amendment No. 4510 intended to be proposed to H.R. 5005, a bill to establish the Department of Homeland Security, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HATCH (for himself, Mrs. FEINSTEIN, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. SESSIONS, Mr. DEWINE, Mr. THURMOND, Mr. GRASSLEY, and Ms. LANDRIEU):

S. 2917. A bill to enhance national efforts to investigate, prosecute, and prevent crimes against children by increasing investigatory tools, criminal penalties, and resources and by extending existing laws; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, this summer we were all devastated by the repeated news flashes reporting violent crimes against children across our Nation. In June, Elizabeth Smart, a 14 year old from my home town of Salt Lake City, UT, was kidnapped at gun point from her home. To date, neither Elizabeth nor her abductor has been found.

In July, five-year-old Samantha Runnion was kidnapped while playing with a neighborhood friend down the street from her home in Stanton, CA. The following day, her body was found along a highway, nearly 50 miles from her home. California authorities have charged a man, who reportedly was acquitted just 2 years ago of molesting two girls under the age of 14, with Runnion's abduction, sexual assault and murder.

Elizabeth Smart and Samantha Runnion are just two, among many, recent child victims. The list of tragic cases goes on and on.

These horrific incidents illustrate the need for comprehensive legislation, at both the State and national level, to protect our children. We need to ensure that our law enforcement officers have all the tools and resources they need to find, prosecute, and punish those who commit crimes against our children.

Earlier this year, with Senators LEAHY, SESSIONS, HUTCHINSON, BROWNBACK, EDWARDS and DEWINE, I introduced S. 2520, the ''PROTECT Act of 2002''. This bill plugged a loophole that existed as a result of a recent Supreme Court decision which struck down key provisions in the ''Child Pornography Prevention Act,'' which I authored and Congress passed in 1996. Among other things, the PROTECT Act prevents child pornographers from escaping prosecution by claiming that their sexually explicit material did not involve real children. Where child pornography includes persons who appear virtually indistinguishable from actual minors, prosecutions can still occur unless a defendant shows that the pornography did not involve a minor.

Today I rise to introduce with my colleagues, Senators FEINSTEIN, HUTCHINSON, HUTCHISON, SESSIONS, DEWINE, THURMOND and GRASSLEY, the ''Comprehensive Child Protection Act of 2002,'' which enhances child crime prosecutions, investigatory tools, penalties and resources in a variety of ways. For the record, I will submit a section by section summary of the bill, but allow me to comment briefly on some of the bill's specific provisions.

First, and most significantly, the bill creates a National Crimes Against Children Response Center. The recent series of tragic events involving child victims has convinced me that we need to take a more proactive approach to prevent, deter and prosecute child predators of all types, abusers, molesters, pornographers and traffickers. And at the same time, we need to provide our children, the vulnerable victims of such predators, with the support systems they need to recover fully from such horrendous crimes and to assist law enforcement in effectively investigating and prosecuting these crimes.

To this end, our bill directs the Federal Bureau of Investigation to establish a National Response Center whose primary mission will be to develop a comprehensive and rapid response plan to reported crimes involving the victimization of children. While the Center is to be established by the FBI in consultation with the Deputy Assistant Attorney General for the new Department of Justice Crimes Against Children Section created by the bill, it will integrate the resources and expertise of other Federal, State, and local law enforcement agencies, as well as other child services professionals. By forming and training rapid response teams comprised of Federal, State and local prosecutors, investigators, victim witness specialists, mental health and other child services professionals, the Center will greatly enhance our national response and prevention efforts. The combination of valuable expertise and resources provided by such multi-jurisdictional and multi-disciplinary partnerships will increase the likelihood that law enforcement authorities will successfully identify, prosecute and punish child predators, and that child services professionals will provide child victims with much needed support.

Second, this legislation tasks the new Crimes Against Children Section with creating an Internet site that will consolidate sex offender information which States currently release under the Federal reporting act. The bill also directs States that have not developed Internet sites to do so. The creation of a national Internet site will enable concerned citizens to find in one, easily accessible place, critical information about sexual predators.

Currently, all 50 States have statutes that require sex offenders to register and share information with the United States Attorney General through the Federal Bureau of Investigation, and over 30 States make offender information available to the public on the Internet. A national Internet site will enhance the public's ability to find and access information that is already available in the public record, and will protect citizens in states where sex offenders travel or move, often to avoid detection. In short, the national Internet site will provide parents and other concerned citizens with essential information about the whereabouts and backgrounds of child abusers, so they can take all necessary steps to protect our Nation's children.

Third, the bill enhances the ability of federal prosecutors to bring and successfully prosecute cases involving children predators in several ways:

The legislation extends the statute of limitations period that applies to offenses involving the sexual or physical abuse of children by permitting such cases to be brought up until the date the minor reaches age 35, as opposed to age 25 as the law currently provides. I believe that there should rarely, if ever, be a time when we say to a victim who has suffered as a child at the hands of an abuser: you have identified your abuser; you have proven the crime; yet the abuser will remain free because you, the victim, waited too long to come forward. Our criminal justice system should be ready to adjudicate all meritorious claims of child abuse. Abusers should not benefit from the lasting psychological harms they inflict on innocent children. This provision is meant to recognize that the arm of the law should be long in the prosecution of crimes of this heinous nature.

The bill also amends an existing Federal evidentiary rule, Federal Rule of Evidence 414, to permit the admission into evidence of prior offenses involving child molestation or the possession of sexually explicit materials containing minors. The current evidentiary rule permits such evidence to be admitted only where the victim is under 14 years of age. This amendment extends the rule to apply to any victim who is under 18 years of age at the time of the offense. This amendment also makes clear that even where an individual possesses what may be virtual, as opposed to actual, child pornography, such evidence is admissible under Rule 414.

This legislation limits the scope of the common law marital privileges by making them inapplicable in a criminal case in which a spouse stands accused of abusing a child in the home. Where a spouse is charged with abusing a child of either spouse, or a child under the custody or control of either spouse, neither the abuser nor his or her spouse should be permitted to invoke a marital privilege to avoid providing critical evidence in a criminal proceeding.

Fourth, the bill enhances tools that are used to investigate child crimes. It expands the class of offenses that are included in the Combined DNA Index System, CODIS, by adding to the system all federal felony offenses and

other designated federal and state sexual offenses that subject Federal offenders to sex registration requirements. This extension will increase law enforcement's ability to solve crimes where DNA evidence is found.

The bill also extends the Federal wiretap statute by adding additional sex exploitation offenses, as well as sex trafficking and other interstate sex offenses, to the statute's list of predicate offenses. As we all know, the Internet is becoming an increasingly popular means by which sexual predators make contact with child victims. Predators frequently initiate relationships with children online, but later seek to make personal contact with the child, either over the telephone or through face to face meetings. But as the law exists today, law enforcement authorities are restricted in their ability to investigate such predators. This amendment will not only aid investigators in obtaining evidence of such crimes, it will also help stop these crimes before a sexual predator makes contact with a child. To obtain a wiretap, law enforcement authorities will still need to meet the strict statutory guidelines of the wiretap statute and obtain authorization from a court. Thus, the legislation will not undermine the legitimate expectations of privacy of law-abiding Americans.

Fifth, this legislation will strengthen criminal penalties by extending the supervised release period that applies to child and sex offenders, increasing the maximum penalties that apply to offenses involving transportation for illegal sexual activity, and directing the United States Sentencing Commission to consider enhancing the sentencing guidelines that apply to criminal offenses with which child predators are frequently charged.

In particular, the bill grants Federal judges the discretion to impose up to lifetime periods of supervised release for individuals who are convicted of sexual abuse, sexual exploitation, transportation for illegal sexual activity, and sex trafficking offenses. Under current law, a judge can impose no more than 5 years of supervised release for a serious felony, and no more than 3 years for a lesser categorized offense. This amendment does not require the judge to impose a period of supervised release longer than 5 years; it simply authorizes a judge to do so where the nature and circumstances of the case justify a longer supervised release period.

In my view, if there is any class of offenders on which our criminal justice system should keep a close eye, it is sexual predators. It is well documented that sex offenders are more likely than other violent criminals to commit future crimes. And if there is any class of victims we should seek to protect from repeat offenders, it is those who have been sexually assaulted. They suffer tremendous physical, emotional and psychological injuries. By ensuring that egregious sexual offenders are supervised for longer periods of time, we will increase the chance that they will be deterred from and punished for future criminal acts.

In addition to increasing the maximum penalties that apply to certain offenses that involve the trafficking of children or other interstate elements, the bill directs the United States Sentencing commission to review the sentencing guidelines that apply to various federal offenses that are used to prosecute kidnappers, sexual abusers and exploiters to ensure that the sentences for these crimes are sufficiently severe where aggravating circumstances exist, such as where the victim was abducted, injured, killed, or abused by more than one person.

The ''Comprehensive Child Protection Act of 2002'' will enhance our ability to combat crimes against children, but it is by no means an end. Congress needs to continue to explore additional ways in which we can improve our ability on a national level to protect our children. Our children fall victim to many of the same crimes we face as adults, and they are also subject crimes that are specific to childhood, like child abuse and neglect. The effects of such heinous crimes are devastating and often lead to an intergenerational cycle of violence and abuse.

I want to do all I can to ensure that we devote the same intensity of purpose to crimes committed against children, as we do to other serious criminal offenses, such as those involving terrorism. We have no greater resource than our children. I invite the Department of Justice, the Federal Bureau of Investigation and other entities and professionals who are charged with protecting our children to work with me to improve our federal laws and to assist States in doing the same.

I ask unanimous consent that the text of the bill and a section-by-section summary analysis of S. 2917 be printed in the RECORD.

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

S. 2917

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 ''Comprehensive Child Protection Act of 2002''.

SEC. 2. NATIONAL CRIMES AGAINST CHILDREN RESPONSE CENTER.

(a) IN GENERAL.—Chapter 33 of title 28, United States Code, is amended by adding at the end the following:

''§ 540A. National Crimes Against Children Response Center

''(a) ESTABLISHMENT.—There is established within the Federal Bureau of Investigation a National Crimes Against Children Response Center (referred to in this section as the 'Center').

