

MINUTES OF THE MEETING  
BUSINESS AND LABOR COMMITTEE  
MONTANA STATE  
HOUSE OF REPRESENTATIVES

February 22, 1985

The meeting of the Business and Labor Committee was called to order by Chairman Bob Pavlovich, on February 22, 1985 at 7:00 a.m. in Room 312-2 of the State Capitol.

ROLL CALL: All members were present.

ACTION ON HOUSE BILL 855: Representative Kadas moved DO PASS on House Bill 855 and then moved the amendments which are attached hereto as Exhibit 1. The amendments DO PASS by a unanimous vote. House Bill 855 DO PASS AS AMENDED with 13 members voting yes and 6 members voting no.

ACTION ON HOUSE BILL 863: Representative Hansen made a motion that House Bill 863 DO PASS. Representative Thomas offered a substitute motion that House Bill 863 DO NOT PASS. Second was received and a roll call vote resulted in 10 members voting yes and 9 members voting no. House Bill 863 DO NOT PASS.

ACTION ON HOUSE BILL 840: Representative Brandewie moved DO PASS on House Bill 840. Representative Nisbet moved to amend on page 1, line 24, strike \$100 and insert \$250. Representative Brandewie seconded the motion to amend. Representative Kadas added this is a stiff penalty. Question being called, the amendment PASSED with Representatives Kadas, Simon, Jones, and Glaser voting no. House Bill 840 DO PASS AS AMENDED by unanimous vote.

ACTION ON HOUSE BILL 852: Representative Brandewie made a motion that House Bill 852 DO PASS. Representative Driscoll moved to amend as shown on the standing committee report which is attached hereto. The amendments DO PASS by unanimous vote. House Bill 852 DO PASS AS AMENDED unanimously.

ACTION ON HOUSE BILL 597: Representative Ellerd moved DO PASS on House Bill 597. Representative Schultz stated the lien laws need to be discussed. Representative Howe suggested Senate Bill 129 should be looked at. Representative Ellerd stated this system works in California, and that banks will look closer at who they are loaning money to. Question being called, a roll call vote resulted in 10 members voting yes and 10 members voting no. House

Bill 597 will be sent to the House floor WITHOUT RECOMMENDATION.

ACTION ON HOUSE BILL 853: Representative Driscoll moved DO PASS on House Bill 853 and then moved the amendments which are attached hereto as Exhibit 2. Representative Glaser added all federal funding will need to be excluded. Representative Driscoll added that these federal aid dollars are grants. The amendment PASSED by unanimous vote. House Bill 853 DO PASS AS AMENDED unanimously.

ACTION ON HOUSE BILL 855: Representative Kadas moved the Statement of Intent to House Bill 855 which PASSED with all but Representative Nisbet voting yes.

ACTION ON HOUSE BILL 121: Representative Ellerd made a motion that House Bill 121 BE TAKEN FROM THE TABLE and reconsidered. A roll call vote resulted in 13 members voting yes and 7 voting no. Representative Nathe was present and explained the amendments as shown on the standing committee report attached hereto. Representative Thomas moved DO PASS on House Bill 121 and moved the amendments. The amendments DO PASS with all but Representative Glaser voting yes. Representative Bachini stated this bill will be sending message with the amendments. Representative Kadas added that it is a rather contradictory message. Question being called, House Bill 121 DO PASS AS AMENDED, with 11 members voting yes and 9 voting no.

HOUSE BILL 890: Hearing commenced on House Bill 890. Representative Red Menahan, District #67, sponsor of the bill, stated this allows a municipality or specially-created board to issue and renew cable television system franchises and allows a municipality to regulate cable television as authorized by federal law.

Representatives Pavlovich, Brandewie and McCormick offered their support of the bill.

Opponent Tom Harrison, representing the Montana Cable Television Association, supplied a copy of the federal law to be placed on record, which is attached hereto as Exhibit 3. Mr. Harrison stated cities should not be getting into the franchise business and this is unprecedented for regulating taxing bodies to do so. Board members could advertise in the newspaper. House Bill 890 is not within the federal law, which is very specific, added Mr. Harrison.

In closing, Representative Menahan, stated that the legislators are there to answer the problems of the people. Problems concerning cable television is the most registered problem with the citizens advocate. We should allow our city fathers to guide these franchises.

Representative Bachini asked Mr. Harrison if cities have recourse under the present system. Mr. Harrison explained that it is not an easy process and thus is rarely done.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 890 was closed.

HOUSE BILL 896: Hearing commenced on House Bill 896. Representative Dennis Iverson, District #12, sponsor of the bill, explained this revises the firework's law. The bill would make it illegal to sell fireworks by mail or within 300 feet of a hospital or a church. Also, illegal would be the discharge of fireworks within 100 feet of a firework's retail sales location, or from inside, or toward a motor vehicle, or in the vicinity of another person. The bill also provides rules for a firework's wholesaler to qualify for a permit and would be effective January 1, 1986.

Proponent John Scully, representing R & S Marketing, suggested that on page 3, line 25, sky rocket, roman candles, and bottle rockets be reinserted. This is difficult to control and a 30-day jail sentence is the minimum penalty. You must have a wholesaler's permit to sell these fireworks. This will encourage and help in the safety measures, added Mr. Scully.

Proponent John Thompson, stated that the present law is confusing and ambiguous. Elected and appointed officials are only confronted with concerns 11 days out of the year.

Proponent Bob Kelley, State Fire Marshall, explained this bill was introduced at his request. Mr. Kelley supports the bill with the amendment proposed by Mr. Scully. This will make clear what is legal and illegal.

In closing, Representative Iverson, expressed his support of the amendment proposed and suggested the effective date be upon passage and approval rather than January 1, 1986.

Representative Bachini asked Mr. Kelley if the fireworks banned under the bill will be allowed to be shipped into Montana. Mr. Kelley explained that they can be transported through the state.

Representative Brandewie asked Mr. Kelley if this will stop the sale of illegal fireworks on the reservations, to which the answer was yes.

Representative Pavlovich asked John Scully if this will prevent individuals from bringing illegal fireworks into the state. Mr. Scully stated that it would.

There being no further discussion by proponents and no opponents to the bill, all were excused by the chairman and the hearing on House Bill 896 was closed.

Prior to the hearing on House Bills 877, 885, and 890, Representative Glaser explained to the committee that two bills are to clean up the portion of the industry that is operated by the stores and the other is directed at the installers.

HOUSE BILL 877: Hearing commenced on House Bill 877. Representative Bill Glaser, District #98, stated this requires testing laboratory approval of fire alarms and fire suppression equipment by the fire marshall. The amendments shown on the standing committee report attached hereto were explained by Representative Glaser.

Proponents Bob Kelley, State Fire Marshall, Kelly Flaherty, representing Firemaster, Inc., Mike Maroney, Mike Walker, representing the Montana State Fire Marshall's Advisory Board, Larry McCann, representing the City of Billings Fire Marshall Department, and H. S. Hanson, representing the Design Professions, all offered their support of the bill.

There being no further discussion by proponents and no opponents to the bill, all were excused by the chairman and the hearing on House Bill 877 was closed.

HOUSE BILL 880: Hearing commenced on House Bill 880. Representative Fred Thomas, District #62, stated this requires that suppliers, installers, and maintainers of fire alarms, security alarms and fire suppression equipment be insured.

Proponent Bob Kelley, State Fire Marshall, offered his support of the bill with amendments to be worked out.

Proponent Kelly Flaherty, representing Firemaster, and Ben Larango, representing Missoula Fire Equipment, offered their support but questioned the purpose for putting numbers on the invoices.

Proponent Larry Weinberg, representing the Montana University

System, stated it appears this bill would cover individuals installing their own system in their homes.

