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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

THE TELECOMMUNICATIONS COMPETITION AND DEREGULATION ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 1298

(Purpose: To improve the provisions relating to cable rate reform)

Mr. LIEBERMAN. Mr. President, at this time I call up amendment No. 1298.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut [Mr. LIEBERMAN] proposes an amendment numbered 1298.

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

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

The amendment is as follows:

At the appropriate place, insert the following new section:

SEC. . DETERMINATION OF REASONABLENESS OF CABLE RATES.

(a) COMMISSION CONSIDERATION.—Notwithstanding any other provision of this Act or section 623(c), as amended by this Act, for purposes of section 623(c), the Commission may only consider a rate for cable programming services to be unreasonable if it substantially exceeds the national average rate for comparable programming services in cable systems subject to effective competition.

(b) RATES OF SMALL CABLE COMPANIES.—

(1) IN GENERAL.—Notwithstanding any other provision of this Act or the amendments made by this Act, the regulations prescribed under section 623(c) shall not apply to the rates charged by small cable companies for the cable programming services provided by such companies.

(2) DEFINITION.—As used in this subsection, the term 'small cable company' means the following:

(A) A cable operator whose number of subscribers is less than 35,000.

(B) A cable operator that operates multiple cable systems, but only if the total number of subscribers of such operator is less than 400,000 and only with respect to each system of the operator that has less than 35,000 subscribers.

Mr. LIEBERMAN. Mr. President, I am delighted to see occupying the chair at this time, the distinguished former attorney general of the State of Missouri, because my interest in this subject of the regulation of cable rates started in 1984 when I was the attorney general of the State of Connecticut.

We had established a system similar in many ways, different in some ways, to other States and municipalities around the country to deal with the advent of this exciting new technology, cable television, in which our State—during the 1960's, originally, and the 1970's—had given out franchises for cable television in different areas of the State. These were monopolies. Because they were monopolies, which is to say there was only one that any consumer had any access to in the State of Connecticut, they were subject to a kind of public utilities regulation, since there was no competition.

This went on until 1984 when the Congress in its wisdom, without the participation of the occupant of the chair or myself, at that time passed an act which prohibited the States from regulating the cost of cable. As I will document in a moment or two, there was a great outcry from many of us at the State level, first on the basis of federalism, that we had been deprived of this opportunity to exercise our capacity and obligation to protect our consumers in the State of Connecticut or elsewhere as we saw fit, but also because the effect of the congressional act of 1984 was to leave cable consumers facing monopolies, only one cable provider, without the benefit of protection from consumer protection legislation, and without the benefit of competition.

What happened I will document in a moment or two, but it ultimately led to a very successful effort in 1992 to adopt a cable act which was passed with strong bipartisan majorities, and was vetoed by President Bush. It turned out to be the only veto of the Bush years that was overridden by this Congress. The Cable Act of 1992 went into effect, with positive effect, as I will describe in a moment. Then, suddenly as part of this major reform of telecommunications, there appears what amounts to the evisceration of that cable consumer protection.

So just 3 years after passing that landmark legislation to bring competition to cable television and keep regulation until that competition came, just 3 years after the effort began once again to hold down cable rates for the millions of cable consumers around America until competition emerges, we are now considering a bill that I am afraid will undo many of the consumer protection benefits of the 1992 Cable Act.

The amendment that I have introduced this evening, No. 1298, will prevent the dismantling of the cable consumer protections of the 1992 act.

Mr. President, I assume we all agree—I certainly do—that competition is the best way to set prices. Markets can set prices much more accurately and effectively than regulators can. Although consumers cannot really reap the benefits of competition, obviously, until there is effective competition in their local markets, the amendment that I am introducing, I think, will provide consumers with some of the advantages of competition. Without competition, monopolies have the license to unreasonable rate increases. So we have a choice. When there is no competition, we can have regulation, or we can just simply say let the monopolies go.

The cable rate regulation included in the current underlying bill before us, in my opinion, does not prevent monopoly abuses, and virtually deregulates cable, which means that without this amendment we are inviting the majority of cable companies to raise their rates. And, unfortunately, we are guaranteeing that the majority of our constituents, many of whom may be watching tonight, are going to see increases in the cost of cable television every month, unless we act to amend this bill. And I believe the amendment I am offering is a good procompetitive way to do so, consistent with the overall procompetitive spirit of this legislation.

Mr. President, before my colleagues vote on this matter, I think it is imperative to review the current status of cable regulation and how it is working.

First of all, let us ask what has happened since we passed the Cable Act of 1992; and, second, what impact will this legislation before us have? My concern again is that this legislation, if unamended, virtually guarantees significant cable rate increases before competition comes to the cable market. And today, the FCC tells us that only 50 of the more than 10,000 cable markets in America have effective competition. That means if we have constituents in the 9,950-plus other markets, and if this legislation goes forward as it is, they are probably going to see a cable rate increase.

What I see happening here is the potential for this Congress to make the same mistake that was made in 1984 when the cable industry was deregulated based on the promise or the hope that competition was right around the corner.

In 1984, it was the promise of competition from satellites to the traditional cable. Now it is again and still the promise of satellite competition plus the promise of telephone company competition. After the 1984 act passed the Congress, the fact is that the cost of cable television skyrocketed. Today only one-half of 1 percent of cable consumers receiving satellite service from DBS, direct broadcast satellite, which is the new satellite competitor, and only experimental efforts exist today to transmit cable over telephone lines. It is only natural to fear that cable rates will shoot up again under the current bill.

Let me just go back over that. The promise of satellite reception for cable consumers, television consumers, was ripe in the air in 1984 when cable was deregulated. Today, 11 years later, one-half of 1 percent of the television consumers with multichannel service receive that service from the Direct Broadcast Satellite.

The last time Congress prematurely deregulated cable rates, the General Accounting Office found that the price of basic cable service rose more than 40 percent in the first 3 years without regulation. And 40 percent is three times the rate of inflation during that same period of time, 1986 to 1989, and four times the level of increases experienced under regulation.

Mr. President, the Commerce Committee received testimony from local officials that demonstrated real price exorbitance. Mayor Sharpe James of Newark testified that rates increased by more than 130 percent from 1986 to 1989 in his community. Mayor Eddy Patterson of Henderson, TN, noted rates rose 40 percent in the same period in his area. Rates shot up as much as 99 percent in communities in Hawaii, according to Robert Alm from Hawaii's Department of Commerce. David Adkisson, Mayor of Owensboro, KY, testified that basic receipts rose 40 percent in just 1 year. And I can report that rates in Connecticut jumped 52 percent in those 3 years in the mid-1980's, led by one company which actually hiked its rates by an unbelievable 222 percent when there was no regulation and no competition, which effectively is what this bill will bring us back to.

Consumer groups testified to the Commerce Committee demonstrating that in the few communities where there was competition, which is to say two cable companies going head to head, rates were about 30 percent lower than in the monopoly markets.

So on the basis of that evidence this Congress moved in a bipartisan fashion in 1992 to pass the Cable Act. Let me now remind my colleagues briefly what that law does. The Cable Act—that is the law in effect today, before this bill—allows Federal and local officials to limit cable rates to a reasonable level until there is effective competition to the cable monopoly. This is not permanent regulation. This is not the heavy, immovable hand of Government. This says let us get regulation out of here as soon as there is competition. In other words, regulation sunsets, disappears. And the standard here is it disappears when half the residents of a community have more than one choice for cable service and 15 percent of them, only 15 percent of that community, actually select the service from the cable competitor.

Let us talk about the results of the law. Mr. President, according to the Consumer Price Index for cable service, rates are down about 11 percent from their trend line when cable was deregulated. I plotted here on this chart the trend of cable rate increases before rate regulation extrapolated to the present. That is the blue line.

Also plotted are cable rates after rate regulation, and cable rates subject to competition. So the red line is the difference here in rates after the 1992 act went into effect, and this actually is a projection of what has happened in those 50 markets where there is competition, which is great for consumers.

Regulation is modestly controlling monopolies. That is what the red line tells us. But competition is the real solution. Competition works at keeping cable rates under control. Without competition, regulation is necessary to control those price increases. On a nationwide basis—this is an interesting number—this translates into a consumer savings of $2.5 billion to $3 billion per year since the adoption of the Cable Act of 1992.

Furthermore, consumers were not hit by the two to three times inflation rate increases they used to face when cable was deregulated. So not only did we not have the increases, we actually had $2.5 billion to $3 billion of consumer savings, and there is not much that we can look at in the way of the cost of living in our society that went down during this period of time.

While consumers have come out ahead, I want to point out that the cable industry has done well, contrary to its fears, under this new act. They have been busy developing new service and increasing revenue streams, and as far as I am concerned that is great news. With pay channels, increased advertising revenue and digital audio services, the cable industry has made up all of the money consumers saved from regulation. In addition, cable has had the money to prosper through expansion. And you can see in this plot the increase in subscribers that cable companies have had since the regulations imposed by the Cable Act.

The impact of the Cable Consumer Act of 1992 saved consumers a substantial amount of money, $2.5 billion to $3 billion a year, and rates went down 11 percent. But the great news about it is that all that happened and the cable companies still remained healthy.

In this chart, I am showing the increase in the number of subscribers the cable companies have had since the regulations imposed in the cable act. This is 1990, a 4.4 percent increase; 1991; and then after the act, 1993–1994, you can see they go up 2.8 percent; and then in 1994, when the act really kicked in for the full year, a 5-percent increase in subscriber growth to cable, which shows that the business remained healthy during that period of time.

Last year, cable systems expanded their infrastructure to reach 1 million additional homes, 1.4 additional households subscribed to basic cable service, and 1.1 million families purchased expanded cable packages.

Pay services were taken by an additional 2 million homes, and dozens of new programming channels were developed and offered to the public, all of that growth occurring during these 2 years in which regulation has been in place.

Equally important, some would say most important, the cable industry has been investing to compete with telephone companies in the multimedia services. I know that one of the arguments that the cable company folks have made against this amendment and for deregulation now before there is any competition to them has been that they have to be able to raise money to compete, build an infrastructure with the telephone companies when they get into the cable business.