''(b) MISSION.—The mission of the Center is to develop a national response plan model that—

''(1) provides a comprehensive, rapid response plan to report crimes involving the victimization of children; and

''(2) protects children from future crimes.

''(c) DUTIES.—To carry out the mission described in subsection (b), the Director of the Federal Bureau of Investigation shall—

''(1) consult with the Deputy Assistant Attorney General for the Crimes Against Children Office and other child crime coordinators within the Department of Justice;

''(2) consolidate units within the Federal Bureau of Investigation that investigate crimes against children, including abductions, abuse, and sexual exploitation offenses;

''(3) develop a comprehensive, rapid response plan for crimes involving children that incorporates resources and expertise from Federal, State, and local law enforcement agencies and child services professionals;

''(4) develop a national strategy to prevent crimes against children that shall include a plan to rescue children who are identified in child pornography images as victims of abuse;

''(5) create regional rapid response teams composed of Federal, State, and local prosecutors, investigators, victim witness specialists, mental health professionals, and other child services professionals;

''(6) implement an advanced training program that will enhance the ability of Federal, State, and local entities to respond to reported crimes against children and protect children from future crimes; and

''(7) conduct outreach efforts to raise awareness and educate communities about crimes against children.

''(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for the Federal Bureau of Investigation such sums as necessary for fiscal year 2003 to carry out this section.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 33 of title 28, United States Code, is amended by adding at the end the following:

''540A. National Crimes Against Children Response Center.''.

SEC. 3. INTERNET AVAILABILITY OF INFORMATION CONCERNING REGISTERED SEX OFFENDERS.

(a) IN GENERAL.—Section 170101(e)(2) of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 14071(e)(2)) is amended by adding at the end the following: ''The release of information under this paragraph shall include the maintenance of an Internet site containing such information that is available to the public.''.

(b) COMPLIANCE DATE.—Each State shall implement the amendment made by this section within 3 years after the date of enactment of this Act, except that the Attorney General may grant an additional 2 years to a State that is making a good faith effort to implement the amendment made by this section.

(c) NATIONAL INTERNET SITE.—The Crimes Against Children Section of the Department of Justice shall create a national Internet site that links all State Internet sites established pursuant to this section.

SEC. 4. DNA EVIDENCE.

Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

''(d) QUALIFYING FEDERAL OFFENSE.—For purposes of this section, the term 'qualifying Federal offense' means—

''(1) any offense classified as a felony under Federal law;

''(2) any offense under chapter 109A of title 18, United States Code;

''(3) any crime of violence as that term is defined in section 16 of title 18, United States Code; or

''(4) any offense within the scope of section 4042(c)(4) of title 18, United States Code.''.

SEC. 5. INCREASE OF STATUTE OF LIMITATIONS FOR CHILD ABUSE OFFENSES.

Section 3283 of title 18, United States Code, is amended by striking ''25 years'' and inserting ''35 years''.

SEC. 6. ADMISSIBILITY OF SIMILAR CRIME EVIDENCE IN CHILD MOLESTATION CASES.

Rule 414 of the Federal Rules of Evidence is amended—

(1) in subsection (a), by inserting ''or possession of sexually explicit materials containing apparent minors'' after ''or offenses of child molestation''; and

(2) in subsection (d), by striking ''fourteen'' and inserting ''18''.

SEC. 7. MARITAL COMMUNICATION AND ADVERSE SPOUSAL PRIVILEGE.

(a) IN GENERAL.—Chapter 119 of title 28, United States Code, is amended by inserting after section 1826 the following:

''§ 1826A. Marital communications and adverse spousal privilege

''The confidential marital communication privilege and the adverse spousal privilege shall be inapplicable in any Federal proceeding in which a spouse is charged with a crime against—

''(1) a child of either spouse; or

''(2) a child under the custody or control of either spouse.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 119 of title 28, United States Code, is amended by inserting after the item relating to section 1826 the following:

''1826A. Marital communications and adverse spousal privilege.''.

SEC. 8. AUTHORIZATION OF INTERCEPTION OF COMMUNICATIONS IN THE INVESTIGATION OF SEXUAL CRIMES AND OTHER CRIMES AGAINST CHILDREN.

Section 2516(1)(c) of title 18, United States Code, is amended—

(1) by inserting ''section 1591 (sex trafficking of children or by force, fraud, or coercion)'' after ''section 1511 (obstruction of State or local law enforcement),''; and

(2) by inserting ''section 2251A (selling or buying of children), section 2252A (relating to material constituting or containing child pornography), section 2260 (production of sexually explicit depictions of a minor for importation into the United States), sections 2421, 2422, 2423, and 2425 (relating to transportation for illegal sexual activity and related crimes),'' after ''sections 2251 and 2252 (sexual exploitation of children),''.

SEC. 9. INCREASE OF MAXIMUM SUPERVISED RELEASE TERM FOR SEX OFFENDERS.

Section 3583 of title 18, United States Code, is amended by adding at the end the following:

''(k) SUPERVISED RELEASE TERMS FOR SEX OFFENDERS.—Notwithstanding subsection (b), the authorized term of supervised release for any offense under chapter 109A, 110, 117, section 1201 involving a minor victim, or section 1591 is any term of years or life.''.

SEC. 10. INCREASE OF MAXIMUM PENALTIES FOR SEX OFFENSES.

Title 18, United States Code, is amended—

(1) in section 1591(b)(2), by striking ''20 years'' and inserting ''40 years'';

(2) in section 2421, by striking ''10 years'' and inserting ''20 years'';

(3) in section 2422—

(A) in subsection (a), by striking ''10 years'' and inserting ''20 years''; and

(B) in subsection (b), by striking ''15 years'' and inserting ''30 years'';

(4) in section 2423—

(A) in subsection (a), by striking ''15 years'' and inserting ''30 years''; and

(B) in subsection (b), by striking ''15 years'' and inserting ''30 years''; and

(5) in section 2425, by striking ''5 years'' and inserting ''10 years''.

SEC. 11. DEPUTY ASSISTANT ATTORNEY GENERAL FOR CRIMES AGAINST CHILDREN.

(a) ESTABLISHMENT OF POSITION.—

(1) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended by inserting after section 507 the following:

''§ 507A. Deputy Assistant Attorney General for Crimes Against Children

''(a) The Attorney General shall appoint a Deputy Assistant Attorney General for Crimes Against Children.

''(b) The Deputy Assistant Attorney General shall be the head of the Crimes Against Children Section (CACS) of the Department of Justice.

''(c) The duties of the Deputy Assistant Attorney General shall include the following:

''(1) To prosecute cases involving crimes against children.

''(2) To advise Federal prosecutors and law enforcement personnel regarding crimes against children.

''(3) To provide guidance and assistance to Federal, State, and local law enforcement agencies and personnel, and appropriate foreign entities, regarding responses to crimes against children.

''(4) To propose and comment upon legislation concerning crimes against children.

''(5) Such other duties as the Attorney General may require, including duties carried out by the head of the Child Exploitation and Obscenity Section and the Terrorism and Violent Crime Section of the Department of Justice.''.

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 31 of title 28, United States Code, is amended by inserting after the item relating to section 507 the following:

''507A. Deputy Assistant Attorney General for Crimes Against Children.''.

(b) AUTHORIZATION OF APPROPRIATIONS FOR CACS.—There is authorized to be appropriated for the Department of Justice for fiscal year 2003, such sums as necessary to carry out this section.

SEC. 12. DIRECTIVE TO SENTENCING COMMISSION.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review the Federal Sentencing Guidelines and policy statements relating to child abuse and exploitation offenses, including United States Sentencing Guideline sections 2A3.1, 2A3.2, 2A3.3, 2A3.4, 2A4.1, 2G1.1, 2G2.1, 2G2.2, 2G2.3, 2G2.4, and 2G3.1 to determine whether those sections are sufficiently severe.

(b) CONSIDERATIONS.—In reviewing the Federal Sentencing Guidelines in accordance with subsection (a), the United States Sentencing Commission shall consider whether the guidelines are adequate where—

(1) the victim had not attained the age of 12 years, or had not attained the age of 16 years;

(2) the victim died, or sustained permanent, life-threatening or serious injury as a result of the criminal act;

(3) the victim was abducted;

(4) the victim was abused by more than 1 participant;

(5) the offense involved more than 1 victim;

(6) the ability of the victim to appraise or control his or her conduct was substantially impaired;

(7) the offense involved a large number of visual depictions, including multiple images of the same victim; and

(8) the offense involved material that portrays sadistic or masochistic conduct or other depictions of violence.

''COMPREHENSIVE CHILD PROTECTION ACT OF 2002''

Section 1. Title—The Comprehensive Child Protection Act of 2002.

Section 2. Creates a National Crimes Against Children Response Center—The bill directs the Federal Bureau of Investigation to establish a National Crimes Against Children Response Center whose primary mission will be to develop a comprehensive and rapid response plan to reported crimes involving the victimization of children. While the National Response Center is to be established by the FBI, in consultation with the Deputy Assistant Attorney General for the Crimes Against Children Office, it will integrate the resources and expertise of other Federal, State and local law enforcement agencies, as well as other child services professionals. By creating and training rapid response teams comprised of Federal, State and local prosecutors, investigators, victim witness specialists, mental health and other child services professionals, the Center will greatly enhance our national efforts to protect our children from child predators.

Section 3. Creates a National Internet Site for Sexual Offender Information—The legislation directs the new Department of Justice Crimes Against Children Office to create an Internet site that consolidates sex offender information which States currently release under the federal reporting act. The bill also directs States that have not developed Internet sites to do so.

Currently, all 50 states have registration statutes that require sex offenders to register and to share information with the United States Attorney General through the Federal Bureau of Investigation, and over 30 States make offender information available to the public on the Internet. The creation of a national Internet site will enable concerned citizens to find in one, easily accessible place, critical information about sexual predators.