There being no further discussion by proponents and no opponents to the bill, all were excused by the chairman and the hearing on House Bill 880 was closed.

HOUSE BILL 895: Hearing commenced on House Bill 895. Representatives Bill Glaser, District #98, stated this creates a Board of Fire Alarm, Security Alarm and Fire Suppression Equipment Installers and Maintenance Examiners, and gives it power to license professionals in those fields. Licenses for an apprentice, journeyman and master will be created. An amendment to exclude resident installation and to exclude electricians from the trade, should be considered.

Proponent Bob Kelley, State Fire Marshall, explained that this deletes any reference to permits to sell and licensing of businesses. The state licenses people rather than businesses.

Proponent Mike Walker, representing the Montana State Fire Marshall's Advisory Board, stated the concern is for consumer protection to insure good equipment and proper installation.

Proponent Kelly Flaherty, representing Firemaster, Inc., offered her support but questioned the training and knowledge of the two fire industry board members.

Proponent Ben Larango, representing Missoula Fire Equipment, stated this bill will govern installers and maintenance. Any smoke detector that is sold in the state must meet code. As long as one individual is trained, a company is considered trained and an employer is responsible for an employee.

Proponent Larry Buchan, representing the Missoula Fire Marshall's Office, suggested to the committee that residential be excluded from the bill.

Proponent Mike Maroney, representing All Phase Electronics, stated that 80% of the systems do not meet code, but are tagged by the Fire Marshall's Office. More people from the trade should be on the Board.

In closing, Representative Glaser stated the board will consist of 2 trade persons, 2 fire department persons and 1 member of the public, which are all people who either

pay for the board of those in the industry. The Fire Marshall's Department is fair and bad systems exist for various reasons. Trades people have confidence in boards and the Fire Marshall Department have sufficient training, added Representative Glaser.

There being no further discussion by proponents or opponents, all were excused by the chairman and the hearing on House Bill 895 was closed.

HOUSE BILL 868: Hearing commenced on House Bill 868. Representative Mike Kadas, District #55, sponsor of the bill, stated this requires a public utility that supplies electricity or natural gas and has an annual gross utility revenue of \$30,000,000 or more to plan for the anticipated charge in its supply of those resources and the demands of its customers. The plan must forecast demands, loads and reserves for 2, 5, 10, and 20 years. The Public Service Commission must hold a public hearing on the plan. Representative Kadas distributed to committee members a Statement of Intent which is attached hereto as Exhibit 4.

Opponent John Alke, representing Montana/Dakota Utilities, stated he sees no merit to the concept of having the state participate in planning. The Public Service Commission cannot tell a utility what to bill and how to take care of their needs. A public utility is presumed correct unless they are challenged and proven wrong. The state cannot make a decision and then say the utility was responsible. Forecasting is very expensive, added Mr. Alke.

Opponent Gene Phillips, representing Pacific Power and Light, explained House Bill 868 accomplishes nothing and is not binding. Mr. Phillips sees no useful purpose for the bill.

Opponent Dick Cromer, representing The Montana Power Company, supplied written testimony which is attached hereto as Exhibit 5.

In closing, Representative Kadas, explained that utilities do not want the Public Service Commission to regulate them. The public utilities complain about the cost of forecasting and then say that they are currently doing it, added Representative Kadas.

There being no further discussion by opponents and no proponents to the bill, all were excused by the chairman and the hearing on House Bill 868 was closed.

HOUSE BILL 898: Hearing commenced on House Bill 898. Representative Mike Kadas, District #55, sponsor of the bill, explained this allows the creation of People's Energy Districts to operate on a profit basis to generate and to supply electricity and natural gas. A district's territory must be contiguous and may include all or part of any number of counties and cities. Currently, two states do not allow this. Public utilities do not want the competition, they have a guaranteed monopoly. A public utility has no incentive for conservation and a private utility is motivated to conserve to provide the lowest possible bill. Regulation exists either to provide the lowest cost for the people of Montana or to provide a better return on the investor's money, added Representative Kadas.

Opponent John Alke, representing Montana/Dakota Utilities, stated a private utility must replace and purchase the assets of an existing company and would not be able to provide cheaper utility rates. The cost of condemning a utility would be approximately 15 times what ratepayers are paying now. What is intended cannot be accomplished, explained Mr. Alke.

Opponent Gene Phillips, representing Pacific Power and Light, stated this is not realistic.

Opponent Mike Zimmerman, representing The Montana Power Company, stated they originated in 1912, service 40 counties, have 1.4 billion dollars invested and in 1984 paid 24 million dollars in property taxes. The Montana Power Company provides efficient, reliable and reasonably priced services and provide jobs for Montana citizens. House Bill 898 would provide an opportunity for an unnecessary layer of bureaucracy and not result in lower rates. Private utilities must contract with an existing utility for service, added Mr. Zimmerman.

In closing, Representative Kadas, pointed out the public utilities inability to deal with conservation, the cheapest resource, and states all have the flexibility to purchase power and conservation. The Montana Power Company, Montana/Dakota Utilities and Pacific Power and Light serve all cities, creating a monopoly. A private utility development will not condemn an existing utility resource, added Representative Kadas.

There being no further discussion by opponents and no proponents to the bill, all were excused by the chairman and the hearing on House Bill 898 was closed.

HOUSE BILL 874: Hearing commenced on House Bill 874.

Representative Mike Kadas, District #55, sponsor of the bill, explained this requires a utility supplying natural gas or electricity to invest up to 10% of its forecasted total utility operating income in cost-effective weatherization for low-income housing. This will help those, people who cannot deal with high energy costs.

Proponent Jim Corrigan, representing Resource Council, stated that federal aid is decreasing and there is a waiting list of approximately 1,700 families needing assistance. Most utility conservation programs currently are low interest loans and cannot be utilized by low income individuals.

Opponent Gene Phillips, representing Pacific Power and Light, explained that he is not in opposition of helping the low income, but that it should be done by taxes. The bill does not restrict income to Montana income. Mr. Phillips would rather have someone besides the Public Service Commission regulate this.

Opponent John Alke, representing Montana/Dakota Utilities, stated the state cannot project regulatory powers into other states. Utilities are prohibited from discriminating between classes under all laws.

Opponent Mike Zimmerman, representing The Montana Power Company, explained that they participate in programs offering assistance. The Montana Power Company and their employees have contributed \$369,000 to help those individuals that cannot pay. They are presently developing a new program that will make available to the low income money for weatherizing. The cost of this program will be between 3 and 5 million dollars, added Mr. Zimmerman.

There being no further discussion by opponents and no proponents to the bill, all were excused by the chairman and the hearing on House Bill 874 was closed.

ADJOURN: There being no further business before the committee, the meeting was adjourned at 9:55 a.m. The committee will reconvene at 12:00 p.m.

The meeting of the Business and Labor Committee reconvened at 12:00 p.m. on February 22, 1985 and was called to order by Chairman Bob Pavlovich.

ACTION ON HOUSE BILL 896: Representative Wallin moved DO PASS on House Bill 896. Representative Schultz moved the amendments which PASSED by a unanimous vote. A question

concerning the amendments was raised. House Bill 896 will be held for consideration until the amendments are finalized. Representative Wallin withdrew his motion.

ACTION ON HOUSE BILL 890: Representative McCormick moved DO PASS on House Bill 890. Representative Simon offered a substitute motion that House Bill 890 be TABLED. A roll call vote resulted in a tie of 10 to 10, the motion fails. Representative Kitselman stated that cable t.v. is permissive. Representative Pavlovich shared an experience with the committee, which resulted in a loss for business in his area. Representative Simon stated that a portion of the bill violates federal law. Representative Bachini added that you must go through the federal government for complaints. Representative Ellerd stated you do not have to purchase, use or have cable t.v. Question being called to a DO PASS motion by Representative McCormick, resulted in a 10 to 10 vote. House Bill 890 will be sent to the House floor WITHOUT RECOMMENDATION.

