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The PRESIDING OFFICER. There is a 5-minute limitation and the Senator has consumed slightly over 5 minutes.

Mr. KERREY. Mr. President, I ask unanimous consent for another 5 minutes.

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

Mr. KERREY. Mr. President, this was a particularly difficult and important issue. The Nebraska League of Cities sent me a petition with 60 signatures, which specifically asked the Senate to "include provisions that changed the current process for setting standards to include public health benefits and costs as factors in determining new requirements." I will guarantee these local community leaders are not going to send me a letter asking me to do that if they did not have the support of their community to get it done. Many people have said I am selling out, weakening standards. You are not weakening the standards if the people at the local level say, "This is what we want done." As I said at the beginning, I think there is safe drinking water legislation that has been a great success. But we keep getting example after example after example of citizens saying, "Change the law to give us the flexibility so we can make more of our own decisions. We want to reference science. We want to reference the health people. We do not want to make our people sick. We want them to be able to drink the water and know that water is safe. But we have to have some flexibility to be able to do that because we are paying for this with property taxes." Most of these smaller communities are up against imposed lids and they have a tough time getting that job done.

The next issue was the issue of monitoring. One of the largest costs of compliance with the Safe Drinking Water Act is monitoring. Again, it comes out of the local property tax base, typically, to get this done. All Nebraska communities have asked that the current system be revised to let them test for contaminants that exist in Nebraska. Again, all. This is not one where there is any dissent. Every single community is asking that they be allowed to test for contaminants that exist in Nebraska.

We may have some contaminants that Missouri does not have, and you may have some we do not have. You do not want to test for ours, and we do not want to test for yours, because it costs money. If we require them to test for contaminants that do not exist, again, it just undercuts the citizens' confidence you could ever get into an environment where Government can regulate, where we can collectively regulate for the purpose of improving the capacity of our lives.

Let me go through this a bit. Under current law, States go through a waiver process to get some monitoring requirements changed. But this process is very expensive, it is very time consuming and it has been very frustrating for people at the local level. The benefits accrue to the local system while the costs are incurred by the States. The States that do have waivers have seen huge decreases in monitoring costs. These potential savings should be spread to all States, according to the example that has been set by those who have been granted the waivers.

The bill says we revise the current monitoring rules for at least 12 contaminants within 2 years. It allows the States to establish their own alternative monitoring requirements that may be less stringent than Federal monitoring requirements, provided they ensure compliance and enforcement of Federal health standards.

There are other changes in this legislation having to do with ground water disinfection. The current law requires the promulgation of a mandatory ground water disinfection rule, requiring all systems to treat their water. This bill delays the enactment date of this rule to occur at the same time the States do a rulemaking as established for disinfectants and disinfection products.

This legislation also helps us by authorizing some additional new programs: $1 billion for State revolving funds for safe drinking water; States provide 20 percent match. It authorizes $53 million for health effects research. It has been brought to my attention at the State level that in Nebraska there is $717 million worth of infrastructure needs that will have to be put in place over the next 20 years.

The chairman of the committee, quite appropriately—I am on the VA-HUD Committee—the chairman of the committee quite appropriately pointed out one of the weaknesses of this bill is that you are sort of promising money that is going to be there and it may not be there. We are authorizing more than we have. I take this opportunity to point out that the problem here is that we still have a growing cost of entitlements that erode our ability to make these kinds of investments.

I heard yesterday the chairman of the Appropriations Committee, Senator HATFIELD, indicates that he thinks it is likely that we are going to come up with a way to satisfy the requirements of the continuing resolution by the 14th of December—not by cutting defense, now that we are going to Bosnia. Nobody seems to be inclined to do that. But we are going to get $4 billion of savings out of entitlements to get the job done. And we are going to get it—and the biggest entitlements are going to be in health care, they are going to be in retirement—we are not likely to touch retirement. We should, to get the job done.

I know the Senator from North Dakota wants to speak, and I will wrap up with this one statement having to do with a pet issue of mine. The cost of entitlements under the Republican budget and under the Democratic alternative—a group of 20 of us or so that have an alternative that balances the budget in 7 years as well—in either case, the cost of entitlements, health care and retirement, continue to grow and displace all other expenditures. If you think it is not a problem, imagine what it would be like to pass 13 appropriations bills if all we had was $445 billion. You say, oh, $445 billion is a lot of money. But $445 billion is what we would have in the year 2002 if you adjust for inflation.