Section 4. Expands the DNA Analysis and Backlog Elimination Act, 42 U.S.C. 14135a(d), by increasing the categories of offenses that are included in the system of convicted offender DNA profiles, the Combined DNA Index System (CODIS). The bill expands the class of offenses that are included in CODIS by adding to the system all Federal felonies and additional offenses that subject Federal offenders to sex registration requirements.

Currently, the DNA Analysis and Backlog Elimination Act includes only select Federal offenses in CODIS. The successful experience of a large number of States which authorize the collection of DNA samples from all felony offenders illustrated the merit of this extension. In these States, numerous crimes have been solved based on DNA evidence obtained from nonviolent felony offenders. The addition of other offenses that subject Federal offenders to sex registration requirements will further enhance enforcement's ability to solve crimes.

Section 5. Extends the Statute of Limitations Period for Child Abuse Offenses contained in 18 U.S.C. 3283 to allow prosecutions of offenses involving the sexual or physical abuse of a child to be brought until the child reaches the age of 35. Currently, such prosecutions may be brought until the child is 25 years of age.

This amendment is intended to recognize that the arm of the law should be long in the prosecution of child abuse offenses. Too often victims of such crimes do not come forward until years after the abuse because they fear their disclosures will lead to further humiliation, shame, and even ostracism. This amendment will reduce the number of meritorious child abuse cases that are barred from prosecution on statute of limitations grounds.

Section 6. Expands Rule 414 of the Federal Rules of Evidence which allows evidence of a defendant's prior acts of child molestation to be admitted in a criminal child molestation case.

The amendment extends the definition of ''child'' contained in Rule 414 to include any person below the age of 18—rather than age 14, as the Rule now reads. The amendment also makes clear that where a defendant previously possessed what may have been virtual, as opposed to actual, child pornography, such evidence is admissible under Rule 414. Like the possession of actual child pornography, the possession of virtual child pornography is highly probative evidence that should be admissible in a case of child molestation or exploitation.

Section 7. Precludes the Assertion of a Marital Privilege in a Criminal Child Abuse Case in which a spouse stands accused of abusing a child in the home. In such a case, neither the abuser nor his or her spouse should be permitted to invoke a marital privilege to preclude critical testimony relating to the child abuse.

Section 8. Expands the Federal Wiretap Act, 18 U.S.C. 2516(1)(c), by adding as predicate offenses to the statute, sex trafficking, sex exploitation, and other interstate sex offenses. Currently, the wiretap statute authorizes the interception of wire, oral, or electronic communications in the investigation of just two sexual exploitation of children crimes. This expanded tool will be particularly useful to investigators who track sexual predators and child portnographers.

To obtain a wiretap, law enforcement authorities will still need to meet the strict statutory guidelines of the wiretap statute and obtain authorization from a court. Thus, the legislation will not undermine the legitimate expectations of privacy of law-abiding Americans.

Section 9. Extends the Maximum Supervised Release Period that Applies to Sexual Offenders by granting Federal judges the discretion to impose up to lifetime periods of supervised release for individuals who are convicted of sexual abuse, sexual exploitation, transportation for illegal sexual activity, or sex trafficking offenses.

Currently, under the general supervised release statute, 18 U.S.C. 3583, a judge can impose no more than 5 years of supervised release for a serious felony, and no more than 3 years for a lesser categorized offense. This amendment will not require judges to impose a period of supervised release longer than 5 years; it simply authorizes them to do so where the judge sees fit based on the nature and circumstances of the particular case.

Section 10. Increases the Maximum Penalties that Apply to Certain Sexual Related Offenses by doubling the maximum penalties for sexual related offenses involving the trafficking of children and other interstate elements. Stiffer penalties are needed to punish and deter individuals who commit such offenses.

Section 11. Creates a Crimes Against Children Section at the Department of Justice—The bill also directs the Attorney General to appoint a Deputy Assistant Attorney General to oversee a new section at the Department of Justice designated to focus solely on crimes against children. Among other things, the new section will be tasked with prosecuting crimes against children, providing guidance and assistance to Federal State, and local law enforcement agencies and personnel who handle such cases, coordinating efforts with international law enforcement agencies to combat crimes against children, and acting as a liaison with the legislative and judicial branches of government to ensure that adequate attention and resources are focused on protecting our children from predators of all types.

Section 12. Directs the Sentencing Commission to review the guidelines that apply to child abuse and exploitation offenses to determine whether they are sufficiently severe. In so doing, the Sentencing Commission shall consider whether the guidelines are adequate where aggravated circumstances exist: the victim had not attained the age of twelve years, or had not attained the age of sixteen years; the victim died, sustained permanent, life-threatening, or serious injury as a result of the criminal act; the victim was abducted; the victim was abused by more than one individual; the offense involved more than one victim; the offense involved a large number of visual depictions, including multiple images of the same victim; or the offense involved material that portrays sadistic or masochistic conduct or other depictions of violence.

Mr. DEWINE. Mr. President, I rise today with my colleague from Utah, Senator HATCH, to introduce the ''Comprehensive Child Protection Act of 2002''—a bill to help protect our nation's children from child molestation and other forms of abuse.

Sexual abuse of children is a pervasive and extremely troubling problem in the United States. I learned that over 25 years ago when I was serving as the Country Prosecutor in Greene County, Ohio. I saw what this kind of abuse does to innocent, helpless children and how pervasive the crimes are in our communities. In fact, according to the Congressional Research Service, one of every three girls and one of every seven boys will be sexually abused before they reach the age of 18.

Our local police and prosecutors are on the front line in the fight against these criminals, and they deserve credit and our thanks for their hard work. For example, in Greene County recently, a number of child pornographers were identified and prosecuted when local law enforcement carried out a successful Internet sting operation.

Despite successes like this, however, the data suggest that law enforcement is fighting an uphill battle. Last year, there were over 5,400 registered sex offenders living in my home state of Ohio—an increase of 319 percent over 1998.

Equally troubling, many child molesters prey upon dozens of victims before they are reported to law enforcement. Some evade detection for so long because many children never report the abuse. According to the Bureau of Justice Statistics, between 60 percent and 80 percent of child molestations and 69 percent of sexual assaults are never reported to the police. Of reported sexual assaults, 71 percent of the victims are children, according to the Congressional Research Service.

For these reasons, it is vitally important that Congress do everything in its power to support law enforcement in its efforts to protect our nation's most vulnerable citizens. Enacting the ''Comprehensive Child Protection Act of 2002'' would be a step in the right direction. By enacting this measure, we would help protect our children from sexual predators, pornographers, and others who abuse children. Among its major provisions, this legislation would:

1. Direct the FBI to establish a new center that creates and trains ''rapid response teams'' (composed of prosecutors, investigators, and others) to respond promptly to reported crimes against children;

2. Establish a national Internet site that would make sex offender information available to the public in one, easy to access place. Currently, about 30 states make offender information available to the public online;

3. Authorize the collection of DNA samples from registered sex offenders and the inclusion of these DNA samples in the Combined DNA Index System, or ''CODIS;''

4. Permit the prosecution of child abuse offenses until a victim reaches the age of 35 (as opposed to the age of 25 under current law). This provision recognizes that victims of such crimes often do not come forward until years after the abuse, out of shame or a fear of further humiliation;

5. Make it easier for investigators to track sexual predators and child pornographers and make it easier to prosecute criminal child abuse/molestation cases;

6. Create a new section at the Department of Justice to focus solely on crimes against children; and

7. Stiffen penalties for sex-related offenses involving children.

This is a good bill—a bill that would help ensure that our children are protected from some of the most heinous of criminals. It is a bill that would increase the punishment for those criminals. And, it is a bill that, quite simply, is the right thing to do. I encourage my colleagues to join us in cosponsoring this important measure.

Mr. GRASSLEY. Mr. President, I rise today in support of an act that I am cosponsoring with Senator HATCH that represents one of the most comprehensive pieces of legislation ever drafted to protect children, the Comprehensive Child Protection Act of 2002. As Ranking Republican on the Subcommittee on Crime and Drugs, I have been greatly concerned with the recent increase in reports of child abductions and murders, so I am glad to be a part of this effort to address this growing problem. In my tenure on the Judiciary Committee, I have long fought for our Nation's children, and have ardently supported laws that bring them and their families greater protection. I am also pleased that the President will be hosting a conference on missing and exploited children at the end of this month, and I look forward to that conference and appreciate the President's and First Lady's work on behalf of children.

This legislation comes at a critical time because we are hearing more and more about children being taken from their homes or schools and abused, or worse, murdered. Our children are a gift to us, are our national treasure, and are our future. We must do all that we can to protect these innocents and give law enforcement every tool possible to ferret out the criminals who would do our children harm. With this legislation, we will be ensuring a greater measure of protection for our children.

The bill does many important things. First, it helps law enforcement respond immediately to incidents of child abduction, because, as we've seen with the Amber Alert system, time is critical in any abduction case to thwart further injury or harm. The bill creates a National Crimes Against Children Response Center at the FBI that will integrate the resources and expertise of all Federal, State and local law enforcement sources to provide a rapid response for crimes involving child victims. The bill also helps law enforcement by making it possible to get wire taps for suspected sex trafficking and exploitation offenses, and will require that all Federal child sex crimes offenders have their DNA added to the national DNA registry. So the bill will help to centralize information about criminals and crimes, and makes the job of the criminal investigator easier and more accurate through wiretaps and DNA evidence.

The bill also creates a website registry for convicted child sexual offenders so that parents, neighbors, and police know who in their communities is a convicted child predator. This website will supplement registries in all 50 States. This important tool will help families make better and fully-informed decisions about their childrens' safety, and will greatly aid law enforcements' response to reports of child abductions and other offenses against children.

The bill also gives new tools to prosecutors and the courts. It extends the statute of limitations for prosecuting child offenders, allows prosecutors to introduce evidence of past child sex crimes in sentencing hearings, removes the so-called ''spousal privilege'' so that a spouse can't stand silent in the prosecution of the other spouse for child sexual abuse, and increases the maximum sentences and probation periods for child sex offenders. These important tools will make our communities safer by helping to rid them of child predators, and by keeping a tight leash on predators when they get released from prison.