ACTION ON HOUSE BILL 874: Representative Kadas moved DO PASS on House Bill 874. Second was received and the motion failed with Representatives Driscoll, Kadas, and Hansen voting yes. House Bill 874 DO NOT PASS.

ACTION ON HOUSE BILL 868: Representative Kadas moved DO PASS on House Bill 868. Second was received and the motion failed with Representatives Driscoll, Kadas, and Hansen voting yes. House Bill 868 DO NOT PASS.

ACTION ON HOUSE BILL 898: Representative Kadas moved DO PASS on House Bill 898. Representative Driscoll added that he pays more taxes per thousand dollars than Montana Power. Second was received and the motion failed with Representatives Driscoll, Kadas, Hansen and Pavlovich voting yes. House Bill 898 DO NOT PASS.

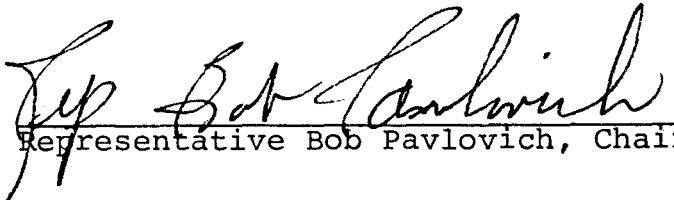
ACTION ON HOUSE BILL 877: Representative Schultz moved DO PASS on House Bill 877. Representative Jones moved the amendments to the bill which passed by a unanimous vote. House Bill 877 DO PASS AS AMENDED unanimously.

ACTION ON HOUSE BILL 132: Representative Glaser made a motion that House Bill 132 be TABLED. Second was received and a unanimous vote resulted. House Bill 132 is TABLED.

Business and Labor Committee  
February 22, 1985  
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ACTION ON HOUSE BILL 162: Representative Glaser made a motion that House Bill 162 be TABLED. Second was received and a unanimous vote resulted. House Bill 162 is TABLED.

ADJOURN: There being no further business before the committee, the meeting was adjourned at 12:35 p.m.

  
Representative Bob Pavlovich, Chairman

DAILY ROLL CALL  
BUSINESS AND LABOR COMMITTEE

49th LEGISLATIVE SESSION -- 1985

Date Feb. 22, 1985

NAME	PRESENT	ABSENT	EXCUSED
Bob Pavlovich	✓		
Les Kitselman	✓		
Bob Bachini	✓		
Ray Brandewie	✓		
Jan Brown	✓		
Jerry Driscoll	✓		
Robert Ellerd	✓		
William Glaser	✓		
Stella Jean Hansen	✓		
Marjorie Hart	✓		
Ramona Howe	✓		
Tom Jones	✓		
Mike Kadas	✓		
Vernon Keller	✓		
Lloyd McCormich	✓		
Jerry Nisbet	✓		
James Schultz	✓		
Bruce Simon	✓		
Fred Thomas	✓		
Norm Wallin	✓		

# STANDING COMMITTEE REPORT

February 22

1935

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MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 555

FIRST reading copy ( WHITE )  
color

## REGULATION AND LICENSING OF PERSONS PRACTICING ROLFING

Respectfully report as follows: That HOUSE Bill No. 555

### BE AMENDED AS FOLLOWS:

- 1) Page 2, line 1  
Following: "to"  
Strike: the remainder of line 1 and line 2 through "correct"
- 2) Page 2, line 2  
Following: "alleviate"  
Strike: the remainder of line 2 and line 3 through "malfunction,"
- 3) Page 2, line 3  
Following: "syndrome"  
Strike: the remainder of line 3, line 4 in its entirety and line 5 through "gravity"
- 4) Page 2, line 6  
Strike: "therapeutic"

DO PASS AS AMENDED,  
STATEMENT OF INTENT ATTACHED

## STATEMENT OF INTENT

A statement of intent is required for this bill because section 5 permits the board of medical examiners to adopt rules in accordance with the Montana Administrative Procedure Act to administer the Rolfing Practice Act of 1985. It is contemplated that the rules should address the following:

(1) contents of forms for application for examination, licensure, and renewal of license;

(2) fees commensurate with costs for examination, licensure, renewal, and reinstatement;

(3) contents of the written examination required to test an applicant's competency;

(4) minimum score for passing the examination;

(5) criteria for giving board approval for schools of rolfing; and

(6) guidelines for comparing licensing requirements in other states for applicants licensed outside Montana.

# STANDING COMMITTEE REPORT

February 22

1935

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 597

First reading copy ( White )  
color

REVISE LAW CONCERNING BUYERS OF GOODS - NO LIABILITY OF  
COMMISSION MERCHANT

Respectfully report as follows: That HOUSE Bill No. 597

~~ADOPT~~  
WITHOUT RECOMMENDATION

# STANDING COMMITTEE REPORT

February 22

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MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 363

First reading copy (White)  
color

## REGULATING THE TEMPERATURE SETTING FOR HOT WATER HEATERS IN RESIDENCES

Respectfully report as follows: That HOUSE Bill No. 363

DO NOT PASS  
DO NOT PASS

# STANDING COMMITTEE REPORT

February 22

1935

SPEAKER

MR. ....

BUSINESS AND LABOR

We, your committee on .....

HOUSE

having had under consideration ..... Bill No. 368

FIRST

reading copy (WHITE  
color)

REQUIRES PUBLIC UTILITIES TO SUBMIT ENERGY DEMAND AND  
SUPPLY PROJECTIONS

HOUSE

Respectfully report as follows: That ..... Bill No. 368

DO NOT PASS

# STANDING COMMITTEE REPORT

February 22

19 85

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 874

first reading copy (white  
color)

REQUIRES UTILITY INVESTMENT AS SET BY PSC, IN LOW-INCOME  
HOME WEATHERIZATION

Respectfully report as follows: That HOUSE Bill No. 874

~~DO NOT PASS~~  
DO PASS

# STANDING COMMITTEE REPORT

February 22

85

19

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 290

FIRST reading copy (WHITE  
color)

## MUNICIPAL REGULATION OF CABLE TELEVISION SYSTEMS

Respectfully report as follows: That HOUSE Bill No. 290

~~DO PASS~~  
WITHOUT RECOMMENDATION

# STANDING COMMITTEE REPORT

February 22

19 85

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 893

FIRST reading copy ( WHITE )  
color

**AUTHORIZE PEOPLE'S ENERGY DISTRICTS FOR ELECTRICITY AND  
NATURAL GAS**

Respectfully report as follows: That HOUSE Bill No. 893

**DO NOT PASS**

# STANDING COMMITTEE REPORT

February 22

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MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 840

First reading copy ( White )  
color

## REMOVAL OF OIL LEASES FROM COUNTY RECORDS UPON EXPIRATION

Respectfully report as follows: That HOUSE Bill No. 840

### BE AMENDED AS FOLLOWS:

- 1) Page 1, line 24  
Strike: "\$100"  
Insert: "\$250"

DO PASS  
AS AMENDED

Rep. Robert Pavlovich, Chairman.

