldface type in Food Stamp applications and require USDA review of local office hours.

Allow states to recover over-issued Food Stamp benefits immediately.

PROMOTING WORK, RESPONSIBILITY AND STATE REFORM INITIATIVES

The bill encourages responsible behavior, empowers the states to pursue innovative welfare reforms, and reduces federal spending. The bill will:

Ensure Food Stamp benefits do not increase when a recipient's welfare benefits are reduced for violating welfare rules.

Allow states to operate work support programs in which the value of Food Stamp benefits is paid to an employer who hires a welfare recipient and passes on the benefit to the employee as part of wages. Such systems encourage movement from welfare to work.

Allow a limited number of states to offer Food Stamp benefits in cash to recipients who have been working at least three months.

Strengthen child support enforcement by allowing states to require that custodial parents cooperate with enforcement agencies, and to disqualify from benefits a parent who is in arrears on court-ordered child support. Also allow states to disqualify non-custodial parents who refuse to cooperate in child support and paternity proceedings.

Give states more ability to undertake welfare reform demonstration projects where they might restrict or reduce Food Stamp benefits. Impose a strict 60-day time limit for USDA to respond to state proposals for welfare reform. The state's request is automatically approved if USDA does not respond.

Sanction any adult who voluntarily quits a job while on Food Stamps. Require that individuals who violate Food Stamp work requirements be disqualified from benefits for mandatory minimum periods, with states able to disqualify for longer periods if they choose.

Exempt Food Stamp benefits delivered through Electronic Benefit Transfer from Regulation E, which limits cardholder liability if cards are lost or stolen.

Establish a new work requirement for non-elderly, able-bodied adults without dependents, generally requiring them to work or be in job training within six months, or lose Food Stamp eligibility.

Require that anyone age 21 or younger who lives with his or her parents must be considered part of the parents' household.

Reduce the rate of growth in Food Stamp spending by revising the way benefits are calculated. Currently, benefits are 103 percent of a "thrifty food plan" reflecting a low-cost diet. The bill would pay benefits at 100 percent of the thrifty food plan, the same formula used until 1989.

Reduce the "standard deduction," an amount automatically subtracted from applicants' income to determine eligibility and benefits.

Repeal scheduled increases in the maximum value of automobiles that may be owned by persons who wish to collect Food Stamp benefits. Count energy assistance as income when determining Food Stamp eligibility.

Discourage Food Stamp receipt by legal aliens. Extend the length of time for which a person who sponsors a legal alien must, in effect, be financially responsible for the alien.

IMPROVING CHILD NUTRITION PROGRAMS AND CONTAINING COSTS

The bill retains child nutrition programs at the federal level but reduces excessive federal regulation. The bill will:

Reduce statutory paperwork burdens on local school districts and states. The bill deletes several provisions that micromanage states' administration of the Child and Adult

Care Food Program and requires a survey to find more reporting requirements that can be eliminated.

Conform federal reimbursement rates for breakfasts served to non-poor children with those for lunches. Freeze for two years the reimbursement rate for meals and snacks served to non-poor children, and federal assistance in the form of commodities.

Reduce the subsidies for middle- and higher-income children in family day care homes.

End an extra and unsupported subsidy paid to schools which serve a high percentage of free and reduced-price meals. Bring summer food program reimbursements more into line with school reimbursement rates.•

By Mr. AKAKA:

S. 905. A bill to provide for the management of the airplane over units of the National Park System, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE NATIONAL PARKS AIRSPACE MANAGEMENT ACT OF 1995

• Mr. AKAKA. Mr. President, today I am reintroducing legislation I offered last year, but in simpler and improved form, that is designed to mitigate the impact of commercial air tour flights over units of the National Park System. The National Parks Airspace Management Act of 1995 would create a new statutory framework for minimizing the environmental effects of air tour activity on park units.

Briefly, my bill would: specify the respective authorities of the National Park Service and the Federal Aviation Administration [FAA] in developing and enforcing park overflight policy; establish a process for developing individualized airspace management plans at parks experiencing significant commercial air tour activity; provide for the designation of those parks which did not experience commercial air tour activity as of January 1, 1995 as flight-free parks; establish a new, single standard governing the certification and operation of all commercial air tour operators that conduct flights over national parks; require a variety of safety measures, such as improved aircraft markings, maintenance of accurate aeronautical charts, installation of flight monitoring equipment, and an air tour database; and, establish a National Park Overflight Advisory Council.

As my colleagues are aware, aircraft overflights of noise-sensitive areas such as national parks have been increasing in scope and intensity for a number of years, sparking significant public debate and controversy about the safety and environmental impact of such activity. The focus of much of the debate, and much of the controversy, has been the commercial air tour sightseeing industry, which has experienced explosive growth in some areas, most notably at the Grand Canyon and in my own State of Hawaii.

The air tour industry has become a $500 million business nationwide. Fully half of that revenue is generated by the 800,000 flightseers who annually view the Grand Canyon area by aircraft. In 1994, the Hawaii air tour industry, which is centered around tours of Haleakala and Hawaii Volcanoes National Parks, provided tours to more than 500,000 passengers, generating approximately $75 million in revenues.

Apart from parks in Arizona and Hawaii, significant commercial air tour activity has also been developing in such widely dispersed locations as Glacier National Park in Montana, the Utah national parks, Mount Rushmore in South Dakota, and the Statute of Liberty and Niagara Falls in New York. In fact, at Great Smoky Mountains National Park, commercial air tour overflights have fostered such opposition that the State of Tennessee has passed legislation to restrict such flights.

Thus, the problems that my bill attempts to address are national, not merely local, in scope and interest. I would venture to say that every Member of this body has, or will soon have, a park in his or her State that is impacted to a greater or lesser degree by commercial air tour operations.

Mr. President, the legislation I am offering is not the first attempt to deal with this issue through legislation. In 1987, Congress passed the National Parks Overflights Act, Public Law 100-91, which established certain flight restrictions at three parks which were experiencing heavy air traffic. Flights below-the-rim at Grand Canyon were permanently banned and Special Federal Aviation Regulation [SFAR] was established creating flight-free zones and air corridors. The act established less stringent temporary altitude restrictions for Yosemite in California and Haleakala in Hawaii.

The act also required that a comprehensive study be conducted by the Park Service, with FAA input, to determine appropriate minimum altitudes for aircraft overflying national parks. Completed and submitted to Congress in September 1994, the study evaluated the impact of aircraft noise on the safety of park system users and on park values and offered numerous recommendations to Congress and the administration on ways to mitigate the effects of aircraft noise, including incentives to encourage use of quiet aircraft technology, flight-free zones and flight corridors, altitude restrictions, noise budgets, and limits on times of air tour operations.

Unfortunately, the minimum altitude restrictions mandated by Public Law 100-91 have not fully addressed the noise and safety problems at Grand Canyon, Yosemite, and particularly Haleakala, given the explosive growth in air tour activity at these parks. And, of course, the act did not establish mitigation measures for other parks experiencing high levels of air traffic. And, to date, none of the noise and safety mitigation measures recommended by the Park Overflights Study have been implemented.

Since October 1, 1988, there have been 139 air tour accidents in the United States, resulting in 117 fatalities. It saddens me to report that my home State of Hawaii has experienced a disproportionately high number of these tragedies. During that period, 34 of those accidents occurred in Hawaii, resulting in 35 fatalities.

Concern over the high incidence of air tour accidents in Hawaii's skies compelled the FAA, in March 1994, to initiate a comprehensive review of the operations and maintenance practices of the Hawaii air tour industry. This review culminated in the implementation of an emergency regulation—SFAR-71—which imposed numerous safety measures upon Hawaii's commercial air tour operators, including a 1,500-foot above-ground-level minimum altitude restriction. To date, the FAA's emergency rulemaking actions generally appear to have been effective in providing short-term solutions to many of the safety problems associated with commercial air tour operations in Hawaii.

Similarly, in 1992, when the FAA implemented SFAR-50-2 governing airspace over Grand Canyon National Park, a significant improvement in air safety was effected there also. Unfortunately, however, short-term, emergency measures such as SFAR's 71 and 50-2 have not, and cannot be expected to, addressed the full range of safety problems that have attended the explosive growth of the commercial air tour industry in this country.

In addition to safety issues, the rapid growth of the air tour industry has fostered environmental concerns as well, largely centering on noise problems. The Clinton administration has made a good faith effort to address the noise and environmental impacts of commercial air tour overflights through existing regulatory authorities and mechanisms. The interagency working group formed in 1993 by Secretary Babbitt and Secretary Peña has demonstrated that limited cooperation between the FAA and Park Service is attainable in addressing this issue.

Nevertheless, while some progress has been made, the pace has been painfully slow and tangible results so far are not readily evident. In the meantime, the number of air tour flights has continued to grow, serving to exacerbate existing environmental and safety problems. This experience has shown us that only Congress, through legislation, can produce lasting, effective policy on this matter.

The simple truth is, the complex problems associated with park overflights cannot be fully resolved administratively. This is largely due to the fact that the FAA and the Park Service, the two agencies with the greater responsibility in this area, are governed by vastly different statutory mandates. On the one hand, the FAA is responsible for the safety and efficiency of air commerce; on the other, the Park Service is charged with protecting and preserving park resources. At some point—in this case the regulation of airspace over noise sensitive areas—their interests are mutually incompatible. Only by modifying or clarifying their statutory responsibilities with respect to the management of park airspace can the two Federal agencies be expected to work together to address the overflights problem.

Mr. President, the legislation I am proposing today would address this and other barriers to the development of a comprehensive park overflights policy. My bill deals with the commercial air tour overflights issue in a national context, since the safety and environmental concerns which are being debated so vociferously in Hawaii are being echoed at park units scattered throughout the National Park System.

At the outset, my bill establishes a finding that National Park Service policy recognizes the importance of natural quiet as a resource to be conserved and protected in certain park units. Toward that end, my bill creates a new statutory framework for minimizing the environmental effects of air tour activity on units throughout the National Park System.

The bill articulates a regulatory scheme under which the Park Service and the FAA are required to work in tandem to develop operational policies with respect to the overflights problem. It provides for joint administration in many areas while clearly denoting the FAA's primacy on matters related to safety and air efficiency and the Park Service's lead role in identifying the resources to be protected and the best means of protecting them.

The bill requires the development, with public involvement, of individually tailored park airspace management plans for units significantly affected by overflight activity, as determined by the director of the Park Service. It calls for good faith negotiations between commercial air tour operators and both the Park Service and the FAA to reach agreement on flights over park areas.

It provides for the Park Service to recommend to the FAA the designation of individual units as flight-free parks for those units which, as of January 1, 1995, experienced no overflights by commercial air tour operators and where air tour flights would be incompatible with or injurious to the purposes or values of those parks.

It also mandates the development by the FAA or a generic operational rule for commercial air tour operations at all units of the National Park System, subject to modification at individual park units based on negotiations among air tour operators, the FAA, and the Park Service.

My legislation requires the FAA to implement a single standard, through a new subpart of part 135, title 14, Code of Federal Regulations, for certifying commercial air tour operators. Such a uniform standard, which has been recommended by the National Transportation Safety Board [NTSB], will substantially enhance safety by providing essential consistency in such areas as pilot qualifications, training, and flight and duty time limitations.

It mandates commercial air tour safety initiatives recommended by the NTSB and others, including the installation of a flight monitoring system and the use of identification markings unique to a commercial air tour operator, the development of aeronautical charts which reflect airspace management provisions with respect to individual park units, and the development of a national data base on air tour operations.

Last but by no means least, the bill establishes a National Park Overflight Advisory Council which would provide advice and recommendations to the Park Service and the FAA on all issues related to commercial air tour flights over park units and serve as a national forum for interest groups—including representatives of the air tour industry and the environmental community—to constructively exchange views.

It is significant to note that my bill will not affect emergency flight operations, general aviation, military aviation, or scheduled commercial passenger flights that transit National Park System units. Furthermore, recognizing the special needs for air travel in Alaska, this bill will not affect the management of park units or aircraft operations over or within park units in the State of Alaska.

Mr. President, I believe that the legislation I am offering today will give us the tools to minimize the adverse effects of commercial air tour flights on park resources as well as on the ground visitor experience, while at the same time enhancing the safety of such flights. I believe it is a balanced measure that, through extensive opportunity for public involvement, attempts to accommodate the legitimate concerns of all park users, including air tour operators and passengers. Indeed, I strongly believe that under certain well-regulated conditions, air tourism provides an important service to millions of elderly, disabled, or other visitors who might otherwise never enjoy the wonders of our national parks.

Nevertheless, my bill's central premise is that the 367 park units of the National Park System were created because of their exceptional natural or cultural significance to the American people. All of the provisions of the National Parks Airspace Management Act are therefore designed with the protection of park resources as their essential, if not exclusive, goal. For it is self-evident that a park whose values have corrupted is a park ultimately not worth visiting, by air or land.

Thank you, Mr. President. 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. 905

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 "National Parks Airspace Management Act of 1995".

SEC. 2. FINDINGS.

The Congress makes the following findings:

(1) Commercial air tour flights over units of the National Park System (referred to in this Act as "units") may have adverse effects on the units. The flights may degrade the experiences of visitors to the affected areas and may have adverse effects on wildlife and cultural resources in those areas. A significant number of complaints about commercial air tour flights over certain areas under the jurisdiction of the National Park Service have been registered.

(2) Whereas resource preservation is the primary responsibility of the National Park Service, the agency continues to struggle to develop a policy that would achieve an acceptable balance between flights over units by commercial air tour operators and the protection of resources in the units and the experiences of visitors to the units.

(3) Whereas the mission of the Federal Aviation Administration is to develop and maintain a safe and efficient system of air transportation while considering the impact of aircraft noise, the agency continues to have difficulty adequately controlling commercial air tour flights over units.

(4) Significant and continuing concerns exist regarding the safety of commercial air tour flights over some units, including concerns for the safety of occupants of the flights, visitors to those units, Federal employees at those units, and the general public. The concern of the Congress over the effects of low-level flights on units led to the enactment, on August 18, 1987, of the Act entitled "An Act to require the Secretary of the Interior to conduct a study to determine the appropriate minimum altitude for aircraft flying over national park system units" (Public Law 100-91; 101 Stat. 674; 16 U.S.C. 1a-1 note). The Act requires the Director to identify problems associated with flights by aircraft in the airspace over units.

(5) Pursuant to the Act referred to in paragraph (4), on September 12, 1994, the Director submitted a report to Congress entitled "Report On Effects Of Aircraft Overflights On

The National Park System". The National Park Service report concluded that, because the details of national park overflights problems are park-specific, no single altitude can be identified for the entire National Park System. The National Park Service report presented a number of recommendations for resolution of the problem, including—

(A) the development of airspace and park use resolution processes;

(B) the development of a single operational rule to regulate air tour operations;

(C) seeking continued improvements in safety and interagency planning related to airspace management; and

(D) the development of a Federal Aviation Administration rule to facilitate preservation of natural quiet.

(6) The policy of the National Park Service recognizes the importance of natural quiet as a resource to be conserved and protected in certain units. The National Park Services defines natural quiet as "the natural ambient sound conditions found in certain units of the National Park Service" and recognizes that visitors to certain units may reasonably expect quiet during their visits to those units established with the specific goal of providing visitors with an opportunity for solitude.

(7) The number of flights by aircraft over units has increased rapidly since the date of enactment of the Act referred to in paragraph (4) and, due to the high degree of satisfaction expressed by air tour passengers, as well as the economic impact of air tour operations on the tourist industry, the number of flights will likely continue to increase. A progression of aesthetic and safety concerns about low altitude flights have been associated with growth in commercial air tour traffic. As the number of flights continues to increase, the likelihood exists that there will be a concomitant increase in the number of conflicts regarding management of the airspace over the units.

(8) A need exists for a Federal policy to address the conflicts and problems associated with flights by commercial air tour aircraft in the airspace over units. A statutory process should be established to require the Secretary of Transportation and the Secretary of the Interior, acting through the Director, to work together to mitigate the impact of commercial air tour operations on units, or specific areas within units that are adversely affected by commercial air tour operations.