Gosh, the most liberal Member of this body, in the House or the Senate, probably would not spend less than $250 billion on defense, $260 billion, leaving you with $170 or $180 billion for all nondefense spending. I urge colleagues to look at that number because it is going to get tougher and tougher and tougher for us to get the job done. I, for one, hope, as we look for a compromise on reconciliation, not only will we consider adjusting the CPI down—I would go a full point—but I hope we look at some other adjustments that produce savings.

I think it is reasonable to put an affluence test on all entitlements, including farm payments, to say, basically, we are going to adjust it as income goes up. I think it is reasonable for us to say now we have to adjust the eligibility age, both for Medicare and Social Security. We can hold harmless everybody over the age of 50, if that is what we choose to do. I think it is reasonable to phase it in. It is reasonable to phase those changes in. Nobody listening to this who is over 65, or 60, or 55, ought to think we are talking about them. But, unless we make that kind of a change, this baby boom generation is going to rank out about 2008. When we start retiring, our kids are not going to be willing to have their payroll taxes increased by the amount that is going to be necessary to pay for our Medicare and Social Security. We are not going to be able, I say to my colleagues—we are not going to be able to adjust rapidly enough to come up with the $717 billion that Nebraska is going to need for its infrastructure investments or for any other thing in the appropriated accounts.

So, Mr. President, I appreciate the additional time.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

ORDER OF PROCEDURE

Mr. DORGAN. Mr. President, I ask unanimous consent that I be able to speak for 10 minutes as if in morning business.

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

TELECOMMUNICATIONS

Mr. DORGAN. Mr. President, I know the Senator from Nebraska will probably want to stay for a couple of minutes. The Senator from Nebraska and I

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wanted to visit for a couple of minutes about the conference that is now taking place between the Senate and the House on the telecommunications bill. The Senate has passed a telecommunications bill, and so has the House, and it is now in conference.

The impact of the telecommunications legislation will be very substantial all across this country. What is happening in the conference, and the reason that I came to the floor today, is very disturbing to me. The issue of reforming the telecommunications laws and regulations in this country is very real, and very necessary. It is also very important. The Communications Act has not been changed significantly since it was written in the 1930's.

Clearly, we ought to pass a telecommunications bill. But it ought to be in the right way. If it is done in the wrong way rural areas in America will be left out.

I voted against the legislation that we passed in the Senate. I also believe that the Senator from Nebraska voted against, because we saw some very serious problems. We hope some of those problems will be fixed in conference, but it appears that some of them will be made worse in conference.

Before I talk about the larger issues, I want to talk about one that is most important to me: universal service. From the standpoint of someone who comes from a rural State, the market system is not going to decide that the income stream in a rural State is going to persuade people to come and engage in robust competition to provide new services in rural areas. That is why the notion of universal service is critical to rural areas.

What kind of a telephone system do you have in rural areas? Do you have a telephone in the smallest town in North Dakota? Sure, we do. Why do we have a telephone there? Because the existing universal system has made that possible. It is much more expensive, per person, to have a small number of telephones in a small community in terms of fixed cost than it is to have millions of telephones in New York City. But we have decided that it is a matter of universal importance for everyone to have modern communications equipment so that everyone can communicate with one another.

The fact that there is a telephone in Regent, ND, makes a telephone in New York City more valuable because that New York telephone can communicate with someone on the receiving end in Regent, ND. It is a very small community, and I am guessing it does cost more to have telephones in Regent, ND, than in New York City. However, we have a universal service fund that is designed to equalize those costs and make sure that we have universal opportunity and universal service in a critical area called communication.

What will be the result of this new telecommunications bill? What about new kinds of communications? What about new technology? Will they be available in rural areas, or will they only be available in some of wealthiest neighborhoods? Will they only been available in some of the largest cities?

There were 24 Senators, 13 Republicans and 11 Democrats, including myself, who joined together in a bipartisan group to write to the Senate conferees in support of the rural provisions that are in the Senate bill. These provisions are very important to rural States. The problem we have at this point is that the conferees from the House side are trying to strip those provisions out. This is not a partisan fight. It is a bipartisan determination on the part of the Senate to want to retain those provisions. I want to speak a little more about those provisions later.