So this bill helps the public know about sexual predators in their communities, improves the nation's ability to respond to child abduction reports, and aids criminal investigators and prosecutors in their efforts to protect the public by identifying and locking-up child predators. I ask my fellow Senators to support this important bill.

By Mrs. CLINTON (for herself and Mr. SCHUMER):

S. 2918. A bill to designate the facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, as the ''Peter J. Ganci, Jr. Post Office Building''; to the Committee on Government Affairs.

Mrs. CLINTON. Mr. President: I ask unanimous consent that the text of the bill, to designate the facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, as the ''Peter J. Ganci, Jr. Post Office Building,'' be printed in the RECORD.

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

S. 2918

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

SECTION 1. PETER J. GANCI, JR. POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 380 Main Street in Farmingdale, New York, shall be known and designated as the ''Peter J. Ganci, Jr. Post Office Building''.

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Peter J. Ganci, Jr. Post Office Building.

By Mr. CAMPBELL (for himself and Mr. INOUYE):

S. 2921. A bill to encourage Native contracting over the management of Federal lands, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to be joined by Senator INOUYE to introduce the ''Native American Contracting and Federal Lands Management Demonstration Project Act'' to expand the highly-successful Indian Self Determination and Education Assistance Act of 1975 and to bring Native knowledge and sensitivity to the management of Federal lands.

Next week is the 140th anniversary of the bloodiest day in U.S. military history—the Battle at Antietam Creek in Sharpsburg, Maryland. Many Civil War historians see Antietam as the turning point in the Union's victory over the Confederacy and as the victory President Lincoln needed to issue the Emancipation Proclamation.

Americans have a visceral impulse to restrict development of the lands like those at Antietam, not because we are sons of the Union or daughters of the Confederacy, but because we are Americans.

We know that Antietam, like Omaha Beach and Little Bighorn and other places, is a sacred place.

In 1978, Congress passed the American Indian Religious Freedom Act, AIRFA, which declared that it is ''the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites.''

It is clear that twenty-five years after the enactment of the AIRFA, the tools available to protect Native sacred places and religious beliefs are insufficient.

At the same time, as our need for economic activities, such as logging, energy and mining, increases, the clashes between economic and cultural interests also increase.

In 1970, President Nixon's Special Message to Congress on Indian Affairs changed forever Federal Indian law and policy. The President also signed into law legislation transferring the sacred Blue Lake lands back to the Pueblo of Taos. These two events set the stage for both the Indian Self Determination and Education Assistance Act, 1975, as well as the AIRFA, 1978.

The legislation I am introducing builds on these precedents by setting up a demonstration project to expand opportunities for Native contracting on Federal lands. One goal of this bill is to bring to bear the knowledge and sensitivity of Native people to activities that are currently being carried out by Federal agencies.

Under the bill, the Secretary of Interior would select up to 12 tribes or tribal organizations per year to provide archaeological, anthropological, ethnographic and cultural surveys and analysis; land management planning; and activities related to the identification, maintenance, or protection of lands considered to have religious, ceremonial or cultural significance to Indian tribes.

I urge my colleagues to join me in supporting 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. 2921

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 ''Native American Contracting and Federal Lands Management Demonstration Project Act''.

SEC. 2. DEFINITIONS.

For the purposes of this Act, the following definitions shall apply:

(1) FEDERAL LANDS.—The term ''Federal lands'' means any land or interests in land owned by the United States, including leasehold interests held by the United States, except Indian trust lands.

(2) INDIAN TRIBE.—The term ''Indian tribe'' has the meaning given such term by section 4(e) of the Indian Self-Determination and Education Assistance Act.

(3) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 3. PURPOSES.

(a) IN GENERAL.—The purposes of this Act are—

(1) to expand the provisions of the Indian Self Determination and Education Assistance Act, as amended (25 U.S.C. 450 et seq.), in order to expand Native employment and income through greater contracting opportunities with the Federal Government;

(2) to encourage Native contracting on Federal lands for purposes of benefiting from the knowledge and expertise of Native people in order to promote innovative management strategies on Federal lands that will lead to greater sensitivity toward, and respect for, Native American religious beliefs and sacred sites;

(3) to better accommodate access to and ceremonial use of Indian sacred lands by Indian religious practitioners; and

(4) to prevent significant damage to Indian sacred lands.

SEC. 4. NATIVE AMERICAN FEDERAL LANDS MANAGEMENT DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Indian Self Determination and Education Assistance Act is amended by adding a new subsection as follows:

"SEC.__. NATIVE AMERICAN FEDERAL LANDS MANAGEMENT DEMONSTRATION PROJECT.

''(a) IN GENERAL.—The Secretary of the Interior shall establish the 'Native American Federal Lands Management Demonstration Project' to enter contracts with Indian tribes or tribal organizations to perform functions including, but not limited to, archeological, anthropological and cultural surveys and analyses, and activities related to the identification, maintenance, or protection of lands considered to have religious, ceremonial or cultural significance to Indian tribes.

''(b) PARTICIPATION.—During each of the 2 fiscal years immediately following the date of the enactment, the Secretary shall select not less than 12 eligible Indian tribes or tribal organizations to participate in the demonstration project.

''(c) ELIGIBILITY.—To be eligible to participate in the demonstration project, an Indian tribe or tribal organization, shall—

''(1) request participation by resolution or other official action of the governing body of the Indian tribe or tribal organization;

''(2) demonstrate financial and management stability and capability, as evidenced by the Indian tribe or tribal organization having no unresolved significant and material audit exceptions for the previous 3 fiscal years; and

(3) demonstrate significant use of or dependency upon the relevant conservation system unit or other public land unit for which programs, functions, services, and activities are requested to be placed under contract.

''(d) PLANNING PHASE.—Each Indian tribe and tribal organization selected by the Secretary to participate in the demonstration project shall complete a planning phase prior to negotiating and entering into a conservation system unit management contract. The planning phase shall be conducted to the satisfaction of the Indian tribe or tribal organization and shall include—

''(1) legal and budgetary research; and

''(2) internal tribal planning and organizational preparation.

''(e) CONTRACTS.—

''(1) IN GENERAL.—Upon request of a participating Indian tribe or tribal organization that has completed the planning phase pursuant to subsection (e), the Secretary shall negotiate and enter into a contract with the Indian tribe or tribal organization for the Indian tribe or tribal organization to plan, conduct, and administer programs, services, functions, and activities, or portions thereof, requested by the Indian tribe or tribal organization and related to archeological, anthropological and cultural surveys and analyses, and activities related to the identification, maintenance or protection of lands considered to have religious, ceremonial or cultural significance to Indian tribes.

''(2) TIME LIMITATION FOR NEGOTIATION OF CONTRACTS.—Not later than 90 days after a participating Indian tribe or tribal organization has notified the Secretary that it has completed the planning phase required by subsection (e), the Secretary shall initiate and conclude negotiations, unless an alternative negotiation and implementation schedule is otherwise agreed to by the parties. The declination and appeals provisions of the Indian Self-Determination and Education Assistance Act, including section 110 of such Act, shall apply to contracts and agreements requested and negotiated under this Act.

''(f) CONTRACT ADMINISTRATION.—

''(1) INCLUSION OF CERTAIN TERMS.—At the request of the contracting Indian tribe or tribal organization, the benefits, privileges, terms, and conditions of agreements entered into pursuant to titles I and IV of the Indian Self-Determination and Education Assistance Act may be included in a contract entered into under this Act. If any provisions of the Indian Self-Determination and Education Assistance Act are incorporated, they shall have the same force and effect as if set out in full in this Act and shall apply notwithstanding any other provision of law. The parties may include such other terms and conditions as are mutually agreed to and not otherwise contrary to law.

''(2) AUDIT.—Contracts entered into under this Act shall provide for a single-agency audit report to be filed as required by chapter 75 of title 31, United States Code.

''(3) TRANSFER OF EMPLOYEES.—Any career Federal employee employed at the time of the transfer of an operation or program to an Indian tribe or tribal organization shall not be separated from Federal service by reason of such transfer. Intergovernmental personnel actions may be used to transfer supervision of such employees to the contracting Indian tribe or tribal organization. Such transferred employees shall be given priority placement for any available position within their respective agency, notwithstanding any priority reemployment lists, directives, rules, regulations, or other orders from the Department of the Interior, the Office of Management and Budget, or other Federal agencies.

''(g) AVAILABLE FUNDING; PAYMENT.—Under the terms of a contract negotiated pursuant to subsection (f), the Secretary shall provide each Indian tribe or tribal organization funds in an amount not less than the Secretary would have otherwise provided for the operation of the requested programs, services, functions, and activities. Contracts entered into under this Act shall provide for advance payments to the tribal organizations in the form of annual or semiannual installments.

''(h) TIMING; CONTRACT AUTHORIZATION PERIOD.—An Indian tribe or tribal organization selected to participate in the demonstration project shall complete the planning phase required by subsection (c) not later than 1 calendar year after the date that it was selected for participation and may begin implementation of its requested contract no later than the first day of the next fiscal year. The Indian tribe or tribal organization and the Secretary may agree to an alternate implementation schedule. Contracts entered into pursuant to this Act are authorized to remain in effect for 5 consecutive fiscal years, starting from the fiscal year the participating Indian tribe or tribal organization first entered into its contract under this Act.

''(i) REPORT.—Not later than 90 days after the close of each of fiscal years 2003 and 2006, the Secretary shall present to the Congress detailed reports, including a narrative, findings, and conclusions on the costs and benefits of this demonstration project.

''(j) PLANNING GRANTS.—

''(1) IN GENERAL.—Subject to the availability of appropriated funds, upon application the Secretary shall award a planning grant in the amount of $100,000 to any Indian tribe or tribal organization selected for participation in the demonstration project to enable it to plan for the contracting of programs, functions, services, and activities as authorized under this Act and meet the planning phase requirement of subsection (e). An Indian tribe or tribal organization may choose to meet the planning phase requirement without applying for a grant under this subsection. No Indian tribe or tribal organization may receive more than 1 grant under this subsection.

