

EC-994. A communication from the Administrator of the Farm Service Agency, Department of Agriculture, transmitting, pursuant to law, the report of a rule relative to parity price regulations, (RIN0560-AF08) received on February 3, 1997; to the Committee on Agriculture, Nutrition, and Forestry.

EC-995. A communication from the Under Secretary of Defense, transmitting, pursuant to law, the report on contributions from other nations for relocation costs; to the Committee on Armed Services.

REPORTS OF COMMITTEES SUBMITTED DURING ADJOURNMENT

Under the authority of the order of the Senate of January 30, 1997, the following reports of committees were submitted on February 3, 1997, during the adjournment of the Senate:

By Mr. WARNER, from the Committee on Rules and Administration, without amendment:

S. Res. 42: An original resolution authorizing expenditures by the Committee on Rules and Administration.

Under the authority of the order of the Senate of January 30, 1997, the following reports of committees were submitted on February 3, 1997:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S.J. Res. 1: A joint resolution proposing an amendment to the Constitution of the United States to require a balanced budget (Rept. No. 105-3).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. Res. 43: An original resolution authorizing expenditures by the Committee on the Judiciary.

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 44: An original resolution authorizing expenditures by the Committee on the Budget.

By Mr. ROTH, from the Committee on Finance, without amendment and with a preamble:

S.J. Res. 5: A joint resolution waiving certain provisions of the Trade Act of 1974 relating to the appointment of the United States Trade Representative.

REPORTS OF COMMITTEES

The following reports of committees were submitted on February 4, 1997:

By Mr. SPECTER, from the Committee on Veterans' Affairs, without amendment:

S. Res. 45. An original resolution authorizing expenditures by the Committee on Veterans' Affairs.

By Mr. CAMPBELL, from the Committee on Indian Affairs, without amendment:

S. Res. 46. An original resolution authorizing expenditures by the Committee on Indian Affairs.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. MCCAIN:

S. 255. A bill to amend the Communications Act of 1934 to provide for the reallocation and auction of a portion of the electromagnetic spectrum to enhance law enforcement and public safety telecommunications,

and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 256. A bill to amend the Commodity Exchange Act to require the Commodity Futures Trading Commission to regulate certain cash markets, such as the National Cheese Exchange, until the Commission determines that the market does not establish reference points for other transactions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LUGAR (for himself, Mr. HARKIN, and Mr. LEAHY):

S. 257. A bill to amend the Commodity Exchange Act to improve the Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. FEINGOLD (for himself and Mr. KOHL):

S. 258. A bill to improve price discovery in milk and dairy markets by reducing the effects of the National Cheese Exchange on the basic formula price established under milk marketing orders, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. CRAIG:

S. 259. A bill to amend the Fair Labor Standards Act of 1938 to adjust the maximum hour exemption for agricultural employees, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. ABRAHAM (for himself, Mr. HATCH, Mrs. FEINSTEIN, Mr. GRASSLEY, Mr. KYL, Mr. HUTCHINSON, Mr. ROBERTS, and Mr. ROBB):

S. 260. A bill to amend the Controlled Substances Act with respect to penalties for crimes involving cocaine, and for other purposes; to the Committee on the Judiciary.

By Mr. DOMENICI (for himself, Mr. FORD, Ms. SNOWE, Mr. THOMPSON, Mr. THOMAS, Mr. ROTH, Mr. MOYNIHAN, Mr. NICKLES, Mr. MCCAIN, Mr. CONRAD, Mr. ABRAHAM, Mr. FRIST, Mr. GRAMS, Mr. LUGAR, Ms. COLLINS, Mr. BREAUX, Mr. DEWINE, Mr. BURNS, Mr. WARNER, Mr. ROBERTS, Mr. COATS, Mr. MACK, Mr. KEMPTHORNE, Mr. D'AMATO, and Mr. ENZI):

S. 261. A bill to provide for biennial budget process and a biennial appropriations process and to enhance oversight and the performance of the Federal Government; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other Committee have thirty days to report or be discharged.

By Mr. WELLSTONE:

S. 262. A bill to amend title 18, United States Code, to provide for the prospective application of certain prohibitions relating to firearms; to the Committee on the Judiciary.

By Mr. LOTT (for himself and Mr. DASCHLE) (by request):

S.J. Res. 14. A joint resolution affirming certain findings of the President of the United States with regard to programs concerning international family planning; to the Committee on Appropriations, for not to exceed five calendar days pursuant to section 518A(d) of Public Law 104-208.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SPECTER:

S. Res. 45. An original resolution authorizing expenditures by the Committee on Veter-

ans' Affairs; from the Committee on Veterans' Affairs; to the Committee on Rules and Administration.

By Mr. CAMPBELL:

S. Res. 46. An original resolution authorizing expenditures by the Committee on Indian Affairs; from the Committee on Indian Affairs; to the Committee on Rules and Administration.

