

companies and workers work as a team, they do better, and so does America.”

So, that is what we are trying to do here. This bill simply amends the Federal laws to make it clear that employers and employees may meet together in committee, or other employee involvement programs, to address issues of mutual concern, such as quality, productivity, and efficiency. So it expressly says, also, that they cannot engage in collective bargaining. It expressly forbids company unions and sham unions. It simply lets workers and employers try to work as a team.

I am amazed that there is such concern about this. But my attitude on that, also, is that if there are some amendments that can be offered on that and we can debate it and have votes, if they pass, fine, and if they do not, fine. But this is something we ought to move on.

One other point, in terms of trying to block people or limit the free expression of ideas here. As a matter of fact, we have done a little research, and we have found that in the 104th Congress, there has been a need for cloture motions more than in any recent time. In fact, in the 102d Congress, there were 42 cloture motions filed, and in the 103d, 47; but in the 104th Congress, it has been necessary, already, to file 63 cloture motions.

Let me give one example of how ridiculous this really is. S. 1, the first bill we considered last year, on unfunded mandates, had broad support and passed overwhelmingly. I think the vote was 98 to 2, or something like that. It was overwhelming, whatever the final vote was. But we had to file four cloture motions to try to get it to come to conclusion, and get a vote on it.

So I really find it sort of surprising when our colleagues on the other side of the aisle seem to hint that we have been trying to cut them off. That has not been the case. But we have a responsibility to try to get the work done around here. Yes. Let us have free debate. But after a certain period of time you have to get down to voting. That is what we are trying to set up with our process this afternoon.

#### MORNING BUSINESS

Mr. LOTT. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business with Senators permitted to speak for up to 5 minutes each.

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

#### PUBLIC BROADCASTING

Mr. PRESSLER. Mr. President, I also am pleased to release today draft legislation to reauthorize the Corporation of Public Broadcasting. The draft would provide a simple reauthorization of \$250 million each year for the fiscal years 1998, 1999, and 2000. It is my hope

that by then, public broadcasting would no longer need a reauthorization, but would have the resources to thrive on its own.

Last year we began a very worthwhile debate about the future direction of public broadcasting. Survival was never a real issue. I believe public broadcasting will do more than just survive—it will thrive. Public broadcasting is a success story still being written. I am confident of this. Public broadcasting offers a quality product supported by quality individuals who care about what people, especially young people, see or hear on television and radio.

It was in part due to my confidence in public broadcasting that I proposed last year to put public broadcasting on a glide path to independence from Washington—independent from Congress and independent from the Corporation for Public Broadcasting. I support public broadcasting. Yet, I've never quite understood the logic of the funding process. There has to be a better way to fund public broadcasting than through CPB, which soaks up a large share of funding before it ever gets to the 350 public television stations and 629 public radio stations. A large chunk comes right back here to D.C. to buy programming disproportionately produced in the largest media markets. There just has to be a better way—especially for small city broadcasters.

Last year's debate produced some much-needed innovations. Public broadcasting has improved as a result. I called on public broadcasting to take advantage of the popularity and value of its wonderful programming. They're doing so now. Last year, new ancillary agreements were reached that will see a larger portion of merchandise revenue from public broadcasting products go right back to public broadcasting. Media alliances have been formed with MCI and Turner to distribute public broadcasting programs on video and CD-ROM's. Even PBS has discovered that its logo generates revenue. Foreign markets are an untapped source for programming and products. Even the Internet offers enormous potential for public broadcasting, both as a conduit for classroom-based, interactive educational programming and as a base to market its products. In short, we really haven't begun to tap the enormous funding potential of public broadcasting in the worldwide marketplace.

I also believe we must continue to push for greater efficiencies within CPB—reforms that also can free up revenues. Will all these potential funding sources and markets allow public broadcasting to achieve financial independence? It's a question that we should explore.

So today I am circulating a discussion draft that would not only reauthorize public broadcasting, but also explore and chart a path toward independence. The first way is to give public broadcasting tools to generate more

revenue. My draft legislation would give public broadcasting enhanced underwriting authority—enough to draw in new corporate sponsors but not too far to undermine the noncommercial integrity of public broadcasting. The draft also would allow public broadcasting stations to use overlapping station capacity to generate revenue.