''(2) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated such sums as are necessary for each of the 2 fiscal years immediately following the date of the enactment of this Act to fund planning grants under this section.''.

SEC. 5. TRIBAL PROCUREMENT CONTRACTING AND RESERVATION DEVELOPMENT.

(a) IN GENERAL.—Section 7 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) is amended by adding at the end thereof the following new subsection (d):

''(d) FOSTERING TRIBAL PROCUREMENT CONTRACTING AND RESERVATION DEVELOPMENT.—

''(1) Upon the request and application of an Indian tribe to provide certain services or deliverables which the Secretary of the Interior would otherwise procure from a private sector entity, and absent a request to contract those services or deliverables pursuant to section 102 of this Act (25 U.S.C. 450f) made by the tribe or tribes to be directly benefited by said services or deliverables, the Secretary of the Interior shall contract for such services or deliverables through the applicant Indian tribe pursuant to section 102 of this Act (25 U.S.C. 450f).

''(2) Subsection (1) shall not apply unless the applicant tribe provides assurances to the Secretary that the principal beneficiary of the contracted services remains the tribe or tribes originally intended to benefit from the services or deliverables. For purposes of this subsection, the contracting tribe shall enjoy no less than the same rights and privileges under this Act as would the beneficiary tribe if the beneficiary tribe exercised its rights to contract under section 102 of this Act. If at any time the beneficiary tribe (or tribes) seeks to contract services being provided by the contracting tribe, the beneficiary tribe (or tribes) shall give the contracting tribe and the Secretary of the Interior no less than 180 days' notice.''.

By Ms. LANDRIEU (for herself, Mr. BURNS, Mr. LOTT, Mr. GREGG, Ms. MIKULSKI, Mr. LEAHY, Mr. BAUCUS, Mr. KERRY, and Mr. DODD):

S. 2922. A bill to facilitate the deployment of wireless telecommunications networks in order to further the availability of the Emergency Alert System, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Ms. LANDRIEU. Mr. President, today I rise to introduce the Emergency Communications and Competition Act, ECCA, along with my colleague from Montana, Senator BURNS. I am pleased that this legislation has also been cosponsored by Senators LOTT, GREGG, MIKULSKI, LEAHY, and BAUCUS.

This bill will ensure that consumers will soon be able to avail themselves of an innovative new wireless technology, recently approved by the Federal Communications Commission. It is called the Multichannel Video Distribution and Data Service, MVDDS, a title which accurately describes what this new service will provide consumers: cable competition and a high speed access to the Internet.

Unless Congress Acts, however, it may be years before service is actually

deployed to the public. That would be a lost opportunity for consumers, we would lose the opportunity to improve our communications infrastructure, not only for our citizens' access to cable and the Internet, but also for public safety purposes. MVDDS technology can address all of these needs, and we should remove unnecessary and counterproductive regulatory obstacles that prevent its swift deployment.

This bill is supported by consumer groups. The Consumers Union has endorsed this legislation, because it will help ensure that competition rapidly emerges for video programming as well as high speed Internet services. The Consumers Union notes that cable rates have risen 45 percent since cable was deregulated in 1996, an increase that is almost three times faster than inflation. According to the FCC, just one percent of cable communities enjoy ''effective competition.'' MVDDS can go head-to-head with incumbent cable systems everywhere, and I believe that this good old fashioned competition will result in lower prices and better service for consumers even for those who don't choose to subscribe to MVDDS.

This legislation has also been endorsed by the National Grange, America's oldest general farm and rural public interest organization. The National Grange recognizes the extraordinary opportunity this new wireless technology can offer rural Americans, but it fears that the FCC Order authorizing MVDDS failed to ensure that it will indeed adequately serve rural America. At this time I would ask that these two letters, and other letters of support, be published in the RECORD following my statement.

The bill Senator BURNS and I are introducing today will restore fairness in the FCC licensing process, and in so doing, speed the deployment of MVDDS to applicants that are ready to launch service to the public now.

The ECCA provides that MVDDS applicants will be licensed in the same manner as satellite companies who applied on the same day to share the same spectrum. Currently, the FCC plans to subject only MVDDS applicants to an auction process. This would impose a discriminatory tax on an innovative new technology. Unfortunately, this is more of the same burdensome regulation that I believe has contributed to the collapse of the telecommunications sector. Government regulation is necessary, certainly; but we must be smart in how we regulate business. We must ensure that our laws and regulations are technologically neutral so that government policies don't replace the role of the marketplace in determining the fate of consumer products and services.

Furthermore, an auction would drastically delay the introduction of service to the public. Mr. President, this is quite the opposite of what spectrum auctions are supposed to do. In this case, industry incumbents can use the auction to block the introduction of new competition. A company with vast resources available could easily trounce a small startup in an auction—and then, under the terms of the FCC's Order, it would not have to deploy service for 10 years. Consumers cannot wait for spectrum to be ''shelved'' for an entire decade.

The ECCA solves this problem by ensuring that only qualified applicants will be licensed. That is, within six months of enactment, the FCC would issue licenses to any applicant that can demonstrate through independent testing that it will employ a technology that won't cause harmful interference to DBS operators with whom they would share spectrum. Then, to be sure that service is in fact deployed, the ECCA requires licensees to provide service to consumers within five rather than ten years.

This legislation also requires that parties who apply for licenses under this provision must assume specific public interest obligations in exchange for their prompt licensing. The bill requires full must-carry of local television stations, and an additional set aside of 4 percent of system capacity for other public interest purposes such as tele-medicine and distance learning. I can assure my colleagues that these are issues particularly important in rural areas in states like Louisiana.

The ECCA will also promote public safety, in two ways. First, it will require MVDDS licensees to air Emergency Alert System warnings. These alerts are presently carried by cable systems and over-the-air broadcasters. However, they are not seen by those who get their programming from DBS unless the viewer happens to be watching a local channel. In states like Louisiana, where DBS operators do not carry local stations, this is particularly important. Unfortunately, my state is not alone—local stations are also not carried in Alaska, Arkansas, Idaho, Iowa, Maine, Montana, Mississippi, Nebraska, North and South Dakota, West Virginia, and Wyoming. In total, over 1,100 TV stations are not carried by DBS.

Second, this legislation requires MVDDS licensees to make their transmission systems available to national security and emergency preparedness personnel on a top-priority basis in times of need. We all know that when emergencies strike, the need for public safety personnel to communicate with one another skyrockets. MVDDS wireless networks, which will be deployed ubiquitously throughout the country, can help alleviate this thirst for spectrum.

For these reasons, I believe that Congress should act on this matter as soon as possible. I urge my colleagues to support this bill and vote for enactment this year. I ask unanimous consent that the text of this bill be printed in the RECORD.

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

S. 2922

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 ''Emergency Communications and Competition Act of 2002''.

SEC. 2. PURPOSES.

The purposes of this Act are as follows:

(1) To facilitate the deployment of new wireless telecommunications networks in order to extend the reach of the Emergency Alert System (EAS) to viewers of multichannel video programming who may not receive Emergency Alert System warnings from other communications technologies.

(2) To ensure that emergency personnel have priority access to communications facilities in times of emergency.

(3) To promote the rapid deployment of low cost multi-channel video programming and broadband Internet services to the public, without causing harmful interference to existing telecommunications services.

(4) To ensure the universal carriage of local television stations, including any Emergency Alert System warnings, by multichannel video programming distributors in all markets, regardless of population.

(5) To advance the public interest by making available new high speed data and video services to unserved and underserved populations, including schools, libraries, tribal lands, community centers, senior centers, and low-income housing.

(6) To ensure that new technologies capable of fulfilling the purposes set forth in paragraphs (1) through (5) are licensed and deployed promptly after such technologies have been determined to be technologically feasible.

SEC. 3. LICENSING.

(a) GRANT OF CERTAIN LICENSES.—

(1) IN GENERAL.—The Federal Communications Commission shall assign licenses in the 12.2–12.7 GHz band for the provision of fixed terrestrial services using the rules, policies, and procedures used by the Commission to assign licenses in the 12.2–12.7 GHz band for the provision of international or global satellite communications services in accordance with section 647 of the Open-market Reorganization for the Betterment of International Telecommunications Act (47 U.S.C. 765f).

(2) DEADLINE.—The Commission shall accept for filing and grant licenses under paragraph (1) to any applicant that is qualified pursuant to subsection (b) not later than six months after the date of the enactment of this Act. The preceding sentence shall not be construed to preclude the Commission from granting licenses under paragraph (1) after the deadline specified in that sentence to applicants that qualify after that deadline.

(b) QUALIFICATIONS.—

(1) NON-INTERFERENCE WITH DIRECT BROADCAST SATELLITE SERVICE.—A license may be granted under this section only if operations under the license will not cause harmful interference to direct broadcast satellite service.

(2) ACCEPTANCE OF APPLICATIONS.—The Commission shall accept an application for a license to operate a fixed terrestrial service in the 12.2–12.7 GHz band if the applicant—

(A) successfully demonstrates the terrestrial technology it will employ under the license with operational equipment that it furnishes, or has furnished, for independent testing pursuant to section 1012 of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1110); and

(B) certifies in its application that it has authority to use such terrestrial service technology under the license.

(3) CLARIFICATION.—Section 1012(a) of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. 1110(a); 114 Stat. 2762A–141) is amended by inserting '', or files,'' after ''has filed''.

(4) PCS OR CELLULAR SERVICES.—A license granted under this section may not be used for the provision of Personal Communications Service or terrestrial cellular telephony service.

(c) PROMPT COMMENCEMENT OF SERVICE.—In order to facilitate and ensure the prompt deployment of service to unserved and underserved areas and to prevent stockpiling or warehousing of spectrum by licensees, the Commission shall require that any licensee under this section commence service to consumers within five years of the grant of the license under this section.

(d) EXPANSION OF EMERGENCY ALERT SYSTEM.—Each licensee under this section shall disseminate Federal, State, and local Emergency Alert System warnings to all subscribers of the licensee under the license under this section.