# STANDING COMMITTEE REPORT

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MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 319

FIRST reading copy ( WHITE )  
color

## AGRICULTURAL SUPPLIERS LITH

Respectfully report as follows: That HOUSE Bill No. 319

### BE AMENDED AS FOLLOWS:

- |  |                                     |
|--|-------------------------------------|
| 1) Title, line 7<br>Strike: "AGRICULTURAL CHEMICALS,"              | 1.5) Page 1, line 17<br>Strike: "1" |
| 2) Page 1, line 13<br>Strike: " <u>an agricultural chemical,</u> " | 2.5) Page 1, line 19<br>Strike: "1" |
| 3) Page 1, line 20<br>Strike: " <u>agricultural chemical,</u> "    |                                     |

XXXXXX  
DO PASS

- 4) Page 2, line 4  
Following: "seed"  
Strike: "1"  
Following: "grain"  
Strike: "chemical,"
- 5) Page 2, line 16  
Strike: "an agricultural chemical,"
- 6) Page 5, line 1  
Strike: "agricultural chemical,"
- 7) Page 5, line 5  
Strike: "chemical,"
- 8) Page 5, line 7  
Strike: "chemical,"

AND AS AMENDED,  
DO PASS

# STANDING COMMITTEE REPORT

February 22

1935

page 1 of 1

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 121

FIRST reading copy ( WHITE )  
color

## UTILITY RATE CLASSIFICATION FOR AREAS LACKING AN ALTERNATIVE TO ELECTRICITY

Respectfully report as follows: That HOUSE Bill No. 121

### BE AMENDED AS FOLLOWS:

- 1) Title, line 11  
Following: "AMENDING"  
Strike: "SECTIONS 69-3-201 AND"  
Insert: "SECTION"
- 2) Page 2, line 24  
Strike: Section 1 in its entirety  
Renumber: subsequent section
- 3) Page 4, line 1  
Following: "prescribe"  
Strike: the remainder of line 1 and line 2 in its entirety  
Insert: "a declining block rate structure for electric service,  
when cost-justified, where"

~~XXXXXX~~  
DO PASS

4) Page 4, line 8

Following: "uses."

Strike: the remainder of line 8, lines 9 through 25 and  
line 1 on page 5 in their entirety and line 2  
on page 5 through "consideration."

DO PASS AS AMENDED

# STANDING COMMITTEE REPORT

February 22

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MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 852

First reading copy ( White )  
color

## EXCLUDE CERTAIN PERSONS FROM DEFINITION OF PUBLIC UTILITY

HOUSE

852

Respectfully report as follows: That..... Bill No.....

### BE AMENDED AS FOLLOWS:

- 1) Page 2, line 21  
Following: "plant"  
Strike: ", property,"
- 2) Page 3, line 14  
Following: "commission"  
Insert: ", or its successor,"
- 3) Page 3, line 16  
Following: "utility"  
Strike: "leasing"  
Insert: ", as lessee of"
- 4) Page 3, line 19  
Following: "section"  
Insert: ", "

DO PASS  
AS AMENDED

# STANDING COMMITTEE REPORT

February 22

1935

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 653

FIRST reading copy ( WHITE )  
color

REQUIRE STATE CONSTRUCTION CONTRACTS BE PERFORMED BY 50%  
MONTANA RESIDENTS

Respectfully report as follows: That HOUSE Bill No. 653  
BE AMENDED AS FOLLOWS:

- 1) Title, line 4  
Strike: "ALL"  
Insert: "CERTAIN"
- 2) Page 1, line 13  
Following: "funds"  
Insert: ", except a project partially funded with federal aid money  
from the United States department of transportation,"
- 3) Page 1, line 18  
Following: "project,"  
Insert: "except a project partially funded with federal aid money  
from the United States department of transportation,"

DO PASS  
AS AMENDED

# STANDING COMMITTEE REPORT

February 22

85

19

page 1 of 2

MR. SPEAKER

## BUSINESS AND LABOR

We, your committee on

HOUSE

having had under consideration Bill No. 877

first

reading copy ( copy )  
color

## REQUIRING APPROVAL OF FIRE ALARMS AND PROTECTION EQUIPMENT

HOUSE

Respectfully report as follows: That Bill No. 877

### BE AMENDED AS FOLLOWS:

- 1) Page 1, line 17  
Following: "be"  
Insert: "(1)"
- 2) Page 1, line 21  
Strike: "(1)"  
Insert: "(a)"
- 3) Page 1, line 22  
Strike: "(1)"  
Insert: "(b)"

XXXXXX  
DO PASS

- 4) Page 1, line 23  
Strike: "(3)"  
Insert: "(c)"  
Following: "system"  
Insert: "; or  
(2) approved by the state fire marshall or his  
designated representative"

AND AS AMENDED, DO PASS

# STANDING COMMITTEE REPORT

February 22

19 85

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 890

FIRST reading copy (WHITE  
color)

## MUNICIPAL REGULATION OF CABLE TELEVISION SYSTEMS

Respectfully report as follows: That HOUSE Bill No. 890

~~XPOLPAS~~  
WITHOUT RECOMMENDATION

# STANDING COMMITTEE REPORT

February 22 19 85

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 874

first reading copy ( white )  
color

REQUIRES UTILITY INVESTMENT AS SET BY PSC, IN LOW-INCOME  
HOME WEATHERIZATION

Respectfully report as follows: That HOUSE Bill No. 874

~~XXXXXX~~ DO NOT PASS

# STANDING COMMITTEE REPORT

February 22 1935

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 868

FIRST reading copy (WHITE )  
color

**REQUIRES PUBLIC UTILITIES TO SUBMIT ENERGY DEMAND AND  
SUPPLY PROJECTIONS**

Respectfully report as follows: That HOUSE Bill No. 868

**RELEAS DO NOT PASS**

# STANDING COMMITTEE REPORT

February 22

19 85

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 898

FIRST reading copy ( WHITE )  
color

**AUTHORIZE PEROPLE'S ENERGY DISTRICTS FOR ELECTRICITY AND  
NATURAL GAS**

Respectfully report as follows: That HOUSE Bill No. 898

~~DO PASS~~ DO NOT PASS

# STANDING COMMITTEE REPORT

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85

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19.....

MR. SPEAKER.....

## BUSINESS AND LABOR

We, your committee on .....

HOUSE

having had under consideration ..... Bill No. 877.....

first

reading copy ( copy )  
color

## REQUIRING APPROVAL OF FIRE ALARMS AND PROTECTION EQUIPMENT

HOUSE

Respectfully report as follows: That ..... Bill No. 877.....

### BE AMENDED AS FOLLOWS:

- 1) Page 1, line 17  
Following: "be"  
Insert: "(1)"
- 2) Page 1, line 21  
Strike: "(1)"  
Insert: "(a)"
- 3) Page 1, line 22  
Strike: "(2)"  
Insert: "(b)"

XXXXXX  
DO PASS

4) Page 1, line 23

Strike: "(3)"

Insert: "(c)"

Following: "system"

Insert: "; or

(2) approved by the state fire marshall or his  
designated representative"

AND AS AMENDED, DO PASS

# STANDING COMMITTEE REPORT

February 22

85

page 1 of 2

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 877

first reading copy ( copy )  
color

## REQUIRING APPROVAL OF FIRE ALARMS AND PROTECTION EQUIPMENT

Respectfully report as follows: That HOUSE Bill No. 877

### BE AMENDED AS FOLLOWS:

- 1) Page 1, line 17  
Following: "be"  
Insert: ":(1)"
- 2) Page 1, line 21  
Strike: "(1)"  
Insert: "(a)"
- 3) Page 1, line 22  
Strike: "(2)"  
Insert: "(b)"

~~XXXXXX~~

February 22

19 85

page 1 of 2

HB877

4) Page 1, line 23

Strike: "(3)"

Insert: "(c)"

Following: "system"

Insert: "; or

(2) approved by the state fire marshall or his  
designated representative"

AND AS AMENDED, DO PASS

# STANDING COMMITTEE REPORT

February 22

19 85

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 890

FIRST reading copy (WHITE)  
color

## MUNICIPAL REGULATION OF CABLE TELEVISION SYSTEMS

Respectfully report as follows: That HOUSE Bill No. 890

~~XPQPASS~~  
WITHOUT RECOMMENDATION

# STANDING COMMITTEE REPORT

February 22 19 85

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 874

first reading copy ( white )  
color

REQUIRES UTILITY INVESTMENT AS SET BY PSC, IN LOW-INCOME  
HOME WEATHERIZATION

Respectfully report as follows: That HOUSE Bill No. 874

~~DO NOT PASS~~ DO NOT PASS

# STANDING COMMITTEE REPORT

February 22 ..... 1935 .....