These proposals would allow some stations to benefit. However, if all of public broadcasting is to thrive, especially smaller stations such as in South Dakota, North Dakota, and Montana, we need to bring the best people in finance, government and broadcasting together to chart a course for independence. To do this, the draft proposes creation of a Commission on Public Broadcasting Empowerment. This commission would have 2 years to submit recommendations to Congress that would: foster long-term funding for public broadcasting that would not compromise its essential noncommercial nature; improve economic efficiencies within public broadcasting; guarantee universal access to public broadcasting, particularly in rural, under served areas; and stimulate the development of regional programming centers in order to increase geographic diversity in the origination of programming.

Finally, the draft would authorize the creation of a trust fund to be used to generate sufficient capital for public broadcasting to achieve financial independence. This trust fund approach was first proposed by the public broadcasters late last year. The public broadcasters proposed a more far-reaching approach that would enable a private trust to generate funds through the management of advanced spectrum and the leasing of unused spectrum for commercial purposes. This thoughtful proposal has merit. I support the creation of a trust fund. I believe that the draft spectrum legislation I have proposed today would provide public broadcasters with the resources needed to capitalize a trust fund in a way that would benefit the entire public broadcasting community—radio and television, in markets large and small.

Because this proposal would bring major change to public broadcasting, it deserves careful review. I'm already beginning that review.

Clearly, financial independence will be a key issue. However, other reforms are needed, particularly in the distribution of funds for broadcasting and programming. I am particularly interested in reforms that will enhance the capabilities and creativity of small city and rural broadcasters. In small cities and towns, public broadcasting is vital. South Dakota Public Radio [SDPR], for example, provides pool coverage to commercial stations around the State for legislative reporting, because it has the only radio news reporter on duty during the legislative session. In some markets, SDPR is the sole radio provider of local news, and the exclusive source of Emergency Broadcast System announcements.

For SDPR and similar radio and television stations, continued oversight by Congress is important to ensure they receive their fair share of the public broadcasting dollar. I would like to see public broadcasting be a self-sustaining operation, but I will not forego congressional oversight responsibilities, nor support a disbursement of funds from any trust fund until I am satisfied that there are legal and contractual safeguards in place that will protect the financial and programming interests of small city and rural broadcasters.

What kind of safeguards? First and foremost, there should be service requirements that public broadcasting should follow. As you know, telephone companies are required to provide universal service to its customers, regardless of their location. Public broadcasting should be required to fulfill a similar standard—universal access for all Americans.

Second, any future trust fund should have a formula that recognizes the unique roles of small city broadcasters and the need to achieve universal access goals.

Third, I support giving small broadcasters a share of any revenue generated through enhanced underwriting. A similar arrangement exists with major networks and their affiliates—large and small. It makes sense. It's simple fairness. Large and small stations that broadcast underwritten programming contribute to the exposure of the corporate sponsor to the viewing public. They should benefit.

Fourth, we should be encouraging the development of regional programming outlets. At present, there is a disproportionate concentration of program development in the large cities. Regional programming will not only further the diversity of public broadcasting, but improve viewership in these areas.

So, in conclusion, there are a number of issues worth discussing. Funding sources and funding distribution are the two key issues. I am hopeful that the proposed Commission on Public Broadcasting Empowerment will help lay the groundwork for both financial independence and distribution fairness. The funding sources may change, new technologies may emerge, but the central mission of public broadcasting—to be a dependable source of educational, community-based programming—is strong and growing stronger. That's a credit to the people in the communities that make it all happen.

This draft is a starting point. I look forward to working with the public broadcasting community and my colleagues on both sides of aisle to improve this draft and pass a bill. Mr. President, I ask unanimous consent that this draft be printed in the RECORD.

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

S.—

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the "Public Broadcasting Financial Resources Enhancement Act of 1996".