SEC. 2. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) AGREEMENT.—The term "agreement" means an agreement entered into by a commercial air tour operator, the Director, and the Administrator under section 4(h) that provides for the application of relevant provisions of an airspace management plan for the unit concerned to the commercial air tour operator.

(3) AIR TOUR AIRCRAFT.—The term "air tour aircraft" means an aircraft (including a fixed-wing aircraft or a rotorcraft) that makes air tour flights.

(4) AIR TOUR FLIGHT.—The term "air tour flight" means a passenger flight conducted by air tour aircraft for the purpose of permitting a passenger to the flight to view an area over which the flight occurs.

(5) COMMERCIAL AIR TOUR AIRCRAFT.—The term "commercial air tour aircraft" means any air tour aircraft used by a commercial air tour operator in providing air tour flights for hire to the public.

(6) COMMERCIAL AIR TOUR OPERATOR.—The term "commercial air tour operator" means a company, corporation, partnership, individual, or other entity that provides air tour flights for hire to the public.

(7) COUNCIL.—The term "Council" means the National Park Overflight Advisory Council established under section 9.

(8) DIRECTOR.—The term "Director" means the Director of the National Park Service.

(9) FLIGHT-FREE PARK.—The term "flight-free park" means a unit over which commercial air tour operations are prohibited.

(10) UNIT.—The term "unit" means a unit of the National Park System.

SEC. 4. NATIONAL PARK AIRSPACE MANAGEMENT PLANS.

(a) IN GENERAL.—The Director and the Administrator shall, in accordance with this section, develop and establish a plan for the management of the airspace above each unit that is affected by commercial air tour flights to the extent that the Director considers the unit to be a unit requiring an airspace management plan.

(b) PLAN PURPOSE.—The purpose of each plan developed under subsection (a) is to minimize the adverse effects of commercial air tour flights on the resources of a unit.

(c) DEVELOPMENT OF AIRSPACE MANAGEMENT PLANS.—

(1) TREATMENT OF RELEVANT EXPERTISE.—In developing plans under subsection (a), the Administrator shall defer to the Director in matters relating to the identification and protection of park resources, and the Director shall defer to the Administrator in matters relating to the safe and efficient management of airspace.

(2) NEGOTIATED RULEMAKING.—In developing a plan for a unit, the Director and the Administrator shall consider utilizing negotiated rulemaking procedures as specified under subchapter III of chapter 5 of title 5, United States Code, if the Director and the Administrator determine that the utilization of those procedures is in the public interest.

(d) COMMENT ON PLANS.—In developing a plan for a unit, the Director and the Administrator shall—

(1) ensure that there is sufficient opportunity for public comment by air tour operators, environmental organizations, and other concerned parties; and

(2) give due consideration to the comments and recommendations of the Council and the Federal Interagency Airspace/Natural Resource Coordination Group, or any successor organization to that entity.

(e) RESOLUTION OF PLAN INADEQUACIES.—If the Director and the Administrator disagree with respect to any portion of a proposed plan under subsection (a), the Director and the Administrator shall refer the proposed plan to the Secretary of the Interior and the Secretary of Transportation, and the Secretaries shall jointly resolve the disagreement.

(f) ASSESSMENT OF EFFECTS OF OVERFLIGHTS.—The Director and the Administrator may jointly conduct studies to ascertain the effects of low-level flights of commercial air tour aircraft over units that the Director and the Administrator consider necessary for the development of plans under subsection (a).

(g) PERIODIC REVIEW.—Not less frequently than every 5 years after the date of establishment of a plan under subsection (a), the Director and the Administrator shall review the plan. The purpose of the review shall be to ensure that the plan continues to meet the purposes for the plan. The Director and the Administrator may revise a plan if they jointly determine, based on that review, that the revision is advisable.

(h) FLIGHTS OVER UNITS COVERED BY PLANS.—

(1) AGREEMENT.—A commercial air tour operator may not conduct commercial air tour flights in the airspace over a unit covered by an airspace management plan developed under subsection (a) unless the commercial air tour operator enters into an agreement with the Director and the Administrator that authorizes such flights.

(2) CONTENTS.—An agreement under paragraph (1) shall—

(A) provide for the application of relevant provisions of the airspace management plan for the unit concerned to the commercial air tour operator; and

(B) to the maximum extent practicable, provide for the conduct of air tour flights by the air tour operator in a manner that minimizes the adverse effects of the air tour flights on the environment of the unit.

SEC. 5. FLIGHT-FREE PARKS.

For units that, as of January 1, 1995, experienced no overflights by commercial air tour operators, the Director, in consultation with the Administrator, shall—

(1) prescribe criteria to identify units where air tour flights by commercial air tour aircraft would be incompatible with or injurious to the purposes and values for which the units were established;

(2) identify any units that meet those criteria; and

(3) designate those units as "flight-free park" units.

SEC. 6. SINGLE OPERATIONAL RULE FOR COMMERCIAL AIR TOUR OPERATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), the Administrator, after notice and hearing o. the record, shall issue a regulation governing the operation of all air tour aircraft flights by commercial air tour operators over units.

(b) SEPARATE OPERATIONAL RULES.—

(1) IN GENERAL.—The Administrator may prescribe separate operational rules governing the conduct of flights by fixed-wing aircraft and by rotorcraft if the Administrator determines under subsection (a) that separate rules are warranted.

(2) DEVELOPMENT OF OPERATIONAL RULE.—In developing an operational rule under paragraph (1), the Administrator shall—

(A) consider whether differences in the characteristics and effects on the environment of fixed-wing aircraft and rotorcraft warrant the development of separate operational rules with respect to that craft;

(B) provide a mechanism for the Director to recommend individual units or geographically proximate groups of units to be designated as aerial sightseeing areas, as defined by section 92.01 of the Federal Aviation Administration Handbook, dated January 1992; and

(C) provide a mechanism for the Director to obtain immediate assistance from the Administrator in resolving issues relating to the use of airspace above units with respect

to which the issues are of a critical, time-sensitive nature.

(d) EFFECT ON AGREEMENTS.—Nothing in this section is intended to preclude the Administrator, the Director, and a commercial air tour operator from entering into, under section 4(h), an agreement on the conduct of air tour flights by the air tour operator over a particular unit under different terms and conditions from those imposed by an operational rule promulgated under this subsection.

SEC. 7. AIRCRAFT SAFETY.

(a) DEVELOPMENT OF A SINGLE STANDARD FOR CERTIFYING COMMERCIAL AIR TOUR OPERATORS.—

(1) COMMENCEMENT OF RULEMAKING.—The Administrator shall initiate formal rulemaking proceedings (which shall include a hearing on the record) for the purpose of revising the regulations contained in part 135 of title 14, Code of Federal Regulations (relating to air taxi operators and commercial operators), to prescribe a new subpart to specifically cover all commercial air tour operators (as that term shall be defined by the Federal Aviation Administration under the subpart) that conduct commercial air tour flights over units.

(2) COVERED MATTERS.—The regulations prescribed under subsection (a) shall address safety and environmental issues with respect to commercial air tour flights over units. In prescribing the regulations, the Administrator shall attempt to minimize the financial and administrative burdens imposed on commercial air tour operators.

(b) AIRCRAFT MARKINGS.—

(1) REQUIREMENT.—Each operator of commercial air tour aircraft shall display on each air tour aircraft of the operator the identification marks described in paragraph (2).

(2) IDENTIFICATION MARKS.—The identification marks for the aircraft of a commercial air tour operator shall—

(A) be unique to the operator;

(B) be not less than 36 inches in length (or a size consistent with the natural configuration of the aircraft fuselage);

(C) appear on both sides of the air tour aircraft of the air tour operator and on the underside of the aircraft; and

(D) be applied to the air tour aircraft of the air tour operator in a highly visible color that contrasts sharply with the original base color paint scheme of the aircraft.

(c) AERONAUTICAL CHARTS.—The Administrator shall ensure that the boundaries of each unit and the provisions of the airspace management plan, operational rule, or Special Federal Aviation Regulation (SFAR), if any, with respect to each unit are accurately displayed on aeronautical charts.

(d) FLIGHT MONITORING SYSTEMS.—

(1) IN GENERAL.—The Administrator shall carry out a study of the feasibility and advisability of requiring that commercial air tour aircraft operating in the airspace over units have onboard an automatic flight tracking system capable of monitoring the altitude and ground position of the commercial air tour aircraft.

(2) DETERMINATION BY ADMINISTRATOR.—If the Administrator determines under the study required under paragraph (1) that the use of flight tracking systems in commercial air tour aircraft is feasible and advisable, the Administrator and the Director shall jointly develop a plan for implementing a program to monitor the altitude and position of commercial air tour aircraft over units.

(e) NATIONAL DATA BASE FOR COMMERCIAL AIR TOUR OPERATORS.—The Administrator shall—

(1) establish and maintain a data base concerning all commercial air tour aircraft operated by commercial air tour operators that shall be designed to provide data that shall be used in making—

(A) determinations of—

(i) the scope of commercial air tour flights; and

(ii) accident rates for commercial air tour flights; and

(B) assessments of the safety of commercial air tour flights; and

(2) on the basis of the information in the data base established under paragraph (1), ensure that each Flight Standards District Office of the Administration that serves a district in which commercial air tour operators conduct commercial air tour flights is adequately staffed to carry out the purposes of this Act.

SEC. 8. EXCEPTIONS.

(a) FLIGHT EMERGENCIES.—This Act shall not apply to any aircraft experiencing an in-flight emergency, participating in search and rescue, firefighting or police emergency operations, carrying out park administration or maintenance operations, or complying with air traffic control instructions.

(b) FLIGHTS BY MILITARY AIRCRAFT.—This Act shall not apply to flights by military aircraft, except that the Secretary of Defense is encouraged to work jointly with the Secretary of Transportation and the Secretary of Interior in pursuing means to mitigate the impact of military flights over units.

(c) FLIGHTS FOR COMMERCIAL AERIAL PHOTOGRAPHY.—The Director and the Administrator shall jointly develop restrictions and fee schedules for aircraft or rotorcraft engaged in commercial aerial photography over units at altitudes that the Director and the Administrator determine will impact adversely the resources and values of affected units.

SEC. 9. NATIONAL PARK OVERFLIGHT ADVISORY COUNCIL.

(a) ESTABLISHMENT.—There is established a commission to be known as the "National Park Overflight Advisory Council".

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Council shall be comprised of members from each of the following groups, appointed jointly by the Director and the Administrator:

(A) Environmental or conservation organizations, citizens' groups, and other groups with similar interests.

(B) The commercial air tour industry and organizations with similar interests.

(C) Representatives of departments or agencies of the Federal Government.

(D) Such other persons as the Administrator and the Director consider appropriate.

(c) DUTIES.—The Council shall—

(1) determine the effects of commercial air tour flights in the airspace over the units on the environment of the units;

(2) determine the economic effects of restrictions or prohibitions on the flights;

(3) solicit and receive comments from interested individuals and groups on the flights;

(4) develop recommendations for means of reducing the adverse effects of the flights on the units;

(5) explore financial and other incentives that could encourage manufacturers to advance the state-of-the-art in quiet aircraft and rotorcraft technology and encourage commercial air tour operators to implement the technology in flights over units;

(6) provide comments and recommendations to the Director and the Administrator under section 4;

(7) provide advice or recommendations to the Director, the Administrator, and other appropriate individuals and groups on matters relating to flights over units; and

(8) carry out such other activities as the Director and the Administrator jointly consider appropriate.

(d) MEETINGS.—The Council shall first meet not later than 180 days after the date of enactment of this Act, and shall meet thereafter at the call of a majority of the members of the Council.

(e) ADMINISTRATION.—

(1) COMPENSATION OF NON-FEDERAL MEMBERS.—Members of the Council who are not officers or employees of the Federal Government shall serve without compensation for their work on the Council, but shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service under section 5703(b) of title 5, United States Code, to the extent funds are available therefor.

(2) COMPENSATION OF FEDERAL MEMBERS.—Members of the Council who are officers or employees of the Federal Government shall serve without compensation for their work on the Council other than that compensation received in their regular public employment, but shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law, to the extent funds are available therefor.

(f) REPORTS.—The Council shall annually submit to Congress, the Administrator, and the Director a report that—

(1) describes the activities of the Council under this section during the preceding year; and

(2) sets forth the findings and recommendations of the Council on matters related to the mitigation of the effects on units of flights of commercial air tour operators over units.

(g) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SEC. 10. EXEMPTION FOR STATE OF ALASKA.

Nothing in this Act shall affect—

(1) the management of units in the State of Alaska; or

(2) any aircraft operations over or within units in the State of Alaska.•

By Mr. BRADLEY:

S. 906. A bill to amend title 18, United States Code, to add multiple deaths as an aggravating factor in determining whether a sentence of death is to be imposed on a defendant, and for other purposes; to the Committee on the Judiciary.

THE DEATH PENALTY ACT OF 1995

• Mr. BRADLEY. Mr. President, I introduce a bill that will make multiple

murders an aggravating factor in determining whether a sentence of death is justified.

Mr. President, on March 21, 1995, Christopher Green murdered four people and critically injured another in the robbery of a postal substation in my hometown of Montclair, NJ. Two postal workers, Ernest Spruill and Scott Walensky, and two customers, Robert Leslie and George Lomaga, were forced into a back room and made to lie down on the floor. They were then shot in the back of their heads multiple times at point blank range, execution-style, with a 9-millimeter Taurus semiautomatic pistol containing a 15-round capacity magazine. The magazine contained deadly, flesh-ripping Black Talon bullets which expand upon impact with human tissue. A third customer, David Grossman, entered the post office as the robbery was in progress. He was shot in the face. By the grace of God, however, he survived the attack.

Yesterday, in Federal court Christopher Green admitted his guilt in intentionally murdering Ernest Spruill, Scott Walensky, Robert Leslie, and George Lomaga, and of attempting to kill David Grossman. He told the court that he had worked for the Montclair Post Office for parts of 1991, 1992, and 1993, and had dealings with the substation where the crime occurred. Mr. President, Christopher Green further admitted that he knew that the substation had minimal security measures in place, and that thousands of dollars in cash were kept at the substation. He also stated in court that he knew Ernest Spruill and Scott Walensky.

Mr. President, Christopher Green used a 9-millimeter Taurus semiautomatic pistol containing deadly Black Talon bullets. You may recall that Black Talon bullets produce razor-sharp, reinforced radial petals that expand upon impact into a mushroom or claw configuration, producing maximum tissue damage in the wake of the penetrating core. These bullets are designed for one purpose and that is to kill the intended target. Mr. President, Christopher Green admitted yesterday that he knew that the bullets that he possessed during the robbery—Black Talon bullets—had the propensity to inflict tremendous internal damage when he viciously murdered Ernest Spruill, Scott Walensky, Robert Leslie, and George Lomaga, and attempted to kill David Grossman.

Mr. President, for committing this horrible crime, Christopher Green will be sentenced to life in prison without the possibility of parole. While he will never walk the streets of America as a free citizen again, Mr. President, the U.S. attorney for the District of New Jersey expressed frustration that her ability to seek the death penalty in this case was limited because the death penalty statute does not list multiple murders as an aggravating factor.

Mr. President, the determination of whether the death penalty is to apply is made in a separate trial following conviction. A jury must unanimously find certain statutorily defined aggravating factors to justify the imposition of the death penalty. Where the commission of a homicide occurs, such factors include, among others: First, a previous conviction of a violent felony involving a firearm; second, two previous felony drug offense convictions; or third, the murder of high public officials, including the President, as noted by the U.S. attorney for the District of New Jersey, "[i]nexplicably, multiple murder—even execution style murder—is not listed in the law as an aggravating factor."

In order to fix this glaring limitation in Federal death penalty law, Mr. President, this bill would add multiple murders to the list of aggravating factors presently available to determine whether a sentence of death can be imposed on a defendant who commits homicide. When Christopher Green purchased the weapon used in this mass murder, police performed a background check and found that Green had no criminal record. Because he had no prior criminal record, the U.S. attorney was severely limited in her ability to seek the death penalty. This bill will therefore strengthen the death penalty law by providing that those who commit atrocious multiple murders will be prosecuted under the death penalty statute, irrespective of whether they have prior criminal records.