Let me go on to a couple of the larger issues in the bill that deal with macroeconomic things that Senator KERREY and I have also been involved in. I am concerned about the two areas in this bill dealing with competition. One, the legislation lifts entirely the limits on how many TV stations one person can own in America. We now have a limit of 12. I think it is in the public interest to say one can only own 12 TV stations and no more than 12. Currently, it is no more than 12 TV stations reaching no more than 25 percent of the population.

The bill says, on the other hand, that one can own as many TV stations as one likes. Let us just take the cap off, the sky is the limit. One can go right ahead and by as many TV stations as one can muster up the money to buy. One can also own as many radio stations as one wants to buy. That makes no sense to me. That kind of concentration moves in exactly the wrong direction. Concentration is the opposite of competition. One cannot support a bill like this and call it competition—when, in fact, it provides for more concentration. Yet, that is exactly what is happening.

It also true with respect to the question of when the Bell systems are allowed to go compete in long distance. They should not be allowed to compete in long distance service until there is competition in the local service exchange. The question is, when is there meaningful competition in the local service exchange so that competition in the long distance industry will not be harmed? We had a big fight about that on the floor of the Senate. It was a close vote.

The Senator from Nebraska and I offered an amendment that said let us let the Justice Department, using the Clayton standard, evaluate whether or not a baby Bell's entrance into long distance will lessen competition or tend to create a monopoly before they should be permitted to compete in the long distance area. The fact is, we lost. We lost because a lot of folks wanted to vote for a position that is, in my judgment, anticompetition and proconcentration.

I want to read what a few of the editorials say about the telecommunications bill that is now in conference, and why I and many others think it desperately needs reform.

USA Today says: "Monopolies win, you lose." That is their simple description of the bill.

Business Week says: "If Congress really wants a free phone market, with the competition and lower prices that will come with it, it shouldn't be quite so generous to those local monopolists, the Baby Bells."

The Oregonian says: ". . . a single owner could control all the media outlets and communications links in a given market—a scary monopoly."

The Tennessean says: ". . . the problem with the bill is that it removes most telephone and cable rate restrictions without first assuring that competition is in place."

The Denver Post says: "If the current bill becomes law, phone prices may rise and consumers will have fewer—and not more—choices."

The Charleston Gazette says: ". . . the bill trashes long-time rules that have restricted concentration of media ownership . . . Deregulation and 'reform' have increasingly become code words for freeing huge corporations from the Government oversight that prevents them from gouging the public and developing stifling monopolies."

Some of us feel very strongly that we ought to pass a bill that promotes competition, that opens the marketplace to more competition, and, yes, eliminates some regulations where competition can replace regulations. But there are two premises that are troublesome with that point. One is, you do not have competition in many rural areas. Often you have a circumstance where you only have one interest willing to serve, and that service sometimes has to be required. The economics simply do not dictate service. So you cannot deal with that quite the same way; ergo, we have the question about universal service and the need to make sure that exists in the legislation.

Second, we are very concerned about a circumstance where legislation in the telecommunications area allows such concentration that one entity really in a community can own the newspaper, can own the major television station, can own the cable company, can own it all, control ideas, control thought, and determine what is published, what is not. That is pretty scary. It is not moving in the direction of competition. It is moving in the direction of concentration, and it is exactly in the wrong direction.

So my hope is that those in the conference will understand that if they bring to the floor of the Senate a conference report that backs away on the protections in this bill for rural States, they are going to have a lot of trouble. If they bring to the floor the piece of legislation that they left the floor with and do nothing in the area of concentration or fixing those problems, they will have very big trouble because

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some of us will not want to let a conference report like that continue to move.

So I would be happy to yield some time to the Senator from Nebraska on this subject as well.

Let me yield the floor and ask if the Senator from Nebraska seeks time.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Nebraska.

Mr. KERREY. I really quite agree with the Senator from North Dakota. I think the legislation passed here was well intended. People who voted for it understand there is a lot of change going on out there, and we need to embrace that future and try to change our regulatory structure. But it is possible for us to change it in a fashion that reduces competition. In fact, without some kind of meaningful role for the Department of Justice as we move from a monopoly to a market situation, as we move from a situation where the Government is making all the decisions to a situation where it is the marketplace making the decisions, if we do not have the agency that in fact has demonstrated the ability in this area as it did with AT&T to manage that kind of situation, I think we will end up with less, not more, competition.