By Ms. SNOWE (for herself, Ms. MIKULSKI, Mrs. HUTCHISON, Mrs. FEINSTEIN, Mrs. BOXER, Mrs. MURRAY, Ms. MOSELEY-BRAUN, Ms. LANDRIEU, Ms. COLLINS, Mr. LEVIN, Mr. AKAKA, Mr. BRYAN, Mr. CLELAND, Mr. TORRICELLI, Mr. HOLLINGS, Mr. FORD, Mr. BINGAMAN, Mr. BREAUX, Mr. KERREY, Mr. REED, Mr. REID, Mr. ROCKEFELLER, Mr. WELLSTONE, Mr. GRAHAM, Mr. DODD, Mr. KERRY, Mr. KENNEDY, Mr. GLENN, Mr. LIEBERMAN, Mr. SARBANES, Mr. LAUTENBERG, Mr. WYDEN, Mr. BAUCUS, Mr. MOYNIHAN, Mr. BIDEN, Mr. DORGAN, Mr. DURBIN, Mr. CONRAD, Mr. BUMPERS, Mr. LEAHY, Mr. FAIRCLOTH, Mr. ROBB, Mr. SPECTER, Mr. D'AMATO, Mr. ABRAHAM, Mr. GRASSLEY, Mr. COATS, Mr. COVERDELL, Mr. KEMPTHORNE, Mr. WARNER, Mr. MURKOWSKI, Mr. THOMAS, and Mr. BOND):

S. Res. 47. A resolution expressing the sense of the Senate concerning the need for accurate guidelines for breast cancer screening for women between the ages of 40 and 49; submitted and read.

By Mr. LOTT:

S. Res. 48. A resolution providing for service on a temporary and intermittent basis by the Director of the Office of Senate Fair Employment Practices, and for other purposes; considered and agreed to.

By Mrs. HUTCHISON (for herself and Mr. GRAMM):

S. Res. 49. A resolution expressing the condolences of the Senate on the death of Representative Frank Tejeda; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. MCCAIN:

S. 255. A bill to amend the Communications Act of 1934 to provide for the reallocation and auction of a portion of the electromagnetic spectrum to enhance law enforcement and public safety telecommunications, and for other purposes; to the Committee on Commerce, Science, and Transportation.

THE LAW ENFORCEMENT AND PUBLIC SAFETY TELECOMMUNICATIONS EMPOWERMENT ACT

Mr. MCCAIN. Mr. President, I rise to introduce the Law Enforcement and Public Safety Telecommunications Empowerment Act. This legislation addresses a longstanding need by police, fire departments, and emergency medical services for more channels of radio communication and for more state-of-the-art technology to use in their efforts to safeguard life and property.

Mr. President, the telecommunications needs of the public safety community have been a subject of widespread concern for many years. In many instances, channel capacity for safety-of-life communications is dangerously low. In many others, budgetary constraints have kept law enforcement and other public safety officials from getting new communications equipment and services that

would make their transmissions more efficient and reliable.

Most recently, a Federal advisory committee documented these needs for more spectrum. There are clearly ways this can be done. But spectrum is a limited, and therefore very valuable, resource, and big businesses that would compete for this same spectrum must not be allowed to divert it for commercial use. Further, this bill creates specific mechanisms that will continue over the years to assure that money and equipment are available for the continuing need of those whose job is to safeguard our lives, our health, and our property.

Let me outline the provisions of this bill. First, the bill orders the FCC to give public safety radio users four new radio channels. These new channels are currently allocated to television use and are located between TV channels 60 and 69. Ongoing plans to convert television broadcasting to more spectrum-efficient digital transmission technology is expected to make this channel reallocation possible without significant impact on the television service people receive.

Next, this legislation provides that the rest of the available spectrum between TV channels 60 and 69 will be auctioned to the highest bidder for commercial use. Of the money raised, 10 percent, or a sum of not less than \$200,000,000 or more than \$750,000,000, is earmarked for distribution to the Governors of each of the States for use in purchasing services and equipment that would increase the ability of public safety radio users to communicate quickly and easily in times of emergency.

Third, to make sure that the four new public safety radio channels are used in as efficient a manner as possible and to provide added public safety communications resources tailored to their specific needs, this legislation gives the Governors the authority to lease, sell, or otherwise dispose of any extra channel capacity they may have. This will enable them to procure new technology or services that will further improve the effectiveness of public safety communications. The remainder of the money raised at auction would be used for deficit reduction.

Mr. President, in closing, this is a fair bill. The spectrum is owned by the public and the public should benefit from its use. This plan benefits the public in two ways: It helps protect the public by augmenting police and fire services, and it helps pay down the deficit.

Mr. President, I hope my colleagues will support this measure. I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 255

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 "Law Enforcement and Public Safety Telecommunications Empowerment Act".

SEC. 2. FINDINGS.

The Congress makes the following findings:

- (1) Improvements in technology have made it possible for television broadcast stations to offer advanced television services.