But the fact is that the chart illustrates during this period in which regulation has existed again for a couple of years, the capital expenditures of the cable industry have been very healthy. In fact, they have dramatically increased in the years that regulation has been on. We go from 1993, up to almost $3 billion; in 1994, up to almost $4 billion, $3.7 billion.

Since last summer, 1994, major cable companies have raised and invested over $15 billion in new competitive ventures. Most recently, a consortium that includes TCI, Comcast and Cox, raised and spent more than $2 billion to buy, if you will, the spectrum that was auctioned, a figure higher than any other set of bidders paid in the spectrum auction.

Let us talk about the profit margin for the cable industry during this period of time. For 1993, it was 20 percent, the highest profit margin of any segment of the telecommunications industry, and this is after regulation went into effect, because there was no competition. Cable companies have been successful in acquiring and spending money, and that is the way it ought to be. I want them to grow and prosper.

Finally, here I have plotted the average value of cable stocks as compared to the S&P 500. As you can see, regulation has not hurt the performance of cable stocks. In blue, we have cable industry stocks charted. The S&P 500 is in red. Here, again, you can see how healthy the cable industry has been—and the stock market, after all, is a measurement of consumer confidence in the future of this industry. Here we go, 1993 and 1994, during that period of time when regulation was instituted because there was no competition, the cable industry stock index performed significantly better than the Standard & Poor's 500.

Obviously, investors do not think regulation has been bad for the cable industry. Just about every day newspapers announce new examples of major cable advancement or system upgrades or system expansion. Again, that is good news.

Finally, it is critical to understand that the cable act and the FCC regulations allow cable operators to respond to both the threat of competition or actual competition in the same manner that any reasonable business in an unregulated market would react to such threats. In the face of competition, a cable operator may either improve service—that is what competition is all about—without any regulatory filings, reduce prices for any tier of service—that is what a normal business does when they have competition without any regulatory OK, they reduce their prices—they may offer new services at any price, all this without regulation. And, of course, under the act, all pay services—this is the 1992 act—all pay services and premium channels are already unregulated.

Mr. President, there is only one thing the cable operator may not do under the Cable Act of 1992 and that is to raise rates above a reasonable level.

Why would any cable operator who faced real competition want to raise prices above a reasonable level? Obviously, most sensible business people would not raise prices in the face of that competition. But does that not all change if there is no competition?

I am sorry to say that the committee bill with its repeal of these cable consumer protections that have worked for the consumer and the industry will allow the industry to raise its rates again before competition ever arrives and literally takes us back to 1984.

Although proponents of this bill, S. 652, note that it does explicitly deregulate all cable services immediately, the bill provides cable operators an opportunity to raise rates back to about the level they would have been if we had not passed the Cable Act of 1992.

Let me briefly explain. In this bill, S. 652 before us now, the standard for determining that a cable company is charging unreasonable rates for program services would be a comparison to the national average of cable system rates as of June 1, 1995, a few weeks ago. A cable company would have to charge rates that are substantially above the national average on June 1, 1995, before that company could be regulated.

And this deals with what we all consider to be cable. The bill, S. 652, leaves basic services regulated. There are three tiers of cable: basic, which is what you can get without cable over antenna, in most cases, the networks and maybe public television; the middle tier, what most people think of as cable—CNN, ESPN, Nickelodeon, whatever; and the third tier is channels unregulated.

Today, the basic tier and middle tier are regulated. Premium channels are not. Under this legislation, the basic tier remains regulated, the middle tier is unregulated, unless the rates are found to be substantially above the national average. The national average will be recalculated every 2 years.

So, there again, we have an incentive for the industry to increase its prices. Ironically, it is as if instead of a reason to reduce prices or hold prices, we are giving in this legislation the industry an incentive to increase prices, because the standard will be changed every 2 years. With almost 40 percent of the market dominated by two cable companies, the national average will be controlled by a small number of companies.

For example, an average package of cable programming around this country now costs about $15 or $20 a month. Every cable consumer whose company currently charges less than this average will have a green light to increase their rates to $20 to $25 per month without being substantially above the national average, which is the standard in this legislation.

In other words, consumers are likely to face at least a $5 a month rate increase for stations like ESPN, CNN, Discovery, Lifetime, USA and, in many cases, C-SPAN. Rate increases in this range would drive cable prices back up to the levels experienced from 1986 to 1992 when there was no consumer protection.

What we are presenting here is an opportunity for the cable operators to go back to their old ways. What I am saying is you do not need to do this to keep them healthy, as the numbers I have shown indicated. Even if the Congress completely deregulated cable again, it—well, basically this amounts to complete deregulation.

In my amendment, No. 1298, the national average would be calculated not by what exists on June 1, 1995, or on what exists 2 years from now after raising the rates. It will be calculated by including markets that currently have effective competition and those who become competitive over time, allowing the markets, not regulators to set prices.

That is the point of this amendment, and that is why I think this amendment is so consistent with the overall thrust of this bill. It is procompetitive. It says let the markets, not regulators, set reasonable prices. Small cable companies, because they have their own economic pressures that control their rates, in my opinion, would be exempt from regulation under this amendment.

I want to emphasize that the negotiations that resulted in some changes in the calculation of the national average, while moving in the direction of putting some pressure on these monopolies and protecting consumers, in my opinion, just do not go far enough. The national average would be calculated using the rates from June 1 of this year. Using a fixed date when regulation is in effect is supposed to result in a fair value for the national average for cable rates. But that date, June 1, occurs after some significant deregulation for certain cable systems under the FCC procedure. Using that date will increase the national average, therefore, leading to higher cable rates. The method of calculation spelled out in the bill, which is complicated, uses a per-channel approach, cost per channel. So let me give you an example based on numbers from a compilation of cost per channel rates in an article that appeared in Consumers Research.

In 1990, monopoly cable systems were charging 50 percent more than cable companies in competitive markets on a cost per channel basis. Using the complex calculation described in the current bill, as modified by the managers amendment, there would be a significant increase in the cost per channel over the rates charged in competitive markets.

So taking inflation into account, the average cost per channel would be 20 percent higher in the current bill than by simply comparing rates to competitive markets, as occurs in my amendment.

So to summarize, the current bill defines a very complex method of calculation dreamed up by regulators. Not only is the system illogical, it is also unfair. And though the system of calculation may be complex, the result, in my opinion, will be plain and simple, and that is that the consumer of cable services—the millions out there across America, who depend on cable for their entertainment, for their information, in many cases today, even for their shopping—are going to be the ones to lose their rates. Their rates will go up. My amendment uses markets to set prices, not arcane formulas devised by regulators.

In conclusion, I want to make sure we do not make the same mistake I believe Congress made in 1984 and that Congress recognized it made in 1992. Consumers paid a hefty price for premature deregulation of cable over the last decade. I say ''premature'' because competition effectively exists in very few cable markets. I do not want to redo that mistake.

This amendment will prevent excessive deregulation before there is competition, while maintaining the spirit of the underlying bill. I am in favor of competition. I hope it comes quickly. I hope there are more than one-half of 1 percent who get a competitive cable service from the direct broadcast satellites. I hope that the telephone companies move as rapidly as some suggest they will—though, I doubt it—into providing multi-channel services and competition with existing cable systems.

Let competition set rates and protect consumers, not regulators. That is what my amendment is all about.

I thank the Chair for the courtesy and the opportunity to address my colleagues on behalf of this amendment.

I urge support for it, and I yield the floor.

Mr. ROCKEFELLER. Just for the sake of the hour of 7:30, I simply ask unanimous consent, Mr. President, for 10 seconds to call up amendment No. 1292.

The PRESIDING OFFICER. Is there objection? In the absence of objection, the Senator from West Virginia is recognized.

Mr. ROCKEFELLER. I thank the Senator.

AMENDMENT NO. 1292

(Purpose: To eliminate any possible jurisdictional question arising from universal service references in the health care providers for rural areas provision)

The PRESIDING OFFICER. Does the Senator call up an amendment? Would you repeat the number again, please?

Mr. ROCKEFELLER. Yes. 1292.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER] proposes an amendment numbered 1292.

Mr. ROCKEFELLER. 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:

In section 264 of the Communications Act of 1934, as added by section 310 of the bill beginning on page 132, strike subsections (a) and (b) and insert the following:

''(a) IN GENERAL.—

''(1) HEALTH CARE PROVIDERS FOR RURAL AREAS.—A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services, including instruction relating to such services, at rates that are reasonably comparable to rates charged for similar services in urban areas to any public or nonprofit health care provider that serves persons who reside in rural areas. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the difference, if any, between the price for services provided to health care providers for rural areas and the price for services provided to other customers in comparable urban areas treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

''(2) EDUCATIONAL PROVIDERS AND LIBRARIES.—All telecommunications carriers serving a geographic area shall, upon a bona fide request, provide to elementary schools, secondary schools, and libraries universal services (as defined in section 253) that permit such schools and libraries to provide or receive telecommunications services for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission and the States determine is appropriate and necessary to ensure affordable access to and use of such telecommunications by such entities. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the amount of the discount treated as a service obligation as part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

''(b) UNIVERSAL SERVICE MECHANISMS.—The Commission shall include consideration of the universal service provided to public institutional telecommunications users in any universal service mechanism it may establish under section 253.

Mr. ROCKEFELLER. I thank the Chair.

The PRESIDING OFFICER. Without objection, the amendment will be set aside.

Mr. STEVENS. Mr. President, I want to comply with the majority leader.

I would like to call up my amendments 1301, 1302, 1304, already covered, and 1300. And I will offer a second-degree amendment to the 1300.

Thank you very much.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. I move to lay this aside in order to continue with the consideration of Senator LIEBERMAN's presentation.

The PRESIDING OFFICER. Will the Senator suspend for just a moment?

Was the Senator intending to call up amendment No. 1300?

Mr. STEVENS. Yes.

AMENDMENT NO. 1300

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] offers an amendment numbered 1300.