**SEC. 2. PURPOSE.**

The purpose of this Act is to ensure that public broadcasting stations have sufficient resources—

(1) to carry on the mission of public broadcasting stations to provide Americans with noncommercial programming and services which advance education, support culture, and foster citizenship;

(2) to promote continued efficiency and effectiveness in the provision of public broadcasting services, through technological advances and, where appropriate, through mergers, consolidations, and joint operating agreements;

(3) to preserve and enhance the geographic and cultural diversity of public broadcasting programs and services;

(4) to support public broadcasting services to rural and underserved areas and audiences, and to ensure the universal availability of public broadcasting services;

(5) to create and deliver creative and diverse programming and services of high quality and excellence;

(6) to preserve and protect their editorial integrity and independence; and

(7) to continue to pioneer new telecommunications technologies and to adapt those technologies for educational and public service purposes.

**TITLE I—EARNED INCOME OPPORTUNITIES**

**SEC. 101. ENHANCED UNDERWRITING.**

(a) BUSINESS OR INSTITUTIONAL LOGOS.—Section 399A of the Communications Act of 1934 (47 U.S.C. 399A) is amended:

(1) by striking "exclusive" in subsection (a);

(2) by striking "organization, and which is not used for the purpose of promoting the products, services, or facilities of such corporation, company, or other organization." in subsection (a) and inserting "organization."; and

(3) by inserting "established" before "business" in subsection (b).

(b) SERVICES, FACILITIES, AND PRODUCTS.—Section 399B(a) of the Communications Act of 1934 (47 U.S.C. 399B(a)) is amended by inserting "a comma and "other than through a strictly quantifiable comparative description," after "promote".

**SEC. 102. TELEVISION CHANNEL EXCHANGES.**

Subpart E of part IV of title III of the Communications Act of 1934 (47 U.S.C. 397 et seq.) is amended by adding at the end thereof the following:

**"SEC. 399C. TELEVISION CHANNEL EXCHANGES.**

"(a) PETITION.—The licensees or permittees of commercial and public broadcast television stations may file a joint petition with the Commission requesting an exchange of channels (including public television stations on VHF channels to be exchanged for UHF channels). Within 90 days after receiving such a petition, the Commission shall amend the television table of allotments and modify the licenses or permits of the petitioners to specify operation on the exchanged channels if the Commission finds that—

"(1) the stations serve substantially the same market; and

"(2) the consideration paid to the public broadcast television licensee or permittee—

"(A) fairly reflects the value of the exchange of channels and related facilities; and

"(B) will be dedicated to the provision of public broadcasting services.

"(b) OTHER CONSIDERATIONS PROHIBITED.—In considering a petition under subsection (a), the Commission may not consider proposals by other parties to become licensees or permittees on the channels to be exchanged.

"(c) INELIGIBILITY FOR GRANTS.—Neither a noncommercial educational television station that exchanges a channel for consideration under subsection (a), nor any transferee or assignee of the license associated with that station, may receive funds under subsection 396 after the exchange occurs, except to the extent provided for by the Commission on the basis of the contribution to the public broadcasting system made by that station, transferee, or assignee."

**SEC. 103. CONVERSION OF STATIONS TO COMMERCIAL STATUS.**

Subpart E of part IV of title III of the Communications Act of 1934 (47 U.S.C. 397 et seq.), as amended by section 103, is amended by adding at the end thereof the following:

**"SEC. 399D. USE OF PUBLIC BROADCASTING STATIONS FOR REMUNERATION.**

"(a) IN GENERAL.—

"(1) USE OF OVERLAPPING STATION CAPACITY.—Subject to the requirements and limitations of this section, the licensee or licensees of 2 overlapping stations may, notwithstanding the allocated and licensed status of such stations as noncommercial educational television stations, operate one such station for remunerative purposes, including the transmission of commercial television programming originated by such licensee or by another party and transmission of subscription television or pay-per-view services. Such commercial operation will not result in a modification of the noncommercial educational allocation of the license held by the station.