- (2) To facilitate the transition to advanced television services, the Federal Communications Commission is issuing additional licenses to existing broadcast licensees and permittees under section 336 of the Communications Act of 1934 (47 U.S.C. 336).

- (3) As part of the transition to advanced television services, the Federal Communications Commission will develop and implement an allotment plan that will permit the repacking of television broadcast station licenses into a smaller segment of the Very High Frequency and Ultra High Frequency bands than presently used for broadcast television.

- (4) Implementation of the advanced television service transition plan will enable the Federal Communications Commission to allocate spectrum to other purposes.

- (5) Implementation of the advanced television service transition plan will permit recovery for the public of a portion of the value of the public spectrum resource made available for commercial use.

- (6) Many of the State and local agencies responsible for law enforcement and public safety have inadequate spectrum and inadequate funding to maintain the existing level of, or to effect improvements in, the radio communications on which they depend to perform their missions.

- (7) Implementation of the advanced television service transition plan will permit State and local law enforcement and public safety agencies to secure additional spectrum and additional funding for mission-related activities.

SEC. 3. DEFINITIONS.

As used in this Act, the term—

- (1) "Board" means the Board of Directors of the Institute;

- (2) "Director" means the Executive Director of the Institute;

- (3) "Governor" means the Chief Executive Officer of a State;

- (4) "Institute" means the Public Safety Telecommunications Institute;

- (5) "recipient" means any grantee, contractor, or recipient of financial assistance under this Act; and

- (6) "State" means any State of the United States and includes the District of Columbia.

SEC. 4. RECLAMATION OF SPECTRUM.

(a) COMMISSION ACTION.—Part I of title III of the Communications Act of 1934 (47 U.S.C. 301 et seq.) is amended by adding at the end thereof the following:

"SEC. 337. RECLAMATION AND REALLOCATION OF SPECTRUM FOR LAW ENFORCEMENT, PUBLIC SAFETY, AND COMMERCIAL PURPOSES.

"(a) IN GENERAL.—The Commission may not issue new broadcast station licenses in the spectrum between 746 and 806 megahertz after the date of enactment of the Law Enforcement and Public Safety Telecommunications Empowerment Act, except as provided by this section and that Act.

"(b) INCUMBENT BROADCAST LICENSEES.—Any person who, on the date of enactment of that Act, holds a license to operate a television broadcasting station, or a permit to construct such a station, between 746 and 806 megahertz—

"(1) may not operate at that frequency after the date on which the advanced television services transition period terminates, as determined by the Commission; and

"(2) shall surrender any license to operate such a television broadcast station, or permit to construct such a television broadcasting station, to the Commission for reallocation under this Act within 30 days after that date.

"(c) SPECTRUM BETWEEN 746 AND 806 MEGAHERTZ.—

"(1) PUBLIC SAFETY.—Within 30 days after the date of enactment of that Act, the Commission shall allocate and assign 24 megahertz of electromagnetic spectrum to law enforcement and public safety use. The provisions of chapter 5 of title 5, United States Code, do not apply to the allocation and assignment of spectrum under this paragraph, and such allocation and assignment shall be carried out as expeditiously as possible without regard to any other provision of law or regulation thereunder relating to notice and opportunity for a hearing.

"(2) COMMERCIAL USE.—Within 1 year after the date of enactment of that Act, the Commission shall allocate 36 megahertz of electromagnetic spectrum between 746 and 806 megahertz for commercial uses.

"(d) TRANSFER OF ASSIGNMENT AUTHORITY.—The Commission shall transfer to the Public Safety Telecommunications Institute established under section 8 of that Act the right to assign spectrum allocated under subsection (c)(2) in accordance with this section and the provisions of that Act.

"(e) ASSIGNMENT BY PUBLIC SAFETY TELECOMMUNICATIONS INSTITUTE.—Within 5 years after the date of enactment of that Act, the Institute shall assign licenses for the commercial use of the spectrum for which assignment authority was transferred to it under subsection (d) by competitive bidding carried out in a manner consistent with section 309(j) of this Act. The Institute shall work closely with the Commission in assigning licenses for the commercial use of that spectrum, and shall make such assignments in accordance with rules established by the Commission.

"(f) SEQUENTIAL ASSIGNMENT OF SURPLUS PUBLIC SAFETY SPECTRUM.—If the Governor of any State to which spectrum is assigned for law enforcement and public safety purposes determines that a portion of that spectrum is excess to the needs of the State for such purposes, then the Governor may lease, sell, or otherwise assign any such excess portion to any person for any lawful purpose under this Act under such terms and conditions as the Governor may require. Any term used in this subsection that is defined in section 3 of the Law Enforcement and Public Safety Telecommunications Empowerment Act has the meaning given to it by that section.

"(g) EFFECTIVE DATE FOR AUCTIONED SPECTRUM.—Licenses assigned under subsection (e) shall become effective on the day after the date on which the advanced television services transition period terminates, as determined by the Commission. A license assigned under subsection (f) shall become effective on the next business day following the date on which it is assigned."