Mr. President, I believe that the death penalty should be available where an individual commits multiple murders. The senseless spiral of violence burns in many places. No one is immune. Indeed, the mass murders in Montclair occurred in a community that was described in the recent issue of New Jersey Monthly as "a desirable community where parents feel safe allowing young children to ride their bicycles around town." Because of this epidemic of violence, every tool in our legal arsenal, including the death penalty, must be employed to make our communities safe.

Mr. President, the horror and devastation of violence impacts our communities in immeasurable ways. I was in Montclair recently, and I met with the widow of one of the victims. As I spoke with her, I saw the pain and despair in her eyes. I felt her anger, hurt, and confusion. Mr. President, her expressions communicated to me her yearning to understand exactly why this horrible event could claim her husband and devastate her life in this great country of ours. As I departed Montclair, Mr. President, I promised her that I would continue to do everything in my power to return our communities to places where "parents feel safe allowing young children to ride their bicycles around town." This bill, Mr. President, is one more installment of that promise.

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. 906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MULTIPLE DEATHS AS AGGRAVATING FACTOR.

Section 3592(c) of title 18, United States Code, is amended by adding at the end the following new paragraph:

"(16) MULTIPLE DEATHS.—The death, or injury resulting in death, of more than 1 person, occurred during the commission of the crime.".•

By Mr. MURKOWSKI (for himself, Mr. LEAHY, Mr. CAMPBELL, Mr. KYL, Mr. BROWN, Mr. GREGG, Mr. CRAIG, and Mr. DOMENICI):

S. 907. A bill to amend the National Forest Ski Area Permit Act of 1986 to clarify the authorities and duties of the Secretary of Agriculture in issuing ski area permits on National Forest System lands and to withdraw lands within ski area permit boundaries from the operation of the mining and mineral leasing laws; to the Committee on Energy and Natural Resources.

FOREST SERVICE LAND LEGISLATION

• Mr. MURKOWSKI. Mr. President, I am today introducing legislation to resolve a longstanding problem ski areas permittees on Forest Service land have encountered with the fee system the Forest Service developed to calculate their rental fees. This legislation creates a new and simplified ski area fee system to calculate rental fees for these ski areas for use of the national forest lands.

This same fee system legislation passed the Senate during the 102d Congress but time ran out before the legislation was considered in the House. This proposal was determined to be revenue neutral to the United States by the Congressional Budget Office. The ski area permittees support this proposal because it is revenue neutral and at the same time collects their fees utilizing a simplified formula that everyone can understand. The Forest Service manual and handbook currently contain over 40 pages of guidelines on the currently utilized fee system. Ski area permittees and the public have a significant difficulty understanding this system. The new fee system that will be created by this legislation is set out on one page and is easy for everyone to understand.

This legislation continues to receive bipartisan support and I hope that more Senators will join our effort to bring some common sense to how ski areas calculate their rental fees on the national forests. This legislation will reduce some of the management problems of the Forest Service. This simplification of the ski area fee system will eliminate the need for the Forest Service to apply and audit the complex rental fee system that they now have in their manual. The new fee system in this proposed legislation will reduce the fee system to a simple formula based on gross revenue of the ski area permittee and from clearly defined sources. Therefore, there will be a significant reduction in the bookkeeping and administrative tasks for both the Forest Service and the ski areas.

I hope that hearing can be held soon on this legislation so that the new ski area fee system can be put in place as soon as possible. Simplification of this fee system is consistent with reinvention and downsizing the Federal Government.•

By Mr. LIEBERMAN:

S. 909. A bill to amend part I of title 35, United States Code, to provide for the protection of inventors contracting for invention development services; to the Committee on the Judiciary.

THE INVENTOR PROTECTION ACT OF 1995

• Mr. LIEBERMAN. Mr. President, today, I am introducing the Inventor Protection Act of 1995, which is intended to plug a leak in the longrunning pipeline of American ingenuity, and to make sure that inventors are free to pursue their dreams, without losing their money to conartists.

As Americans, we live in the most inventive society on Earth. From Franklin to Edison to Henry Ford and to Steven Jobs, we have a long tradition of dreamers, tinkerers and creators, working in basements and garages, motivated by the pervasive quest to build a better mousetrap. The very symbol of a new idea, which is the light bulb, is, of course, an American invention.

The Founding Fathers even recognized, as we sometimes forget, the importance of protecting the inventive spirit. In article I, section 8 of the Constitution of the United States, they empowered Congress to create a Federal patent system to promote the progress of science and useful arts.

Now, more than two centuries later, in an era of intense global competition, that mission has become even more important. We must do all we can to make sure good ideas get to market. Unfortunately, though, for too many inventors today, the path to commercialization is strewn with hazards.

It has been said that a person seeking to build a better mousetrap today will probably run into capital and material shortages, patent infringement lawsuits, work stoppages, product liability suits, and the omnipresent burden of taxes. But there is another threat out there, one that is as resilient and longstanding as the American spirit of ingenuity, and that threat is the American scam artist.

Each year thousands of inventors lose tens of millions of dollars to deceptive invention marketing companies that take advantage of their ideas and their dreams. Last year, as then-chairman of the Subcommittee on Regulation and Governmental Affairs, I held a hearing on the problems presented by the invention marketing industry. Witness after witness testified how dozens of companies, under broad claims of helping inventors, have actually set up schemes in which inventors spend thousands of dollars for services to market their invention—a service that companies regularly fail to provide. State and Federal laws have been vague and ineffective in this area, leaving consumers virtually helpless and lacking the information they need to make truly informed decision about how to develop and sell their idea.

To understand the scope of the problem, let me describe how the fraud works: These companies attract inventors through ads that include a toll-free number that an inventor calls to request an invention evaluation form. The inventor returns the form, which includes a full description of their designs, with the expectation that it will be evaluated by qualified experts.

In fact, according to hearing testimony by the FTC and the Patent and Trademark Office [PTO], no expert evaluation occurs. Instead, the form is referred to a salesperson who calls the inventor and tries to convince the inventor to purchase a product research report, which the inventor is led to believe will evaluate the patentability and commercial potential of the idea. The price for the product research report is generally around $500. Instead of an informative, indepth study, the inventor receives a boilerplate report of little value which invariably concludes that the idea is patentable. That statement typically is deceiving since almost any idea may be patented. However, the patent may merely protect the design of the idea, not the function or usefulness. Such a design patent is typically worthless in attempting to commercialize the product.

The next step in the scheme involves convincing the inventor to purchase patent and marketing services. Again, the services are useless and quite expensive. The average charge is $7,000 and ranges as high as $10,000. For this sum, the inventor routinely receives a few generic press releases about the idea and a brief mention in catalogs exhibited at various trade shows. In almost every case, this marketing plan is essentially worthless.

While there are no official figures available on how many people annually contract with invention marketers, one person who works at a legitimate nonprofit center that helps inventors testified that he estimates the number to exceed 25,000. Given an average cost of $7,000 for services that companies charge, that would represent a total of $175 million in revenue for these companies, with virtually no benefit to inventors.

The legislation that I propose to crack down on these scam artists is simple, yet stringent. It uses a multifaceted approach to separate the legitimate companies from the fraudulent and guarantee real protection for America's inventors.

To start with, I propose requiring invention marketing companies to register with the U.S. Patent and Trademark Office. This registration requirement would be fully funded by fees paid by these companies, and would take advantage of the existing structure already set up for registering attorneys to administer it. As a result, no new Federal spending would be necessary, nor would any new bureaucracy need be created.

The companies would also be required to provide a complete list of their officers so shady characters could not hide behind ever-changing corporate names. One former salesperson for an invention marketing company said his company changed names three times in less than 6 years: "To evade consumer action, the MO was to frequently change company names * * * You forgot sometimes what company you are working for." Complaints against these companies will also be tracked.

In addition, my bill creates standards for contracts between inventors and invention developers to help inventors in making informed decisions about developers. One of these standards would require companies to attach a cover sheet to every contract that lists the number of applicants the company has rejected, which is usually very small, and the number of customers who have actually earned a profit from their inventions, which is also usually very small. If the invention marketing company fails to meet the guidelines set forth in the bill, customers can void these contracts, and even sue for damages in Federal court.

Mr. President, this legislation is just the type of law that Americans are clamoring for. It addresses a specific identified problem that can be best solved by the Federal Government and does so without creating a new bureaucracy. Although several States have passed legislation to address the problem, they have largely failed to wipe out this threat because the companies can simply move to States with weak laws and lax enforcement. Best of

all, this legislation will not cost American taxpayers a cent; the entire burden will be covered by the registration fees called for in the bill.

I urge my colleagues to support this bill to ensure that inventors as well as their ideas are protected.

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. 909

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 "Inventor Protection Act of 1995".

SEC. 2. INVENTION DEVELOPMENT SERVICES.

Part I of title 35, United States Code, is amended by adding after chapter 4 the following new chapter:

"CHAPTER 5—INVENTION DEVELOPMENT SERVICES

"Sec.
"51. Definitions.
"52. Contracting requirements.
"53. Standard provisions for cover notice.
"54. Reports to customer required.
"55. Mandatory contract terms.
"56. Remedies.
"57. Enrollment of invention developers.
"58. Records of complaints.
"59. Enrollment fee.
"60. Suspension or exclusion from enrollment.
"61. Unenrolled representation as invention developer.
"62. Rule of construction.

"§ 51. Definitions

"For purposes of this chapter, the term—

"(1) 'contract for invention development services' means a contract by which an invention developer undertakes invention development services for a customer;

"(2) 'customer' means any person, firm, partnership, corporation, or other entity who enters into a contract for invention development services;

"(3) 'invention developer' means any person, firm, partnership or corporation, who offers to perform or performs for a customer any act described under paragraph (4), except—

"(A) any department or agency of the Federal, State, or local government;

"(B) any nonprofit, charitable, scientific, or educational organization, qualified under applicable State law or described under section 170(b)(1)(A) of the Internal Revenue Code of 1986; or

"(C) any person duly registered and in good standing before the United States Patent and Trademark Office acting within the scope of that person's registration to practice before the United States Patent and Trademark Office; and

"(4) 'invention development services' means, with respect to an invention submitted by a customer, any act involved in—

"(A) evaluating the invention to determine its protectability as some form of intellectual property;

"(B) evaluating the invention to determine its commercial potential; or

"(C) marketing, brokering, licensing, selling, or promoting the invention or a product or service in which the invention is incorporated or used.

"§ 52. Contracting requirements

"(a)(1) Every contract for invention development services shall be in writing and shall be subject to the provisions of this chapter. A copy of the signed written contract shall be given to the customer at the time the customer enters into the contract.

"(2) If a contract is entered into for the benefit of a third party, such party shall be considered a customer for the purposes of this chapter.

"(b) The invention developer shall—

"(1) state in a written document, at the time a customer enters into a contract for invention development services, whether the usual business practice of the invention developer is to—

"(A) seek more than 1 contract in connection with an invention; or

"(B) seek to perform services in connection with an invention in 1 or more phases, with the performance of each phase covered in 1 or more subsequent contracts; and

"(2) supply to the customer a copy of the written document together with a written summary of the usual business practices of the invention developer including—

"(A) the usual business terms of contracts; and

"(B) the approximate amount of the usual fees of the invention developer or other consideration, that may be required from the customer for each of the services provided by the developer.

"(c)(1) Notwithstanding any contractual provision to the contrary, no payment for invention development services shall be required, accepted, or received until the expiration of a period of 5 business days beginning on the date on which the customer receives a copy of the contract for invention development services signed by the invention developer and the customer.

"(2) Delivery of a promissory note, check, bill of exchange, or negotiable instrument of any kind to the invention developer or to a third party for the benefit of the invention developer, irrespective of the date or dates appearing in such instrument, shall be deemed payment received by the invention developer on the date received for the purpose of this section.

"(d)(1) Until 5 business days after the payment described under subsection (c) is made, the parties shall have the option to refuse to enter into the contract as provided under paragraphs (2) and (3).

"(2) The customer may exercise the option by—

"(A) refraining from making payment to the invention developer; or

"(B) providing written notice of the refusal to the invention developer.

"(3) The invention developer may exercise the option by giving to the customer a written notice of the exercise of the option. The written notice shall become effective upon receipt by the customer.

"§ 53. Standard provisions for cover notice

"(a) Every contract for invention development services shall have a conspicuous and legible cover sheet attached with the following notice imprinted thereon in boldface type of not less than 12-point size:

"'YOU ARE NOT REQUIRED TO MAKE ANY PAYMENTS UNDER THIS CONTRACT UNTIL FIVE (5) BUSINESS DAYS AFTER YOU SIGN THIS CONTRACT AND RECEIVE A COMPLETED COPY OF IT.

"'THE TOTAL NUMBER OF INVENTIONS EVALUATED BY THE INVENTION DEVELOPER FOR COMMERCIAL POTENTIAL IN THE PAST FIVE (5) YEARS IS _____. OF THAT NUMBER, _____ RECEIVED POSITIVE EVALUATIONS AND _____ RECEIVED NEGATIVE EVALUATIONS.

"'IF YOU ASSIGN EVEN A PARTIAL INTEREST IN THE INVENTION TO THE INVENTION DEVELOPER, THE INVENTION DEVELOPER MAY HAVE THE RIGHT TO SELL OR DISPOSE OF THE INVENTION WITHOUT YOUR CONSENT AND MAY NOT HAVE TO SHARE THE PROFITS WITH YOU.

"'THE TOTAL NUMBER OF CUSTOMERS WHO HAVE CONTRACTED WITH THE INVENTION DEVELOPER IN THE PAST FIVE (5) YEARS IS _____. THE TOTAL NUMBER OF CUSTOMERS KNOWN BY THIS INVENTION DEVELOPER TO HAVE RECEIVED, BY VIRTUE OF THIS INVENTION DEVELOPER'S PERFORMANCE, AN AMOUNT OF MONEY IN EXCESS OF THE AMOUNT PAID BY THE CUSTOMER TO THIS INVENTION DEVELOPER IS _____. THE NAMES AND ADDRESSES OF SUCH CUSTOMERS, IF ANY, SHALL BE PROVIDED TO ANY PERSON REQUESTING IT.

"'THE OFFICERS OF THIS INVENTION DEVELOPER HAVE COLLECTIVELY OR INDIVIDUALLY BEEN AFFILIATED IN THE LAST TEN (10) YEARS WITH THE FOLLOWING INVENTION DEVELOPMENT COMPANIES: (LIST THE NAMES AND ADDRESSES OF ALL PREVIOUS INVENTION DEVELOPMENT COMPANIES WITH WHICH THE PRINCIPAL OFFICERS HAVE BEEN AFFILIATED AS OWNERS, AGENTS, OR EMPLOYEES). YOU ARE ENCOURAGED TO CHECK WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE, THE FEDERAL TRADE COMMISSION, YOUR STATE ATTORNEY GENERAL'S OFFICE, AND THE BETTER BUSINESS BUREAU FOR ANY COMPLAINTS FILED AGAINST ANY OF THESE COMPANIES.

"'YOU ARE ENCOURAGED TO CONSULT WITH AN ATTORNEY OF YOUR OWN CHOOSING BEFORE SIGNING THIS CONTRACT. BY PROCEEDING WITHOUT THE ADVICE OF A QUALIFIED ATTORNEY, YOU COULD LOSE ANY RIGHTS YOU MIGHT HAVE IN YOUR IDEA OR INVENTION.'.

"(b)(1) In addition to the requirements of subsection (a), every contract for invention development services shall contain the appropriate matter under paragraph (2) or (3).

"(2) For invention developers who are enrolled the contract shall contain the following:

"'(NAME OF INVENTION DEVELOPER) IS ENROLLED WITH THE COMMISSIONER OF PATENTS AND TRADEMARKS AND BEARS ENROLLMENT NUMBER ___. THE FACT THAT AN INVENTION DEVELOPER IS ENROLLED WITH THE COMMISSIONER OF PATENTS AND TRADEMARKS AS REQUIRED BY LAW IS NOT AN ENDORSEMENT OF THE INVENTION DEVELOPER NOR IS IT AN INDICATOR THAT THEY ARE AUTHORIZED BY THE COMMISSIONER TO REPRESENT APPLICANTS OR

OTHER PARTIES BEFORE THE PATENT AND TRADEMARK OFFICE IN PATENT, TRADEMARK, OR OTHER MATTERS.'.