(e) ACCESS FOR EMERGENCY PERSONNEL.—

(1) REQUIREMENT.—Each licensee under this section shall provide immediate access for national security and emergency preparedness personnel to the terrestrial services covered by the license under this section as follows:

(A) Whenever the Emergency Alert System is activated.

(B) Otherwise at the request of the Secretary of Homeland Security.

(2) NATURE OF ACCESS.—Access under paragraph (1) shall ensure that emergency data is transmitted to the public, or between emergency personnel, at a higher priority than any other data transmitted by the service concerned.

(f) ADDITIONAL PUBLIC INTEREST OBLIGATIONS.—

(1) ADDITIONAL OBLIGATIONS.—Each licensee under this section shall—

(A) adhere to rules governing carriage of local television station signals and rules concerning obscenity and indecency consistent with sections 614, 615, 616, 624(d)(2), 639, 640, and 641 of the Communications Act of 1934 (47 U.S.C. 534, 535, 536, 544(d)(2), 559, 560, and 561);

(B) make its facilities available for candidates for public office consistent with sections 312(a)(7) and 315 of the Communications Act of 1934 (47 U.S.C. 312(a)(7) and 315); and

(C) allocate 4 percent of its capacity for services that promote the public interest, in addition to the capacity utilized to fulfill the obligations required of subparagraphs (A) and (B), such as—

(i) telemedicine;

(ii) educational programming, including distance learning;

(iii) high speed Internet access to unserved and underserved populations; and

(iv) specialized local data and video services intended to facilitate public participation in local government and community life.

(2) LICENSE BOUNDARIES.—In order to ensure compliance with paragraph (1), the Commission shall establish boundaries for licenses under this section that conform to existing television markets, as determined by the Commission for purposes of section 652(h)(1)(C)(i) of the Communications Act of 1934 (47 U.S.C. 534(h)(1)(C)(i)).

(g) REDESIGNATION OF MULTICHANNEL VIDEO DISTRIBUTION AND DATA SERVICE.—The Commission shall redesignate the Multichannel Video Distribution and Data Service (MVDDS) as the Terrestrial Direct Broadcast Service (TDBS).

CONSUMERS UNION,
Washington, DC, August 29, 2002.

DEAR SENATOR: On behalf of Consumers Union, we are writing to seek your support for the Emergency Communications and Competition Act of 2002, sponsored by Senators Landrieu and Burns. This legislation would benefit consumers by ensuring that quality wireless spectrum is available for video programming and a wide range of public services, including emergency warnings.

Consumers Union has long advocated for policies that will increase competition to cable television and encourage deployment of advanced Internet services to rural and underserved communities, and we support policies that encourage efficient use of wireless spectrum. We believe that multichannel video and data distribution service (MVDDS) could provide an extraordinary opportunity for consumers to receive video programming, local broadcast, and broadband Internet access at affordable prices, by efficiently reusing satellite spectrum. However, a recent FCC order authorizing MVDDS fails to ensure that this spectrum will be used for the purpose of competition for video programming.

Nationwide, consumers have seen their cable television rates rise 45 percent since cable was deregulated in 1996, an increase almost three times faster than inflation. In the few areas where there is robust competition among cable providers, rate increases have been less draconian; consumers receive more channels for less money. Direct competition for video services should be a high public policy priority because it results in lower prices and better service for consumers.

Instead, the FCC's decision seems to better serve the interests of companies who want to provide wireless data services to businesses, by defining markets in a way that it will be difficult to provide video services. By basing MVDDS licenses on an entirely different geographic system than what is currently used for television markets, the FCC order would render local television carriage all but impossible, perpetuating artificial scarcity for video spectrum. This virtually forecloses the possibility that MVDDS could be a robust competitor to cable.

At a time when the FCC has also eliminated the 45 MHz spectrum cap, inviting more wireless consolidation, it is far less critical to put additional spectrum on the market for non-video services. Accordingly, we support the Emergency Communications and Competition Act of 2002 as a sound approach to ensure that MVDDS is a vehicle for real competition to cable television, especially in rural and underserved areas.

First, the bill would facilitate licensing of companies in the 12.2–12.7 GHz band that are committed to providing these needed consumer services. Moreover, this bill requires that licensees build out these services within five years, compared with the FCC's order which allows license holders to warehouse MVDDS spectrum as long as ten years before providing services. Second, the Emergency Communications and Competition Act of 2002 would ensure access to local broadcast signals by including full must carry requirements and retransmission consent requirements in all television markets. Third, this bill fixes the market boundary definition problem by setting license boundaries that conform to existing television market boundaries.

Importantly, the bill would also require each licensee to disseminate Federal, State and local Emergency Alert System warnings to all subscribers. Currently, subscribers to Digital Broadcast Satellite (DBS) programming only receive alerts if they happen to live in an area where local programming is carried by DBS providers. This possibility is denied to subscribers in the 13 states in which DBS provides no local channels (AK, AR, ID, IA, LA, ME, MT, MS, NE, ND, SD, WV, and WY). Given the heightened need for effective local security and emergency management plans, consumers must be able to receive Emergency Alerts regardless of where they live and how they access video programming services.

Finally, the Emergency Communications and Competition Act of 2002 includes a number of specific public interest obligations of tremendous benefit to consumers. The bill requires a licensee to make its facilities available for candidates for public office and to provide at least 4% of its capacity for services that promote the public interest, including telemedicine services, educational programming, including distance learning, high speed Internet access to unserved and underserved populations, or local data and video services intended to facilitate public participation in local government and community life.

Consumers Union has long argued that American consumers must have competitive alternatives for video programming as well as for high speed Internet services. The Emergency Communications and Competition Act 2002 will help ensure such competition rapidly emerges. For all of these reasons, we ask you to support the Emergency Communications and Competition Act of 2002.

Respectfully,

CHRIS MURRAY,
Internet & Telecommunications Counsel.
GENE KIMMELMAN,
Senior Director.

NATIONAL GRANGE,
OF THE ORDER OF PATRONS OF HUSBANDRY,
Washington, DC, August 16, 2002.

Hon. MARY L. LANDRIEU,
U.S. Senate,
Washington, DC.

DEAR SENATOR LANDRIEU: On behalf of the National Grange, I am writing to thank you for introducing the Emergency Communications and Competition Act of 2002 (ECCA) sponsored by Sen. Mary Landrieu (LA) which would assure that multichannel video and data distribution services (MVDDS) will be available and affordable in every rural community across the nation.

The National Grange is America's oldest general farm and rural public interest organization. Founded in 1867, today the Grange represents nearly 300,000 Grange members affiliated with 3200 local, county and state Grange chapters. The Grange members are families and individuals who share a common interest in community involvement, agricultural and rural issues. The Grange is a genuine grassroots, bipartisan, political advocacy organization. The goal of Grange advocacy is the well being and prosperity of rural America.

Rural telecommunication service deployment is a top priority for the National Grange. In our priority issues document Blueprint for Rural America 2002, we described the vital need for telecommunications services in rural areas:

''Adequate access to telecommunications services such as telephone, Internet, satellite and cable is important to rural America. The Internet delivers services and products efficiently, irrespective of geographic location. Today, workers who telecommute can enjoy a rewarding career and a rural life style. Satellite technology can bring new information to every farm in America. We must assure

that advanced telecommunications technologies are available in every rural community at affordable costs.''

We believe that multichannel video and data distribution services (MVDDS), as set forth in the ECCA, provide an extraordinary opportunity for rural Americans to receive video programming, local broadcast, and broadband Internet access at affordable prices. However, the FCC order authorizing MVDDS failed to ensure that rural America will be adequately served by this new technology. By contrast, the ECCA would assure that MVDDS is available and affordable in every rural community.

First, the ECCA would facilitate licensing of services in the 12.2–12.7 GHz band. It requires that licensees build out services within five years. The FCC rule allows license holders to warehouse MVDDS spectrum for as long as ten years before providing services. Rural Americans cannot afford to wait another ten years for access to advanced telecommunitions technologies such as MVDDS. The National Grange believes that license holders should be held to a strict ''use or lose'' standard if they fail to deploy services within the statutory five-year time frame.

Second, the ECCA would reverse the FCC's inappropriate decision to auction licenses in this band. Historically, auctions have failed to foster competition, particularly in rural markets. Only 31% of spectrum licenses offered for sale in 2001 were actually sold. Rural areas remain grossly underserved by spectrum licensing programs.

Third, it would include full ''must carry'' requirements for all local broadcast signals in all television markets served by MVDDS providers. Consumers in rural areas depend on local programming for news, information about local events, and other important interests. However, in many states, rural consumers are unable to receive those signals over Direct Broadcast Satellite (DBS) services or even, in some cases, by means of over-the-air free broadcasting.

Fourth, the ECCA would require each licenses to disseminate Federal, State and local Emergency Alert System warnings to all subscribers. Currently, subscribers to DBS programming may or may not receive alerts. DBS provides no local channels in 13 states (AK, AR, ID, IA, LA, ME, MT, MS, NE, ND, SD, WV, and WY). DBS subscribers in these states receive no emergency or local broadcasts at all. Given the heightened need for effective local security and emergency management plans, rural Americans must receive Emergency Alerts regardless of where they live and how they access video programming services.

Finally, the ECCA includes a number of specific public interest obligations that will benefit rural consumers. The bill requires a licenses to provide at least 4% of its capacity for services that promote the public interest, including telemedicine services, distance learning, high speed Internet access to unserved and underserved populations, or local data and video services intended to facilitate public participation in local government and community life. If implemented effectively, these provisions could dramatically change the way that rural Americans engage in civic life, experience education, and find necessary medical services.

The National Grange has a suggestion for improving this bill. We support adding language to the ECCA to protect the property interests of rural Americans with a provision forbidding MVDDS licenses from being used as evidence of public good for private property condemnation proceedings, other than in the cases of existing utility or railroad rights of way. We understand that MVDDS transmission technology is very small, and should not require building new towers or other projects that would require condemnation of private property. Because of this we do not believe there will be any technical justification for license holders to ask local governments to exercise eminent domain authority on private property in order to meet build out requirements.