(b) CLERICAL AMENDMENT.—The table of sections for the Communications Act of 1934 is amended by inserting after the item relating to section 336 the following:

"337. Reclamation and reallocation of spectrum for law enforcement, public safety, and commercial purposes

SEC. 5. USE OF PROCEEDS FROM AUCTION.

(a) ESTABLISHMENT OF ACCOUNT.—There is hereby established on the books of the Treasury an account for the proceeds of the auction conducted under section 8(b). Except as provided in subsections (b) and (c), all proceeds from that auction shall be deposited in

the Treasury in accordance with chapter 33 of title 31, United States Code, and credited to the account established by this subsection.

(b) **LAW ENFORCEMENT AND PUBLIC SAFETY.**—

(1) **AMOUNT.**—Out of the amounts received from the auction of spectrum under section 8(b), the Institute shall retain amounts equal to 10 percent of the sum of the amounts credited to that account, but not less than \$200,000,000 nor more than \$750,000,000, for use in funding State and local law enforcement and public safety agencies' mission-related radio communications capabilities.

(2) **ALLOCATION AMONG STATES.**—Amounts retained under paragraph (1) shall be distributed to each State in proportion to its share of the population of the United States according to the latest decennial census, subject to such procedures and conditions as the Commission may establish to ensure proper accounting for the use of distributed amounts.

(3) **USE OF AMOUNTS RECEIVED.**—The chief executive officer of each State shall use amounts received under this section exclusively for the purpose for which such amounts are authorized under this Act. In administering any amounts received under this section, that chief executive officer shall give due regard to opportunities that—

(A) commercially-provided services; and

(B) the sharing of resources and facilities by law enforcement and public safety agencies,

afford for improved and more efficient law enforcement and public safety radio communications.

(c) **ADMINISTRATIVE EXPENSES.**—

(1) **INSTITUTE.**—Out of amounts received from the auction under section 8(b) of this Act remaining after provision is made for the distribution under subsection (b) of this section, the Institute shall—

(A) retain such amounts as may be necessary to fund its administrative expenses; and

(B) transfer to the Federal Communications Commission such sums as may be necessary to compensate it for its costs incurred in support of the Institute's operations.

(2) **FEDERAL COMMUNICATIONS COMMISSION.**—The salaries and expenses account of the Commission shall retain as an offsetting collection such sums as may be transferred to the Commission under paragraph (1) to cover the costs of developing and implementing the program required by this Act. Such offsetting collections shall be available for obligation subject to the terms and conditions of the receiving appropriations account, and shall be deposited in such accounts on a quarterly basis. Any funds appropriated to the Commission for fiscal year during which the auction generates proceeds shall be used by the Commission to implement this Act. Such offsetting collections are authorized to remain available until expended.

SEC. 6. PERMANENT AUCTION AUTHORITY.

Section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended by striking paragraph (11) and redesignating paragraphs (12) and (13) as paragraphs (11) and (12).

SEC. 7. RELATIONSHIP TO OTHER LAW.

(a) **IN GENERAL.**—Nothing in this Act, or in section 309(j) or 337 of the Communications Act of 1934 (as added by this Act), may be construed as a violation of any provision of the Omnibus Budget Reconciliation Act of 1990, or any other provision of law prohibiting or limiting the earmarking of revenues.

(b) **EFFECTIVE DATE.**—The provisions of subsection (a) apply to any auction of spectrum under this Act, or under the Communications Act of 1934, that takes place after January 31, 1997.

SEC. 8. PUBLIC SAFETY TELECOMMUNICATIONS INSTITUTE.

(a) **ESTABLISHMENT; PURPOSE; INCORPORATION; POWERS.**—There is established a private nonprofit corporation which shall be known as the Public Safety Telecommunications Institute. The purposes of the Institute are—

(1) to auction and assign spectrum in accordance with section 337 of the Communications Act of 1934 and this Act;

(2) to award grants and contracts under this Act;

(3) to certify programs that are intended to use funds made available under this Act to aid and improve State law enforcement and public safety telecommunications systems; and

(4) to carry out its other duties under this Act. The Institute may be incorporated in any State under section 9(a) of this Act. To the extent consistent with the provisions of this Act, the Institute may exercise the powers conferred upon a nonprofit corporation by the laws of the State in which it is incorporated.

(b) **DUTIES.**—

(1) **IN GENERAL.**—The Institute shall—

(A) auction spectrum transferred to it under section 337 of the Communications Act of 1934 in accordance with section 309(j) of the Communications Act of 1934;

(B) assign licenses for the commercial use of such spectrum in accordance with section 337; and

(C) administer the proceeds received from the auction in accordance with the provisions of this Act.

(2) **APPLICATION OF SECTION 309(j).**—For the purpose of applying section 309(j) of the Communications Act of 1934 to the Institute—

(A) the term "Institute", as defined in section 3 of this Act, shall be substituted for "Commission" each place it appears; and

(B) paragraph (8) of section 309(j) of such Act shall not apply.