"(3) For invention developers who are not enrolled the contract shall contain the following:

"'(NAME OF INVENTION DEVELOPER) IS NOT ENROLLED WITH THE COMMISSIONER OF PATENTS AND TRADEMARKS AS AN INVENTION DEVELOPER. BY NOT SO ENROLLING, (NAME OF INVENTION DEVELOPER) HAS INDICATED THAT IT WILL NOT OFFER TO PERFORM OR PERFORM FOR A CUSTOMER ANY ACT INVOLVED IN FILING FOR AND OBTAINING PATENT, TRADEMARK, OF DESIGN PROTECTION.'.

"(c) The cover notice shall contain the items required under subsections (a) and (b) and the name, primary office address, and local office address of the invention developer, and may contain no other matter.

"§ 54. Reports to customer required

"With respect to every contract for invention development services, the invention developer shall deliver to the customer at the address specified in the contract, at least at quarterly intervals throughout the term of the contract, a written report that identifies the contract and includes—

"(1) a full, clear, and concise description of the services performed to the date of the report and of the services yet to be performed and names of all persons who shall perform the services; and

"(2) the name and address of each person, firm, or corporation to whom the subject matter of the contract has been disclosed, the reason for each and every disclosure, the nature of the disclosure, and copies of all responses received as a result of those disclosures.

"§ 55. Mandatory contract terms

"(a) Each contract for invention development services shall include in boldface type of not less than 12-point size—

"(1) the terms and conditions of payment and contract termination rights required under section 52;

"(2) a statement that the customer may avoid entering into the contract by not making a payment to the invention developer;

"(3) a full, clear, and concise description of the specific acts or services that the invention developer undertakes to perform for the customer;

"(4) a statement as to whether the invention developer undertakes to construct, sell, or distribute one or more prototypes, models, or devices embodying the invention of the customer;

"(5) the full name and principal place of business of the invention developer and the name and principal place of business of any parent, subsidiary, agent, independent contractor, and any affiliated company or person that may perform any of the services or acts that the invention developer undertakes to perform for the customer;

"(6) if any oral or written representation of estimated or projected customer earnings is given by the invention developer (or any agent, employee, officer, director, partner, or independent contractor of such invention developer) a statement of that estimation or projection and a description of the data upon which such representation is based;

"(7)(A) the name and address of the custodian of all records and correspondence relating to the contracted for invention development services, and a statement that the invention developer is required to maintain all records and correspondence relating to performance of the invention development services for that customer for a period of not less than 2 years after expiration of the term of the contract for invention development services; and

"(B) a statement that before destruction or disposal of the records and correspondence, the invention developer is required to notify the customer and make such records and correspondence available to the customer at a reasonable cost; and

"(8) a statement setting forth a time schedule for performance of the invention development services, including an estimated date by which performance of the invention development services is expected to be completed.

"(b) To the extent that the description of the specific acts or services affords discretion to the invention developer as to what specific acts or services shall be performed, the invention developer shall be deemed a fiduciary.

"(c) Records and correspondence described under subsection (a)(7) shall be made available to the customer or the representative of the customer for review and copying at the customer's reasonable expense on the invention developer's premises during normal business hours upon 7 days written notice.

"§ 56. Remedies

"(a)(1) Any contract for invention development services that does not comply with the applicable provisions of this chapter shall be voidable at the option of the customer.

"(2) Any contract for invention development services entered into in reliance upon any false, fraudulent, or misleading information, representation, notice, or advertisement of the invention developer (or any agent, employee, officer, director, partner or independent contractor of such invention developer) shall be voidable at the option of the customer.

"(3) Any waiver by the customer of any provision of this chapter shall be deemed contrary to public policy and shall be void and unenforceable.

"(4) Any contract for invention development services made by an unenrolled invention developer, as provided under section 57, shall be voidable at the option of the customer.

"(b)(1) Any customer who is injured by a violation of this chapter by an invention developer or by any false or fraudulent statement, representation, or omission of material fact by an invention developer (or any agent, employee, director, officer, partner or independent contractor of such invention developer) or by failure of an invention developer to make all the disclosures required under this chapter, may recover in a civil action against the invention developer (or the officers, directors, or partners of such invention developer) in addition to reasonable costs and attorneys' fees, the greater of—

"(A) $5,000; or

"(B) the amount of actual damages sustained by the customer.

"(2) Notwithstanding paragraph (1), the court may increase damages up to 3 times the amount awarded.

"(c) For the purpose of this section, substantial violation of any provision of this chapter by an invention developer or execution by the customer of a contract for invention development services in reliance on any false or fraudulent statements, representations, or material omissions shall establish a rebuttable presumption of injury.

"§ 57. Enrollment of invention developers

"(a) The Commissioner of Patents and Trademarks shall require invention developers that offer to perform or perform for a customer any act involved in filing for and obtaining utility, design, or plant patent or trademark protection to enroll annually with the Patent and Trademark Office. Invention developers that offer to perform or perform such acts through an agent, employee, officer, partner, or independent contractor shall also enroll.

"(b) The enrollment required under subsection (a) shall include disclosure of—

"(1)(A) the names and addresses of all principal officers of the invention developer; and

"(B) the names and principal place of business of all invention developers with which the principal officers have been affiliated during the 10-year period before the date of enrollment; and

"(2) require disclosure of any administrative, civil, or criminal action taken against the invention developer (or any officer, director, or partner of such invention developer) by any agent of Federal, State, or local government.

"(c) Subject to the approval of the Secretary of Commerce, the Commissioner may prescribe regulations that—

"(1) govern the conduct of invention developers and may require an invention developer, before enrollment, to demonstrate good reputation and necessary qualifications to render to customers or other persons valuable service, advice, and assistance in the invention development process;

"(2) provide which agents, employees, officers, partners, independent contractors or other individuals of an invention developer are required to enroll under subsection (a); and

"(3) provide—

"(A) what information and records held or retained by the invention developer shall be required to be made available to the Commissioner; and

"(B) the conditions under which such information and records shall be made available.

"§ 58. Records of complaints

"(a) The Commissioner shall make all complaints received by the Patent and Trademark Office involving invention developers publicly available.

"(b) The Commissioner may request complaints relating to invention development services from any Federal or State agency and include such complaints in the records maintained under subsection (a).

"§ 59. Enrollment fee

"The Commissioner may establish reasonable fees to cover all costs and expenses to carry out the provisions of this chapter.

"§ 60. Suspension or exclusion from enrollment

"(a) The Commissioner may, after notice and opportunity for a hearing, suspend or exclude, either generally or in any particular case, from enrollment as an invention developer, any person, firm, partnership, or corporation—

"(1) demonstrated to be—

"(A) incompetent;

"(B) disreputable;

"(C) liable for gross misconduct; or

"(D) not in compliance with the regulations established under this chapter; or

"(2) who shall in any manner deceive, mislead, defraud, or threaten any customer.

"(b) The reasons for any such suspension or exclusion shall be duly recorded.

"(c) The United States District Court for the District of Columbia under such conditions and upon such proceedings as by rule determined by such court, may review the action of the Commissioner upon the petition of the invention developer so suspended or excluded.

"§ 61. Unenrolled representation as invention developer

"Whoever, not being enrolled as an invention developer with the Patent and Trademark Office, holds himself out or permits himself to be held out as so enrolled, or as being qualified to provide invention development services, or provides invention development services shall be guilty of a misdemeanor and fined not more than $10,000 for each offense.

"§ 62. Rule of construction

"Except as expressly provided in this chapter, no provision of this chapter shall be construed to affect any obligation, right, or remedy provided under any other Federal or State law.".

SEC. 3. TECHNICAL AND CONFORMING AMENDMENT.

The table of chapters for part I of title 35, United States Code, is amended by adding after the item relating to chapter 4 the following:

"5. Invention development services .... 51".

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect 60 days after the date of the enactment of this Act.

(b) CERTAIN REQUIREMENTS.—The provisions of sections 53(b), 56(a)(4), 57, 59, 60, and 61 of title 35, United States Code (as added by section 2 of this Act) shall take effect 1 year after the date of the enactment of this Act.●

By Mr. CHAFEE (for himself, and Mr. BAUCUS):

S. 910. A bill to amend the Internal Revenue Code of 1986 to provide an election to exclude from the gross estate of a decedent the value of certain land subject to a qualified conservation easement, and to make technical changes to alternative valuation rules; to the Committee on Finance.

THE AMERICAN FARM AND RANCH PROTECTION ACT OF 1995

Mr. CHAFEE. Mr. President, a serious environmental problem facing the country today is the loss of open space to development. All across the country, farms, ranches, forests, and wetlands are forced to give way to the pressures for new office buildings, shopping malls, and housing developments.

America is losing over 4 square miles of land to development every day. In Rhode Island, over 11,000 acres of farmland have been lost to development since 1974. In many instances, this is simply the natural outgrowth of urbanization of our society. Other times it is the direct result of improper planning at the State and local levels.

But frequently, the pressure comes from the need to raise funds to pay estate taxes. For those families where undeveloped land represents a significant portion of the estate's total value, the need to pay the tax creates powerful pressure to develop or sell off part or all of the land or to liquidate the timber resources of the land. Because land is appraised by the Internal Revenue Service according to its highest and best use, and such use is often its development value, the effect of the tax is to make retention of undeveloped land difficult.

In addition, our current estate tax policy results in complicated valuation disputes between the donor's estate and the Internal Revenue Service. In many cases, the additional costs incurred as a result of these disagreements may cause a potential donor of a conservation easement to decide not to make the contribution.

These open spaces improve the quality of life for Americans throughout the great Nation and provide important habitat for fish and wildlife. The question is how do we conserve our most valuable resource during this time of significant budget constraints.

Mr. President, I think we need to restructure the Nation's estate tax laws to remove the disincentive for private property owners to conserve environmentally significant land. The American Farm and Ranch Protection Act, with I am introducing today along with Senator BAUCUS, will help to achieve this goal by providing an exemption from the estate tax for the value of land that is subject to a qualified, permanent conservation easement.

This bill is similar to legislation that we introduced last year. The principles involved in this bill have been endorsed by the Piedmont Envionmental Council, the National Audubon Society, the American Farm Bureau, the Land Trust Alliance, and the National Trust for Historic Preservation.

The bill excludes land subject to a conservation easement from the estate and gift taxes. Development rights retained by the family—most frequently the ability to use the property for a commercial purpose—remain subject to the estate tax.

In order to target the incentives under this bill to those areas that are truly at risk for development, the bill is limited to land that falls within a 50-mile radius of a metropolitan area, a national park or a national wilderness area.

Conservation easements, which are entirely voluntary, are agreements negotiated by landowners in which a restriction upon the future use of land is imposed in order to conserve those aspects of the land that are publicly significant. To qualify for the estate tax exemption under this bill, such easements must be perpetual and must be made to preserve open space, to protect the natural habitat of fish, wildlife or plants, to meet a governmental conservation policy, or to preserve an historical important land area.

I urge my colleagues to join me in this effort to save environmentally sensitive open spaces.

Mr. President, I ask unanimous consent that a copy of the bill and a brief explanation of the legislation be printed in the RECORD.

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

S. 910

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 "American Farm and Ranch Protection Act of 1995".

SEC. 2. TREATMENT OF LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.

(a) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—Section 2031 of the Internal Revenue Code of 1986 (relating to the definition of gross estate) is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) ESTATE TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—

"(1) IN GENERAL.—If the executor makes the election described in paragraph (4), then, except as otherwise provided in this subsection, there shall be excluded from the gross estate the value of land subject to a qualified conservation easement.

"(2) TREATMENT OF CERTAIN INDEBTEDNESS.—

"(A) IN GENERAL.—The exclusion provided in paragraph (1) shall not apply to the extent that the land is debt-financed property.

"(B) DEFINITIONS.—For purposes of this paragraph—

"(i) DEBT-FINANCED PROPERTY.—The term 'debt-financed property' means any property with respect to which there is an acquisition indebtedness (as defined in clause (ii)) on the date of the decedent's death.

"(ii) ACQUISITION INDEBTEDNESS.—The term 'acquisition indebtedness' means, with respect to debt-financed property, the unpaid amount of—

"(I) the indebtedness incurred by the donor in acquiring such property,

"(II) the indebtedness incurred before the acquisition of such property if such indebtedness would not have been incurred but for such acquisition,

"(III) the indebtedness incurred after the acquisition of such property if such indebtedness would not have been incurred but for such acquisition and the incurrence of such indebtedness was reasonably foreseeable at

the time of such acquisition, except that indebtedness incurred after the acquisition of such property is not acquisition indebtedness if incurred to carry on activities directly related to farming, ranching, forestry, horticulture, or viticulture, and

"(IV) the extension, renewal, or refinancing of an acquisition indebtedness.

"(3) TREATMENT OF RETAINED DEVELOPMENT RIGHT.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to the value of any development right retained by the donor in the conveyance of a qualified conservation easement.

"(B) TERMINATION OF RETAINED DEVELOPMENT RIGHT.—If every person in being who has an interest (whether or not in possession) in such land shall execute an agreement to extinguish permanently some or all of any development rights (as defined in subparagraph (D)) retained by the donor on or before the date for filing the return of the tax imposed by section 2001, then any tax imposed by section 2001 shall be reduced accordingly. Such agreement shall be filed with the return of the tax imposed by section 2001. The agreement shall be in such form as the Secretary shall prescribe.

"(C) ADDITIONAL TAX.—Failure to implement the agreement described in subparagraph (B) within 2 years of the decedent's death shall result in the imposition of an additional tax in the amount of the tax which would have been due on the retained development rights subject to such agreement. Such additional tax shall be due and payable on the last day of the 6th month following the end of the 2-year period.

"(D) DEVELOPMENT RIGHT DEFINED.—For purposes of this paragraph, the term 'development right' means the right to establish or use any structure and the land immediately surrounding it for sale (other than the sale of the structure as part of a sale of the entire tract of land subject to the qualified conservation easement), or other commercial purpose which is not subordinate to and directly supportive of the activity of farming, forestry, ranching, horticulture, or viticulture conducted on land subject to the qualified conservation easement in which such right is retained.

"(4) ELECTION.—The election under this subsection shall be made on the return of the tax imposed by section 2001. Such an election, once made, shall be irrevocable.

"(5) CALCULATION OF ESTATE TAX DUE.—An executor making the election described in paragraph (4) shall, for purposes of calculating the amount of tax imposed by section 2001, include the value of any development right (as defined in paragraph (3)) retained by the donor in the conveyance of such qualified conservation easement. The computation of tax on any retained development right prescribed in this paragraph shall be done in such manner and on such forms as the Secretary shall prescribe.

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The term 'land subject to a qualified conservation easement' means land—

"(i) which is located in or within 50 miles of an area which, on the date of the decedent's death, is—

"(I) a metropolitan area (as defined by the Office of Management and Budget), or

"(II) a national park or wilderness area designated as part of the National Wilderness Preservation System (unless it is determined by the Secretary that land in or within 50 miles of such a park or wilderness area is not under significant development pressure),

"(ii) which was owned by the decedent or a member of the decedent's family at all times during the 3-year period ending on the date of the decedent's death, and

"(iii) with respect to which a qualified conservation easement is or has been made by the decedent or a member of the decedent's family.

"(B) QUALIFIED CONSERVATION EASEMENT.—The term 'qualified conservation easement' means a qualified conservation contribution (as defined in section 170(h)(1)) of a qualified real property interest (as defined in section 170(h)(2)(C)), except that clause (iv) of section 170(h)(4)(A) shall not apply, and the restriction on the use of such interest described in section 170(h)(2)(C) shall include a prohibition on commercial recreational activity.

"(C) MEMBER OF FAMILY.—The term 'member of the decedent's family' means any member of the family (as defined in section 2032A(e)(2)) of the decedent.