I bring a story told at church Sunday by Father Jim Schultz from Omaha, NE. He told the story that kind of describes what happens out there right now in the marketplace when you are dealing with a monopoly.

The story is about a man who dies and goes to the pearly gates, and St. Peter says, "Well, you are right on the edge. We can't decide whether you are going to go to Heaven or Hell, so you get to decide." There are two doors. One goes to Heaven and one goes to Hell. St. Peter opens up one door and there is a big party going on with a band and everything, everybody is happy and great looking people inside there. St. Peter says, "Well, this is Hell." The man says, "That's odd."

So St. Peter looks at the next door. He opens up the door and goes inside, and there are a bunch of people sitting around in chairs, real sad and angry. He says, "That's Heaven." He says, "Take an hour and decide and let me know."

An hour later the man comes back and says to St. Peter, "I think I'll do Hell." He opens up the door. The people are dead. The smell is stale, trash all over. He goes to St. Peter and he says, "What happened? An hour ago there was a great party, looked like a lot of fun, looked like the place to go." St. Peter says, "An hour ago, you were a prospect. Now you are a customer."

In a monopoly, that is the situation. I had a recent example of that in Nebraska where a school trying to get enhanced services was told by the telephone company: "You do not need it. You really do not need that enhanced service. We are not going to provide it to you because we do not think you really need it. We do not think you really should have this kind of service."

When you have a situation where the company can say to you, "We are not going to satisfy your needs," you do not have competition. When you have that kind of a situation going on, you really do have two choices—take it or leave it. That is the only thing you can do.

We have built a tremendous telecommunications system in this country by using a combination of Government regulation and market forces, and as a consequence we not only have a tremendous telecommunications system but in any community in the country you get high quality service. You can go to Alliance, NE, or Ainsworth, NE, or a rural community in Nebraska and find your telephone service is going to be as good as it is in Omaha because you have the same kind of service and same high quality of service as a consequence of the law of the land saying that is what universal service is to mean, that is what our customers as citizens ought to be able to have.

Mr. DORGAN. I wonder if the Senator will yield for a question.

Mr. KERREY. Be pleased to.

Mr. DORGAN. The people who are living in Nebraska or North Dakota in a small community know when they make a long distance call, they have the opportunity to choose from literally hundreds of long-distance carriers. What they have experienced is that, because of hundreds involved in competition, long-distance service prices have been driven down substantially for long-distance service. Competition, good competition generally provides the consumers with a better price.

The debate we had in the Senate was when should the Baby Bells, which are local monopolies at this point, engage in long-distance service and to try to capture the long-distance market. The answer should be when there is competition in the local phone service in the communities. It is only when the Bells have competition, then, and only then, they should be released to go compete in long distance.

On the question: How do you know when there is competition? I say: let those who know about competition make that decision—the Justice Department. Of course, a lot of folks did not want that to happen. I think we had 43 votes that supported the notion that the Justice Department should have a meaningful role. But we need to make sure that competition really exists. That is what is in the interest of the consumers. Otherwise, we move right back towards recreating phone monopolies that control not only local service but long distance as well.

Mr. KERREY. The Senator is quite right. As a matter of fact, in the language last year, we had a Justice Department role, and we replaced it this year. The committee decided to replace it this year with a 10-part competitive checklist. The real test of competition is a very simple test. One of the reasons I am of the belief that you have to have a Department of Justice role of some kind—I am willing to drop down to Clayton; I am willing to look at alternative standards—is that the 10-part checklist does not really satisfy the consumer. I know when I have choice. If I have choice, the person who is trying to sell me something knows that if they do not get the price and the quality in the range I think I am willing to pay for, I will shop someplace else. I will go someplace else.

If I have that kind of choice and that kind of alternative, then I have competition. If I do not have it, I do not have competition. If I have one company supplying all my news and one company supplying all my newspaper and one company that says here is your phone service and one company says here is your cable service, there is no choice. All I have basically is a question: Do I want it? Yes or no. I do not have any impact upon the quality and I do not have any impact upon the price.

Mr. President, I hope that colleagues do not suffer under the illusion that the Senator from North Dakota and I—I certainly do not want to create the impression that I am not willing to embrace the future and indeed make a bet. I think we have to risk here. I think we are talking about moving in a rather dramatically different direction.