MR. SPEAKER .....

We, your committee on BUSINESS AND LABOR .....

having had under consideration HOUSE ..... Bill No. 868 .....

FIRST reading copy (WHITE )  
color

**REQUIRES PUBLIC UTILITIES TO SUBMIT ENERGY DEMAND AND  
SUPPLY PROJECTIONS**

Respectfully report as follows: That HOUSE ..... Bill No. 868 .....

**RENEAS DO NOT PASS**

# STANDING COMMITTEE REPORT

February 22

19 85

MR. SPEAKER

We, your committee on BUSINESS AND LABOR

having had under consideration HOUSE Bill No. 898

FIRST reading copy ( WHITE )  
color

**AUTHORIZE PEROOPLE'S ENERGY DISTRICTS FOR ELECTRICITY AND  
NATURAL GAS**

Respectfully report as follows: That HOUSE Bill No. 898

~~XXXXX~~ DO NOT PASS

# ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2/22/85 BILL NO. 855 TIME \_\_\_\_\_

NAME	AYE	NAY
Bob Pavlovich		
Les Kitseiman		✓
Bob Bachini	✓	
Ray Brandewie	✓	
Jan Brown	✓	
Jerry Driscoll	✓	
Robert Ellerd	✓	✓
William Glaser	✓	
Stella Jean Hansen	✓	
Marjorie Hart	✓	
Ramona Howe	✓	
Tom Jones	✓	
Mike Kadas	✓	
Vernon Keller	✓	
Lloyd McCormick	✓	
Jerry Nisbet		✓
James Schultz		✓
Bruce Simon		✓
Fred Thomas		✓
Norm Wallin		✓

Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: Do Pass 13-6

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# ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2/22/85 BILL NO. 597 TIME \_\_\_\_\_

NAME	AYE	NAY
Bob Pavlovich		✓
Les Kitzelman		✓
Bob Bachini	✓	
Ray Brandewie	✓	
Jan Brown	✓	
Jerry Driscoll		✓
Robert Ellerd	✓	
William Glaser		✓
Stella Jean Hansen	✓	
Marjorie Hart		✓
Ramona Howe		✓
Tom Jones	✓	
Mike Kadas		✓
Vernon Keller	✓	
Lloyd McCormick		✓
Jerry Nisbet		✓
James Schultz	✓	
Bruce Simon		✓
Fred Thomas	✓	
Norm Wallin	✓	

Secretary Debbie Aqui

Chairman Bob Pavlovich

Motion: DO PASS 10-10

# ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2/22/85 BILL NO. 121 TIME \_\_\_\_\_

NAME	AYE	NAY
Bob Pavlovich		✓
Les Kitselman		✓
Bob Bachini	✓	
Ray Brandewie	✓	
Jan Brown	✓	
Jerry Driscoll	✓	
Robert Ellerd	✓	
William Glaser		✓
Stella Jean Hansen		✓
Marjorie Hart	✓	
Ramona Howe	✓	
Tom Jones	✓	
Mike Kadas		✓
Vernon Keller	✓	
Lloyd McCormick	✓	
Jerry Nisbet		✓
James Schultz	✓	
Bruce Simon		✓
Fred Thomas	✓	
Norm Wallin	✓	

Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: Reconsider 13-7

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# ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2/22/85 BILL NO. 121 TIME \_\_\_\_\_

NAME	AYE	NAY
Bob Pavlovich		✓
Les Kitselman		✓
Bob Bachini		✓
Ray Brandewie	✓	
Jan Brown	✓	
Jerry Driscoll	✓	
Robert Ellerd	✓	
William Glaser		✓
Stella Jean Hansen		✓
Marjorie Hart	✓	
Ramona Howe	✓	
Tom Jones	✓	
Mike Kadas		✓
Vernon Keller	✓	
Lloyd McCormick	✓	
Jerry Nisbet		✓
James Schultz	✓	
Bruce Simon		✓
Fred Thomas	✓	
Norm Wallin		✓

Secretary Debbie Aqui

Chairman Bob Pavlovich

Motion: 11-9 Do Pass As Amended

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# ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2/22 BILL NO. 890 TIME \_\_\_\_\_

NAME	AYE	NAY
Bob Pavlovich	/	
Les Kitselman		/
Bob Bachini	/	
Ray Brandewie	/	
Jan Brown		/
Jerry Driscoll	/	
Robert Ellerd		/
William Glaser		/
Stella Jean Hansen	/	
Marjorie Hart	/	
Ramona Howe	/	
Tom Jones		/
Mike Kadas	/	
Vernon Keller		/
Lloyd McCormick	/	
Jerry Nisbet	/	
James Schultz		/
Bruce Simon		/
Fred Thomas		/
Norm Wallin		/

Secretary Debbie Aqui

Chairman Bob Pavlovich

Motion: TABLE

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# ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2/22 BILL NO. 890 TIME \_\_\_\_\_

NAME	AYE	NAY
Bob Pavlovich	/	
Les Kitselman		/
Bob Bachini	/	
Ray Brandewie	/	
Jan Brown		/
Jerry Driscoll	/	
Robert Ellerd		/
William Glaser		/
Stella Jean Hansen	/	
Marjorie Hart	/	
Ramona Howe	/	
Tom Jones		/
Mike Kadas	/	
Vernon Keller		/
Lloyd McCormick	/	
Jerry Nisbet	/	
James Schultz		/
Bruce Simon		/
Fred Thomas		/
Norm Wallin		/

Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: DO PASS

# ROLL CALL VOTE

HOUSE COMMITTEE BUSINESS AND LABOR

DATE 2/22 BILL NO. 803 TIME \_\_\_\_\_

NAME	AYE	NAY
Bob Pavlovich		
Les Kitselman	✓	
Bob Bachini		✓
Ray Brandewie	✓	
Jan Brown	✓	
Jerry Driscoll		✓
Robert Ellerd		✓
William Glaser		✓
Stella Jean Hansen		✓
Marjorie Hart		✓
Ramona Howe		✓
Tom Jones	✓	
Mike Kadas		✓
Vernon Keller	✓	
Lloyd McCormick		✓
Jerry Nisbet	✓	
James Schultz	✓	
Bruce Simon	✓	
Fred Thomas	✓	
Norm Wallin	✓	

Secretary Debbie Aquil

Chairman Bob Pavlovich

Motion: DO NOT PASS 10-9

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Proposed Amendments to HB 855

1. Page 2, lines 1 and 2.  
Strike: "detect" on line 1 through "correct," on line 2
2. Page 2, lines 2 and 3.  
Following: "alleviate" on line 2  
Strike: ", " through "malfunction," on line 3
3. Page 2, lines 3 through 5.  
Following: "syndrome" on line 3  
Strike: ", " through "gravity" on line 5
4. Page 2, line 6.  
Strike: "therapeutic"

Amendments to House Bill 853, introduced bill

- 1) Title, line 4  
Strike: "ALL"  
Insert: "CERTAIN"
- 2) Page 1, line 13  
Following: "funds"  
Insert: ", except a project partially funded with  
federal aid money from the United States  
department of transportation,"
- 3) Page 1, line 18  
Following: "project,"  
Insert: "except a project partially funded with federal  
aid money from the United States department of  
transportation,"

# Ninety-eighth Congress of the United States of America

## AT THE SECOND SESSION

*Begun and held at the City of Washington on Monday, the twenty-third day of January,  
one thousand nine hundred and eighty-four*

### An Act

To amend the Communications Act of 1934 to provide a national policy regarding cable television.