The National Grange has long argued that rural Americans must have competitive alternatives to cable and Direct Broadcast Satellite services, both for video and high speed Internet services. The Emergency Communications and Competition Act of 2002 will ensure that competitive service is deployed in a timely manner along with critical local and emergency broadcast signals in rural underserved areas. For all of these reasons, we strongly support the Emergency Communications and Competition Act of 2002.

Sincerely,

KERMIT W. RICHARDSON, *President*.

LEADERSHIP CONFERENCE
ON CIVIL RIGHTS,
Washington, DC, September 9, 2002.

U.S. SENATE,
Washington, DC.

DEAR SENATOR: The Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest, and most diverse coalition of organizations committed to the protection of civil and human rights in the United States, writes to express our support for the Electronic Communications and Competition Act of 2002, sponsored by Senators Landrieu and Burns. We believe that the legislation will help bridge the digital divide by encouraging rapid deployment of a new wireless multichannel video and data technology (MVDDS). This new technology will bring low-cost broadband Internet and video services to rural and underserved areas and increase the prospects for media ownership by minorities and women.

While LCCR was pleased that the Federal Communications Commission approved the creation of MVDDS, the order failed to ensure that MVDDS would provide local broadcast television, video programming, and broadband Internet services throughout the country. There is no question that auctions favor incumbents and are a major impediment to minority media ownership. The Electronic Communications and Competition Act will ensure that MVDDS fulfills, among other things, its potential to increase minority ownership and bridge the digital divide.

Notwithstanding the decades of civil rights community advocacy, minority broadcast ownership is declining. Although minorities represent more than one quarter of the nation's population, they are just 23, or 1.9% of the 1288 owners of licensed, full-power commercial broadcast television stations in the United States.

The Electronic Communications and Competition Act will eliminate the auction requirement and compel immediate licensing of all conforming MVDDS technologies. In addition, it will require license-holders to build out services within five years, significantly narrowing the digital divide. The act will also require that a percentage of each license-holder's capacity be used for public interest purposes such as distance education, telemedicine, or other important local purposes.

In sum, I urge you to support the Electronic Communications and Competition Act. It provides a rare opportunity to increase media diversity and to narrow the digital divide.

Sincerely,

WADE J. HENDERSON,
Executive Director.

NATIONAL COUNCIL OF LA RAZA,
Washington, DC, September 4, 2002.

DEAR SENATOR: As you know, the National Council of La Raza (NCLR) has long advocated on behalf of the nation's growing Hispanic community on a number of economic, education, and other social policy issues. You may not be aware, however, that NCLR has also had a long-standing interest in policy affecting telecommunications, access to the Internet, and the growing concentration of the media industry. That is why I am writing today to seek your support for the Emergency Communications and Competition Act of 2002, sponsored by Senators Mary Landrieu (D–LA) and Conrad Burns (R–MT).

NCLR has been a strong supporter in the past for policies that will increase competition in the cable industry and encourage deployment of advanced Internet services to rural and underserved communities. We have also urged ''must carry'' rules for all video programming competitors, regardless of platform, to ensure that communities, especially rural ones, have full access to local and emergency broadcast signals. That is why earlier this summer we wrote to a number of lawmakers expressing our support for new technology that will provide multichannel video and data distribution services (''MVDDS'') (a copy of that earlier communication is attached). MVDDS provides a significant opportunity for consumers to receive video programming, local broadcasts and broadband Internet access at affordable prices. As noted in that earlier correspondence, the FCC order authorizing MVDDS failed in many significant respects to serve the interests of consumers and underserved communities.

We urge Congress to enact the Emergency Communications and Competition Act of 2002 to ensure that MVDDS benefits are available to all consumers, especially in rural and underserved areas, for a range of reasons.

First, the bill would facilitate licensing of companies in the 12.2–12.7 GHz band who are committed to providing these needed consumer services. Additionally, this bill requires licensees to build out these services within five years, compared with the current FCC rule which allows license holders to warehouse MVDDS spectrum for as long as ten years before providing services.

Second, the Emergency Communications and Competition Act of 2002 would include full ''must carry'' requirements and retransmission consent requirements in all television markets, thereby ensuring access to local broadcast signals. Moreover, this bill sets license boundaries that conform to existing television market boundaries. Local access is critical as consumers depend on local programming for news, information about local events, language appropriate programming, and other critical interests. Current FCC rules for the MVDDS licenses call for entirely different geographic boundaries, which would render local television carriage almost impossible.

Third, the bill would require each licensee to disseminate federal, state and local Emergency Alert System warnings to all subscribers. Today, subscribers to Digital Broadcast Satellite (''DBS'') programming only receive alerts if they happen to live in areas where local programming is carried by DBS providers. This possibility does not even exist in the 14 states in which DBS provides no local channels (AK, AR, ID, IA, LA, ME, MT, MS, NE, ND, SD, VT, WV, and WY). Given the heightened need for effective local security and emergency management plans, consumers should be able to receive Emergency Alerts regardless of where they live and how they access video programming services.

Fourth, the Emergency Communications and Competition Act of 2002 provides other

important benefits to consumers by requiring a licensee to provide at least 4% of its capacity for services that promote the public interest, including telemedicine services, educational and long distance learning proramming, high-speed Internet access to unserved and underserved populations, and/or local data and video services intended to facilitate public participation in local governments and community life, and also requires a licensee to make its facilities available for candidates for public office.

Finally, as noted in our earlier correspondence, MVDDS is likely to increase for minority broadcasting ownership opportunities and Latino content over the airwaves, a critically important consideration for NCLR.

NCLR believes that all American consumers are entitled to have access to competitive alternatives to cable and DBS services, for both video and high-speed data services. For the reasons set forth above, we ask you to support the Emergency Communications and Competition Act of 2002.

Sincerely,

RAUL YZAGUIRRE,
President.

AVOYEL-TAENSA TRIBE
OF LOUISIANA,
Simmesport, LA, August 28, 2002.

Hon. MARY L. LANDRIEU,
U.S. Senate, Washington, DC.

DEAR SENATOR LANDRIEU: I am writing on behalf of the Avoyel-Taensa Indian Organization. We are a rural people by nature and have an obvious concern about the development of rural areas in Louisiana. The Emergency Communications and Compensation Act of 2002 is critical for further development in this legislation and hope that you decide to sponsor it.

This legislation provides benefits for rural areas previously not available. Schoolchildren will have access to the internet—a significant advancement in education for rural communities. Also, this legislation will provide access to a wide-range of television stations for an entire rural area at an affordable cost. Having telemedicine capabilities in community health centers is becoming essential. This new Bill would bring this technology to the rural communities.

This new Bill will also require full ''must carry'' requirements for all local broadcast signals in all television markets. Consumers in rural areas depend on local programming for news, information about local events, and other important interests. Subscribers to Direct Broadcast Satellite (DBS) do not have access to local broadcast signals in the State of Louisiana.

Most importantly, however, the Emergency Communications and Competition Act of 2002 brings a new level of security to our rural communities. DBS does not distribute Federal, State, and Local emergency alerts to its subscribers. This Act will ensure that emergency alerts will reach the rural communities. Given the heightened need for local security and emergency management, it is imperative that rural Americans receive emergency alerts.

There is a new technology, led by Northpoint Technology that can effectively bring the luxury of satellite television and the necessity of local programming and emergency alerts at an affordable cost to the rural areas of Louisiana. We are pleased you have taken an interest in this legislation and stand by you if you decide to sponsor it.

Sincerely Yours:

ROMES ANTOINE,
Tribal Chief

WILMA MANKILLER,
ROUTE 1, BOX 945,
Stilwell, OK, August 16, 2002.

Hon. MARY LANDRIEU,
U.S. Senate, Washington, DC.

DEAR SENATOR LANDRIEU: Thank you for drafting the ''Emergency Communications and Competition Act.'' Passage of your legislation will help facilitate the rapid deployment of the Multichannel Video Distribution and Data Service (MVDDS), a new wireless service that the Federal Communications Commission recently authorized.

This innovative wireless technology can provide affordable video programming (including all local channels) and broadband Internet access to consumers throughout the entire country, and it will be particularly important to Native Americans who live in rural areas where competition all too often is lacking or non-existent.

Your legislation will ensure that the FCC promptly issues licenses to qualified applicants. As you know, the FCC has decided to issue MVDDS licenses through an auction process. Auctions have yet to facilitate the deployment of video service or broadband to Native American communities. I'm particularly worried that in this case an auction may prevent the deployment of actual service for at least a decade.

Unless Congress enacts your legislation, well-heeled opponents of new completion could outbid small startups. Auction participants aren't required to have a proven technology and they don't have to deploy any service for ten years. Your bill corrects this by requiring all applicants to demonstrate they are capable of deploying MVDDS and requiring them to do so in five years.

The National Congress of American Indians (NCAI), the nation's oldest, largest and most representative tribal government, as well as the National Indian Telecommunications Institute (NITI), a tribally-owned and operated not-for-profit organization dedicated to ensuring that Native Americans have the same opportunity to participate in, and benefit from, the digital revolution as other Americans have urged the FCC to licenses to qualified applicants without an auction process.

As the NCAI wrote to the FCC on March 22, 2002, ''The difficulty in finding service providers willing and able to provide telecommunications to Native American communities is well documented. As the FCC's own records show auctions do nothing to narrow that gap and indeed may exacerbate the problem.... If the FCC auctions use of the 12.2–12.7 GHz band, the potential to bring video and broadband services to our communities in that spectrum will remain unfulfilled.''

I heartily share these concerns and thus I am very grateful that you have crafted legislation that will ensure the promise of MVDDS in rural America and tribal communities can be fulfilled through prompt licensing of companies that are ready, willing and able to offer new competitive service.

I and several other Native Americans are local affiliates of Northpoint Technology, the only company that has demonstrated its technology through independent testing. We clearly lack the resources to compete at an auction against giant communications companies. I find it remarkable that they are eligible to seek a license when they have no MVDDS technology.