(c) **MAINTENANCE OF OFFICES IN STATE OF INCORPORATION; AGENT FOR RECEIPT OF SERVICE OF PROCESS.**—The Institute shall maintain its principal offices in the State in which it is incorporated and shall maintain therein a designated agent to accept service of process for the Institute. Notice to or service upon the agent shall be deemed notice to or service upon the Institute.

(d) **TAX STATUS OF INSTITUTE AND PROGRAMS ASSISTED THEREBY.**—The Institute, and any program assisted by the Institute, shall be eligible to be treated as an organization described in section 170(c)(2)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 170(c)(2)(B)) and as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)) which is exempt from taxation under section 501(a) of such Code (26 U.S.C. 501(a)). If such treatments are conferred in accordance with the provisions of such Code, the Institute, and programs assisted by the Institute, shall be subject to all provisions of such Code relevant to the conduct of organizations exempt from taxation.

(f) **RULES, REGULATIONS, ETC.; NOTICE AND COMMENT.**—The Institute shall afford notice and reasonable opportunity for comment to interested parties prior to issuing rules, regulations, guidelines, and instructions under this Act, and it shall publish in the Federal Register all rules, regulations, guidelines, and instructions. The publication of a substantive rule shall not be made less than 30 days before the effective date of such rule, except as otherwise provided by the Institute for good cause found and published with the rule.

SEC. 9. BOARD OF DIRECTORS.

(a) **APPOINTMENT AND MEMBERSHIP.**—

(1) The Institute shall be supervised by a Board of Directors, consisting of—

(A) 6 members to be appointed by the President, by and with the advice and consent of the Senate; and

(B) the Chairman of the Federal Communications Commission, ex officio.

(2) The President shall make the initial appointments of members of the Board under this subsection 90 days after the effective date of this Act. In the case of any other appointment of a member, the President shall make the appointment not later than 90 days after the previous term expires or the vacancy occurs, as the case may be.

(3) The initial members of the Board of Directors shall be the incorporators of the Institute and shall determine the State in which the Institute is to be incorporated.

(b) **TERM OF OFFICE.**—

(1) Except as provided in paragraph (2), the term of each appointed member of the Board shall be 5 years. Each such member of the Board shall continue to serve until the successor to such member has been appointed and qualified.

(2) Three of the members first appointed by the President shall serve for a term of 2 years. Any member appointed to serve an unexpired term which has arisen by virtue of the death, disability, retirement, or resignation of a member shall be appointed only for such unexpired term, but shall be eligible for reappointment.

(3) The term of initial members shall commence from the date of the first meeting of the Board, and the term of each member other than an initial member shall commence from the date of termination of the preceding term.

(c) **REAPPOINTMENT.**—No member shall be reappointed to more than 2 consecutive terms immediately following such member's initial term.

(d) **COMPENSATION; REIMBURSEMENT FOR EXPENSES.**—Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their official duties.

(e) **STATUS OF MEMBERS OF BOARD AS OFFICERS AND EMPLOYEES OF UNITED STATES.**—The members of the Board shall not, by reason of such membership, be considered officers or employees of the United States.

(f) **VOTING RIGHTS OF BOARD MEMBERS; QUORUM; ACTION OF BOARD ON CONCURRENCE OF MAJORITY.**—Each member of the Board shall be entitled to one vote. A simple majority of the membership shall constitute a quorum for the conduct of business. The Board shall act upon the concurrence of a simple majority of the membership present and voting.

(g) **CHAIRMAN; INITIAL SELECTION AND TERM OF OFFICE; SUBSEQUENT ANNUAL ELECTION.**—The Board shall select from among the appointed members of the Board a chairman, the first of whom shall serve for a term of 3 years. Thereafter, the Board shall annually elect a chairman from among its appointed members.

(h) **GROUND FOR REMOVAL OF MEMBERS.**—An appointed member of the Board may be removed by a vote of 4 members for malfeasance in office, persistent neglect of, or inability to discharge duties, or for any offense involving moral turpitude, but for no other cause.

(i) **QUARTERLY MEETINGS OF BOARD; SPECIAL MEETINGS.**—Regular meetings of the Board shall be held quarterly. Special meetings shall be held from time to time upon the call of the chairman, acting at his own discretion or pursuant to the petition of any 3 members.

(j) **OPEN MEETINGS.**—All meetings of the Board, any executive committee of the Board, and any council established in connection with this Act, shall be open and subject to the requirements and provisions of

section 552b of title 5, United States Code, relating to open meetings.

(k) **DUTIES AND FUNCTIONS OF BOARD.**—In its direction and supervision of the activities of the Institute, the Board shall—

(1) establish policies and develop such programs for the Institute that will further the achievement of its purpose and performance of its functions;

(2) establish policy and funding priorities and issue rules, regulations, guidelines, and instructions pursuant to such priorities;

(3) appoint and fix the duties of the Executive Director of the Institute, who shall serve at the pleasure of the Board and shall be a nonvoting ex officio member of the Board;

(4) present to other Government departments, agencies, and instrumentalities whose programs or activities relate to the employment of telecommunications in connection with law enforcement and public safety, the recommendations of the Institute for the improvement of such programs or activities; and

(6) award grants and enter into cooperative agreements or contracts pursuant to section 11.