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

#### SHORT TITLE; TABLE OF CONTENTS

SECTION 1. (a) This Act may be cited as the "Cable Communications Policy Act of 1984".

(b) The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Amendment of Communications Act of 1934.

#### "TITLE VI—CABLE COMMUNICATIONS

##### "PART I—GENERAL PROVISIONS

"Sec. 601. Purposes.

"Sec. 602. Definitions.

##### "PART II—USE OF CABLE CHANNELS AND OWNERSHIP RESTRICTIONS

"Sec. 611. Cable channels for public, educational, or governmental use.

"Sec. 612. Cable channels for commercial use.

"Sec. 613. Ownership restrictions.

##### "PART III—FRANCHISING AND REGULATION

"Sec. 621. General franchise requirements.

"Sec. 622. Franchise fees.

"Sec. 623. Regulation of rates.

"Sec. 624. Regulation of services, facilities, and equipment.

"Sec. 625. Modification of franchise obligations.

"Sec. 626. Renewal.

"Sec. 627. Conditions of sale.

##### "PART IV—MISCELLANEOUS PROVISIONS

"Sec. 631. Protection of subscriber privacy.

"Sec. 632. Consumer protection.

"Sec. 633. Unauthorized reception of cable service.

"Sec. 634. Equal employment opportunity.

"Sec. 635. Judicial proceedings.

"Sec. 636. Coordination of Federal, State, and local authority.

"Sec. 637. Existing franchises.

"Sec. 638. Criminal and civil liability.

"Sec. 639. Obscene programming."

Sec. 3. Jurisdiction.

Sec. 4. Pole attachments.

Sec. 5. Unauthorized reception of certain communications.

Sec. 6. Technical and conforming amendments.

Sec. 7. Support of activities of the United States Telecommunications Training Institute.

Sec. 8. Telecommunications Policy Study Commission.

Sec. 9. Effective date.

AMENDMENT OF COMMUNICATIONS ACT OF 1934

SEC. 2. The Communications Act of 1934 is amended by inserting after title V the following new title:

"TITLE VI—CABLE COMMUNICATIONS

"PART I—GENERAL PROVISIONS

"PURPOSES

"SEC. 601. The purposes of this title are to—

"(1) establish a national policy concerning cable communications;

"(2) establish franchise procedures and standards which encourage the growth and development of cable systems and which assure that cable systems are responsive to the needs and interests of the local community;

"(3) establish guidelines for the exercise of Federal, State, and local authority with respect to the regulation of cable systems;

"(4) assure that cable communications provide and are encouraged to provide the widest possible diversity of information sources and services to the public;

"(5) establish an orderly process for franchise renewal which protects cable operators against unfair denials of renewal where the operator's past performance and proposal for future performance meet the standards established by this title; and

"(6) promote competition in cable communications and minimize unnecessary regulation that would impose an undue economic burden on cable systems.

"DEFINITIONS

"SEC. 602. For purposes of this title—

"(1) the term 'affiliate', when used in relation to any person, means another person who owns or controls, is owned or controlled by, or is under common ownership or control with, such person;

"(2) the term 'basic cable service' means any service tier which includes the retransmission of local television broadcast signals;

"(3) the term 'cable channel' or 'channel' means a portion of the electromagnetic frequency spectrum which is used in a cable system and which is capable of delivering a television channel (as television channel is defined by the Commission by regulation);

"(4) the term 'cable operator' means any person or group of persons (A) who provides cable service over a cable system and directly or through one or more affiliates owns a significant interest in such cable system, or (B) who otherwise controls or is responsible for, through any arrangement, the management and operation of such a cable system;

"(5) the term 'cable service' means—

"(A) the one-way transmission to subscribers of (i) video programming, or (ii) other programming service, and

"(B) subscriber interaction, if any, which is required for the selection of such video programming or other programming service;

"(6) the term 'cable system' means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment that is designed to provide cable service which includes video programming and which is provided to multiple subscribers within a community, but such term does not include (A) a facility that serves only to retransmit the television signals of 1 or more television broadcast stations; (B) a facility that serves only subscribers in 1 or more multiple unit dwellings under common ownership, control, or management, unless such facility or facilities uses any public right-of-way; (C) a facility of a common carrier which is subject, in whole or in part, to the provisions of title II of this Act, except that such facility shall be considered a cable system (other than for purposes of section 621(c)) to the extent such facility is used in the transmission of video programming directly to subscribers; or (D) any facilities of any electric utility used solely for operating its electric utility systems;

"(7) the term 'Federal agency' means any agency of the United States, including the Commission;

"(8) the term 'franchise' means an initial authorization, or renewal thereof (including a renewal of an authorization which has been granted subject to section 626), issued by a franchising authority, whether such authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, which authorizes the construction or operation of a cable system;

"(9) the term 'franchising authority' means any governmental entity empowered by Federal, State, or local law to grant a franchise;

"(10) the term 'grade B contour' means the field strength of a television broadcast station computed in accordance with regulations promulgated by the Commission;

"(11) the term 'other programming service' means information that a cable operator makes available to all subscribers generally;

"(12) the term 'person' means an individual, partnership, association, joint stock company, trust, corporation, or governmental entity;

"(13) the term 'public, educational, or governmental access facilities' means—

"(A) channel capacity designated for public, educational, or governmental use; and

"(B) facilities and equipment for the use of such channel capacity;

"(14) the term 'service tier' means a category of cable service or other services provided by a cable operator and for which a separate rate is charged by the cable operator;

"(15) the term 'State' means any State, or political subdivision, or agency thereof; and

"(16) the term 'video programming' means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

**"PART II—USE OF CABLE CHANNELS AND CABLE OWNERSHIP  
RESTRICTIONS**

**"CABLE CHANNELS FOR PUBLIC, EDUCATIONAL, OR GOVERNMENTAL USE**

"Sec. 611. (a) A franchising authority may establish requirements in a franchise with respect to the designation or use of channel capacity for public, educational, or governmental use only to the extent provided in this section.

"(b) A franchising authority may in its request for proposals require as part of a franchise, and may require as part of a cable operator's proposal for a franchise renewal, subject to section 626, that channel capacity be designated for public, educational, or governmental use, and channel capacity on institutional networks be designated for educational or governmental use, and may require rules and procedures for the use of the channel capacity designated pursuant to this section.

"(c) A franchising authority may enforce any requirement in any franchise regarding the providing or use of such channel capacity. Such enforcement authority includes the authority to enforce any provisions of the franchise for services, facilities, or equipment proposed by the cable operator which relate to public, educational, or governmental use of channel capacity, whether or not required by the franchising authority pursuant to subsection (b).

"(d) In the case of any franchise under which channel capacity is designated under subsection (b), the franchising authority shall prescribe—

"(1) rules and procedures under which the cable operator is permitted to use such channel capacity for the provision of other services if such channel capacity is not being used for the purposes designated, and

"(2) rules and procedures under which such permitted use shall cease.

"(e) Subject to section 624(d), a cable operator shall not exercise any editorial control over any public, educational, or governmental use of channel capacity provided pursuant to this section.

"(f) For purposes of this section, the term 'institutional network' means a communication network which is constructed or operated by the cable operator and which is generally available only to subscribers who are not residential subscribers.