Mr. STEVENS. 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 36, between lines 23 and 24, insert the following new subsection and renumber the remaining subsections accordingly:

(a) FINDINGS.—The Congress finds that—

(1) the existing system of universal service has evolved since 1930 through an ongoing dialogue between industry, various Federal-State Joint Boards, the Commission, and the courts;

(2) this system has been predicated on rates established by the Commission and the States that require implicit cost shifting by monopoly providers of telephone exchange service through both local rates and access charges to interexchange carriers;

(3) the advent of competition for the provision of telephone exchange service has led to industry requests that the existing system be modified to make support for universal service explicit and to require that all telecommunications carriers participate in the modified system on a competitively neutral basis; and

(4) modification of the existing system is necessary to promote competition in the provision of telecommunications services and to allow competition and new technologies to reduce the need for universal service support mechanisms.

On page 38, beginning on line 15, strike all through page 43, line 2, and insert the following:

''SEC. 253. UNIVERSAL SERVICE.

''(a) UNIVERSAL SERVICE PRINCIPLES.—The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

''(1) Quality services are to be provided at just, reasonable, and affordable rates.

''(2) Access to advanced telecommunications and information services should be provided in all regions of the Nation.

''(3) Consumers in rural and high cost areas should have access to telecommunications and information services, including interexchange services, that are reasonably comparable to those services provided in urban areas.

''(4) Consumers in rural and high cost areas should have access to telecommunications and information services at rates that are reasonably comparable to rates charged for similar services in urban areas.

''(5) Consumers in rural and high cost areas should have access to the benefits of advanced telecommunications and information services for health care, education, economic development, and other public purposes.

''(6) There should be a coordinated Federal-State universal service system to preserve and advance universal service using specific and predictable Federal and State mechanisms administered by an independent, nongovernmental entity or entities.

''(7) Elementary and secondary schools and classrooms should have access to advanced telecommunications services.

''(b) DEFINITION.—

''(1) IN GENERAL.—Universal service is an evolving level of intrastate and interstate telecommunications services that the Commission, based on recommendations from the public, Congress, and the Federal-State Joint Board periodically convened under section 103 of the Telecommunications Act of 1995, and taking into account advances in telecommunications and information technologies and services, determines—

''(A) should be provided at just, reasonable, and affordable rates to all Americans, including those in rural and high cost areas and those with disabilities;

''(B) are essential in order for Americans to participate effectively in the economic, academic, medical, and democratic processes of the Nation; and

''(C) are, through the operation of market choices, subscribed to by a substantial majority of residential customers.

''(2) DIFFERENT DEFINITION FOR CERTAIN PURPOSES.—The Commission may establish a different definition of universal service for schools, libraries, and health care providers for the purposes of section 264.

''(c) ALL TELECOMMUNICATIONS CARRIERS MUST PARTICIPATE.—Every telecommunications carrier engaged in intrastate, interstate, or foreign communication shall participate, on an equitable and nondiscriminatory basis, in the specific and predictable mechanisms established by the Commission and the States to preserve and advance universal service. Such participation shall be in the manner determined by the Commission and the States to be reasonably necessary to preserve and advance universal service. Any other provider of telecommunications may be required to participate in the preservation and advancement of universal service, if the public interest so requires.

''(d) STATE AUTHORITY.—A State may adopt regulations to carry out its responsibilities under this section, or to provide for additional definitions, mechanisms, and standards to reserve and advance universal service within that State, to the extent that such regulations do not conflict with the Commission's rules to implement this section. A State may only enforce additional definitions or standards to the extent that it adopts additional specific and predictable mechanisms to support such definitions or standards.

''(e) ELIGIBILITY FOR UNIVERSAL SERVICE SUPPORT.—To the extent necessary to provide for specific and predictable mechanisms to achieve the purposes of this section, the Commission shall modify its existing rules for the preservation and advancement of universal service. Only essential telecommunications carriers designated under section 214(d) shall be eligible to receive support for the provision of universal service. Such support, if any, shall accurately reflect what is necessary to preserve and advance universal service in accordance with this section and the other requirements of this Act.

''(f) UNIVERSAL SERVICE SUPPORT.—The Commission and the States shall have as their goal the need to make any support for universal service explicit, and to target that support to those essential telecommunications carriers that serve areas for which such support is necessary. The specific and predictable mechanisms adopted by the Commission and the States shall ensure that essential telecommunications carriers are able to provide universal service at just, reasonable, and affordable rates. A carrier that receives universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

''(g) INTEREXCHANGE SERVICES.—The rates charged by any provider of interexchange telecommunications service to customers in rural and high cost areas shall be no higher than those charged by such provider to its customers in urban areas.

''(h) SUBSIDY OF COMPETITIVE SERVICES PROHIBITED.—A telecommunications carrier may not use services that are not competitive to subsidize competitive services. The Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service

bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

''(i) CONGRESSIONAL NOTIFICATION REQUIRED.—

''(1) IN GENERAL.—The Commission may not take action to require participation by telecommunications carriers or other providers of telecommunications under subsection (c), or to modify its rules to increase support for the preservation and advancement of universal service, until—

''(A) the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the participation required, or the increase of support proposed, as appropriate; and

''(B) a period of 120 days has elapsed since the date the report required under paragraph (1) was submitted.

''(2) NOT APPLICABLE TO REDUCTIONS.—This subsection shall not apply to any action taken to reduce costs to carriers or consumers.

''(j) EFFECT ON COMMISSION'S AUTHORITY.—Nothing in this section shall be construed to expand or limit the authority of the Commission to preserve and advance universal service under this Act. Further, nothing in this section shall be construed to require or prohibit the adoption of any specific type of mechanism for the preservation and advancement of universal service.

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

On page 43, beginning with ''receive'' on line 25, through ''253.'' on page 44, line 1, is deemed to read ''receive universal service support under section 253.''.

In section 264 of the Communications Act of 1934, as added by section 310 of the bill beginning on page 132, strike subsections (a) and (b) and insert the following:

''(a) IN GENERAL.—

''(1) HEALTH CARE PROVIDERS FOR RURAL AREAS.—A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health services, including instruction relating to such services, at rates that are reasonably comparable to rates charged for similar services in urban areas to any public or nonprofit health care provider that serves persons who reside in rural areas. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the difference, if any, between the price for services provided to health care providers for rural areas and the price for similar services provided to other customers in comparable urban areas treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

''(2) EDUCATIONAL PROVIDERS AND LIBRARIES.—All telecommunications carriers serving a geographic area shall, upon a bona fide request, provide to elementary schools, secondary schools, and libraries universal services (as defined in section 253) that permit such schools and libraries to provide or receive telecommunications services for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission and the States determine is appropriate and necessary to ensure affordable access to and use of such telecommunications by such entities. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the amount of the discount treated as a service obligation as part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(c).

''(b) UNIVERSAL SERVICE MECHANISMS.—The Commission shall include consideration of the universal service provided to public institutional telecommunications users in any universal service mechanism it may establish under section 253.

Mr. STEVENS. Mr. President, parliamentary inquiry: My amendments 1301, 1302, and 1304 are covered by the unanimous consent agreement. Do I have to call them up at this time?

The PRESIDING OFFICER. The Senator needs to call them up at this time, and they need to be reported.

Mr. STEVENS. I ask that they be reported. I ask unanimous consent that we may proceed in this manner.

AMENDMENTS NOS. 1301, 1302, AND 1304

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes amendments numbered 1301, 1302, and 1304.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 1301

(Purpose: To modify the definition of LATA as it applies to commercial mobile services)

At the appropriate place insert the following:

In section 3(tt) of the Communications Act of 1934, as added by section 8(b) of the bill on page 14, strike ''services.'' and insert the following: ''Provided, however, that in the case of a Bill operating company affiliate, such geographic area shall be no smaller than the LATA area for such affiliate on the date of enactment of the Telecommunications Act of 1995.''

AMENDMENT NO. 1302

(Purpose: To provide interconnection rules for Commercial Mobile Service Providers)

On page 28 before line 6 inset the following:

''(m) COMMERCIAL MOBILE SERVICE PROVIDERS.—The requirements of this section shall not apply to commercial mobile services provided by a wireline local exchange carrier unless the Commission determines under subsection (a)(3) that such carrier has market power in the provision of commercial mobile service.''

AMENDMENT NO. 1304

(Purpose: To ensure that resale of local services and functions is offered at an appropriate price for providing such services)

In subsection (d) of the section captioned ''SPECTRUM AUCTIONS'' added to the bill by amendment, strike ''three frequency bands (225–400 megahertz, 3625–3650 megahertz,'' and insert ''two frequency bands (3625–3650 megahertz''.

Mr. STEVENS. All of my amendments will now be called up later?

The PRESIDING OFFICER. The four amendments are now pending.

Mr. STEVENS. I ask unanimous consent that they be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments are set aside.

Will the Senator indicate to which amendment he intended to offer a second-degree amendment?

Mr. STEVENS. I intend to call up an amendment to amendment numbered 1300, and that has been filed.

The PRESIDING OFFICER. Thank you. Under the unanimous consent order, amendments are to be called up prior to 7:30. It may be that there will be Members of the Senate who will come forward.

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

AMENDMENT NO. 1280

(Purpose: To encourage steps to prevent the access by children to obscene and indecent material through the Internet and other electronic information networks)

Mr. INOUYE. On behalf of the Senator from Virginia, [Mr. ROBB], I call up Amendment No. 1280 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows.

The Senator from Hawaii [Mr. INOUYE], for Mr. ROBB, proposes an amendment numbered 1280.

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

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

The amendment is as follows:

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

SEC. 409. RESTRICTIONS ON ACCESS BY CHILDREN TO OBSCENE AND INDECENT MATERIAL ON ELECTRONIC INFORMATION NETWORKS OPEN TO THE PUBLIC.

. . . In order—

(1) to encourage the voluntary use of tags in the names, addresses, or text of electronic files containing obscene, indecent, or mature text or graphics that are made available to the public through public information networks in order to ensure the ready identification of files containing such text or graphics;

(2) to encourage developers of computer software that provide access to or interface with a public information network to develop software that permits users of such software to block access to or interface with text or graphics identified by such tags; and

(3) to encourage the telecommunications industry and the providers and users of public information networks to take practical actions (including the establishment of a board consisting of appropriate members of such industry, providers, and users) to develop a highly effective means of preventing the access of children through public information networks to electronic files that contain such text or graphics,

The Secretary of Commerce shall take appropriate steps to make information on the tags established and utilized in voluntary compliance with subsection (a) available to the public through public information networks.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall submit the Congress a report on the tags established and utilized in voluntary compliance with this section. The report shall—

(1) describe the tags so established and utilized;

(2) assess the effectiveness of such tags in preventing the access of children to electronic files that contain obscene, indecent,

or mature text or graphics through public information networks; and

(3) provide recommendations for additional means of preventing such access.