I noted with considerable interest on the front page of the New York Times this morning—I think that is an old picture—Steve Jobs, cofounder of Apple, started a new company called Pixar—what is it? Hold on a minute here. Pixar Animation Studios is the name of the company, and he invested $68 million in it. They did a public offering yesterday, I believe, and thought it would go for about $22 a share. It turned out the market bid it up to close to $40, and all of a sudden he has $1.2 billion. His company created $1 billion worth of wealth yesterday. The United States of America is $1 billion wealthier as a consequence of this individual's decision to start a company that provides animation, in this case to Disney that put out a movie—what is it called? The Toys or something like that. I have not seen it, but it had $38 million worth of revenue over the weekend, which is pretty darned good.

In the article as well there is mention of a company I am familiar with. James Clarke started a company called Netscape. He also created $1 billion worth of wealth.

This is important for us. This country is a wealthy country as a consequence of somebody getting an idea and putting it out in the marketplace, and all of a sudden you have value, you have something that is worth something.

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It is important that these men generate wealth. It is important that we continue to create ways that create wealth so we know the market is doing some extraordinary things.

What I see, both with Netscape and Pixar Animation, is that this old computer that we saw sitting around our kids' bedrooms, and so forth, over the years is being converted into a communications tool. It used to just calculate, and increasingly we are using it to communicate.

Indeed, I am working with the University of Nebraska trying to figure out a way to leverage intellectual property because they are pricing themselves out of the market. As the demand for college goes up and the demand for an educated person goes up, we are getting a doubling and tripling and quadrupling of what that university has to do. Our taxpayers do not have enough money to continue building and hiring more and more people. We have to leverage more intellectual property, and we are looking for a way to do it through computers. We know to get that done we essentially have to pass a three-part test.

Test No. 1 is, Are you willing to embrace the future? Because if you are not, it is not going to work. If you want to hold on to the old way of teaching, say so. Because if you hold on to the old way of teaching, you are not going to be able to get your costs down. And, secondly, you have to be willing to place a bet, which means not only more money in these areas, which unquestionably is the case, but you are going to risk your reputation a little bit. You are going to take a chance on a roll.

So I understand that at some point we cannot really be sure what this legislation is going to do. And I am an advocate of changing the law; I wish to break down the regulatory barriers so that consumers in their homes can make a single choice. What we have done is we have set up a system of regulation that says over here we have television, over here we have radio, over here we have dial tone, and over here we have print. That is what we have done. What has happened is the technology has obliterated those distinctions, and our regulatory structure still maintains them.

So instead of being able to go to a single provider and buy it all packaged together—which, in my judgment, is the only way 100 million people in residences are going to see a decline in price and an increase in quality—you still have to buy them separately. As a result, costs are higher.

So I hope that colleagues do not suffer under the illusion that I somehow want to hold down the status quo. I am willing to embrace the future and willing to place a bet, but I want to see real vigorous competition and choice at the local level. I want to see that. I want to vote for this bill. I want it to come back out of conference and to probably vote for it. I do not want to just stand over here and say "no," and hold my breath and try to hold it up.

But unless we get vigorous competition at the local level—and I do not want to hold up the RBOC's. I want to be able for them to go out and compete. I am uncomfortable watching their top-end customers whittle away while they do not compete in long distance itself. I would like to be able to liberate them, but I want them to be liberated at the moment when I am sure that we have very vigorous competition at that local level.

So I hope that conferees understand that the Senator from North Dakota and I are not sitting here saying that we do not realize the law needs to be changed. We know the law needs to be changed. We know there is an exciting and important opportunity for wealth generation, for job generation, for education, for improving the way that our own Government operates, trying to make it more efficient, trying to improve the quality of life for our citizens.

This piece of legislation, this law is extremely important, but it is important that we have in our own mind some kind of vision for what the world is going to look like. Otherwise, all we are doing is trying to fashion some sort of compromise between the various corporate entities, and I think at the end of the day it will not create the kinds of change that in fact are already occurring out there in the market.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, let me add just a couple comments to what the Senator from Nebraska said. The status quo has been monopoly and concentration. I do not believe in the status quo. I think competition, especially in market areas where competition is supportable, competition is a much better arbiter of what happens in the marketplace than the effects of concentration or monopoly. That is what we said with respect to whether the Bells should go compete in long distance.

We thought we ought to do it with competition with local exchanges, that true competition with local exchanges would help customers. And we think that makes a lot of sense. When there is true competition, they ought to be free to compete in long distance. If there is not true competition in local exchanges, to free them up to compete in a long distance market that has been competitive and has had the effect of driving down prices, that will, in fact, ruin a market system that has worked. That is what we are saying.