It's also grossly unfair to subject us to MVDDS applicants to an auction when the FCC is issuing licenses—without auction—to several satellite companies that applied to share the same spectrum on the same day I filed my license application. Your legislation will ensure that terrestrial and satellite applicants for the same spectrum are treated in a like manner. While I believe that Northpoint is currently the only qualified terrestrial applicant because it alone submitted equipment for the independent testing conducted by the MITRE Corporation last year, your legislation clearly offers an opportunity for other companies to similarly become qualified by subjecting their own technology to independent testing this year.

Sincerely,

WILMA MANKILLER,
Principal Chief, Cherokee Nation.

MARZULLA & MARZULLA,
ATTORNEY AT LAW,
Washington, DC, August 30, 2002.

Re the Emergency Communications and Competition Act of 2002.

Hon. MARY LANDRIEU,
Senate Hart Office Building, Washington, DC.

DEAR SENATOR LANDRIEU: I am writing to thank you for sponsoring the Emergency Communications and Competition Act of 2002.

This measure will promote the deployment of the Multi-channel Video Distribution and Data Service (''MVDDS''), an innovative ground-based wireless digital technology that will share spectrum with satellites in the 12.2–12.7 GHz spectrum band. Sharing this spectrum will dramatically increase the capacity of radio spectrum, and promises consumers new and competitive choices for multi-channel video programming and internet broadband services.

Because of its affordability, this technology will also make possible provision of broadband services to underserved populations such as students, library users, Indians on reservations, community center users, seniors, and residents in low-income housing.

However, this bill does more than benefit the consumer. This bill also protects the intellectual property rights of the inventors of this new technology, and thus is consistent with the constitutional framers' intent that creators and owners of intellectual property rights enjoy the fruits of their labor.

As you know, rather than permitting the inventors to utilize their new technology, the FCC instead chose to dismiss the inventors' licensing applications (after allowing their application to languish for over three years), and called for a nationwide spectrum auction. The FCC's refusal to process the inventors' permit application for over three years itself raises serious due process concerns. See, e.g., *MCI Telecommunications Corp.* v. *FCC*, 627 F.2d 322, 341 (1980) (''[D]elay in the resolution administrative proceedings can also deprive regulated entities, their competitors or the public of rights and economic opportunities without the due process the Constitution requires.'').

The FCC's decision to auction off the right to use the inventors' technology, the only technology currently proven able to allow terrestrial service to reuse the same spectrum currently used by satellite systems, to the highest bidder also smacks of a taking of private property without payment of just compensation. See *Ruckelshaus* v. *Monsanto Co.*, 467 U.S. 986, 1003 (1984) (''[I]ntangible property rights ... are deserving of the protection of the Taking Clause has long been implicit in the thing of [the Supreme] Court. . . .''); *Webb's Fabulous Pharmacies, Inc.* v. *Beckwith*, 449 U.S. 155, 164 (1980) (holding that government may not ''by ipse dixit,... transform private [property into public property without just compensation.'').

Thus, this bill should be enacted not only because it protects the property rights of the inventors, but because it also benefits consumers. This bill will require the FCC to accept an application for a license to operate a

fixed terrestrial service in the 12.2–2.7 GHz band only from an applicant that ''will employ terrestrial service technology under the license that has been successfully demonstrated with operational equipment that the application has furnished for testing pursuant to section 1012 of the Launching Our Communities' Access to Local Television Act of 2000 (47 U.S.C. §1110) and certifies in its application that it has authority to use such terrestrial service technology under the license.'' See proposed bill at §3 (b)(1)(B)(i). This bill will also require a license to build out the system covered by the license within five years of the grant of the license. See proposed bill at §3 (c).

These requirements will ensure that the FCC issues licenses promptly and in a fair and constitutional manner to qualified applicants (i.e., any party that demonstrates its own technology can share spectrum with satellites would be eligible for a license). This bill will finally enable consumers to enjoy an important new competitive service that is so long overdue.

Seldom does one bill protect private property rights, increase competition, and provide more service options for the public. I am happy to report that this bill accomplishes all three. I commend you for authoring this important legislation and ask that you call upon me if any can be of any assistance to help secure its passage.

Yours truly,

NANCIE G. MARZULLA.

Mr. BURNS. Mr. President, today I rise with my colleague from Louisiana, Sen. LANDRIEU, to introduce the ''Emergency Communications and Competition Act of 2002'' or ''ECCA.''

This bill will build upon previous legislation I authored, the LOCAL TV Act, to help ensure that all local TV stations, not just those in the largest markets are available to consumers. As a former broadcaster, I know Montana has some of the smallest of the Nations' 210 television markets, from 169th-ranked Missoula all the way down to 210th-ranked Glendive.

Today, the satellite operators provide local channels in 52 markets. I'm not crossing my fingers that they will get to Glendive anytime soon. That's why we need this legislation. It will enable the rapid deployment of the new Multichannel Video Programming and Data Distribution Service, MVDDS, which the Federal Communications Commission authorized earlier this year.

I commend the FCC for authorizing this new service, it not only promises to bring local channels to all markets, regardless of size, but it will also provide broadband Internet access to rural Americans who have no such access today. I expect that the low cost of this wireless technology will translate into low prices for consumers. This is precisely the kind of innovative new technology we should encourage and promote.

I am most concerned, however, that unless we pass this legislation, we may never see the deployment of this new service. The FCC has determined that licenses for this new service should be auctioned. I appreciate the FCC's effort to help generate new revenues for the Federal Treasury, but we must never let that consideration override good public policy judgments. The public interest is best served when the spectrum is licensed promptly to applicants that are ready to deploy service.

While auctions make sense in many instances, this is not always the case. Two years ago, Congress passed the ORBIT Act, legislation I authored which, in part, exempted from auctions ''spectrum used for the provision of international or global satellite communications services.''

We are now confronted with a case of first impression in which the FCC has determined to issue licenses to both terrestrial and satellite applicants that share the same spectrum. Previously this was thought to be technologically impossible, as I mentioned, the FCC has now determined that the terrestrial-based MVDDS can share with satellites. In my judgment, the same Federal resource must be licensed in the same manner to all applicants, regardless of the technology they will employ. To do otherwise is to pick industry winners and losers. This bill corrects this problem.

AMENDMENT SUBMITTED AND PROPOSED

SA 4516. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4517. Mr. ENZI (for himself, Mr. GRASSLEY, Mr. HAGEL, and Mr. FEINGOLD) proposed an amendment to amendment SA 4480 proposed by Mr. BYRD (for himself, Mr. BURNS, Mr. STEVENS, Mr. REID, Mr. DOMENICI, Mrs. MURRAY, Mr. CRAIG, Mr. WYDEN, Mr. KYL, Mr. BAUCUS, and Mr. CAMPBELL) to the amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes.

SA 4518. Mr. CRAIG (for himself, Mr. DOMENICI, and Mr. MURKOWSKI) proposed an amendment to amendment SA 4480 proposed by Mr. BYRD (for himself, Mr. BURNS, Mr. STEVENS, Mr. REID, Mr. DOMENICI, Mrs. MURRAY, Mr. CRAIG, Mr. WYDEN, Mr. KYL, Mr. BAUCUS, and Mr. CAMPBELL) to the amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4519. Mr. SCHUMER submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4520. Mr. BUNNING submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4521. Ms. LANDRIEU submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra; which was ordered to lie on the table.

SA 4522. Mr. DODD (for himself and Mr. LIEBERMAN) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4523. Mr. REID (for Mrs. BOXER) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4524. Mr. BURNS (for Mr. BENNETT) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4525. Mr. REID (for Mr. CLELAND (for himself, Mr. THOMPSON, Mr. AKAKA, and Mr. GRAHAM)) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4526. Mr. REID proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4527. Mr. BURNS (for Mr. STEVENS) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4528. Mr. REID proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4529. Mr. BURNS (for Mr. THOMAS) proposed an amendment to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, supra.

SA 4530. Mr. WARNER (for himself and Mr. THOMPSON) submitted an amendment intended to be proposed to amendment SA 4471 proposed by Mr. LIEBERMAN to the bill H.R. 5005, to establish the Department of Homeland Security, and for other purposes; which was ordered to lie on the table.

SA 4531. Mr. SCHUMER (for himself and Mrs. CLINTON) submitted an amendment intended to be proposed by him to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; which as ordered to lie on the table.

TEXT OF AMENDMENTS

SA 4516. Mrs. HUTCHISON submitted an amendment intended to be proposed to amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related Agencies for the fiscal year ending September 30, 2003 and for other purposes; which was ordered to lie on the table.

On page 14, beginning on line 11 strike ''$42,682,000, to remain available until expended:'' and insert ''$42,882,000, to remain available until expended, of which $200,000 shall be made available for the Caddo Lake Ramsar Wetland Science Center, Texas, and;''

On page 25, line 7, strike ''$238,205,000'' and insert ''$238,005,000''.

On page 25, line 12, after ''Act,'' insert ''of which $4,800,000 is for the Big Thicket National Preserve, Texas; and''.

SA 4517. Mr. ENZI (for himself, Mr. GRASSLEY, Mr. HAGEL, and Mr. FEINGOLD) proposed an amendment to amendment SA 4480 proposed by Mr. BYRD (for himself, Mr. BURNS, Mr. STEVENS, Mr. REID, Mr. DOMENICI, Mrs. MURRAY, Mr. CRAIG, Mr. WYDEN, Mr. KYL, Mr. BAUCUS, and Mr. CAMPBELL) to the amendment SA 4472 proposed by Mr. BYRD to the bill H.R. 5093, making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 2003, and for other purposes; as follows:

At the end of the amendment, add the following:

SEC. 3___. PAYMENT LIMITATIONS.

Section 1001 of the Food Security of 1985 (7 U.S.C. 1308) is amended—

(1) in subsection (b), by striking ''$40,000'' each place it appears and inserting ''$17,500'';

(2) in subsection (c), by striking ''$65,000'' each place it appears and inserting ''$32,500''; and