(d) DEFINITIONS.—In this section:

(1) The term ''public information network'' means the Internet, electronic bulletin boards, and other electronic information networks that are open to the public.

(2) The term ''tag'' means a part or segment of the name, address, or text of an electronic file.

Mr. INOUYE. Mr. President, I ask unanimous consent that this amendment be in order to be taken up tomorrow.

The PRESIDING OFFICER. Without objection, it will be set aside.

Mr. INOUYE. I thank the Chair.

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

The PRESIDING OFFICER. The Senator from Alaska.

AMENDMENT NO. 1303

(Purpose: To ensure that resale of local services and functions is offered at an appropriate price for providing such services)

Mr. STEVENS. Mr. President, in order to comply with the previous order, I would call up my amendment 1303 and ask unanimous consent to call it up at this time to qualify.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself and Mr. INOUYE, proposes an amendment numbered 1303.

Mr. STEVENS. 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:

Page 86, line 25, after ''basis'' insert a comma and ''reflecting the actual cost of providing those services or functions to another carrier,''

Mr. STEVENS. Mr. President, I might state that it is not my present intention to call this up. We are working on this, and we may not call this up. I just want to qualify it for the purposes of the RECORD.

The PRESIDING OFFICER. Without objection, the amendment will be set aside.

Mr. INOUYE. Mr. President, the amendment Senator STEVENS and I are introducing provides an essential mechanism for achieving a central goal of this bill—to open the local exchange to competition for the first time. Today's highly competitive long distance market has its roots in a 1976 order by the Federal Communications Commission that ushered in the unrestricted resale of AT&T's telecommunications services by its competitors. The FCC order allowed competitors to purchase AT&T's excess long distance capacity in bulk, at non-discriminatory and often deeply discounted rates, and then resell those services to their own customers at competitive retail rates. Three companies—Sprint, MCI, and LDDS—exploited this resale capability to grow and eventually build their own state-of-the-art national networks. Those networks now allow nationwide, long distance competition with AT&T. What's more, excess capacity in the three new national networks has given birth to an entire industry of more than 500 resellers around the country. The benefits of this new competition among carriers and resellers have been enormous—rapid technological innovations, greater consumer choice, and lower consumer prices.

If our Nation's experience with competitive long distance service is any model—and I am convinced it is our best model—resale will be the essential first step in developing competitive local exchange markets. Given the enormous cost of building sophisticated communications networks throughout the country, local exchange competition will never have a chance to develop if competitors have to start by building networks that are comparable to the vast and well-established Bell networks. For this reason, affordable resale opportunities are the key to stimulating local competition. But these resale opportunities must be based on economically reasonable prices that reflect the actual cost of providing those services and functions to another carrier and not monopoly mark-up prices. The amendment we are offering today will ensure that resale opportunities in the local exchange will in fact stimulate the development local competition.

Make no mistake—we want to be sure that the Bell companies are compensated for the actual cost of providing these facilities, services, and functions to competing carriers. We are not asking them to subsidize their competitors. But neither should these competitors be asked to subsidize the Bell companies. Therefore, resale prices must reflect the very substantial savings that will be realized by the Bell companies by selling their facilities on a wholesale, rather than a resale, basis. As a wholesaler, a Bell company is relieved of the obligation to provide a wide variety of services to the retail customer, such as billing and maintenance, that add to the cost of service. Similarly, the costs associated with marketing, advertising, and collecting on receivables are eliminated when the Bell company acts as a wholesaler. By ensuring that these cost-savings are accurately reflected in the resale prices charged to competing local carriers, we can guarantee a viable resale industry that will serve as an early stimulus for local competition.

The amendment also leaves undisturbed pricing structuring that benefit residential consumers of local exchange service. As the Bell companies have told us, to keep residential prices affordable, they sometimes sell these services below their actual costs and recover the shortfall, where it occurs, by pricing other services above their costs, thereby indirectly subsidizing their residential retail rates. The amendment we offer today will not affect those subsidies, which will be counted towards the recovery of costs in setting resale prices.

We believe the amendment properly balances the interests here in permitting the Bell companies to recover their costs and indeed to make a reasonable profit while assuring that a viable resale business can jump-start local competition. We simply cannot expect competitors to build out their own networks before they can provide full, unrestricted competition to current local exchange service providers. Nor can we expect them to enter the market if the wholesale rates offer them no margins for profit, such as in the Rochester experiment. The creation of full-scale, vigorous competition in the market for local exchange services is critical if our Nation's telecommunications industry is to provide a wide array of the best technology at low costs to consumers. Resale is a proven policy for achieving that competition. I urge my colleagues to adopt this amendment.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. What is the pending business?

The PRESIDING OFFICER. At this point, all the amendments offered have been set aside.

AMENDMENTS NOS. 1301, 1302, 1304

Mr. STEVENS. Mr. President, is it in order to call up my three amendments, 1301, 1302 and 1304?

The PRESIDING OFFICER. It is in order.

Mr. STEVENS. I yield myself 5 minutes on the amendments, and I will make a simple statement on each one.

Amendment No. 1301 is a technical clarification of the definition of LATA—Local Access and Transport Area—in the bill. This amendment clarifies that a Bell company cellular operation will continue to have the same size LATA as they do today.

Mr. President, amendment No. 1302 is a technical clarification of the interconnection requirements of section 251, to ensure that the commercial mobile service portion of a local exchange carrier's network is not subject to the requirements of section 251, unless that carrier has market power in the provision of commercial mobile services.

Mr. President, amendment No. 1304 is a technical amendment to my earlier amendment on spectrum auctions that the Senate adopted this past week. The amendment deletes the requirement that the Secretary of Commerce submit a timetable for the reallocation of the 225 to 400 megahertz band of spectrum.

I have had several discussions on this matter with the Department of Defense and the National Telecommunications and Information Agency. Both have recommended that this frequency continue to be reserved for military and public safety uses.

I might point out that my amendment did not mandate the transfer of

that spectrum. It merely made the spectrum subject to the requirement that the Secretary provide a schedule for transfer. The Secretary could have indicated no intent to transfer. But since there was a problem, I am going to ask the adoption of this amendment.

I am informed that amendment No. 1304 has no budgetary impact on the statement I have previously made to the Senate concerning the estimate of revenues pursuant to the CBO estimate process for my spectrum auction amendment that was adopted last week.

If there are any questions from any Member about these three technical amendments, I would be pleased to respond at this time.

I reserve the remainder of my time.

Mr. HOLLINGS. The amendments have been cleared on this side.

Mr. STEVENS. Mr. President, I am pleased to have the statement of the Senator from South Carolina that these three amendments are cleared on his side. I ask my friend, the chairman of the Commerce Committee, if he is prepared to similarly support these amendments?

Mr. PRESSLER. Yes, we are prepared to do that. We thank the Senator for taking care of them in such a good manner.

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

Who controls the other time?

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. PRESSLER. I propose that, if we can, we adopt the amendments.

Mr. STEVENS. I ask unanimous consent that the amendments be considered, en bloc, and adopted, en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to, en bloc.

So the amendments (Nos. 1301, 1302, and 1304) were agreed to, en bloc.

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

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

The motion to lay on the table was agreed to.

AMENDMENT NO. 1300, AS MODIFIED

Mr. STEVENS. I send a modification to amendment No. 1300 to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 1300), as modified, is as follows:

On page 36, between lines 23 and 24, insert the following new subsection and renumber the remaining subsections accordingly:

(a) FINDINGS.—The Congress finds that—

(1) the existing system of universal service has evolved since 1930 through an ongoing dialogue between industry, various Federal-State Joint Boards, the Commission, and the courts;

(2) this system has been predicated on rates established by the Commission and the States that require implicit cost shifting by monopoly providers of telephone exchange service through both local rates and access charges to interexchange carriers;

(3) the advent of competition for the provision of telephone exchange service has led to industry requests that the existing system be modified to make support for universal service explicit and to require that all telecommunications carriers participate in the modified system on a competitively neutral basis; and

(4) modification of the existing system is necessary to promote competition in the provision of telecommunications services and to allow competition and new technologies to reduce the need for universal service support mechanisms.

On page 38, beginning on line 15, strike all through page 43, line 2, and insert the following:

"SEC. 253. UNIVERSAL SERVICE.

"(a) UNIVERSAL SERVICE PRINCIPLES.—The Joint Board and the Commission shall base policies for the preservation and advancement of universal service on the following principles:

"(1) Quality services are to be provided at just, reasonable, and affordable rates.

"(2) Access to advanced telecommunications and information services should be provided in all regions of the Nation.

"(3) Consumers in rural and high cost areas should have access to telecommunications and information services, including interexchange services, that are reasonably comparable to those services provided in urban areas.

"(4) Consumers in rural and high cost areas should have access to telecommunications and information services at rates that are reasonably comparable to rates charged for similar services in urban areas.

"(5) Consumers in rural and high cost areas should have access to the benefits of advanced telecommunications and information services for health care, education, economic development, and other public purposes.

"(6) There should be a coordinated Federal-State universal service system to preserve and advance universal service using specific and predictable Federal and State mechanisms administered by an independent, nongovernmental entity or entities.

"(7) Elementary and secondary schools and classrooms should have access to advanced telecommunications services.

"(b) DEFINITION.—

"(1) IN GENERAL.—Universal service is an evolving level of intrastate and interstate telecommunications services that the Commission, based on recommendations from the public, Congress, and the Federal-State Joint Board periodically convened under section 103 of the Telecommunications Act of 1995, and taking into account advances in telecommunications and information technologies and services, determines—

"(A) should be provided at just, reasonable, and affordable rates to all Americans, including those in rural and high cost areas and those with disabilities;

"(B) are essential in order for Americans to participate effectively in the economic, academic, medical, and democratic processes of the Nation; and

"(C) are, through the operation of market choices, subscribed to by a substantial majority of residential customers.