"(7) APPLICATION OF THIS SECTION TO INTERESTS IN PARTNERSHIPS, CORPORATIONS, AND TRUSTS.—The Secretary shall prescribe regulations applying this section to an interest in a partnership, corporation, or trust which, with respect to the decedent, is an interest in a closely held business (within the meaning of paragraph (1) of section 6166(b))."

(b) CARRYOVER BASIS.—Section 1014(a) of such Code (relating to basis of property acquired from a decedent) is amended by striking the period at the end of paragraph (3) and inserting ", or" and by adding after paragraph (3) the following new paragraph:

"(4) to the extent of the applicability of the exclusion described in section 2031(c), the basis in the hands of the decedent."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to estates of decedents dying after December 31, 1995.

SEC. 3. GIFT TAX ON LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.

(a) GIFT TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—Section 2503 of the Internal Revenue Code of 1986 (relating to taxable gifts) is amended by adding at the end the following new subsection:

"(h) GIFT TAX WITH RESPECT TO LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—The transfer by gift of land subject to a qualified conservation easement shall not be treated as a transfer of property by gift for purposes of this chapter. For purposes of this subsection, the term 'land subject to a qualified conservation easement' has the meaning given to such term by section 2031(c), except that references to the decedent shall be treated as references to the donor and references to the date of the decedent's death shall be treated as references to the date of the transfer by the donor."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to gifts made after December 31, 1995.

SEC. 4. QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.

(a) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—Subsection (c) of section 2032A of the Internal Revenue Code of 1986 (relating to alternative valuation method) is amended by adding at the end the following new paragraphs:

"(8) QUALIFIED CONSERVATION CONTRIBUTION IS NOT A DISPOSITION.—A qualified conservation contribution (as defined in section 170(h)) by gift or otherwise shall not be deemed a disposition under subsection (c)(1)(A).

"(9) EXCEPTION FOR REAL PROPERTY IS LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT.—If qualified real property is land subject to a qualified conservation easement (as defined in section 2031(c)), the preceding paragraphs of this subsection shall not apply."

(b) LAND SUBJECT TO A QUALIFIED CONSERVATION EASEMENT IS NOT DISQUALIFIED.—Subsection (b) of section 2032A of such Code (relating to alternative valuation method) is amended by adding at the end the following subparagraph:

"(E) If property is otherwise qualified real property, the fact that it is land subject to a qualified conservation easement (as defined in section 2031(c)) shall not disqualify it under this section."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to contributions made, and easements granted, after December 31, 1995.

SEC. 5. QUALIFIED CONSERVATION CONTRIBUTION WHERE SURFACE AND MINERAL RIGHTS ARE SEPARATED.

(a) IN GENERAL.—Section 170(h)(5)(B)(ii) of the Internal Revenue Code of 1986 (relating to special rule) is amended to read as follows:

"(ii) SPECIAL RULE.—With respect to any contribution of property in which the ownership of the surface estate and mineral interests has been and remains separated, subparagraph (A) shall be treated as met if the probability of surface mining occurring on such property is so remote as to be negligible."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to contributions made after December 31, 1992, in taxable years ending after such date.

THE AMERICAN FARM AND RANCH PROTECTION ACT OF 1995

The American Farm and Ranch Protection Act protects family lands and encourages the voluntary conservation of farmland, ranches, forest land, wetlands, wildlife habitat, open space and other environmentally sensitive property. It enables farmers and ranchers to continue to own and work their land by eliminating the estate and gift tax burden that threatens the current generation of owners. The bill does this in the following ways:

By excluding from estate and gift taxes the value of land on which a qualified conservation easement has been granted if the land is located in or within a 50-mile radius of a metropolitan area, a National Park, or a wilderness area that is part of the National Wilderness Area System; and,

By clarifying that land subject to a qualified conservation easement can also qualify for special use valuation under Code section 2032A.

The bill also contains a number of safeguards to ensure that the benefits of the exclusion are not abused. These safeguards include the following:

The easement must be perpetual and meet the requirements of Code Section 170(h), governing deductions for charitable contributions of easements;

Easements retaining the right to develop the property for commercial recreational use would not be eligible, while other retained development rights would be taxed;

Land excluded from the estate tax would receive a carryover, rather than stepped-up, basis for purposes of calculating gain on a subsequent sale;

The land must have been owned by the decedent or a member of the decedent's family for at least 3 years immediately prior to the decedent's death; and,

The easement must have been donated by the decedent or a member of the decedent's family.

The bill would be effective for decedents dying after December 31, 1995.

By Mr. ROBB:

S. 911. A bill to authorize the Secretary to issue a certificate of documentation with appropriate endorsement for employment in the coastwise trade of the United States for the vessel *Sea Mistress*; to the Committee on Commerce, Science, and Transportation.

CERTIFICATION OF DOCUMENTATION LEGISLATION

• Mr. ROBB. Mr. President, I am introducing a bill today to authorize the Coast Guard to issue the appropriate endorsement for the vessel *Sea Mistress*—U.S. official number 696806—to engage in the coastwise trade. This legislation is necessary to resolve a lapse in the *Sea Mistress*'s chain of title.

The *Sea Mistress* was built in the United States in Louisville, KY, by Aluminum Cruisers, Inc. It is a 41-foot, high-speed houseboat, which is currently being refurbished in the United States for the excursion tourboat trade. In 1984, the Internal Revenue Service, seized the vessel to secure an unpaid tax debt incurred by the original owner of the vessel. This seizure has left a gap in the chain of title of the vessel. The Coast Guard has informed the owner of Occoquan Tours that if the gap is left unresolved, a coastwise endorsement cannot be issued for the vessel, even though the owner is a U.S. citizen and the vessel was built in the United States and is being refurbished locally.

The Congress passes a number of these technical bills every year. The *Sea Mistress* was part of a package of similar legislative waivers which passed the House of Representatives October of last year, but failed to be enacted prior to the end of the session. I'm introducing the bill today so that the Senate Commerce Committee may act upon it with the upcoming coastwise bill this session.•

By Mr. KOHL:

S. 912. A bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage revenue bond financing, and for other purposes; to the Committee on Finance.

MORTGAGE REVENUE BOND FINANCING LEGISLATION

• Mr. KOHL. Mr. President, I introduce a modified version of legislation I introduced in February, S. 417, which will help Wisconsin and several other States, including Oregon, Texas, Alaska, and California, extend one of our most successful veterans programs to Persian Gulf war participants and others. This legislation will amend the eligibility requirements for mortgage revenue bond financing for State veterans housing programs.

Wisconsin uses this tax-exempt bond authority to assist veterans in purchasing their first home. Under rules adopted by Congress in 1984, this program excluded from eligibility veterans who served after 1977. This bill would remove that restriction.

Wisconsin and the other eligible States simply want to maintain a principle that we in the Senate have also strived to uphold—that veterans of the Persian Gulf war should not be treated less generously than those of past wars. This bill will make that possible.•

By Mr. HATCH (for himself, Mr. INOUYE, Mr. MCCAIN, and Mr. BENNETT):

S. 913. A bill to amend section 17 of the Act of August 27, 1954 (25 U.S.C. 677p), relating to the distribution and taxation of assets and earnings, to clarify that distributions of rents and royalties derived from assets held in continued trust by the Government, and paid to the mixed-blood members of the Ute Indian tribe, their Ute Indian heirs, or Ute Indian legatees, are not subject to Federal or State taxation at the time of distribution, and for other purposes; to the Committee on Finance.

THE MIXED BLOOD UTE INDIAN TAX STATUS ACT

Mr. HATCH. Mr. President, I am joined today by my colleagues, Senators INOUYE, MCCAIN, and BENNETT, to introduce a bill of great importance to the mixed-blood Utes, a native population of my home State of Utah.

This limited legislation will restore the tax status of the mixed blood Ute Indians with regard to proceeds received from a trust created by the Federal Government as agreed in a settlement between the Federal Government and the Ute Tribe in 1954.

Until recently, the Federal Government has respected the intent of Congress to exempt this income from Federal and State taxation. However, in a recent tenth circuit decision the court construed the intent of Congress as allowing the tax exemption on the settlement proceeds to lapse. This bill is necessary to clarify the legislative intent of Congress and reinstate the exemption.

In my view, it was the intent of Congress in the 1954 settlement to exempt from Federal and State taxation the income derived from the assets held in continued trust by the Federal Government for, and paid to, the mixed blood Ute Indians. This has been the law for nearly four decades and should remain the law.

Historically, with regard to all settlements between the Federal Government and numerous Indian nations, the proceeds from settlements have been exempt from Federal and State taxation. The mixed blood Ute Indians have been singled out and treated differently since the tenth circuit's decision. This bill clarifies the 1954 settlement and simply restores the tax status of the mixed blood Utes.

I believe all of my Senate colleagues will recognize this legislation as both fair and necessary. I am pleased to have the support of the chairman and ranking member of the Senate Indian Affairs Committee as well as my Utah colleague, Senator BENNETT. I urge all Senators to help us clarify this exemption.

ADDITIONAL COSPONSORS

S. 456

At the request of Mr. BRADLEY, the name of the Senator from Massachusetts [Mr. KERRY] was added as a cosponsor of S. 456, a bill to improve and strengthen the child support collection system, and for other purposes.

S. 644

At the request of Mr. CAMPBELL, the name of the Senator from Illinois [Mr. SIMON] was added as a cosponsor of S. 644, a bill to amend title 38, United States Code, to reauthorize the establishment of research corporations in the Veterans Health Administration, and for other purposes.

S. 770

At the request of Mr. DOLE, the name of the Senator from Georgia [Mr. COVERDELL] 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. 798

At the request of Mr. CONRAD, the name of the Senator from Massachusetts [Mr. KENNEDY] was added as a cosponsor of S. 798, a bill to amend title XVI of the Social Security Act to improve the provision of supplemental security income benefits, and for the purposes.

SENATE JOINT RESOLUTION 34

At the request of Mr. SMITH, the name of the Senator from Maine [Ms. SNOWE] was added as a cosponsor of Senate Joint Resolution 34, a joint resolution prohibiting funds for diplomatic relations and most-favored-nation trading status with the Socialist Republic of Vietnam unless the President certifies to Congress that Vietnamese officials are being fully cooperative and forthcoming with efforts to account for the 2,205 Americans still missing and otherwise unaccounted for from the Vietnam war, as determined on the basis of all information available to the United States Government, and for other purposes.

SENATE RESOLUTION 132—COMMENDING CAPTAIN O'GRADY, AND U.S. AND NATO FORCES

Mr. DOLE (for himself, Mr. DASCHLE, Mr. HELMS, Mr. WARNER, Mr. COVERDELL, Mr. THURMOND, Mr. MCCAIN, Mr. PRESSLER, Mr. ROBB, Mr. PELL, Mr. GRAHAM, Mrs. MURRAY, Mr. KEMPTHORNE, Mr. LEVIN, Mr. BRYAN, Mr. REID, Mr. KENNEDY, Mr. BRADLEY, Mr. COHEN, Mrs. KASSEBAUM, Mr. FORD, Mr. BINGAMAN, Mrs. BOXER, Mr. BUMPERS, Mrs. FEINSTEIN, Mr. GLENN, Mr. HARKIN, Mr. JOHNSTON, Mr. KOHL, Mr. LIEBERMAN, Mr. ROCKEFELLER, Mr. SARBANES, Mr. GRAMS, Mr. MURKOWSKI, and Mr. NICKLES) submitted the following resolution; which was considered and agreed to:

S. RES. 132

Whereas on June 2, 1995, Bosnian Serb forces using sophisticated surface to air missiles shot down a United States Air Force F-16 aircraft piloted by Captain Scott F. O'Grady while on combat patrol as part of NATO-commanded Operation Deny Flight;

Whereas in late 1994, reports indicate the United Nations vetoed NATO proposed operations to attack Bosnian Serb surface to air missile sites;

Whereas effective measures to defend against Bosnian Serb air defenses did not occur during Captain O'Grady's mission on June 2, 1995;

Whereas thousands of United States Armed Forces and armed forces of NATO allies were involved in search operations to recover Captain O'Grady;

Whereas Captain O'Grady, in the finest tradition of American military service, survived for six days and nights through courage, ingenuity and skill in territory occupied by hostile Bosnian Serb forces;

Whereas on June 8, 1995 Captain O'Grady was rescued in a daring operation by United States Marines;

Whereas aircraft involved in the rescue operation were attacked by Serb forces but no casualties occurred;

Therefore be it resolved by the Senate that it is the sense of the Senate that—

(1) Captain O'Grady deserves the respect and admiration of all Americans for his heroic conduct under life-threatening circumstances;

(2) the relief and happiness felt by the family of Captain O'Grady is shared by the United States Senate;

(3) all members of the United States and NATO armed forces involved in the search and rescue operations, in particular the members of the United States Marine Corps involved in the extraction of Captain O'Grady, are to be commended for their brave efforts and devotion to duty;

(4) U.S. and NATO air crews should not be put at risk in future operations over Bosnia unless all necessary actions to address the threat posed by hostile Serbian air defenses are taken.

AMENDMENTS SUBMITTED

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT OF 1995 COMMUNICATIONS DECENCY ACT OF 1995

SANTORUM AMENDMENT NO. 1267

Mr. SANTORUM proposed an amendment 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:

On page 94, strike out line 24 and all that follows through page 97, line 22, and insert in lieu thereof the following:

"(C) 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,

"(D) providing signaling information used in connection with the provision of telephone exchange service or exchange access service to another local exchange carrier; or

"(E) providing network control signaling information to, and receiving such signaling information from, interchange carriers at any location within the area in which such company provides telephone exchange service or exchange access service.

"(2) LIMITATIONS.—The provisions of paragraph (1) are intended to be narrowly construed. The transmission facilities used by a Bell operating company or affiliate thereof to provide interLATA telecommunications under paragraph (1)(C) and subsection (f) 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 that Bell operating company receives authority to provide interLATA services 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. A Bell operating company may not provide telecommunications services not described in paragraph (1) without receiving the approvals required by subsection (c). The provision of services authorized under this subsection by a Bell operating company or its affiliate shall not adversely affect telephone exchange ratepayers or competition in any telecommunications market.

"(f) COMMERCIAL MOBILE SERVICE.—A Bell operating company may provide interLATA commercial mobile service except where such service is a replacement for land line telephone exchange service in a State in accordance with section 322(c) and with the regulations prescribed by the Commission.

"(g) DEFINITIONS.—As used in this section—.

EXON AMENDMENT NO. 1268

(Ordered to lie on the table.)

Mr. EXON submitted an amendment intended to be proposed by him to the bill S. 652, supra; as follows:

Beginning on page 137 line 12 through page 143 line 10, strike all therein and insert in lieu thereof:

(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) Section 223 (47 U.S.C. 223) is further amended 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—

"(A) makes, creates, or solicits, and

"(B) initiates the transmission of or purposefully makes available,

any comment, request, suggestion, proposal, image, or other communication which is obscene, 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—

"(A) makes, creates, or solicits, and

"(B) initiates the transmission of, or purposefully makes available,

any indecent comment, request, suggestion, proposal, image, or other communication 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 an 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) 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) The provision of access by a person, to a person including transmission, downloading, storage, navigational tools, and related capabilities which are incidental to the transmission of communications, and not involving the creation or editing of the content of the communications, for another person's communications to or from a service, facility, system, or network not under the access provider's control shall by itself not be a violation of subsection (a), (d), or (e). 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) It is a defense to prosecution under subsection (a)(2), (d)(2), or (e)(2) that a person did not have editorial control over the communication specified in this section. This defense shall not be available to an individual who ceded editorial control to an entity which the defendant knew or had reason to know intended to engage in conduct that was likely to violate this section.

"(3) It is a defense to prosecution under subsection (a), (d)(2), or (e) that a person has taken good faith, reasonable and appropriate steps, to restrict or prevent the transmission of, or access to, communications described in such provisions according to such procedures as the Commission may prescribe by regulation. 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 of 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 Commission and covered by obscenity and indecency provisions elsewhere in this Act.".

On page 144, strike lines 1 through 17.