**"CABLE CHANNELS FOR COMMERCIAL USE**

"Sec. 612. (a) The purpose of this section is to assure that the widest possible diversity of information sources are made available to the public from cable systems in a manner consistent with growth and development of cable systems.

"(b)(1) A cable operator shall designate channel capacity for commercial use by persons unaffiliated with the operator in accordance with the following requirements:

"(A) An operator of any cable system with 36 or more (but not more than 54) activated channels shall designate 10 percent of such channels which are not otherwise required for use (or the use of which is not prohibited) by Federal law or regulation.

"(B) An operator of any cable system with 55 or more (but not more than 100) activated channels shall designate 15 percent of

S. 66—5

such channels which are not otherwise required for use (or the use of which is not prohibited) by Federal law or regulation.

"(C) An operator of any cable system with more than 100 activated channels shall designate 15 percent of all such channels.

"(D) An operator of any cable system with fewer than 36 activated channels shall not be required to designate channel capacity for commercial use by persons unaffiliated with the operator, unless the cable system is required to provide such channel capacity under the terms of a franchise in effect on the date of the enactment of this title.

"(E) An operator of any cable system in operation on the date of the enactment of this title shall not be required to remove any service actually being provided on July 1, 1984, in order to comply with this section, but shall make channel capacity available for commercial use as such capacity becomes available until such time as the cable operator is in full compliance with this section.

"(2) Any Federal agency, State, or franchising authority may not require any cable system to designate channel capacity for commercial use by unaffiliated persons in excess of the capacity specified in paragraph (1), except as otherwise provided in this section.

"(3) A cable operator may not be required, as part of a request for proposals or as part of a proposal for renewal, subject to section 626, to designate channel capacity for any use (other than commercial use by unaffiliated persons under this section) except as provided in sections 611 and 637, but a cable operator may offer in a franchise, or proposal for renewal thereof, to provide, consistent with applicable law, such capacity for other than commercial use by such persons.

"(4) A cable operator may use any unused channel capacity designated pursuant to this section until the use of such channel capacity is obtained, pursuant to a written agreement, by a person unaffiliated with the operator.

"(5) For the purposes of this section—

"(A) the term 'activated channels' means those channels engineered at the headend of the cable system for the provision of services generally available to residential subscribers of the cable system, regardless of whether such services actually are provided, including any channel designated for public, educational, or governmental use; and

"(B) the term 'commercial use' means the provision of video programming, whether or not for profit.

"(6) Any channel capacity which has been designated for public, educational, or governmental use may not be considered as designated under this section for commercial use for purpose of this section.

"(c)(1) If a person unaffiliated with the cable operator seeks to use channel capacity designated pursuant to subsection (b) for commercial use, the cable operator shall establish, consistent with the purpose of this section, the price, terms, and conditions of such use which are at least sufficient to assure that such use will not adversely affect the operation, financial condition, or market development of the cable system.

"(2) A cable operator shall not exercise any editorial control over any video programming provided pursuant to this section, or in any other way consider the content of such programming, except that an

operator may consider such content to the minimum extent necessary to establish a reasonable price for the commercial use of designated channel capacity by an unaffiliated person.

"(3) Any cable system channel designated in accordance with this section shall not be used to provide a cable service that is being provided over such system on the date of the enactment of this title, if the provision of such programming is intended to avoid the purpose of this section.

"(d) Any person aggrieved by the failure or refusal of a cable operator to make channel capacity available for use pursuant to this section may bring an action in the district court of the United States for the judicial district in which the cable system is located to compel that such capacity be made available. If the court finds that the channel capacity sought by such person has not been made available in accordance with this section, or finds that the price, terms, or conditions established by the cable operator are unreasonable, the court may order such system to make available to such person the channel capacity sought, and further determine the appropriate price, terms, or conditions for such use consistent with subsection (c), and may award actual damages if it deems such relief appropriate. In any such action, the court shall not consider any price, term, or condition established between an operator and an affiliate for comparable services.

"(e)(1) Any person aggrieved by the failure or refusal of a cable operator to make channel capacity available pursuant to this section may petition the Commission for relief under this subsection upon a showing of prior adjudicated violations of this section. Records of previous adjudications resulting in a court determination that the operator has violated this section shall be considered as sufficient for the showing necessary under this subsection. If the Commission finds that the channel capacity sought by such person has not been made available in accordance with this section, or that the price, terms, or conditions established by such system are unreasonable under subsection (c), the Commission shall, by rule or order, require such operator to make available such channel capacity under price, terms, and conditions consistent with subsection (c).

"(2) In any case in which the Commission finds that the prior adjudicated violations of this section constitute a pattern or practice of violations by an operator, the Commission may also establish any further rule or order necessary to assure that the operator provides the diversity of information sources required by this section.

"(3) In any case in which the Commission finds that the prior adjudicated violations of this section constitute a pattern or practice of violations by any person who is an operator of more than one cable system, the Commission may also establish any further rule or order necessary to assure that such person provides the diversity of information sources required by this section.

"(f) In any action brought under this section in any Federal district court or before the Commission, there shall be a presumption that the price, terms, and conditions for use of channel capacity designated pursuant to subsection (b) are reasonable and in good faith unless shown by clear and convincing evidence to the contrary.

"(g) Notwithstanding sections 621(c) and 623(a), at such time as cable systems with 36 or more activated channels are available to 70 percent of households within the United States and are subscribed to by 70 percent of the households to which such systems are available, the Commission may promulgate any additional rules

necessary to provide diversity of information sources. Any rules promulgated by the Commission pursuant to this subsection shall not preempt authority expressly granted to franchising authorities under this title.

"(h) Any cable service offered pursuant to this section shall not be provided, or shall be provided subject to conditions, if such cable service in the judgment of the franchising authority is obscene, or is in conflict with community standards in that it is lewd, lascivious, filthy, or indecent or is otherwise unprotected by the Constitution of the United States.

**"OWNERSHIP RESTRICTIONS**

"Sec. 613. (a) It shall be unlawful for any person to be a cable operator if such person, directly or through 1 or more affiliates, owns or controls, the licensee of a television broadcast station and the predicted grade B contour of such station covers any portion of the community served by such operator's cable system.

"(b)(1) It shall be unlawful for any common carrier, subject in whole or in part to title II of this Act, to provide video programming directly to subscribers in its telephone service area, either directly or indirectly through an affiliate owned by, operated by, controlled by, or under common control with the common carrier.

"(2) It shall be unlawful for any common carrier, subject in whole or in part to title II of this Act, to provide channels of communications or pole line conduit space, or other rental arrangements, to any entity which is directly or indirectly owned by, operated by, controlled by, or under common control with such common carrier, if such facilities or arrangements are to be used for, or in connection with, the provision of video programming directly to subscribers in the telephone service area of the common carrier.

"(3) This subsection shall not apply to any common carrier to the extent such carrier provides telephone exchange service in any rural area (as defined by the Commission).

"(4) In those areas where the provision of video programming directly to subscribers through a cable system demonstrably could not exist except through a cable system owned by, operated by, controlled by, or affiliated with the common carrier involved, or upon other showing of good cause, the Commission may, on petition for waiver, waive the applicability of paragraphs (1) and (2) of this subsection. Any such waiver shall be made in accordance with section 63.56 of title 47, Code of Federal Regulations (as in effect September 20, 1984) and shall be granted by the Commission upon a finding that the issuance of such waiver is justified by the particular circumstances demonstrated by the petitioner, taking into account the policy of this subsection.

"(c) The Commission may prescribe rules with respect to the ownership or control of cable systems by persons who own or control other media of mass communications which serve the same community served by a cable system.

"(d) Any State or franchising authority may not prohibit the ownership or control of a cable system by any person because of such person's ownership or control of any media of mass communications or other media interests.