"(2) CONDITIONS FOR USE.—The licensee or licensees of overlapping stations intending to operate one of such stations for remunerative purposes pursuant to paragraph (1) shall file with the Commission a joint operating agreement or other instrument providing assurances that—

"(A) the remuneration of such operations (in excess of the costs of the commercial and public television operations of such licensee) is dedicated to the provision of public broadcasting services on the other overlapping station; and

"(B) the station operated for remunerative purposes is, but for the remunerative operations, otherwise operated consistently with the provisions of this Act and the rules and policies of the Commission applicable to such operations.

"(3) INELIGIBILITY FOR GRANTS.—No noncommercial educational television station operating under an agreement or other instrument filed under paragraph (2), and no transferee of such station, or assignee of the license associated with such station, may receive any funds under section 396, except to the extent provided for by the Commission on the basis of the contribution to the public broadcasting system made by that station, transferee, or assignee.

"(b) SALE PERMITTED.—Upon application by the licensee of 2 or more overlapping public television stations, the Commission shall approve the assignment of one of the licenses of such licensee for a television station to another person or entity, without rule-making or opening the licensed channel to general application, and shall permit such person or entity to operate such station as a commercial television station, if—

"(1) the licensee assigning such license will dedicate all compensation in excess of costs of sale received for such assignment to the

support of the local noncommercial educational broadcast operations of the retained station; and

“(2) the compensation provided to the licensee for assigning such license reflects the value of the license and related facilities.

“(c) DEFINITIONS.—For purposes of this section—

“(1) OVERLAPPING STATIONS.—The term ‘overlapping stations’ means 2 or more public television stations—

“(A) that serve the same market;

“(B) with respect to which the Grade A contour of one of such stations reaches more than 50 percent of the Grade A population reached by the other such station; and

“(C) with respect to which less than 20 percent of the population reached by either station is unduplicated by the other.

“(2) TELEVISION MARKET.—The term ‘television market’ has the meaning provided in section 76.55(e)(1) of the Commission’s rules (47 C.F.R. 76.55(e)(1)).”

## TITLE II—PUBLIC BROADCASTING EMPOWERMENT COMMISSION

### SEC. 201. ESTABLISHMENT.

There is established a commission to be known as the Commission on Public Broadcasting Empowerment (referred to in this section as the “Commission”).

### SEC. 202. DUTIES.

(a) STUDY AND RECOMMENDATIONS.—The Commission shall—

(1) conduct a comprehensive study of—

(A) alternatives for providing long-term funding for public broadcasting services other than with appropriated Federal funds, with particular emphasis on the development of earned income opportunities;

(B) the feasibility of generating revenue for a trust fund based upon spectrum grants or other sources of funding;

(C) the effectiveness and adequacy of those means of generating revenue for public broadcasting services made available by title I of this Act;

(D) the impact that particular funding methods may have on the purpose, role, and availability of public broadcasting, particularly in smaller markets;

(E) funding distribution formulas for smaller markets that take into account the special nature of such markets, including the additional infrastructure investment necessary to obtain sufficient audience reach; and

(F) opportunities for reducing the cost of public broadcasting through increased efficiencies of production, distribution, and operation without impairing universal access to public broadcasting; and

(2) submit to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Commerce of the House of Representatives a report setting forth the results of its study and making recommendations for—

(A) long-term funding for public broadcasting that would not compromise its essential noncommercial nature;

(B) improving the economic efficiency with which public broadcasting operates;

(C) guaranteeing universal access, particularly to rural and underserved areas; and

(D) stimulating the development of regional and local programming centers in order to increase geographic diversity in the origination of programming.

(b) INTERIM AND FINAL REPORTS.—The Commission shall submit a preliminary report under subsection (a)(2) not later than December 31, 1997, and a final report not later than December 31, 1998.

(c) TRUST FUND ESTABLISHED.—

(1) IN GENERAL.—There is hereby established in the Treasury of the United States a trust fund to be known as the “Public Broadcasting Trust Fund”.

(2) ACCOUNTS.—The Public Broadcasting Trust Fund shall consist of such accounts as may be provided by law. Each such Account shall consist of such amounts as may be appropriated, credited, or paid to it as provided by law.

(3) EXPENDITURES.—Amounts in the Public Broadcasting Trust Fund shall be available for making such expenditures as may be provided by law.