SEC. 10. OFFICERS AND EMPLOYEES.

(a) **DUTIES OF DIRECTOR; APPOINTMENT AND REMOVAL OF EMPLOYEES; POLITICAL TESTS OR QUALIFICATIONS PROHIBITED.**—

(1) The Director, subject to general policies established by the Board, shall supervise the activities of persons employed by the Institute and may appoint and remove such employees as he determines necessary to carry out the purposes of the Institute. The Director shall be responsible for the executive and administrative operations of the Institute, and shall perform such duties as are delegated to such Director by the Board and the Institute.

(2) No political test or political qualification shall be used in selecting, appointing, promoting, or taking any other personnel action with respect to any officer, agent, or employee of the Institute, or in selecting or monitoring any grantee, contractor, person, or entity receiving financial assistance under this Act.

(b) **COMPENSATION.**—Officers and employees of the Institute shall be compensated at rates determined by the Board, but not in excess of the rate of level V of the Executive Schedule specified in section 5316 of title 5, United States Code.

(c) **STATUS OF INSTITUTE AS DEPARTMENT, AGENCY, OR INSTRUMENTALITY OF FEDERAL GOVERNMENT; AUTHORITY OF OFFICE OF MANAGEMENT AND BUDGET.**—

(1) Except as otherwise specifically provided in this Act, the Institute shall not be considered a department, agency, or instrumentality of the Federal Government.

(2) This Act does not limit the authority of the Office of Management and Budget to review and submit comments upon the Institute's annual budget request at the time it is transmitted to the Congress.

(d) **STATUS OF OFFICERS AND EMPLOYEES OF INSTITUTE AS OFFICERS AND EMPLOYEES OF UNITED STATES.**—

(1) Except as provided in paragraph (2), officers and employees of the Institute shall not be considered officers or employees of the United States.

(2) Officers and employees of the Institute shall be considered officers and employees of the United States solely for the purposes of the following provisions of title 5, United States Code; Subchapter I of chapter 81 (5 U.S.C. 8101 et seq.) (relating to compensation for work injuries); chapters 83 and 84 (5 U.S.C. 8301 et seq. and 8401 et seq.) (relating to civil service retirement); chapter 87 (5 U.S.C. 8701 et seq.) (relating to life insur-

ance); and chapter 89 (5 U.S.C. 8901 et seq.) (relating to health insurance). The Institute shall make contributions under the provisions referred to in this subsection at the same rates applicable to agencies of the Federal Government.

(e) **FREEDOM OF INFORMATION REQUIREMENTS.**—The Institute and its officers and employees shall be subject to the provisions of section 552 of title 5, United States Code, relating to freedom of information.

SEC. 11. GRANTS AND CONTRACTS.

(a) **AUTHORITY OF INSTITUTE; PURPOSE OF GRANTS.**—The Institute is authorized—

(1) to award grants and enter into cooperative agreements or contracts, in a manner consistent with subsection (b);

(2) to evaluate, when appropriate, the programs and projects carried out under this Act to determine the extent to which they have met or failed to meet the purposes of this Act; and

(3) to encourage, assist, and serve in a consulting capacity to State and local law enforcement and public safety system agencies in the development, maintenance, and coordination of telecommunications programs and services.

(b) **PRIORITY IN MAKING AWARDS; ALTERNATIVE RECIPIENTS; APPROVAL OF APPLICATIONS; RECEIPT AND ADMINISTRATION OF FUNDS; ACCOUNTABILITY.**—The Institute may award grants and enter into cooperative agreements or contracts as follows:

(1) The Institute may award grants to or enter into cooperative agreements or contracts with the chief executive officer of each State to carry out the purposes of this Act.

(2) The Institute may, if the objective can better be served thereby, award grants to or enter into cooperative agreements or contracts with—

(A) other nonprofit organizations with expertise in law enforcement and public safety telecommunication;

(B) institutions of higher education;

(C) individuals, partnerships, firms, or corporations; and

(D) private agencies with expertise in law enforcement and public safety telecommunication administration.

(3) The Institute may enter into contracts with Federal agencies to carry out the purposes of this Act.

(c) **PERMISSIBLE USES OF FUNDS.**—Funds available pursuant to grants, cooperative agreements, or contracts awarded under this section may be used—

(1) to assist State and local law enforcement and public safety administrations in establishing, improving, and integrating telecommunications;

(2) to support education and training programs for law enforcement and public safety officials and other state and local personnel in the effective use of telecommunications in carrying out their law enforcement and public safety functions;

(3) to support studies of the adequacy of law enforcement and public safety telecommunications systems for State and local governments and to implement and evaluate innovative responses to law enforcement and public safety telecommunications problems; and

(4) to carry out such other programs, consistent with the purposes of this Act, as may be deemed appropriate by the Institute.