NOTICES OF HEARINGS

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LUGAR. Mr. President, I would like to announce that the Senate Committee on Agriculture, Nutrition, and Forestry will hold a full committee markup on welfare reform. The markup will be held on Wednesday, June 14, 1995, at 9 a.m. in SR-332.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the information of the Senate and the public that an oversight hearing has been scheduled before the full Committee on Energy and Natural Resources to review existing oil production at Prudhoe Bay, AK, and opportunities for new production on the coastal plain of Arctic Alaska.

The hearing will take place on Tuesday, June 20, 1995, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements, should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please contact Andrew Lundquist at (202) 244-6170.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. MURKOWSKI. Mr. President, I would like to announce for the public that a hearing has been scheduled before the full Committee on Energy and Natural Resources to review the Secretary of Energy's strategic alignment and downsizing proposal and other alternatives to the existing structure of the Department of Energy.

The hearing will take place Wednesday, June 21, 1995, at 9:30 a.m., in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

Those wishing to testify or who wish to submit written statements should write to the Committee on Energy and Natural Resources, U.S. Senate, Washington, DC 20510. For further information, please call Karen Hunsicker, (202) 224-3543 or Betty Nevitt at (202) 224-0765.

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Committee on Energy and Natural Resources Subcommittee on Forests and Public Land Management.

The hearing will take place Thursday, June 22, 1995, at 9:30 a.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to receive testimony on S. 852, a bill to provide for uniform management of livestock grazing on Federal land, and for other purposes.

Those wishing to submit written statements should write to the Committee on Energy and Natural Resources Subcommittee on Forests and Public Land Management, U.S. Senate, Washington, DC 20510. For further information, please call Mike Poling at (202) 224-8276 or Jo Meuse at (202) 224-6730.

SUBCOMMITTEE ON PARKS, HISTORIC PRESERVATION AND RECREATION

Mr. CAMPBELL. Mr. President, I would like to announce for the public that a hearing has been scheduled before the Subcommittee on Parks, Historic Preservation and Recreation.

The hearing will take place Thursday, June 29, 1995, at 2 p.m. in room SD-366 of the Dirksen Senate Office Building in Washington, DC.

The purpose of this hearing is to review S. 594, a bill to provide for the administration of certain Presidio properties at minimal cost to the Federal taxpayer.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Subcommittee on Parks, Historic Preservation and Recreation Committee on

Energy and Natural Resources, U.S. Senate, 364 Dirksen Senate Office Building, Washington, DC 20510-6150.

For further information, please contact Jim O'Toole of the subcommittee staff at (202) 224-5161.

AUTHORITY FOR COMMITTEES TO MEET

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 Friday, June 9, 1995, at 10:30 a.m.

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

ADDITIONAL STATEMENTS

JOHNSON SPACE CENTER

• Mrs. HUTCHISON. Mr. President, I wish to have printed in the RECORD a resolution of the 74th Legislature of the State of Texas regarding the mission of the Johnson Space Center [JSC] and the United States' leadership in space technology and exploration.

Recently, NASA undertook an extensive review to identify $5 billion in budget savings. I commend NASA for conducting this painstaking and conscientious review. However, I was alarmed when this review team preliminarily recommended moving the shuttle, orbiter, and space station engineering division out of JSC. NASA additionally proposed moving JSC's Shuttle Program Management Office and Orbiter Project Management Office. However, after thorough examination of these proposals, NASA concurred with many in the space community—including former astronauts—and found these transfers neither cost-effective nor in the best interests of NASA's space exploration mission.

The combination of engineering, operations, and flight personnel at JSC has proven its value. The crew of *Apollo 13* owes their lives to their own courage and skill—and to the team at JSC that was able to find a way out of a critical spacecraft failure and implement that life-saving solution in real-time. It was the synergies, efficiencies, and problem-solving abilities of this combination of capabilities that lead NASA to designate JSC as host center for the space station 2 years ago.

Maintaining the JSC model, with some budgetary streamlining, will yield necessary program savings while preserving much-needed stability in NASA's research and development mission. With essential human spacecraft engineering functions preserved in combination with mission operations, I am confident that NASA will be able to respond to the complexities—budgetary, scientific, and operational—that are inherent to human exploration of space in the next century.

The material follows:

HOUSE CONCURRENT RESOLUTION 188

Whereas, Texas is proud to be home to the National Aeronautics and Space Administration's (NASA) Johnson Space Center and is a state where thousands of Texans have taken part in NASA's goals, vision, missions, and accomplishments in furthering space exploration; and

Whereas, The approach of an integrated design and development team concept implemented at Johnson Space Center has a proven record of accomplishment in the Mercury, Gemini, Appolo, and Shuttle programs, and the International Space Station program was purposely located at Johnson Space Center to take advantage of the integrated product team concept that has been so successful in previous NASA programs; and

Whereas, The human space integration mission at Johnson Space Center, including spacecraft engineering, space shuttle operations program management, the shuttle orbiter project, and science programs, are vital to NASA's human space program; and

Whereas, A proposed plan developed by NASA to consolidate operations portends an action that would severely impact Johnson Space Center and the Texas economy; and

Whereas, If the proposal is implemented, Texas stands to lose thousands of primary and secondary jobs associated with the aerospace industry and Johnson Space Center, thousands of secondary, retail, and support jobs, and a significant share of investment opportunities and associated investment benefits; and

Whereas, Texas was affected negatively as a consequence of NASA's 1994 restructuring, downsizing, and space station redesign at Johnson Space Center; and

Whereas, Texas support the general goal of reducing government waste and jobs; how the goal is achieved in the case of NASA's proposed reorganization is a key point that needs clarification; now, therefore, be it

Resolved, That the 74th Legislature of the State of Texas respectfully urge the Congress of the United States to review fully NASA's proposed reorganization plan and to analyze the cost/benefit of the plan, including proposed mission transfers and relocations, with the purpose of preserving and protecting the United States' leadership in space technology and exploration; and, be it further

Resolved, That the Texas secretary of state forward official copies of this resolution to the administrator of the National Aeronautics and Space Administration, to the President of the United States, to the Speaker of the House of Representatives and President of the Senate of the United States Congress, and to all members of the Texas congressional delegation with the request that it be officially entered in the Congressional Record of the United States of America.•

CONGRATULATING NATHAN BERISH, JEFF KENDA, AND MIKE HUBERTY

• Mr. KOHL. Mr. President, I rise today to commend the success of three students from Mukwonago, WI, who recently won the national stock market game. The success of Nathan Berish, Jeff Kenda, and Mike Huberty, is impressive not only because they did better than almost 700,000 other student contestants, but because they set an all new record for the 19-year-old game.

For 10 weeks during the spring semester, teams from across the country participated in a mock stock-exchange project, each given a hypothetical $100,000 to invest as they chose. This winning team managed to turn that $100,000 into $1.5 million. An accomplishment about which most professional stockbrokers only dream. The previous record for the game was $920,000.

While we so often focus on the shortcomings of our schools, these students are a reminder of the quality of our Nation's young people and the positive potential of our school system. Anyone who worries that students are not being taught about the real world of work should take heart from the success of these young men who proved their adeptness in one of our most competitive industries.

Unfortunately, the Securities Industry Association [SIA] which administers the contest has turned its back on the students who should be its pride and joy. Worried about negative publicity pointing out imperfections in the game it designed, the SIA has tried to minimize the attention that the winners receive. This attitude is insulting. There is no evidence to suggest that these students did not play the game in exactly the same manner as the other contestants—they just made better investments.

I am extremely proud of these students. I do not want SIA's inconsiderate treatment to overshadow their accomplishment. I ask my colleagues to join me in congratulating these outstanding students.•

TRIBUTE TO MAURICE WOODS

• Mr. MCCONNELL. Mr. President, I rise today to recognize an outstanding Kentucky educator who retired just this last week as a teacher at an award-winning high school in Louisville. Through 32 years of dedicated service to Trinity High School, Maurice "Woody" Woods has impacted the lives of thousands of young men.

Now, a familiar face will be absent in the classrooms of this nationally recognized school of excellence. However, you can be sure that Mr. Woods will remain an important part of the Trinity family. As a teacher of U.S. and world history, government, and business classes, he has instilled in his students a sense of pride in the American governmental system. He has also taught his students the importance of being prepared to face the challenges of the business world.

"Woody is a true gentleman, in the purest sense of the word," says a fellow Trinity teacher. And indeed, Mr. Woods has served as a source of goodness and kindness for as long as most around Trinity can remember.

A former student said, "Mr. Woods epitomizes the ideal teacher. In fact, he is one of the few teachers who really knows, loves, and has experienced the lessons he passes on to his students. Woody is history."

Mr. Woods has also been very active outside the classroom as an author and a volunteer in his school and his community. He has always taught his students the value of serving the community. This is evident in the fact that several of his former students have gone on to themselves teach at Trinity and other institutions throughout Kentucky.

As an author, his book on Kentucky history was written only after visiting each and every county seat in the Commonwealth. Mr. Woods has shown a tremendous interest in sharing Kentucky's history with young and old alike. His book about Kentucky landmarks is also a favorite of scholars throughout my State.

As a volunteer, Mr. Woods has again sparked his students' interest in American Government, serving as moderator to both the Young Republicans, as well as the Young Democrats. His care for his students is certainly visible, as Mr. Woods is often found late in the day tutoring or just talking to his students about a wide variety of subjects.

So Mr. President, I rise today to recognize the career of this outstanding Kentucky teacher, Mr. Maurice Woods. He is a man that other teachers can look to as a model for caring, compassion, and dedication. And although he will no longer teach in the classroom, his years of service will most definitely live on through his students of the past 32 years.•

WHY STUDENT AID MATTERS

• Mr. SIMON. Mr. President. We are in the process of making basic decisions for the future of our country, and one of them is whether we encourage or discourage our young people to go to college.

And, I just said "young people;" I should change that to "citizens," because a great many who are beyond the traditional college age can benefit by higher education, also. I recently visited with a woman on welfare, a grandmother, who has enrolled in a community college program that she believes may take her off of welfare. I have every confidence she is correct.

To deny people the chance to develop themselves is to limit the future of our Nation.

A New York Times editorial titled "Why Student Aid Matters" appeared the other day, and I ask to put its editorial wisdom into the CONGRESSIONAL RECORD at this point.

The editorial follows:

WHY STUDENT AID MATTERS

Two years ago, Gregory McCall almost because a dropout when he failed to make the state championship basketball team at St. Anthony High School in Jersey City. As he told Neil MacFarquhar of The Times: "I had no hope of going to college because my family was so poor. I thought I would end up in Jersey City working at Kmart in a minimum-wage job."

Instead, with prodding from teachers and counselors, Mr. McCall graduated from St. Anthony this week, receiving an award for outstanding educational improvement and earning a full $20,000 scholarship to Monmouth University in New Jersey.

He is one of 47 St. Anthony seniors who have been admitted to 138 different colleges and universities, accumulating $1 million in financial aid. It is the third year in a row that St. Anthony, whose enrollment of 300 is drawn from impoverished neighborhoods, has had every graduating senior accepted in college.

But now the aspirations of future classes of such students are in jeopardy. The Congressional assault on student aid programs in general and minority scholarship programs in particular will put college out of reach for many minority and low-income youths.

Congress threatens to freeze the $6 billion appropriation for Pell grants, which are targeted to low-income students, for the next seven years. The current maximum award, $2,300, has already been reduced to about $1,500 as appropriations have failed to keep pace with increasing numbers of needy students or rising college costs. The freeze is likely to cut grants to poor students while proposed tax breaks for middle- and upper-income families would make it easier for them to pay tuition costs.

Mr. McCall and his fellow St. Anthony seniors, many of whom are first-generation college students from inner-city minority, ethnic blue-collar and immigrant families, still have hope. But without targeted scholarships and grants, the hopes of many who come after them will be dashed.

COMMENDING HOLLIS/BROOKLINE HIGH SCHOOL FOR THEIR PARTICIPATION IN THE "WE THE PEOPLE" PROGRAM

• Mr. SMITH. Mr. President. I would like to commend the students from Hollis/Brookline High School in Hollis, NH, who competed in the national finals of the "We the People" . . . The Citizen and the Constitution program from April 29 to May 1, 1995, in Washington, DC. These young scholars worked diligently to reach the national finals. They triumphed in local competitions in the Granite State, and were among more than 1,200 students from 49 States and the District of Columbia to participate in the program.

The distinguished members of the team representing New Hampshire are: Sarah Birch, Alisa Bowen, Brian Clardy, Ashley Dennis, Cerissa Desrosiers, Alicia DiGrezio, Katie Enright, Joe Gautheier, Lisl Hacker, Meredith Ham, Jessica Hannon, Alyssa Hemmerich, Andrea Higgins, Christine Hsu, Arwyn Jackson, Eric Jones, Zak Klimas, Rachel Lee, Cathy O'Sullivan, Reina Parker, Joshua Rattin, Mary Beth Rosamond, Justin Rydstrom, David Sawyer, Emilie Sommer, Rachel Spaulding, Stacey Stabile, Alan Stenzel, Heather Towne, Jessica Wild, and Holly Williams.

I would also like to recognize their outstanding teachers, Deb Christenson and Joel Mitchell, who both deserve a great deal of credit for the success of the team. The district coordinator, Raymond Kneeland, and the State coordinator, Patricia Barss, also contributed a significant amount of time and effort to help the team reach the national finals.

Administered by the Center for Civic Education, the "We the People" . . . program, now in its eighth academic year, is the most extensive educational program in the country developed specifically to educate young people about the Constitution and the Bill of Rights. The 3 day national competition simulates a congressional hearing in which students' oral presentations are judged on the basis of their knowledge of constitutional principles and their ability to apply them to historical and contemporary issues.

The We the People . . . program provides an excellent opportunity for students to gain an informed perspective about the history and principles of our Nation's constitutional government. I wish these young constitutional experts from Hollis and Brookline the best of luck and look forward to their future participation in politics and government.•

THE 25TH ANNUAL ITALIAN HERITAGE FESTIVAL

• Mr. BRADLEY. Mr. President, our country is a remarkable mosaic—a mixture of races, languages, ethnicities, and religions—that grows increasingly diverse with each passing year. Nowhere is this incredible diversity more evident than in the State of New Jersey. In New Jersey, schoolchildren come from families that speak 120 different languages at home. These different languages are used in over 1.4 million homes in my State. I have always believed that one of the United States greatest strengths is the diversity of the people that make up its citizenry and I am proud to call the attention of my colleagues to an event in New Jersey that celebrates the importance of the diversity that is a part of America's collective heritage.

On June 4, 1995 the Garden State Arts Center in Holmdel, NJ began its 1995 Spring Heritage Festival Series. This

Heritage Festival program salutes many of the different ethnic communities that contribute so greatly to New Jersey's diverse makeup. Highlighting old country customs and culture, the festival programs are an opportunity to express pride in the ethnic backgrounds that are a part of our collective heritage. Additionally, the Spring Heritage Festivals will contribute proceeds from their programs to the Garden State Arts Center's Cultural Center Fund which presents theater productions free-of-charge to New Jersey's school children, seniors, and other deserving residents. The Heritage Festival thus not only pays tribute to the cultural influences from our past, it also makes a significant contribution to our present day cultural activities.

On Saturday, June 10, 1995, the Heritage Festival Series will celebrate the 25th Annual Festa Italiana. Chaired by Eileen DiNizo, this year's event promise to be a grand celebration alive with colorful costumes, traditional foods, ethnic arts and crafts, and talented entertainers of Italian descent. The celebration will consist of both a day-long open air mall event, featuring piazza entertainment, food, crafts and a mass and an evening stage show highlighting renowned Italian entertainers. The Mall activities will kick-off with a traditional sing-a-long, dancing and comedy acts and will feature traditional food and crafts which will be available throughout the cultural exhibit area. Additionally, a liturgy will be concelebrated by the most Rev. Theodore E. McCarrick, Archbishop of Newark and clergy from throughout New Jersey. Immediately following the liturgy will be an evening stage show featuring many Italian artists including, comedian Freddie Travelena, singer Moreno Fruzzetti, and Anthony Rolando, two-time U.S. Accordion champion.