"(2) DIFFERENT DEFINITION FOR CERTAIN PURPOSES.—The Commission may establish a different definition of universal service for schools, libraries, and health care providers for the purposes of section 264.

"(c) ALL TELECOMMUNICATIONS CARRIERS MUST PARTICIPATE.—Every telecommunications carrier engaged in intrastate, interstate, or foreign communication shall participate, on an equitable and nondiscriminatory basis, in the specific and predictable mechanisms established by the Commission and the States to preserve and advance universal service. Such participation shall be in the manner determined by the Commission and the States to be reasonably necessary to preserve and advance universal service. Any other provider of telecommunications may be required to participate in the preservation and advancement of universal service, if the public interest so requires.

"(d) STATE AUTHORITY.—A State may adopt regulations to carry out its responsibilities under this section, or to provide for additional definitions, mechanisms, and standards to preserve and advance universal service within that State, to the extent that such regulations do not conflict with the Commission's rules to implement this section. A State may only enforce additional definitions or standards to the extent that it adopts additional specific and predictable mechanisms to support such definitions or standards.

"(e) ELIGIBILITY FOR UNIVERSAL SERVICE SUPPORT.—To the extent necessary to provide for specific and predictable mechanisms to achieve the purposes of this section, the Commission shall modify its existing rules for the preservation and advancement of universal service. Only essential telecommunications carriers designated under section 214(d) shall be eligible to receive support for the provision of universal service. Such support, if any, shall accurately reflect what is necessary to preserve and advance universal service in accordance with this section and the other requirements of this Act.

"(f) UNIVERSAL SERVICE SUPPORT.—The Commission and the States shall have as their goal the need to make any support for universal service explicit, and to target that support to those essential telecommunications carriers that serve areas for which such support is necessary. The specific and predictable mechanisms adopted by the Commission and the States shall ensure that essential telecommunications carriers are able to provide universal service at just, reasonable, and affordable rates. A carrier that receives universal service support shall use that support only for the provision, maintenance, and upgrading of facilities and services for which the support is intended.

"(g) INTEREXCHANGE SERVICES.—The rates charged by any provider of interexchange telecommunications service to customers in rural and high cost areas shall be no higher than those charged by such provider to its customers in urban areas.

"(h) SUBSIDY OF COMPETITIVE SERVICES PROHIBITED.—A telecommunications carrier may not use services that are not competitive to subsidize competitive services. The Commission, with respect to interstate services, and the States, with respect to intrastate services, shall establish any necessary cost allocation rules, accounting safeguards, and guidelines to ensure that services included in the definition of universal service bear no more than a reasonable share of the joint and common costs of facilities used to provide those services.

"(i) CONGRESSIONAL NOTIFICATION REQUIRED.—

"(1) IN GENERAL.—The Commission may not take action to require participation by telecommunications carriers or other providers of telecommunications under subsection (c), or to modify its rules to increase support for the preservation and advancement of universal service, until—

"(A) the Commission submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Commerce of the House of Representatives a report on the participation required, or the increase in support proposed, as appropriate; and

"(B) a period of 120 days has elapsed since the date the report required under paragraph (1) was submitted.

''(2) NOT APPLICABLE TO * * * .— * * *

''(j) EFFECT ON COMMISSION'S AUTHORITY.—Nothing in this section shall be construed to expand or limit the authority of the Commission to preserve and advance universal service under this Act. Further, nothing in this section shall be construed to require or prohibit the adoption of any specific type of mechanism for the preservation and advancement of universal

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

On page 43, beginning with ''receive'' on line 25, through ''253.'' on page 44, line 1, is deemed to read ''receive universal service support under section 253.''.

In section 264 of the Communications Act of 1934, as added by section 310 of the bill beginning on page 132, strike subsections (a) and (b) and insert the following:

''(a) IN GENERAL.—

''(1) HEALTH CARE PROVIDERS FOR RURAL AREAS.—A telecommunications carrier shall, upon receiving a bona fide request, provide telecommunications services which are necessary for the provision of health care services, including instruction relating to such services, at rates that are reasonably comparable to rates charged for similar services in urban areas to any public or nonprofit health care provider that serves persons who reside in rural areas. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal of the difference, if any, between the price for services provided to health care providers for rural areas and the price for similar services provided to other customers in comparable urban areas treated as a service obligation as a part of its obligation to participate in the mechanisms to preserve and advance universal service under section 253(e).

''(2) EDUCATIONAL PROVIDERS AND LIBRARIES.—All telecommunications carriers serving a geographic area shall, upon a bona fide request, provide to elementary schools, secondary schools, and libraries universal services (as defined in section 253) that permit such schools and libraries to provide or receive telecommunications services for educational purposes at rates less than the amounts charged for similar services to other parties. The discount shall be an amount that the Commission and the States determine is appropriate and necessary to ensure affordable access to and use of such telecommunications by such entities. A telecommunications carrier providing service pursuant to this paragraph shall be entitled to have an amount equal to the amount of the discount treated as a service obligation as part of its obligation to participation in the mechanisms to preserve and advance universal service under section 253(c).

''(b) UNIVERSAL SERVICE MECHANISMS.—The Commission shall include consideration of the universal service provided to public institutional telecommunications users in any universal service mechanism it may establish under section 253.

I have a second-degree amendment which I filed to this amendment numbered 1300.

I send that amendment to the desk and ask that my amendment numbered 1300, be amended by that amendment in the second degree.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. HOLLINGS. Reserving the right to object, Mr. President, what we are trying to do is see that amendment in the second degree. We do not have that.

Mr. STEVENS. 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.

AMENDMENT NO. 1280

Mr. PRESSLER. Mr. President, I ask unanimous consent that the Senate now turn to the consideration of amendment 1280, that it be considered as read, adopted and the motion to reconsider be laid upon the table, all without intervening action or debate.

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

So the amendment (No. 1280) was agreed to.

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

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

AMENDMENT NO. 1300

Mr. STEVENS. Mr. President, I renew my request that amendment 1300 be amended by the second-degree amendment that is at the desk.

What the second-degree amendment does is delete a provision that I added in the modification to clarify a concern that I thought had been expressed by the House. It was in order, and I ask to delete that one sentence in accordance with that amendment.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. STEVENS. Mr. President, this amendment modifies the universal service provisions of the bill to address concerns that were raised by the House Ways and Means Committee.

As we know, bills that concern the raising of revenues must originate in the House. We did not intend to raise revenues, and this bill does not do so, either before or after this amendment.

The amendment has been cleared by both sides of the Senate, and the second-degree amendment has now made this amendment consistent with the position, as we understand it, that has been brought by the House Members who raised concerns about the original language in the bill concerning universal service.

As amended, these universal service provisions more clearly address the goal of the bill, which is to target universal service support where it is needed.

I will submit a statement later tomorrow, discussing in detail the House concerns. Again, I want to state we are doing our best to meet the concerns that have been expressed by the House Ways and Means Committee.

There is no intention here to make this bill a revenue-raising measure, and it is not one. It merely intends to modify the existing universal service concept in telecommunications. As I pointed out before, the CBO has informed Members that the universal service concept in this bill will cost less than the current system. Therefore, it is not a revenue-raising measure.

I do ask now that this amendment 1300 be adopted. I hope that my two friends, the managers of the bill, will agree with me that the amendment—which, incidentally, I assume will be printed in the RECORD before my remarks. Is that the case?

The PRESIDING OFFICER. The Senator is correct.

Mr. STEVENS. I point out to the Senate that the amendment makes specific findings of the Congress with regard to the universal service system that exists and has been developed through an ongoing dialog between industry, the various Federal-State joint boards, the FCC, and the courts.

It is an ongoing system that has been predicated on rights established by the dialog. I believe that the findings we have now put in the bill clarify our intent with regard to the concept of continuing universal service through the use of essential telecommunications carriers.

It is a modification of the existing concept, as I said, and it will save money for the system. I believe it will provide universal service in the future that will meet the expanding needs of the country, particularly the rural areas.

Are my friends ready to accept the amendment numbered 1300, may I inquire of the distinguished Senator from South Carolina?

Mr. HOLLINGS. Mr. President, No. 1300 has been cleared on this side.

Mr. STEVENS. May I make a similar inquiry of the Senator from South Dakota? Is that amendment acceptable to the chairman of the committee?

Mr. PRESSLER. That amendment is acceptable to the ranking member and I. I commend the Senator from Alaska for his efforts.

Mr. STEVENS. Mr. President, I ask for the adoption of the amendment.

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

The amendment (No. 1300), as modified, was agreed to.

Mr. STEVENS. I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Mr. STEVENS. I thank both the chairman and ranking member.

I am pleased to see we were able to work this out. I hope it is worked out now between the Senate and the House,

particularly with regard to concerns raised by the House Ways and Means Committee members.

Mr. BURNS. While the Senator from Alaska is on the floor, I want to express my appreciation for his work on this, as a supporter of universal service, which is the core of our telecommunications industry, and he has worked this out to the good, I think, of the industry. He has been a tireless worker in this. I appreciate his efforts, along with many who serve with him on the committee. We appreciate that very much.

Mr. STEVENS. Mr. President, if the Senator will yield, I think due credit has to be given to the staff of the committee on both sides, of the majority and minority, and my able assistant, Earl Comstock, who has worked extensively and tirelessly on the subject. To us in rural America this is the core of this bill.

Mr. BURNS. Mr. President, I would just want to make a few remarks with regard to the Lieberman amendment which the Senator spoke on just a little while ago.

I want to set the record straight, because with this amendment we are going down the old road of reregulation. In fact, more regulation than was placed on the cable industry a couple of years ago.

We saw the figures of the stock and the worth of these companies, and even though I want to pass along these figures, make no mistake, regulation is not too much of a friend to those entrepreneurial people who have built probably one of the greatest cable systems in the world.

What we have done is regulated an industry, basically, that is not a necessity in the home. In other words, the homeowner, or whomever, has the freedom of not taking the service. There is still over-the-air free broadcast television that can be received almost everywhere in the United States. There may be some specific spots that do not receive free over-the-air television.