SEC. 12. LIMITATIONS ON GRANTS AND CONTRACTS.

(a) **DUTIES OF INSTITUTE.**—With respect to grants made and contracts or cooperative agreements entered into under this Act, the Institute shall—

(1) ensure that no funds made available to recipients by the Institute shall be used at

any time, directly or indirectly, to influence the issuance, amendment, or revocation of any Executive order or similar promulgation by any State or local agency, or to undertake to influence the passage or defeat of any legislation or constitutional amendment by the Congress of the United States, or by any State or local legislative body, or any State proposal by initiative petition, or of any referendum, unless a governmental agency, legislative body, a committee, or a member thereof—

(A) requests personnel of the recipients to testify, draft, or review measures or to make representations to such agency, body, committee, or member; or

(B) is considering a measure directly affecting the activities under this Act of the recipient or the Institute; and

(2) ensure all personnel engaged in grant, cooperative agreement, or contract assistance activities supported in whole or part by the Institute refrain, while so engaged, from any partisan political activity.

(b) **PROHIBITED USES OF FUNDS.**—To ensure that funds made available under this Act are used to supplement and improve the operation of State and local government law enforcement and public safety telecommunications systems, rather than to support basic existing systems, funds shall not be used—

(1) to supplant State or local funds currently supporting a program or activity; or

(2) to construct telecommunications facilities or structures, except to remodel existing facilities to demonstrate new architectural or technological techniques, or to provide temporary facilities for new personnel or for personnel involved in a demonstration or experimental program.

SEC. 13. RESTRICTIONS ON ACTIVITIES OF THE INSTITUTE.

(a) **ISSUANCE OF SHARES OF STOCK; DECLARATION OF DIVIDENDS; COMPENSATION FOR SERVICES; REIMBURSEMENT FOR EXPENSES; POLITICAL ACTIVITIES.**—

(1) The Institute shall have no power to issue any shares of stock, or to declare or pay any dividends.

(2) No part of the income or assets of the Institute shall enure to the benefit of any director, officer, or employee, except as reasonable compensation for services or reimbursement for expenses.

(3) Neither the Institute nor any recipient shall contribute or make available Institute funds or program personnel or equipment to any political party or association, or the campaign of any candidate for public or party office.

(4) The Institute shall not contribute or make available Institute funds or program personnel or equipment for use in advocating or opposing any ballot measure, initiative, or referendum.

(c) **IDENTIFICATION OF INSTITUTE WITH POLITICAL ACTIVITIES.**—Officers and employees of the Institute or of recipients shall not at any time intentionally identify the Institute or the recipient with any partisan or nonpartisan political activity associated with a political party or association, or the campaign of any candidate for public or party office.

SEC. 14. PRESIDENTIAL COORDINATION.

The President may, to the extent not inconsistent with any other applicable law, direct that appropriate support functions of the Federal Government may be made available to the Institute in carrying out its functions under this Act.

SEC. 15. RECORDS AND REPORTS.

(a) **REPORTS.**—The Institute is authorized to require such reports as it deems necessary from any recipient with respect to activities carried out pursuant to this Act.

(b) RECORDS.—The Institute is authorized to prescribe the keeping of records with respect to funds provided by any grant, cooperative agreement, or contract under this Act and shall have access to such records at all reasonable times for the purpose of ensuring compliance with such grant, cooperative agreement, or contract or the terms and conditions upon which financial assistance was provided.

(c) SUBMISSION OF COPIES OF REPORTS TO RECIPIENTS; MAINTENANCE IN PRINCIPAL OFFICE OF INSTITUTE; AVAILABILITY FOR PUBLIC INSPECTION; FURNISHING OF COPIES TO INTERESTED PARTIES.—Copies of all reports pertinent to the evaluation, inspection, or monitoring of any recipient shall be submitted on a timely basis to such recipient, and shall be maintained in the principal office of the Institute for a period of at least 5 years after such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours, and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Institute may establish.

SEC. 16. AUDITS.

(a) TIME AND PLACE OF AUDITS; STANDARDS; AVAILABILITY OF BOOKS, ACCOUNTS, FACILITIES, ETC., TO AUDITORS; FILING OF REPORT AND AVAILABILITY FOR PUBLIC INSPECTION.—

(1) The accounts of the Institute shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

(2) The audits shall be conducted at the place or places where the accounts of the Institute are normally kept. All books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audits shall be made available to the person or persons conducting the audits. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to any such person.

(3) The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Institute.

(b) ADDITIONAL AUDITS; REQUIREMENTS; REPORTS AND RECOMMENDATIONS TO CONGRESS AND ATTORNEY GENERAL.—

(1) In addition to the annual audit, the financial transactions of the Institute for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States.