The second area is this issue of increased concentration that serves no one's interests, in my judgment. I was on a television program a while back because I asked for some hearings on bank mergers. The interviewer said, "Well, gee, these two big banks are merging and are able to get rid of 8,000 people who are duplicates." Getting rid of duplicate people, does that not make sense? Is that not efficiency? And is that not what is called efficiency? You can make that case for going to one bank.

Why not have one bank in America? That would be the most efficient, probably. It would not make the most sense. I mean, efficiency—my hometown had two grocery stores. I suppose you could make the case we should have only had one because it would be more efficient. I think people were probably advantaged by having a little competition on Main Street. It was a small town, but nonetheless competition in that little area probably served the people of my hometown pretty well.

So this area of concentration bothers me a great deal, and I hope through this conference they can address that once again.

I want to finally make this point. The Senator from Nebraska and I both represent rural States. The question of what kind of telecommunications service you have in a town of 2,000 people versus a town of 2 million is very important, and the proposals to drop in this conference what we put in on the Senate side, on a bipartisan basis, are these sorts of things. We put in on the Senate side requirements that rural areas have access to service that are reasonably comparable to those offered in urban areas, services that reasonably are comparable in rates as urban areas, the benefits of advanced telecommunications services for health care, education, economic development, as urban areas do.

Why is that important? Well, the universal service system in this country has guaranteed that up to this point, but if these guarantees are dropped—and one side wants to drop them at this point—and if this bill comes back without these kinds of provisions, this telecommunications bill, in my judgment, this telecommunications bill will be a full-scale retreat for a quarter century for many rural areas, and we will just be left in the dust here.

That is why we wanted at this point to at least serve notice to the conferees that this is not unimportant to some of us. If they think they are going to bring a bill back here that is not procompetition, but instead is proconcentration and promonopoly, and if they think they are going to bring a bill back here that says, rural people, you do not count much, well, we count in the Senate. That is for sure.

It is true that the population decisions are made with respect to the representation in the House. I mean, the House is, of course, apportioned by population. But at least rural States count in the U.S. Senate. Someone who lives in Hutchinson County, ND, finds it just as important to have an advanced telecommunications system and good telephone service and good health care service and other things as someone who lives in St. Louis.

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So these are very important issues for all of us. And we hope—I notice that the conference committee did not meet today because there is a flareup that does not relate, I think, to what we are talking about. But we hope when these conferees meet they understand the importance of getting this right when they bring this bill back to the House and the Senate, because otherwise I do not think you will have a conference report pass the Senate.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, so people wonder what the impact of this is going to be, and 94 percent of American homes have telephones, 60 percent have cable—I believe those are the numbers—and nearly 100 percent have television sets, and more people have telephones and television sets than have running water. It is a substantial success story we have that kind of penetration into American households.

Every single household in America is going to be affected by this, and we are talking about trying to describe a significant change in the way they are going to be coming into contact with their providers. I think, as a consequence, it is very important for us to decide in our own minds what kind of an environment are we trying to create.

One of the pieces that is in here that seems a little contrary to my own desire for competition—in fact, a little more than just a little contrary, it is contrary, but it is necessary to build a bridge in that competitive environment—is the Snowe-Rockefeller-Exon-Kerrey provisions having to do with education.

I am very pleased, and I ask unanimous consent that a letter written by the chairman of the conference committee, Senator PRESSLER, indicating that he intends to hold and support the Senate's view on that provision, be printed in the RECORD at this time.

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

U.S. SENATE, COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, DC, November 28, 1995.

Hon. J. ROBERT KERREY,
U.S. Senate, Washington, DC.

DEAR BOB: Thank you for your cosigned letter regarding the amendment contained in S. 652 which will ensure affordable access to telecommunications services for schools, libraries, and rural health care providers.

As Chairman of the conference, I have the responsibility to advance the interests of the Senate. As your letter indicates, there is strong support for this amendment to S. 652 in the Senate, and I am aware that many in the House support the provision, too. I think this provision left the Senate with strong bipartisan consensus, and the view of the Senate that it should be adopted is strong. Since two of the sponsors of the amendment also are Senate conferees on the bill, I know they, too, will argue forcefully for its inclusion in the final bill.