On behalf of all New Jerseyans of Italian descent, which at 1.1 million people is the largest ethnic group in my State, I offer my congratulations on the occasion of the 25th Annual Festa Italiana.•

"WHY ADOPTIVE PARENTS FIGHT FOR KIDS"

• Mr. SIMON. Mr. President, there are few things that have moved me as much in recent years as the tragic case of "Baby Richard," who was taken by the Illinois Supreme Court from his adoptive parents at the age of four and given to his natural parents who had abandoned him upon birth. As an adoptive parent myself, I cannot believe the pain with which this family has been afflicted and the emotional harm and scars that will be part of the life of Richard, unfortunately.

The other day, I happened to see in the New York Daily News an article by Michael Quinn, on the staff of Time magazine, who is also an adoptive parent.

His article is titled, "Why adoptive parents fight for kids."

It tells the story very simply but meaningfully.

I ask that his story be printed in the RECORD.

The article follows:

[From the New York Daily News, June 6, 1995]

WHY ADOPTIVE PARENTS FIGHT FOR KIDS

(By Michael Quinn)

Already it ranks as one of the most shameful images of our time: Chicago's 4-year-old "Baby Richard" being slowly pried from the arms of the family with whom he shared every memory of his tiny universe and whisked off by strangers with whom he shared nothing but DNA.

You didn't need much to join in a nation's sense of heartache—just two eyes and a soul.

Yet even now, some ask: Why didn't they just give up? When the biological father first pressed his case, why didn't the "Does" simply hand the child over and spare him and themselves a greatly amplified agony four years later?

For the answer, consider the story of two New Yorkers, Cameron and Brandon Baldanza—a local Baby Richard case with a vastly different ending.

Cameron, born in September 1989, and Brandon, born a year later, were abandoned at the hospital by their biological mother, Magaly Galindo. To be sure, Galindo did leave the boys something to remember her by—an addiction to the heroin she pumped into her system throughout the two pregnancies.

Fortunately, there was someone unwilling to walk away from Cameron and Brandon: Millie Baldanza, a first cousin to Galindo, who took the boys into her home and into her heart, knowing in advance they entered the world as junkies.

With her husband, Jimmie, Millie nursed the two kids through a nightmare no parent would want to imagine, let alone experience—the body-quaking ordeal of drug withdrawal. Brandon and Cameron survived—and thrived.

Meanwhile, Galindo and the boys' birth father, Jose Diaz, were working as hard at being strangers as the Baldanzas were at being parents. They had virtually no contact with the boys for two years, making their very first appearance in court six months after the Child Welfare Administration began proceedings to terminate their parental rights.

Millie and Jimmie could have given up then. It would have been hard to blame them, given Child Welfare's blatant bias for "family preservation"—social-workerese for the philosophy that nothing is worse for a child than adoption. Or they might have tossed in the towel last summer, when Brandon and Cameron were forced into extended stays with their now-you-see-them, now-you-don't birth parents.

But Millie and Jimmie did not give up. And early last month, less than a week after the taking of Baby Richard, Judge Marjory Fields of the Bronx Family Court ordered the return of Brandon and Cameron to the Baldanzas at the end of this month—a delay only so they can finish the school term.

Fields based her decision on testimony from expert witnesses who concluded "the children have suffered grievous harm from being removed from the [Baldanzas'] care."

The experts backed up that grim diagnosis with tales of caseworkers forcing the screaming children into taxis for visits with Diaz and Galindo, of Cameron cowering in his closet and complaining of chest pains and headaches when the visits were increased.

The prognosis for the boys if they were taken from the Baldanzas: "personality disorder, clinical depression"—perhaps even suicide.

That would have been the fate of Cameron and Brandon had Millie and Jimmie decided to let their kids be abandoned for a second time. And tragically, it may well be what lies ahead for Baby Richard.

But win or lose, there is an even simpler reason why adoptive families are willing to fight from the very first to the very last for their kids.

Because that is what they are: our kids. Not some stereo equipment we're ready to return if it doesn't work out. Not a sports car we are borrowing for a test drive. Our kids. The second they cross our door, we have made a commitment for life, more serious than most marriages—and as sacred as birth.

Thanks to the Baldanzas and the Does for declaring it to the world: They are our kids.
•

TRIBUTE TO KING RAMA IX OF THAILAND

• Mr. BAUCUS. Mr. President, today, King Bhumibol Adulyadej of Thailand begins the 50th year of his reign. It is my great pleasure to join Montana's Thai community in offering him congratulations and best wishes.

THE NINTH REIGN

King Bhumibol took the name Rama IX and opened the Ninth Reign of the Chakri Dynasty on June 9, 1946, just a few months after the end of the Second World War.

At the time, like the rest of Southeast Asia, Thailand faced severe questions. They arose from the end of colonialism in neighboring countries; the rise of radical ideologies worldwide; and endemic poverty, illiteracy and illness.

Today, Thailand is one of the anchors of the modern, prosperous Southeast Asia. Bangkok has become one of the world's great cities and commercial centers. The Thai political system is evolving into a stable parliamentary democracy; in fact, a new political campaign opens today as candidates across Thailand file their papers to run for Parliament. And the Thai economy grows by 7 percent or more every year.

Much of this extraordinary success is due to the wise guidance of King Bhumibol.

The King has led by example. He has embodied the 10 traditional moral principles of Buddhist Kings: charity toward the poor; morality, sacrifice of

personal interest; honesty; courtesy; self-restraint; tranquility of temperament; non-violence; patience; and impartiality in settling dispute.

And he has led by action. Together, King Bhumibol and Queen Sirikit have devoted decades to improving the lives of Thai people in rural and impoverished regions. They constantly travel the country's 73 provinces, meeting with villagers and staying close to the people. The results are obvious in improved public health, the spread of education to all Thai children and the renewal of traditional crafts and textiles.

KING RAMA IX AND THE UNITED STATES

King Bhumibol has also been a great friend of the United States. During his reign, the Thai-American relationship has grown from one largely based on American aid and political support, into a partnership for trade, prosperity, environmental protection and regional peace. And Thailand is about to fulfill the pledge he made in his 1967 Address to a joint session of Congress: to end reliance on American foreign aid.

The new maturity of Thai-American relations can be seen in our prospects for trade. American exports to Thailand more than tripled in the last 7 years. They grew to nearly $5 billion last year, and now support nearly 100,000 jobs in America.

Prospects are especially good for my State of Montana. Our farmers and ranchers can supply a generation of newly affluent Thai consumers with top-quality wheat, beef, and pork.

Montana environmental technology companies—in areas from mine waste reclamation to clean coal technology, sustainable forestry and low-impact agricultural fertilizer—can help Thailand address its fast-growing environmental problems. Firms like Mountain States Energy in Butte are already looking to the Kingdom for opportunity.

And people-to-people contracts between Thailand and Montana are growing fast. Thais like former Ambassador Birabhongse Kasemsri are helping to support the Montana economy, by coming as tourists to see our National Parks and visit our skiing areas. And in several cities, some of the newest members of the Montana family operate well-run small businesses like the Thai Deli in Missoula and the Thai Orchid Restaurant in Billings. They work hard, provide jobs and add a new touch of diversity to our State.

CONCLUSION

Mr. President, King Bhumibol is now the longest-reigning King of Thailand. And history is certain to rank his reign with those not only of the greatest Thai monarchs of the past—Ramkamhaeng, creator of the Thai alphabet; Naresuan and Phra Narai in the Ayutthaya era; Mongkut and Chulalongkorn in the last century—but the great constitutional monarchs of the world and the democratic leaders of modern times.

It is my great pleasure to join all the Thai Montanans in congratulating King Bhumibol as he begins the 50th year of his reign, and looking forward to many more to come.•

TAKE THE LEAD, MR. CLINTON

• Mr. SIMON. Mr. President, recently, Matthew Miller, a former senior adviser to the Office of Management and Budget, had an op-ed piece about the budget.

It says precisely what I believe: that the Administration should have provided Congress with a better budget, that the Republicans should be applauded for trying to achieve a balanced budget by the year 2002, but that the priorities in the Republican budget are all wrong, even though the goal is a proper one.

I know the budget has already passed the Senate and the House, and we will be facing it shortly in conference, but in the belief that telling the truth always has some virtue, I ask that the Matthew Miller piece be printed in the RECORD.

The article follows:

[From the New York Times, May 16, 1995]

TAKE THE LEAD, MR. CLINTON

(By Matthew Miller)

WASHINGTON.—I left the Clinton Administration in January when the White House issued a budget that I felt turned away from its previous commitment to deficit reduction and sensible public investment.

Today, while supporting President Clinton in opposing the cruel and counterproductive Republican budget resolutions in the House and Senate, I also wonder why the White House has let the Republicans seize this issue.

Though the Administration is right to criticize plans that would cut spending for the most vulnerable Americans to help finance tax breaks for the well-off, it will not rally much support by hypocritically attacking cutbacks in Medicare and Medicaid or by resisting the idea of balancing the budget altogether.

Last week, the White House chief of staff, Leon Panetta, said that the Republicans would "make Medicare a second-class health care system for our seniors." The Administration's 1993 economic plan, "A Vision of Change for America," struck a different note. In it, the Administration hoped to "control the growth of Medicare and Medicaid spending in the long term, and thereby supplement the deficit reduction in this economic program."

Assuming "health care controls," the plan estimated that the deficit would decline to $87 billion in the year 2003—from what otherwise would have been $399 billion. Bringing down the combined annual growth rate of Medicare and Medicaid was the single most important factor in the reduction.

This slower growth would have meant saving about $66 billion yearly on average over a 10-year period. The Republican Senate budget resolution, by contrast, calls for savings that average $65 billion yearly over seven years, while the House resolution calls for $69 billion yearly over the same period.

It's hard to understand how a goal the Administration considered reasonable only two years ago can seem unthinkably draconian today.

Nor is the Republicans' aim of balancing the budget by 2002 as dangerous for the economy as the Administration suggests. Mainstream economists generally agree that reducing the deficit by the equivalent of 0.5 percent of the gross domestic product per year can be reliably offset by the Federal Reserve (for example, by lowering interest rates). With the Congressional Budget Office forecasting the deficit at 2.5 percent of the gross domestic product in 1995, that would mean a five-year path to a balanced budget by 2000 would be reasonable.

In any event, it would be far better policy and better politics for Mr. Clinton to take the lead by offering his own plan to balance the budget rather than merely sniping at the Republicans.

The GOP resolutions would slash basic research, investment in infrastructure and in education, while leaving untouched most of the welfare for the well-off that permeates the budget. While families struggling on $35,000 a year would continue to bear a disproportionate tax burden, for example, $30 billion in health and pension benefits would still go every year to senior citizens who have incomes above $100,000—giving these retirees far more back than they paid into the system.

Yet all of the Administration's well-taken criticisms will be ignored if President Clinton does not renew his commitment to addressing the problem of the deficit. The Republicans' methods may be misguided, but the goal they have embraced is the right one. Mr. Clinton should waste no time in taking back an issue he claimed as his own from his first days in office.•

THE 23RD ANNUAL JEWISH HERITAGE FESTIVAL

• Mr. BRADLEY. Mr. President, our country is a remarkable mosaic—a mixture of races, languages, ethnicities, and religions—that grows increasingly diverse with each passing year. Nowhere is this incredible diversity more evident than in the State of New Jersey. In New Jersey, schoolchildren come from families that speak 120 different languages at home. These different languages are used in over 1.4 million homes in my State. I have always believed that one of the United States greatest strengths is the diversity of the people that make up its citizenry and I am proud to call the attention of my colleagues to an event in New Jersey that celebrates the importance of the diversity that is a part of America's collective heritage.

On June 4, 1995 the Garden State Arts Center in Holmdel, NJ began its 1995 Spring Heritage Festival Series. This heritage festival program salutes many of the different ethnic communities that contribute so greatly to New Jersey's diverse makeup. Highlighting old

country customs and culture, the festival programs are an opportunity to express pride in the ethnic backgrounds that are a part of our collective heritage. Additionally, the spring heritage festivals will contribute proceeds from their problems to the Garden State Arts Center's Cultural Center Fund which presents theater productions free-of-charge to New Jersey's schoolchildren, seniors, and other deserving residents. The heritage festival thus not only pays tribute to the cultural influences from our past, it also makes a significant contribution to our present day cultural activities.

On Sunday, June 11, 1995, the Heritage Festival Series will celebrate the 23d Annual Jewish Festival of the Arts. Co-chaired by Amy Schwartz of Springfield, NJ and Martin Hacker of Metuchen, NJ, this year's event promises to be a grand show featuring many talented entertainers including: the Golden Land Klezmer Orchestra, singer Mike Burstyn, and comedian Freddie Roman.

On behalf of all Jewish New Jerseyans, I offer my congratulations on the occasion of the 23d Annual Jewish Festival of the Arts.•

EXPLANATION OF SELECTED VOTES TO THE SENATE BUDGET RESOLUTION

• Mr. ABRAHAM. Mr. President, just prior to the Memorial Day recess, the Senate considered a near-record number of amendments to the Senate budget resolution. Since many of these amendments were offered after time had expired and voted upon without debate, I want to take some time now to offer explanations for several of the more critical votes about which I was unable to comment at the time.

During the budget markup in committee the focus of many amendments was the so-called fiscal dividend reserve fund. This fund was established to incorporate the estimates of the Congressional Budget Office regarding the benefits of balancing the budget. According to the CBO, if Congress successfully balances the budget over the next 7 years, we will experience lower interest rates and lower costs to the Government—about $170 billion over the next 7 years. It was the position of the chairman—a position I strongly support—that any fiscal dividend resulting from balancing the budget should be given back to the taxpayers in the form of tax cuts.

One amendment offered on the Senate floor was the Feingold amendment to strike the budget surplus from the resolution. Instead of using the surplus for more spending—as previous amendments had—this amendment would have killed it outright, striking at the heart of efforts in the Senate to provide tax relief for American families. I opposed it for that reason. Over the next 7 years, the Federal Government will spend approximately $12 trillion. Much of this spending will take the form of transfer payments from those people who are working and paying taxes to those less fortunate. I believe it is important for a compassionate country to take care of the elderly and the poor, and I support many of these programs. However, I also support those families who are not receiving Federal assistance but rather are working hard and paying taxes. The fiscal dividend is about 1½ percent of total Government spending over the next 7 years. In my mind, this tiny surplus belongs to the taxpayers who make all the other Government programs possible.

One amendment I did support was the Hatfield amendment to restore $7 billion in spending reductions to the National Institutes of Health by cutting all other discretionary accounts across-the-board. As Senator HATFIELD made clear during the debate, the United States is suffering from epidemics of cancer, Alzheimer's, and AIDS. The research conducted by the NIH is instrumental in fighting these diseases, and it is important that their efforts be fully funded.

Another amendment I supported was the McConnell amendment to restore funding for the Appalachian Regional Commission. Under the Senate budget, all funding for ARC would have been eliminated over 5 years. Rather than eliminate the entire program, this amendment will reduce the program's funding by 35 percent in 1996 and 47 percent overall. I believe it strikes a careful balance between cutting spending and hurting economic development in specific regions of the country. In recent weeks, I have been working on a task force to determine the efficacy of Federal agencies. Should that effort conclude that the Appalachian Regional Commission is duplicative, wasteful, or has attained its objectives, then my position regarding funding for ARC may change.

One budget area where I have special concerns is education. As reported out by the committee, the budget reduces mandatory education spending by a considerable amount—and these reductions could affect student loan programs. Although I had previously supported restoring education funding through offsetting spending cuts, I did not support any amendment that attempted to increase education spending through tax increases. This opposition included both the Dodd and Kennedy amendments. These amendments would have restored $28 billion in education spending over the next 7 years by raising taxes. While the authors argued that the offsetting tax increases would only come from the elimination of certain tax preferences targeted at large corporations, their practical effect would be to instruct the Senate Finance Committee to raise tax revenues by $28 billion through any means, including the elimination of tax provisions which I support, such as the home mortgage interest deduction. As I have stated previously, while I am willing to establish education spending as a priority, I believe its enhancement should be achieved by reducing spending in other budget areas.