Also, in my State, looking at the rates where I can remember when we only got the two local stations, and I think three stations from Salt Lake City, and maybe a public television station when cable first came to Billings, MT. That service cost about $5.50, I think, to $6, something like that. Today we receive between 40 or 45 channels for $21. When you figure the cost per channel, cable rates have not gone up any.

And that was done at a time when there was no regulation in the cable industry. The explanation for the explosion in the jobs that were provided, the opportunity in programming, new ideas, new channels, exciting Discovery—all of those channels came to be under an era when there was no regulation.

Since we passed the 1994 reregulation of cable, cable revenues have remained flat. In other words, around $23 billion in 1993; $23 billion in 1994.

If you look at the cash flows on the reports of the major companies, companies like TCI—their cash flow, $60 billion; Time WARNER Cable, $46 billion; Comcast, $30 billion; and Cox at $27.2 billion—those are flat from 1993 to 1994 and 1995.

Stock values have dropped about 10.1 percent between September 1993 and April 1995, while the S&P and NASDAQ indexes have risen 12.2 percent and 14 percent respectively.

According to A.C. Nielsen, subscriber growth rates have declined from 3.14 percent in 1993 to 2.85 percent in 1994.

It is very dangerous, when we start down this road of reregulating. Right now competition in the entertainment business and in the television business has never been better. And I ask my friend from Connecticut, why would anybody, even a telco, want to go into the cable business with a regulated environment where they could not recover their costs of investment? This is anticompetitive legislation, if I have ever seen it. In other words, it is, I would imagine, to those who are regulated, those who are already in the business—they would stay there. They are warm and comfortable in that cocoon. But whoever wants to go into the business—the investment and ability to recover under a regulatory environment is very, very difficult.

So, if we want to promote competition, and that is the very heart and soul of this legislation, you create competition, you also create new technologies and new tools and force those technologies into the areas that need them so; and that technology gives them the tools for distance learning, telemedicine, and a host of services that we just would not see in States as remote as my home State of Montana.

So, the argument just does not hold water. Additional regulation or additional rules in order to lift regulatory control is counterproductive, and that is what this amendment would be.

I am sure we will have a lot of time tomorrow to make our statements on this. It all depends on what the agreement is. But this is a damaging amendment. It slows the growth in one of the most dynamic industries, the industry that has the potential for the most growth and the potential to really push new services out into America. Do you know what? They always talk about the glass highway, the information highway. If one wants to think a little bit, maybe the information highway is already there and it could have been built in an era where there was no regulation and it could be called cable.

Think about that. Whenever we provide a competitive environment for both the telcos and personal communications, and also in telecommunications, and then in cable communications, we set the environment for a lot of competition, I imagine the big winner will be the consumers of this country and the services they receive and the price those services will be.

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

The PRESIDING OFFICER (Mr. INHOFE). 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 want to identify myself with the remarks of the Senator from Montana. I think Senator BURNS is very accurate on this cable thing.

As reported by the Commerce Committee on March 30, this bill would maintain regulation of basic cable rates until there is effective competition; deregulate upper tiers of cable programming services only if they do not ''substantially exceed'' the ''national average'' for comparable programming service and redefine the effective competition standard to include a telephone company offering video services.

On June 9, the Senate adopted, 77 to 8, a Dole-Daschle leadership amendment, of which I was also a cosponsor, which met the concerns of those who believe that, despite the safeguards already contained in S. 652, it might lead to unreasonable rate increases by large cable operators. The Dole-Daschle amendment also deregulated small operators, a feature of the pending Lieberman amendment, which proposes to narrow the definition of effective competition and tie ''national average'' to systems that already face effective competition. As such, the Lieberman amendment is excessive and unwarranted.

As modified by our amendment, S. 652 will now, first, establish a fixed date, June 1, 1995, for measuring the ''national average'' price for cable services and only allow adjustments every 2 years. This provision eliminates the possibility that large cable operators could collude to artificially inflate rates immediately following enactment of S. 652. The bill as amended, establishes a ''national average'' based on cable rates in effect prior to passage of S. 652, when rate regulation was in full force, and excludes rates charged by small cable operators in determining the ''national average'' rate for cable services.

This provision addresses the concerns that deregulation of small system rates, which was included as part of the Dole-Daschle amendment to S. 652, would inflate the ''national average'' against which the rates of large cable companies would be measured. It specifies that ''national average'' rates are to be calculated on a per-channel basis.

This provision ensures that ''national average'' is standardized, and takes into account variations in the number of channels offered by different companies as part of their expanded program packages. It specifies that a market is effectively competitive only when an alternative multichannel video provider offers services ''comparable'' to cable television service.

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

What the bill does: The basic tier, broadcast and PEG, remains regulated until, one, telco offers video programming, or, two, direct broadcast satellite, or any other competitor reaches 15 percent of the market penetration.

I think that is very important because the basic tier remains regulated until the telco in the area has competition or until there is at least 15 percent of a direct broadcast satellite.

The upper tiers of cable rates are subject to bad actor review when the price of program packages significantly exceeds the national average. I have been in some parts of the country where you see a cable rate that is much higher, sort out of the blue, and I think that under this legislation that could fall under the so-called bad actor provision of the legislation.

The point we are making is that, as we move toward deregulation of these cable rates, there are safeguards built into this bill.

I am very concerned that the Lieberman amendment would undo the carefully crafted compromise on cable deregulation that has been agreed to by Democrats and Republicans, and we have had several votes in committee and on the floor already. We have the leadership packet. This would tend to unravel all of that at this late moment.

The fact of the matter is that rates continue to rise with regulation. Cable rates will continue to increase with regulations. Indeed, they have been increasing with regulations. The FCC rules allow rates to increase for inflation, added program costs, new equipment charges, and other factors.

Actual and potential competition spurred by our bill will result in lower cable rates.

I have said that, if we can pass this bill, we will have much lower cable rates than we would under a regulated system because we will have more providers, we will have direct broadcast satellite, we will have the video dial, and we will have the opportunity for utilities to come into the television market.

We are really talking about, with this type of regulation, the 1950's and 1960's and 1970's when maybe you could conceivably say some of this was necessary when you just had one or two providers. But in the 1990's and on into the year 2000, we will have a broad range of competition. I hope that we can take advantage of that. It will result in lower cable rates.

Regulation harms the cable industry. In 1994, for the first time ever, cable revenues remained flat—$23.021 billion in 1993, and $23 billion again in 1994. Cash flows for major companies declined. TCI, $60 billion; Time Warner Cable, $46 billion; Comcast, $30.1 billion; Cox, $27.2 billion.

Cable stock values dropped 10.1 percent between December 1993 and April 1995 while the S&P and NASDAQ indexes rose by 12.2 percent and 14 percent, respectively. That is about a 20-percent spread.

During the last year 16 major cable companies, representing 20 percent of the industry, serving 12 million subscribers have sold or announced their intentions to exit the industry.

Capital raised for public debt and equity offerings declined 81 percent in 1994, $8.6 billion in 1993 to $1.6 billion in 1994.

According to A.C. Nielsen, subscriber growth rates declined from 3.14 percent in 1993 to 2.85 percent in 1994.

Existing and potential competition: Direct broadcast satellite is the fastest growing consumer electronics product in history with 2,000 new subscribers a day projected to grow to 2.2 million subscribers by year's end and over 5 million by 2000.

Due to program access, direct broadcast satellite offers every program service available on cable plus exclusive direct broadcast satellite programming, such as movies and sports; for example, 400 NBA games this season and 700 games next season.

Cable also faces competition from 4 million C-band dishes.

Wireless cable has 600,000 subscribers, expected to grow 158 percent in 2 years to 1.5 million and to 3.4 million by 2000. Bell Atlantic, NYNEX, and PacTel have recently invested in wireless cable.

So the point is there are new services being offered. There is new competition coming forward.

Telcos have numerous video programming trials all over the United States. Meanwhile the Clinton/Gore administration continues to fight in court to keep the cable-telco ban firmly in place.

Cable deregulation is a prerequisite for competition in telecommunications.

A central goal of this bill is to create a competitive market for telecommunications services.

Cable television companies are the most likely competitors to local phone monopolies, but in order to develop advanced, competitive telecommunications infrastructures, cable companies must invest billions in new technologies.

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

Concerns about cable rate increases should be mitigated by cable's new competitive pressures from direct broadcast satellite services and from telco-delivered video programming.

Deregulation of cable television services is a prerequisite to bringing competition to telecommunications and is essential to making the competitive model embodied in S. 652 viable.

Cable systems pass over 96 percent of Americans homes with coaxial cables that carry up to 900 times as much information as the local phone company's twisted pair.

Cable companies are leaders in the use of fiber optics and digital compression technology.

Cable's high-capacity systems will ultimately provide virtually every type of communication service conceivable and allow consumers to choose between competing providers of advanced voice, video, and data services.

Mr. President, I feel very strongly that we have reached a proper balance regarding cable in this bill, and to adopt the Lieberman amendment would undo that package that has been worked out.

I also feel very strongly that the American public will benefit from what we are doing here. I mentioned earlier that I have received 500 letters from the small business people at the White House Conference on Small Business who want to pass the Senate-passed bill and also urge President Clinton to endorse the Senate-passed bill.

I think that we all want that pro-competitive deregulatory environment. Everybody says that. But many of the folks out there are arguing to preserve regulation. I frequently see large companies using Government regulation to block out competition.

I look upon this telecommunications area as a group of people in a room with a huge buffet of food stacked on the table. But they are all worried that somebody else is going to get an extra carrot. I think we are going to find there is plenty for all, and the consumers will benefit with lower telephone prices, lower cable prices, more services, more services for senior citizens, more services for farmers, and our small cities will be able to flourish.

And it is my strongest feeling that we should continue, as we have done all day, to defeat these amendments tomorrow. We had a very good day today and yesterday in terms of holding this committee bill together.

I see one of my colleagues is in the Chamber and wishes to speak. I am glad to have any speakers. We are trying to move forward. I thank you very much.

I yield the floor.

Mr. DASCHLE. Mr. President, this debate on S. 652 has clearly demonstrated the potential of emerging telecommunications technologies. It is truly exciting to contemplate what this legislation could mean for American society.

A particularly intriguing new development in the telecommunications field is the creation of personal communications service [PCS]. These devices will revolutionize the way Americans talk, work, and play.