Thank you for taking the time to contact me, Bob. I will try to keep you apprised of our progress in conference.

Sincerely,

LARRY PRESSLER,
Chairman.

Mr. KERREY. Mr. President, this idea of technology being a constructive force in our lives is sometimes a difficult sell to make to people, particularly with software, because they have experienced the joy of downsizing as we get more efficient. They sometimes wonder what good this is all going to be, or particularly in an educational environment, people, like myself, remember the old "talking head" environment that was there with the television sets coming into the classroom.

I really want to emphasize that I think the only way that we are going to be able to increase the amount of learning that goes on, whether it is in the home, which I think is the first line of defense in education—if we can increase the amount of learning that goes on in the home, it is going to be an awful lot easier to make an educational form work inside the school, since the homes were there before the schools were—it will make it an awful lot easier for any of our institutional efforts to succeed.

This technology gives us the opportunity to provide continuous learning inside of the home environment. It is going to be very difficult for us to do the sorts of things we want unless we embrace a future that changes the way we teach and changes the way we use technology unless we are willing to bet not only to change the law but also change the allocation of resources.

It is going to be very difficult to make this work unless we, as adults, with the responsibility to make these decisions, say that this is going to become part of our core competency, whether that is a school or that is in a university or whether that is a government agency that is trying to operate in some kind of an efficient fashion.

So I am here this afternoon to say that I want to embrace change. I do embrace change. I am working on it all the time, particularly in the environment of our schools. But we can put change in place that makes things worse.

I say to the men and women who are on the conference committee, my colleagues and Members of the House that are on this conference committee, I urge you to put a meaningful role in there for Justice, some kind of role in there for Justice or, in my judgment, you are going to regret that you did not. You will regret that you did not because we are not going to have the kind of competitive environment that we need to have at that local level to enjoy the benefits that we all promise at least when we talk about supporting change in the law.

THE BUDGET

Mr. KERREY. Mr. President, before I yield the floor and suggest the absence of a quorum, I noted earlier there were a number of Republican colleagues that came down and talked about the budget. There were some statements made that I feel compelled to respond to. Some came down and said the Democrats are not really serious. They do not have a plan. There is no attempt here, no willingness here to, in fact, address these budgetary difficulties.

(Mr. GORTON assumed the chair.)

Mr. KERREY. Mr. President, I respectfully say, just the opposite is the case. There is unanimous desire on the part of the Democrats to come up with a change in our law so as to get to a point where our budget is balanced, but we have a different vision. We have competing visions and competing ideas on how to do that.

I appreciate, for example, the willingness of Republicans to say that they want to preserve and protect Medicare. It is a very important change. At least I hear it as a change. One of the things that must be understood with Medicare as a fundamental principle is that we said in 1965, when people hit the age of 65, they are going to have difficulty purchasing health insurance, so we are going to create a change in the Federal law under the Social Security Act to provide a mechanism for Americans over the age of 65 to get insured.

The question is, has it worked? Ask your Representative or Senator, "Has this worked?" Is that an example of something that has accomplished the job? In 1965, 43 percent of people over 65 were uninsured. Today, it is less than 1 percent. The answer is unquestionably yes. Mr. President, 100 percent of the people over the age of 65 are today insured. It has worked surprisingly well.

However, there is a problem, and the problem is, first, we allowed customary and usual reimbursement, so we had no cost controls to begin with and the costs have blown completely off the chart. We came back in the eighties and implemented a system called perspective payment system and started to reimburse according to diagnostic groups and, unfortunately, that tended to shift costs over into the physician services and costs continued to escalate.

Today, they are growing, I guess, 10, 11, or 12 percent, somewhere in that area. We are facing a tremendous increase in costs. I completely agree with the Republicans who say that we have to control those costs. We do not need to cut Medicare, but we have to slow the growth of the program. There is no question that that needs to be done.

However, the point of departure that I have, and I have made it a number of times—I feel like I am running a broken record here in saying it—there is a short-term problem and a long-term problem with Medicare, and it is the long-term problem that is enormous.

The long-term problem with Medicare begins about the year 2008 when, as I indicated earlier, the largest population group, the largest generation in the history of this country, the baby

HeinOnline -- 3 Bernard D. Reams, Jr. & William H. Manz, Federal Telecommunications Law: A Legislative History of the Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996) including the Communications Decency Act S17851 1997

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