(4) MANAGEMENT.—The Public Broadcasting Trust Fund shall be managed in accordance with the provisions of section 9602 of the Internal Revenue Code of 1986.

### SEC. 203. MEMBERSHIP.

(a) COMPOSITION.—

(1) APPOINTMENTS.—The Commission shall be composed of 12 voting members and 3 ex officio members to be appointed not later than 60 days after the date of the enactment of this Act as follows:

(A) SENATORS.—One Senator shall be appointed by the Majority Leader of the Senate, and one Senator shall be appointed by the Minority Leader of the Senate.

(B) MEMBERS OF THE HOUSE OF REPRESENTATIVES.—One Member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the Minority Leader of the House of Representatives.

(C) ADDITIONAL MEMBERS.—Eight members shall be appointed by the President, without regard to political affiliation, on the basis of demonstrated expertise in public broadcasting, education, entertainment, finance, or investment.

(2) EX OFFICIO MEMBERS.—The Secretary of Commerce, the Chairman of the Federal Communications Commission, and the President of the Corporation for Public Broadcasting shall serve on the Commission as nonvoting ex officio members.

(b) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made. The vacancy shall not affect the power of the remaining members to execute the duties of the Commission.

(c) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall elect a chairperson and a vice chairperson from among the members of the Commission.

(d) QUORUM.—Eight members of the Commission shall constitute a quorum for all purposes, except that a lesser number may constitute a quorum for the purpose of holding hearings.

### SEC. 204. COMPENSATION.

(a) PAY.—Members of the Commission shall serve without compensation.

(b) TRAVEL EXPENSES.—Members of the Commission shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Commission.

### SEC. 205. POWERS.

(a) MEETINGS.—The Commission shall first meet not later than 30 days after the date on which all members are appointed, and the Commission shall meet thereafter on the call of the chairperson or a majority of the members.

(b) HEARINGS AND SESSIONS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before it.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out this title, if the information may be disclosed under section 552 of title 5,

United States Code. Subject to the previous sentence, on the request of the chairperson or vice chairperson of the Commission, the head of such agency shall furnish such information to the Commission.

(d) USE OF FACILITIES AND SERVICES.—Upon the request of the Commission, the head of any Federal agency may make available to the Commission any of the facilities and services of such agency.

(e) PERSONNEL FROM OTHER AGENCIES.—On the request of the Commission, the head of any Federal agency may detail any of the personnel of such agency to serve as an Executive Director of the Commission or assist the Commission in carrying out the duties of the Commission. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(f) VOLUNTARY SERVICE.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Commission may accept for the Commission voluntary services provided by a member of the Commission.

### SEC. 206. TERMINATION.

The Commission shall terminate 30 days after the date of the submission of the final report of the Commission to Congress.

### SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—There are authorized to be appropriated to the Commission such sums as may be necessary to carry out the provisions of title II of this Act.

(b) CORPORATION FOR PUBLIC BROADCASTING.—Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(1) by striking “and” after “1995.”; and

(2) by striking “1996.” and inserting “1996, and \$250,000,000 for each of fiscal years 1998, 1999, and 2000.”.

## SPECTRUM REFORM DISCUSSION DRAFT

Mr. PRESSLER. Mr. President, I rise today to take another step in my overall telecommunications and information policy reform agenda. As I have stated many times, the historic enactment earlier this year of the Telecommunications Act of 1996 was only the first step in a new national telecommunications policy for 21st Century America.

Today, I am putting out for public comment a discussion draft of spectrum reform legislation to institute comprehensive reforms in how the Federal Government uses—and fails to use—our most important valuable national resource, the radio frequency spectrum.

### THE SPECTRUM AND ITS USES

The radio spectrum is to the information age what oil and steel were to the Industrial Age. Like any resource, it is finite. Therefore it must be managed responsibly.

This valuable resource is one of the principle building blocks for tomorrow’s “Information Economy.” It also is critical to delivering new and valuable services to the American public.

All of us have seen the contribution traditional radio-based services—such as public and commercial broadcasting—have made to our national life. We have seen the benefits of low-cost satellite communications, which have enormously expanded the range of news, information, and entertainment