While this new technology opens new vistas for personal communications services, its emergence also highlights the potential downside of entering untested areas. Specifically, concerns

have been raised about the potential side-effects of some new PCS technology on other devices such as hearing aids.

Recently, the Government completed an auction that netted $7 billion for the right to provide advanced digital portable telephone service. It is my understanding that some of the companies that obtained these PCS licenses have considered utilizing a technology known as GSM—global system for mobile communications. I am informed that people who wear hearing aids cannot operate GSM PCS devices, and some even report physical discomfort and pain if they are near other people using GSM technology.

It should not be our intent to cause problems for the hearing impaired in promoting the personal communications services market. It is my view that the Federal Communications Commission [FCC] should carefully consider the impact new technologies have on existing ones, especially as they relate to public safety and potential signal interference problems. An FFC review is in keeping with the intent of S. 652, which includes criteria for accessibility and usability by people with disabilities for all providers and manufacturers of telecommunications services and equipment.

Mr. HOLLINGS. Will the Senator yield?

Mr. DASCHLE. I will be glad to yield to the honorable ranking member of the Commerce Committee.

Mr. HOLLINGS. I thank the Senator for yielding and support his suggestion that the FCC investigate technologies that may cause problems for significant segments of our population before they are introduced into the U.S. market. Such review is prudent for consumers, and it will help all companies by answering questions of safety interference before money is spent deploying this technology here in the United States.

Four million Americans wear hearing aids, and the Senator from South Dakota has raised an important issue. GSM has been introduced in other countries, and problems have been reported. It is reasonable that these problems be investigated before the growth of this technology effectively shuts out a large sector of our population.

Mr. DASCHLE. I thank the Senator for his remarks, and would also like to commend his role in bringing telecommunications reform to the floor. His leadership and patience throughout this 3-year exercise that has spanned two Congresses is well known and widely appreciated.

Mr. President, the public record indicates that if companies are allowed to introduce GSM in its presemt form, serious consequences could face individuals wearing hearing aids. I would urge the FCC to investigate the safety, interference and economic issues raised by this technology. I also would urge the appropriate congressional committees to consider scheduling hearings on this issue.

AMENDMENTS NO. 1256 AND 1257

Mr. HOLLINGS. I would direct a question to my colleague with regard to the Stevens amendment on expanded auction authority for the FCC, as amended by the Pressler amendment. These amendments will auction spectrum currently assigned to broadcast auxiliary licensees, and were adopted by voice vote Wednesday evening. This bill now conforms with the Budget Act. Specifically, I do not believe that it is the intention of the sponsors to impede the ability of local broadcasters to continue to deliver on-the-spot news and information.

Mr. STEVENS. That is correct. Several concerns have been raised about auction of certain spectrum which we intend to address as this bill proceeds to conference with its companion bill in the House. In addition, some of these same concerns will be considered within the budget reconciliation bills later this summer. Therefore, we will continue to review these provisions to determine whether the newly-assigned spectrum will adequately satisfy the needs of electronic news gathering, what, if any, interference problems will arise, and how the costs of such transfers should be borne.

Mr. HOLLINGS. I thank my colleague for his comments.

MONOPOLY TELEPHONE RATES

Mr. GLENN. Mr. President, I rise in support of Senator KERREY's monopoly telephone rates amendment. This amendment offers critical protection for ratepayers from potential multibillion rate increases for telecommunications services during the transition to effective local competition.

In mandating price flexibility and prohibiting rate-of-return regulation, section 301 of the bill also prohibits State and Federal regulators from considering earnings when determining whether prices for noncompetitive services are just, reasonable, and affordable. While the Federal Communications Commission [FCC] and many State commissions have instituted various price flexibility plans, most of those plans involve some consideration of earning. If regulators are prohibited from considering the earnings factor when determining the appropriateness of prices for noncompetitive services, the captive ratepayers of these services will be subject to unwarranted rate increases.

Mr. President, this amendment does not change the bill's prohibition on rate-of-return regulation. The amendment would simply allow State and Federal commissions to consider earnings when authorizing the prices of those noncompetitive services. In this way, the amendment provides a safeguard against excess rate impacts in the future.

Mr. President, the monopoly telephone rates amendment recognizes that it is appropriate and in the consumers' interest for State regulators to continue to have a roll in determining the price of noncompetitive services in their States, and in having the discretion to consider the earnings of the local telephone company. Approximately 75 cents of every dollar consumers spend on their overall telephone bills is for calls made within their State. The goal of local telephone competition advanced in this legislation will not be achieved overnight. In the interim, State regulators should have the authority to consider a company's earnings before setting the price level of noncompetitive services. I urge my colleagues to join me in voting for this amendment.

PREEMPTION OF STATE-ORDERED INTRALATA DIALING PARITY

Mr. FEINGOLD. Mr. President, as an original cosponsor of the amendment filed yesterday by the Senator from Vermont [Senator LEAHY], amendment number 1289, I want to discuss the important issue of intraLATA dialing parity.

Mr. President, Senator LEAHY's amendment was very simple. It would have merely clarified the rights of the States to implement pro-competitive measures for telecommunications markets within their State borders, a role which we have always provided to our States. As is often the case in other policy areas, many States, including Wisconsin, are ahead of the Federal Government in deregulating telecommunications markets. In the case of my State, efforts to begin deregulation of telecommunications markets have been on-going for many years, culminating in a major telecommunications bill passed by Wisconsin's State legislature last year and signed by our Governor.

Unfortunately, while S. 652 has the laudable goal of increasing competition in all telecommunications markets, without the changes that the Senator from Vermont and I are promoting, it would actually cripple existing State efforts to enhance competition in markets within their own borders. The legislation would prevent States from ordering intraLATA dialing parity in local telecommunications markets until the incumbent regional bell operating company is allowed access to long distance markets.

IntraLATA dialing parity is complicated phraseology for a very simple concept. Currently, for any long distance calls that consumers make within their own LATA or local access and transport area—also known as short-haul long distance—are by default handled by the local toll provider. In order to use an alternative long distance company to make a short-haul long distance call, a consumer would have to dial a long string of numbers to access that service, in addition to the telephone number they must dial. For most consumers, that is a inconvenience they simply will not tolerate and

provides an advantage to the incumbent toll provider in providing short-haul long distance.

Dialing Parity already exists in interstate long distance markets, which is why any person can place a long distance call simply by dialing 1 plus the area code and phone number. The call is automatically routed through the long distance carrier the consumer has preselected. This convenience simply does not exist for consumers making short-haul long distance calls within their own LATA.

Wisconsin's Public Service Commission has gone through a lengthy multi-year process examining the technical feasibility and cost of requiring dialing parity for short-haul long distance, determining whether competition would be enhanced by this type of dialing parity and whether the public interest would be served by dialing parity for short-haul toll calls.

Their findings indicated that not only was intraLATA dialing parity technically feasible, it was also in the public interest. The Commission stated:

> IntraLATA 1+dialing parity will benefit customers and the State; will encourage the development of new products and services at reduced prices; and will result in local company provision of service more efficiently as the market becomes more competitive.

In 1994, State legislation directed our Wisconsin Public Service Commission to develop rules for 1+dialing parity for intraLATA markets. The Commission has not approached this in a haphazard manner, Mr. President. In fact the Commission has established procedures whereby a provider can request dialing parity and a company asked to provide that service to request a temporary suspension from honoring the request. This provides our PSC with the opportunity to review each request on a case by case basis if necessary. Our State legislature and our Governor endorsed this process in the Telecommunications Deregulation Act passed and signed into law last summer.

That legislation went far beyond the issue of dialing parity but also allowed the toll providers to use price cap regulation instead of rate of return regulation. The bill also stripped certain providers of their monopoly status to allow for greater competition in service areas to which they were not previously allowed access. This legislation was miles ahead of Federal legislation, Mr. President.

Mr. President, the point of this lengthy description of Wisconsin's deregulatory process is to emphasize that the States are well qualified and experienced in deregulating telecommunications markets and are doing so in a well-reasoned and orderly fashion.

Senator LEAHY's amendment would have simply allowed States to continue on their path to deregulation and increased competition in telecommunications markets unhampered by the Federal Government. The amendment would have allowed the 10 States that have already ordered intraLATA dialing parity and the 13 States that are currently considering that option, to continue their efforts without being derailed by this bill.

Those States may, in some instances, determine that competition will, in fact, not be enhanced by providing intraLATA dialing parity in certain markets if the incumbent toll provider is not allowed to enter long distance markets. In other cases, however, a State's Public Service Commission's deliberative process may indicate that, in other markets, dialing parity should be provided regardless of whether the incumbent toll provider has access to long distance service. The State has the expertise to examine the different competitive circumstances for individual markets and they should be allowed to do so.

It is inappropriate for the Congress to attempt to preempt a State's ability to make these types of decisions. Recently, 24 Attorneys General, in a letter to Senators, stated their opposition to the preemption of State's ability to order intraLATA dialing parity. Signing that letter were State Attorneys General from Wisconsin, New Mexico, Arizona, Arkansas, Connecticut, Delaware, Florida, Illinois, Iowa, Kansas, Kentucky, Massachusetts, Minnesota, Missouri, Montana, North Dakota, Oklahoma, Tennessee, Utah, Vermont, Washington, and West Virginia, among others. I ask unanimous consent that a copy of that letter be printed in the RECORD.

Mr. President, I also ask unanimous consent that a letter from the Chairman of the Public Service Commission of Wisconsin, Cheryl Parrino, in support of this amendment and addressing the issue of Universal Service be printed in the RECORD.

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

[See Exhibit 1.]

Mr. FEINGOLD. The amendment which I have been working on with Senator LEAHY would have simply made clear that the bill before us shall not prevent a State from taking procompetitive steps by requiring intraLATA dialing parity within markets under their regulatory jurisdiction.

Mr. President, however, it is my understanding that there are a number of objections to this amendment. In response to those objections, the Senator from Vermont [Senator LEAHY] and the Senator from Louisiana [Senator BREAUX] have worked out a compromise which will allow the States that have already ordered intraLATA dialing parity, such as Wisconsin, as well as single LATA states to implement it despite the overall preemption contained in this bill. However, the compromise restricts companies seeking to offer competitive intraLATA toll services from jointly marketing their intraLATA toll services with their long distance services for a period of up to 3 years. There may be concerns with respect to this restriction that may need to be addressed before the legislation is enacted.