Similar reasoning was behind my vote against the Bradley amendment targeting so-called tax expenditures. The underlying premise of this amendment is that the Federal Government, not the taxpayer, has the first right of refusal to all income. In my judgment, the whole concept of tax expenditures is misguided, since the logical conclusion of the argument is that all income not taxed still belongs to the Government. I believe the real purpose behind the tax expenditure concept is to provide ammunition for those Members who wish to raise taxes. As I have said before, I support reviewing corporate tax loopholes within the context of overall tax reform. However, I do not support targeting these loopholes if their result is to increase spending elsewhere.

One of the more positive signals coming from the budget debate was the rejection, across-the-board, of numerous amendments to reduce our defense budget. It is important to note that the bipartisan rejection of these amendments represents the Senate's recognition that investment in our national security is as low as it can possibly go. In my opinion, it is already too low to ensure the continued security of the country and, for that reason, I oppose amendments to reduce it further and supported efforts by Senators THURMOND and MCCAIN to raise defense spending above the President's levels.

One extremely close vote took place on the Baucus sense of the Senate amendment to encourage the use of the highway trust fund to support Amtrak. While the issue of Federal subsidies for interstate passenger rail service is extremely contentious and involved, using the highway trust fund to support Amtrak clearly undermines the integrity of the fund and should be opposed. If Congress chooses to continue its support for Amtrak, it should be done through general revenues and subject to the same review process to which other discretionary spending is subject.

Two substitutes were offered during debate of the budget which I believe merit comment. First, Senator CONRAD offered his substitute to balance the budget over 10 years without assistance of the Social Security surplus. While I applaud Senator CONRAD's commitment to the Social Security system, his

budget falls short of the standard established by the Republican budget. Under the guise of balancing the budget, this amendment is old-fashioned tax-and-spend politics.

The Conrad budget raises taxes by $228 billion over 10 years. We don't have a budget deficit because Americans are undertaxed. We have a deficit because the Federal Government spends too much. Yet, the Conrad budget ignores the history of overspending by concentrating on the revenue side of the ledger. At the same time, discretionary spending under the Conrad substitute will be $190 billion higher than under the Republican budget while mandatory spending will be allowed to grow at several times the rate of inflation. In other words, the Conrad substitute would allow Government spending to continue to grow unchecked by raising taxes on Americans—just the opposite of the limited Government message sent to Washington by last November's election.

The second substitute was offered by Senator BRADLEY. The Bradley amendment balances the budget over 7 years through a combination of spending freezes and tax increases. It raises taxes by $197 billion over the next 7 years while reducing discretionary spending by $25 billion. In other words, while the Bradley amendment reduces Government discretionary spending a little, it raises taxes a whole lot more. And we witnessed with the earlier education amendments, many Senators still find it easier to raise taxes than to cut spending.

Finally, Senator BRADLEY also offered a sense of the Senate amendment expressing support for eliminating tax loopholes and using the money to lower individual tax rates. While I agree with the premise that our current Tax Code is hopelessly complicated and that a major reform of the Code was in order, Senator BRADLEY's amendment would preclude certain deductions which I support. Efforts to target tax benefits at depressed or blighted areas through enterprise zones—or tax free Renaissance Zones recently announced by Governor Engler—would not conform with the Bradley amendment and it jeopardizes the home mortgage interest deduction that homeowners rely upon in order to make the payments on their homes. For those reasons, I opposed it.●

RECESS UNTIL MONDAY, JUNE 12, 1995

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 12 noon, Monday, June 12, 1995.

Thereupon, the Senate, at 4:34, recessed until Monday, June 12, 1995, at 12 noon.

EXTENSIONS OF REMARKS

ON THE EXPATRIATION TAX ACT OF 1995

HON. BILL ARCHER
OF TEXAS
IN THE HOUSE OF REPRESENTATIVES

Friday, June 9, 1995

Mr. ARCHER. Mr. Speaker, in March when the Congress was working to restore a health insurance deduction for millions of self-employed persons prior to the time when tax returns were due, that urgent legislation, H.R. 831, was threatened with unnecessary delay by the desire of some to include without adequate deliberation a proposal by President Clinton to impose a tax on individuals who give up their U.S. citizenship or residence. As we learned during hearings in the Committee on Ways and Means and the Senate Finance Committee, the President's proposal raised a number of serious concerns including the scope of the proposal, human rights and constitutional issues, issues of administrability, the potential for double taxation, the application of the proposal to interests in trust, the impact of the proposal on the free flow of capital into the United States, and the impact on future U.S. tax treaty negotiations. In light of these concerns, and in light of the administration's failure to provide the Congress requested information justifying the legislation, the Conference Committee determined that the nonpartisan Joint Committee on Taxation should provide the Congress a complete report on the issues presented by proposals to modify the tax treatment of expatriation prior to our taking any action in this area.

Despite the incredible time constraints placed on the Joint Committee on Taxation, it was able to prepare what I believe is one of the most comprehensive studies of a tax issue the Congress has received in many years. The joint committee's study, delivered on June 1, revealed that the administration had greatly exaggerated the amount of tax-motivated expatriation, that the administration's estimate of the revenues that could be raised by its proposed was significantly overstated, that the administration's proposal to combat such expatriation was seriously flawed, and that the administration's proposal could encourage tax-motivated expatriation. The joint committee also found that other proposals based on the administration's proposal had similar flaws and would raise even less revenue. One such proposal, made by the House Minority leader, would lose revenue because its October 1, 1996 effective date would have provided an 18 month period during which wealthy individuals would be encouraged to give up their citizenship to avoid taxes.

In order to address the small and fairly level amount of tax-motivated expatriation that does exist, and to address certain other problems revealed by its study, the Joint Committee on Taxation made several recommendations for improvements to existing law. Today, I am introducing the Expatriation Tax Act of 1995 which is based on the recommendations made by the joint committee.

EXPLANATION OF LEGISLATION

1. INDIVIDUALS COVERED

For purposes of the present-law expatriation tax provisions (secs. 877, 2501(a)(3) and 2107), and U.S. citizen who relinquishes his or her citizenship would be deemed to have expatriated with a principal purpose of avoiding taxes if: (a) the individual's average annual U.S. Federal income tax liability for the 5 years preceding the year of expatriation was greater than $100,000, or (2) the individual's net assets (valued at their fair market value) were $500,000 or more on the date of expatriation. These dollar amounts would be indexed for inflation beginning after 1996.

However, an individual would not be subject to the expatriation tax provisions if such individual did not have a principal purpose of tax avoidance and is within one of the following categories: (a) the individual was born with dual citizenship and retains only the non-U.S. citizenship; (b) the individual becomes a citizen of the country in which the individual, the individual's spouse, or one of the individual's parents, was born; (c) the individual was present in the United States for no more than 30 days during any year in the 10-year period immediately preceding the date of expatriation; (d) the individual relinquishes his or her citizenship before reaching the age of 18½; or (e) any other category of individuals prescribed by Treasury regulations. To qualify for this exception, the individual must request a ruling from the Internal Revenue Service within one year from the date of expatriation. With respect to individuals who committed an expatriating act between February 6, 1994 and February 6, 1995 but had not applied for a certificate of loss of nationality ("CLN") as of February 6, 1995, the individual must request such a ruling within one year of the date of enactment.

2. ITEMS SUBJECT TO SECTION 877

The scope of the items subject to section 877 would be expanded to include property obtained in certain transactions that occur within 10 years of expatriation and on which gain or loss is not recognized. If an expatriate exchanges any property that would produce U.S. source income for property that would produce foreign source income, then such exchange shall be treated as a sale for the fair market value of the property. However, this rule would not apply if the individual enters into an agreement with the Secretary of the Treasury specifying that any income or gain derived from the property acquired in the exchange during the 10-year period after the expatriation shall be treated as U.S. source income. The Secretary of Treasury may provide through regulations for similar treatment for transfers that occur within 5 years immediately prior to the date of expatriation.

In addition, section 877 would be expanded to include certain income and gains derived from a foreign corporation that is more than 50 percent owned, directly or indirectly, by the expatriate on the date of expatriation or within 2 years prior to the expatriation date. Such inclusion would be limited to the amount of earnings and profits accrued prior to the date of expatriation while such ownership requirement is satisfied.

3. SPECIAL RULE FOR SHIFT IN RISKS OF OWNERSHIP

For purposes of determining the tax under section 877, the 10-year period is suspended with respect to an asset during any period in which the individual's risk of loss with respect to such asset is substantially diminished.

4. DOUBLE TAX RELIEF

In order to avoid double taxation, a credit against the U.S. tax imposed under the expatriation tax provisions would be provided for any foreign income, gift, estate or similar taxes paid with respect to the items subject to such taxation. This credit is available only against the tax imposed solely as a result of the expatriation tax provisions, and cannot be used to offset any other U.S. tax liability.

5. REQUIRED INFORMATION SHARING

The State Department would be required to collect relevant information from the expatriates, including the social security numbers, forwarding foreign addresses, new country of residence and citizenship and, in the case of individuals with a net worth of at least $500,000, a balance sheet, and provide such information routinely to the IRS. An expatriate's failure to provide such information would result in the imposition of a penalty for each year the failure continues equal to the great of (a) 5 percent of the individual's expatriation tax liability for such year, or (b) $1,000.

6. TREASURY REPORT

The Treasury Department would be directed to undertake a study of the compliance of U.S. citizens and green-card holders residing outside the United States with tax return responsibilities and shall make recommendations regarding the improvement of such compliance. The findings of such study and such recommendations should be reported to the House Committee on Ways and Means and the Senate Committee on Finance within 90 days of the date of enactment.

7. EFFECTIVE DATE

The provisions of the bill generally would apply to any individual who loses U.S. citizenship on or after February 6, 1995. The date of loss of citizenship would remain the same as under present law (i.e., it would be the date of the expatriating act). However, a special transition rule would apply to individual who had expatriated within one year prior to February 6, 1995 but had not applied for a CLN as of such date. Such individuals would be subject to the new expatriation tax provisions as of the date of application for the CLN, but would not be retroactively liable for U.S. incomes taxes of their worldwide income.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

TRIBUTE TO GEN. GORDON R. SULLIVAN

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, June 9, 1995

Mr. SKELTON. Mr. Speaker, today I wish to congratulate Gen. Gordon R. Sullivan, Chief of Staff of the U.S. Army, who will retire on June 20, 1995. General Sullivan's career spans 36 years in which he has given selfless and distinguished service as a soldier, leader, and visionary adviser to both the President and this Congress. Others have already entered a list of his accomplishments into the public record. I want to briefly tell you about the essence of the man, his commitment to people, and leader development.

Since June 1991, General Sullivan has served as the Chief of Staff of the Army directing the Army's transformation into a power projection force, ready to defend the national interest in any corner of the world, whenever the Nation called. Throughout this period of historic change, General Sullivan provided not only the vision and energy to make the necessary changes, but also the guiding principles to keep the Army firmly focused on its fundamental purpose—fight and win the Nation's wars. He has been the epitome of responsible leadership, accomplishing tasks consistent with our Nation's values.

He is a leader who is absolutely committed to people. His personal relationship with America's Army—soldiers, civilians, families, corporate America—provide the context for his actions. He was particularly in touch with the soldier, creating a climate that allowed his subordinates to act and grow to meet the challenges of a rapidly changing world environment.

Whenever and wherever soldiers deployed in support of the Nation's interests there would be Gen. Gordon R. Sullivan. He could be found at Army posts at home and abroad, in disaster relief operations in Florida and Hawaii, floods in the Midwest, fires in the Far West, and earthquakes in California, in humanitarian operations in Somalia, Rwanda, and Haiti, and greeting soldiers returning from overseas deployments.

General Sullivan himself will credit these recent successes directly to the Army's two-decade investment in leader development. The future will require no less of a commitment. The future will challenge the leaders of America's Army. They will have to operate in ambiguous, uncertain, and complex environments. The hallmark of future Army leaders will be their ability to adapt to rapidly changing situations. Through personal example and unswerving commitment, General Sullivan has touched a generation of Army leaders, influencing them to embrace leader development as one of the Army's fundamental imperatives.

General Sullivan's career has been the epitome of selfless service to our Nation and the quintessential example of all we could hope our military leaders to be. And through the decades of service and sacrifice he has been supported by a loving family. The Nation shares General Sullivan with his wife Gay, their children John, Mark, and Elizabeth, and a grandson Christopher. They, too, have served the Nation, supporting in countless ways the career of this dedicated soldier.

Throughout its great history, this country has been blessed with men and women willing to serve and sacrifice their lives for the freedoms we enjoy. One such manifestation of this spirit comes from a letter written to General Grant by General Sherman in March 1864 when General Grant took command of the Union Armies. In his letter, Sherman wrote:

> Throughout the war you were always in my mind. I always knew if I were in trouble, and you were still alive, that you would come to my assistance.

That, Mr. Speaker, is what Gordon Russell Sullivan represents, what he embodies—simple words, soldiers' words—courage and loyalty. Serving the Nation and the soldiers of America's Army.

Gen. Gordon R. Sullivan—a consummate professional, a loyal servant of the Constitution, a leader of demonstrated moral and physical courage—on behalf of the Congress of the United States and the people we represent, I offer our heartfelt gratitude for your service.

THE 50TH ANNIVERSARY OF THE AMVETS DEPARTMENT OF PENNSYLVANIA

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Friday, June 9, 1995

Mr. GOODLING. Mr. Speaker, I wanted to congratulate the AMVETS Department of Pennsylvania on their 50th anniversary. The AMVETS charter in Pennsylvania was originally founded March 25, 1945, as a support group for returning World War II veterans. The National and State charters were later amended to include the veterans of the Korean and Vietnam wars, and also those enlisted in the National Guard.

The AMVETS organization is united for the purpose of helping veterans help themselves, promoting world peace, and preserving the American way of life. To this end, AMVETS works to achieve their mission by their service and volunteerism to other veterans in need. AMVETS Department of Pennsylvania has 13,000 members in 70 posts across the Commonwealth.

As a veteran, I understand the sacrifices many have made to preserve the freedom and democracy the rest of the world craves. President Lincoln described veterans' sacrifices best during the Gettysburg Address, "the brave men, living and dead, who struggled here, have consecrated it far above our poor power to add or detract. The world will little note what was said here, but it can never forget what they did here." The same corollary should be held for all veterans whose selfless acts have helped others in their respective communities.

Mr. Speaker, once again, I would like to congratulate AMVETS Department of Pennsylvania on their 50th anniversary and wish them many more years of continued service to the Commonwealth.

TRIBUTE TO LT. GEN. DANIEL R. SCHROEDER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Friday, June 9, 1995

Mr. SKELTON. Mr. Speaker today I wish to recognize a truly outstanding American, Lt. Gen. Daniel R. Schroeder, for service to his country in the Corps of Engineers of the U.S. Army. I would like to commend General Schroeder for 34 years of faithful and dedicated service to the United States.

A lifetime career in numerous Army engineer positions, his leadership has been shown throughout his career. He retires most recently serving as the deputy commander in chief of the U.S. Army Europe and Seventh Army.

General Schroeder is to be applauded for his fine work during the 1988 activation of the Army Engineer Center at Fort Leonard Wood, MO. During this time, he served as the commanding general of the U.S Army Engineer Center and Fort Leonard Wood Commandant. This center contributes and ensures the future growth and development of the Army engineer regiment.

General Schroeder's many U.S. decorations and badges include the Defense Distinguished Service Medal, Distinguished Service Medal (with Oak Leaf cluster), Legion of Merit (with Oak Leaf Cluster), Distinguished Flying Cross, Bronze Star Medal with V Device (with 4 Oak Leaf Clusters), Meritorious Service Award (with Oak Leaf Cluster), Air Medals with V Device, Joint Service Commendation Medal, Army Commendation Medal (with 4 Oak Leaf Clusters), Combat Infantryman Badge, and Master Parachutist Badge.

I know that the Members of this body join in sending congratulations to General Schroeder and best wishes for his retirement. The Army Corps of Engineers has been fortunate to have had General Schroeder as one of its leaders.