(2) Any such audit shall be conducted at the place or places where accounts of the Institute are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and other papers or property belonging to or in use by the Institute and necessary to facilitate the audit. The full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such representatives. All such books, accounts, financial records, reports, files, and other papers or property of the Institute shall remain in the possession and custody of the Institute throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such

books, accounts, financial records, reports, files, and other papers or property for a longer period under section 3523(c) of title 31, United States Code.

(3) A report of such audit shall be made by the Comptroller General to the Congress and to the Attorney General, together with such recommendations with respect thereto as the Comptroller General deems advisable.

(c) ANNUAL AUDITS BY INSTITUTE OR RECIPIENTS; REPORTS; SUBMISSION OF COPIES TO COMPTROLLER GENERAL; INSPECTION OF BOOKS, ACCOUNTS, ETC.; AVAILABILITY OF AUDIT REPORTS FOR PUBLIC INSPECTION.—

(1) The Institute shall conduct, or require each recipient to provide for, an annual fiscal audit of the use of funds received under this Act. The report of each such audit shall be maintained for a period of at least 5 years at the principal office of the Institute.

(2) The Institute shall submit to the Comptroller General of the United States copies of such reports, and the Comptroller General may, in addition, inspect the books, accounts, financial records, files, and other papers or property belonging to or in use by such grantee, contractor, person, or entity, which relate to the disposition or use of funds received from the Institute. Such audit reports shall be available for public inspection during regular business hours, at the principal office of the Institute.

By Mr. KOHL (for himself and Mr. FEINGOLD):

S. 256. A bill to amend the Commodity Exchange Act to require the Commodity Futures Trading Commission to regulate certain cash markets, such as the National Cheese Exchange, until the Commission determines that the market do not establish reference points for other transactions, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

THE NATIONAL CHEESE EXCHANGE OVERSIGHT AND IMPROVEMENT ACT

• Mr. KOHL. Mr. President, I am introducing legislation to address a matter of great concern to all dairy farmers in the Nation—the lack of a credible milk-pricing system. Though there are many aspects of the milk-pricing system in need of reform, the legislation that I am introducing today seeks to address concerns about the potential for manipulation on the National Cheese Exchange [NCE] in Green Bay, WI, and the influence of the NCE on farmers' milk prices.

Last year, a 3-year study funded by USDA, and conducted by economists at the University of Wisconsin-Madison, highlighted the flaws of the National Cheese Exchange. Specifically, the report showed that although less than 1 percent of the nation's cheese is traded on the exchange, the price resulting from the exchange's weekly trading sessions acts as a reference price for nearly 95 percent of the commercial bulk cheese sales in the country. Further, the NCE price is also used by the U.S. Department of Agriculture as a factor in calculating the monthly minimum price that farmers receive for their milk.

The report raised serious concerns about the appropriateness of allowing a

market that is as thinly traded, highly concentrated, unregulated, and subject to manipulation as the NCE to have such extreme influence over farmers' milk checks and national cheese prices.

Since the report was released, a great deal of time has been devoted to a discussion of whether certain companies or cooperatives have intentionally manipulated the exchange. I personally asked the Department of Justice and the Federal Trade Commission to review the report, to determine if any antitrust laws had been violated. While I am not convinced that either agency gave much attention to the matter, both replied that they saw no sign of illegality in the activities by large traders on the NCE.

While these questions of legality and manipulation are valid, they are questions that may never be resolved to anyone's satisfaction. Ultimately what I believe to be the most important exercise is to find a market that will be more reflective of supply and demand, and to eliminate any potential for manipulation in price discovery. Farmers and consumers alike deserve to know that markets are fair and aboveboard.

With that goal in mind, my colleagues from Wisconsin, Senator FEINGOLD and Congressman OBEY, and I have worked continuously on several initiatives to create and promote alternative price discovery mechanisms, and to urge Federal and State regulatory agencies to exercise any authorities they might have to oversee the operations of the exchange.

NEED FOR AN ALTERNATIVE CASH MARKET FOR CHEESE

With regard to the possible establishment of alternative cash markets for cheese, several months ago, Senator FEINGOLD and I asked the Coffee, Sugar, and Cocoa Exchange [CSCE] to explore the possibility of establishing such an alternative. The CSCE, which already trades futures contracts for cheese, is regulated by the U.S. Commodity Futures Trading Commission, and imposes strict self-regulatory guidelines on its traders as well.

Further, there is some hope that the establishment of cash market for cheese on the CSCE, and the more direct connection to the existing cheese futures trading business, would lead to an increased volume of trading on both the cash and futures markets for cheese.

I have been very pleased to see that the CSCE is seriously considering our proposal, and is actively exploring the possibility of creating a cash market for cheese in the near term. While there is no guarantee that such a market will be successful, it is my hope that the CSCE leadership will opt to establish such a market, and will establish and enforce guidelines to assure that the new market does not merely mimic the flaws of the National Cheese Exchange.

However, even if the CSCE decides to establish an alternative market for