I appreciate the hard work of my colleagues, Senators LEAHY and BREAUX in reaching this agreement. I thank them for their efforts.

EXHIBIT 1

PUBLIC SERVICE COMMISSION
OF WISCONSIN,
June 12, 1995.

Hon. RUSSELL FEINGOLD,
U.S. Senator, Washington, DC.

DEAR SENATOR FEINGOLD: I applaud your efforts to remove preemptive language from the telecommunications bill pending before the Senate. This letter is to express support for your amendment that eliminates a preemption clause that prohibits state actions that require intraLATA dialing parity. In Wisconsin, the Public Service Commission of Wisconsin has ordered full intraLATA dialing parity (1 + presubscription), and it is our belief that implementation of our orders on that issue will enhance competition and serve the public interest. It would be a disservice to the telecommunications customers of Wisconsin if federal action negated our decision on this issue.

Proponents of preemption have suggested that state actions to order full dialing parity prior to federal court action allowing the entry of the Regional Bell Operating Companies (RBOCs) into the interLATA toll market would constitute a threat to universal service. This argument is simply off base.

States, particularly state regulatory commissions, are inexorably attuned to the needs of the citizens of the states and are very cognizant of the need to maintain universal service. Any state commission considering an order for full dialing parity will have every opportunity to consider the costs of that decision and the related implications for universal service. The orders of the Wisconsin Commission that mandate intraLATA 1 + presubscription include a process whereby individual local exchange companies may request Commission waivers of the requirements for dialing parity implementation. This Commission will certainly consider the potential costs of dialing parity implementation and modify our requirements when it is in the best interests of the consumers. I am confident that other state commissions would give this same consideration.

Further, in Wisconsin, legislation passed last summer mandates a universal service program. This Commission will be promulgating rules to assure service is available and affordable to all parts of the state and to all segments of the public. The safeguards available through that program offer further support to actions by this Commission to move forward with the introduction of competition and fair competitive service standards at a pace that is reflective of the specific needs of this state. Universal mandates or activities are being addressed in numerous other states. Those state plans should be allowed to move forward based on the respective wisdom of the state legislatures or commissions in those states. A blanket hold on all intraLATA dialing parity by Congressional fiat gives no weight to the evidence of competitive need and regulatory safeguards in any individual state.

Another argument advanced by those who support preemption is that full dialing parity may cause the loss of the carrier-of-last-resort obligation by the incumbent local exchange carrier. In recent hearings in Wisconsin on this very subject, this argument was raised. It was met by a commitment from other carriers to fill that carrier-of-last-resort role if in fact the incumbent is no longer

taking on that obligation. This argument about the loss of universal service because of the carrier-of-last-resort impacts is without merit.

Competition is coming to the telecommunications industry. This bodes well for telecommunications customers. Federal action to stunt competition in parts of the market, while arguments are hashed out on the interLATA front, is a move in the wrong direction. State commissions should decide on the need for and pace of competition in the states. While there are many advantages to establishing a national policy on telecommunications, and many good points are spelled out in the legislation, the preemption of the states on dialing parity is not one of them.

Again, I commend your attempts to rectify this portion of the pending telecommunications bill. Please contact me if you have questions on my position on this matter.

This letter of support for your amendment is independent of the merits of and schedule for interLATA relief for the RBOCs.

Sincerely,

CHERYL L. PARRINO,
Chairman.

STATE OF WISCONSIN,
DEPARTMENT OF JUSTICE,
June 2, 1995.

Hon. RUSSELL D. FEINGOLD,
U.S. Senate, Washington, DC.

DEAR SENATOR FEINGOLD: The undersigned state attorneys general would like to address several telecommunications deregulation bills that are now pending in Congress. One of the objectives in any such legislation must be the promotion that fosters competition while at the same time protecting consumers from anticompetitive practices.

In our opinion, our citizens will be able to look forward to an advanced, efficient, and innovative information network only if such legislation incorporates basic antitrust principles and recognizes the essential role of the states in ensuring that citizens have universal and affordable access to the telecommunications network. The antitrust laws ensure competition and promote efficiency, innovation, low prices, better management, and greater consumer choice. If telecommunications reform legislation includes a strong commitment to antitrust principles, then the legislation can help preserve existing competition and prevent parties from using market power to tilt the playing field to the detriment of competition and consumers.

Each of the bills pending in Congress would lift the court-ordered restrictions that are currently in place on the Regional Bell Operating Companies (RBOCs). After sufficient competition exists in their local service areas, the bills would allow RBOCs to enter the fields of long distance services and equipment manufacturing. These provisions raise a number of antitrust concerns. Therefore, telecommunications deregulation legislation should include the following features:

First, the United States Department of Justice should have a meaningful role in determining, in advance, whether competition at the local level is sufficient to allow an RBOC to enter the long distance services and equipment manufacturing markets for a particular region. The Department of Justice has unmatched experience and expertise in evaluating competition in the telecommunications field. Such a role is vital regardless of whether Congress adopts a ''competitive checklist'' or ''modified final judgment safeguard'' approach to evaluating competition in local markets. The Department of Justice will be less likely to raise antitrust challenges if it participates in a case-by-case analysis of the actual and potential state of competition in each local market before RBOC entry into other markets.

Second, legislation should continue to prohibit mergers of cable and telephone companies in the same service area. Such a prohibition is essential because local cable companies are the likely competitors of telephone companies. Permitting such mergers raises the possibility of a ''one-wire world,'' with only successful antitrust litigation to prevent it. Congress should narrowly draft any exceptions to this general prohibition.

Third, Congress should not preempt the states from ordering 1+intraLATA dialing parity in appropriate cases, including cases where the incumbent RBOC has yet to receive permission to enter the interLATA long distance market. With a mere flip of a switch, the RBOCs can immediately offer ''one-stop shopping'' (both local and long distance services). New entrants, however, may take some time before they can offer such services, and only after they incur significant capital expenses will they be able to develop such capabilities.

In conclusion, we urge you to support telecommunications reform legislation that incorporates provisions that would maintain an important decision-making role for the Department of Justice; preserve the existing prohibition against mergers of telephone companies and cable television companies located in the same service areas; and protect the states' ability to order 1+intraLATA dialing parity in appropriate cases.

Thank you for considering our views.

Very truly yours,

Tom Udall, Attorney General of New Mexico; James E. Doyle, Attorney General of Wisconsin; Grant Woods, Attorney General of Arizona; Winston Bryant, Attorney General of Arkansas; Richard Blumenthal, Attorney General of Connecticut; M. Jane Brady, Attorney General of Delaware; Garland Pinkston, Jr., Acting Corporation Counsel of the District of Columbia; Robert A. Butterworth, Attorney General of Florida; Calvin E. Holloway, Sr., Attorney General of Guam; Jim Ryan, Attorney General of Illinois; Tom Miller, Attorney General of Iowa; Carla J. Stovall, Attorney General of Kansas; Chris Gorman, Attorney General of Kentucky; Scott Harshbarger, Attorney General of Massachusetts; Hubert H. Humphrey, III, Attorney General of Minnesota; Jeremiah W. Nixon, Attorney General of Missouri; Joseph P. Mazurek, Attorney General of Montana; Heidi Heitkamp, Attorney General of North Dakota; Drew Edmondson, Attorney General of Oklahoma; Charles W. Burson, Attorney General of Tennessee; Jan Graham, Attorney General of Utah; Jeffrey L. Amestoy, Attorney General of Vermont; Christine O. Gregoire, Attorney General of Washington; and Darrell V. McGraw, Jr., Attorney General of West Virginia.

Ms. MOSELEY-BRAUN. I thank the Chair. I say to my colleague, I am not here to speak on this specific legislation, although it is obviously important and significant legislation. I am here to speak as if in morning business and with the indulgence of the sponsors and managers of the bill, I ask unanimous consent to be allowed to speak in morning business.

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

Ms. MOSELEY-BRAUN. I thank the Chair.

WELL WISHES TO CARDINAL BERNARDIN

Ms. MOSELEY-BRAUN. At the outset, Mr. President, I would like to call to the attention of my colleagues and call for the prayers of the American people in behalf of his eminence, Cardinal Joseph Bernardin. It has been recently diagnosed that Cardinal Bernardin is suffering from a form of cancer that is very difficult to overcome, and certainly we are all saddened by his condition and the physical pain that he must be undergoing presently but at the same time confident that secure in his faith he will find comfort at this time in the prayers and the well wishes from the millions of people in this country who love him dearly.

Cardinal Bernardin has been the leader of the archdiocese of Chicago for over a decade now and is an integral part of the community and Illinois and, indeed, of the church community throughout this Nation. We all wish him the very best. We wish his health returns to him. But in the event that it might not, we wish him the strength of his faith and the prayers of people who care about him and the leadership he has provided in regard to matters of faith for our country.

SUPREME COURT DECISION IN ADARAND VERSUS PENA

Ms. MOSELEY-BRAUN. Mr. President, I should like to address the issue of the Supreme Court decision in Adarand versus Pena.

Mr. President, on Monday, a closely divided Supreme Court handed down a 5 to 4 decision in the case of Adarand versus Pena. Adarand involved a challenge to the provision in the small business act that gives general contractors on Government procurement projects a financial incentive to hire socially and economically disadvantaged businesses as subcontractors. In its opinion, the Court held that all racial classifications imposed by the Federal Government will henceforth be subjected to a strict scrutiny analysis. Strict scrutiny, Mr. President, is a very difficult standard to meet. Indeed, it is the most difficult standard the Court applies. Accordingly, Federal racial classifications will be found constitutional only if they are narrowly tailored measures that entail further compelling Government interests.

At the outset I think it is important to note that under our system of government, the Constitution is what the Supreme Court says it is. Accordingly, ''strict scrutiny'' for Federal Government race programs is now the law of the land. Ever since I studied constitutional law in law school, I have had a profound respect for the Supreme Court and all that it represents in our system of laws.

Having said that, however, Mr. President, I still believe that the Adarand decision was bad law. Clearly, the