"(e)(1) Subject to paragraph (2), a State or franchising authority may hold any ownership interest in any cable system.

"(2) Any State or franchising authority shall not exercise any editorial control regarding the content of any cable service on a

cable system in which such governmental entity holds ownership interest (other than programming on any channel designated for educational or governmental use), unless such control is exercised through an entity separate from the franchising authority.

"(f) This section shall not apply to prohibit any combination of any interests held by any person on July 1, 1984, to the extent of the interests so held as of such date, if the holding of such interests was not inconsistent with any applicable Federal or State law or regulations in effect on that date.

"(g) For purposes of this section, the term 'media of mass communications' shall have the meaning given such term under section 309(i)(3)(C)(i) of this Act.

### "PART III—FRANCHISING AND REGULATION

#### "GENERAL FRANCHISE REQUIREMENTS

"Sec. 621. (a)(1) A franchising authority may award, in accordance with the provisions of this title, 1 or more franchises within its jurisdiction.

"(2) Any franchise shall be construed to authorize the construction of a cable system over public rights-of-way, and through easements, which is within the area to be served by the cable system and which have been dedicated for compatible uses, except that in using such easements the cable operator shall ensure—

"(A) that the safety, functioning, and appearance of the property and the convenience and safety of other persons not be adversely affected by the installation or construction of facilities necessary for a cable system;

"(B) that the cost of the installation, construction, operation, or removal of such facilities be borne by the cable operator or subscriber, or a combination of both; and

"(C) that the owner of the property be justly compensated by the cable operator for any damages caused by the installation, construction, operation, or removal of such facilities by the cable operator.

"(3) In awarding a franchise or franchises, a franchising authority shall assure that access to cable service is not denied to any group of potential residential cable subscribers because of the income of the residents of the local area in which such group resides.

"(b)(1) Except to the extent provided in paragraph (2), a cable operator may not provide cable service without a franchise.

"(2) Paragraph (1) shall not require any person lawfully providing cable service without a franchise on July 1, 1984, to obtain a franchise unless the franchising authority so requires.

"(c) Any cable system shall not be subject to regulation as a common carrier or utility by reason of providing any cable service.

"(d)(1) A State or the Commission may require the filing of informational tariffs for any intrastate communications service provided by a cable system, other than cable service, that would be subject to regulation by the Commission or any State if offered by a common carrier subject, in whole or in part, to title II of this Act. Such informational tariffs shall specify the rates, terms, and conditions for the provision of such service, including whether it is made available to all subscribers generally, and shall take effect on the date specified therein.

"(2) Nothing in this title shall be construed to affect the authority of any State to regulate any cable operator to the extent that such operator provides any communication service other than cable service, whether offered on a common carrier or private contract basis.

"(3) For purposes of this subsection, the term 'State' has the meaning given it in section 3(v).

"(e) Nothing in this title shall be construed to affect the authority of any State to license or otherwise regulate any facility or combination of facilities which serves only subscribers in one or more multiple unit dwellings under common ownership, control, or management and which does not use any public right-of-way.

#### "FRANCHISE FEES

"Sec. 622. (a) Subject to the limitation of subsection (b), any cable operator may be required under the terms of any franchise to pay a franchise fee.

"(b) For any twelve-month period, the franchise fees paid by a cable operator with respect to any cable system shall not exceed 5 percent of such cable operator's gross revenues derived in such period from the operation of the cable system. For purposes of this section, the 12-month period shall be the 12-month period applicable under the franchise for accounting purposes. Nothing in this subsection shall prohibit a franchising authority and a cable operator from agreeing that franchise fees which lawfully could be collected for any such 12-month period shall be paid on a prepaid or deferred basis; except that the sum of the fees paid during the term of the franchise may not exceed the amount, including the time value of money, which would have lawfully been collected if such fees had been paid per annum.

"(c) A cable operator may pass through to subscribers the amount of any increase in a franchise fee, unless the franchising authority demonstrates that the rate structure specified in the franchise reflects all costs of franchise fees and so notifies the cable operator in writing.

"(d) In any court action under subsection (c), the franchising authority shall demonstrate that the rate structure reflects all costs of the franchise fees.

"(e) Any cable operator shall pass through to subscribers the amount of any decrease in a franchise fee.

"(f) A cable operator may designate that portion of a subscriber's bill attributable to the franchise fee as a separate item on the bill.

"(g) For the purposes of this section—

"(1) the term 'franchise fee' includes any tax, fee, or assessment of any kind imposed by a franchising authority or other governmental entity on a cable operator or cable subscriber, or both, solely because of their status as such;

"(2) the term 'franchise fee' does not include—

"(A) any tax, fee, or assessment of general applicability (including any such tax, fee, or assessment imposed on both utilities and cable operators or their services but not including a tax, fee, or assessment which is unduly discriminatory against cable operators or cable subscribers);

"(B) in the case of any franchise in effect on the date of the enactment of this title, payments which are required by the franchise to be made by the cable operator during the

term of such franchise for, or in support of the use of, public, educational, or governmental access facilities;

"(C) in the case of any franchise granted after such date of enactment, capital costs which are required by the franchise to be incurred by the cable operator for public, educational, or governmental access facilities;

"(D) requirements or charges incidental to the awarding or enforcing of the franchise, including payments for bonds, security funds, letters of credit, insurance, indemnification, penalties, or liquidated damages; or

"(E) any fee imposed under title 17, United States Code.

"(h)(1) Nothing in this Act shall be construed to limit any authority of a franchising authority to impose a tax, fee, or other assessment of any kind on any person (other than a cable operator) with respect to cable service or other communications service provided by such person over a cable system for which charges are assessed to subscribers but not received by the cable operator.

"(2) For any 12-month period, the fees paid by such person with respect to any such cable service or other communications service shall not exceed 5 percent of such person's gross revenues derived in such period from the provision of such service over the cable system.

"(i) Any Federal agency may not regulate the amount of the franchise fees paid by a cable operator, or regulate the use of funds derived from such fees, except as provided in this section.

#### "REGULATION OF RATES

"SEC. 623. (a) Any Federal agency or State may not regulate the rates for the provision of cable service except to the extent provided under this section. Any franchising authority may regulate the rates for the provision of cable service, or any other communications service provided over a cable system to cable subscribers, but only to the extent provided under this section.

"(b)(1) Within 180 days after the date of the enactment of this title, the Commission shall prescribe and make effective regulations which authorize a franchising authority to regulate rates for the provision of basic cable service in circumstances in which a cable system is not subject to effective competition. Such regulations may apply to any franchise granted after the effective date of such regulations. Such regulations shall not apply to any rate while such rate is subject to the provisions of subsection (c).

"(2) For purposes of rate regulation under this subsection, such regulations shall—

"(A) define the circumstances in which a cable system is not subject to effective competition; and

"(B) establish standards for such rate regulation.

"(3) The Commission shall periodically review such regulations, taking into account developments in technology, and may amend such regulations, consistent with paragraphs (1) and (2), to the extent the Commission determines necessary.

"(c) In the case of any cable system for which a franchise has been granted on or before the effective date of this title, until the end of the 2-year period beginning on such effective date, the franchising authority may, to the extent provided in a franchise—

"(1) regulate the rates for the provision of basic cable service, including multiple tiers of basic cable service;

"(2) require the provision of any service tier provided without charge (disregarding any installation or rental charge for equipment necessary for receipt of such tier); or

"(3) regulate rates for the initial installation or the rental of 1 set of the minimum equipment which is necessary for the subscriber's receipt of basic cable service.

"(d) Any request for an increase in any rate regulated pursuant to subsection (b) or (c) for which final action is not taken within 180 days after receipt of such request by the franchising authority shall be deemed to be granted, unless the 180-day period is extended by mutual agreement of the cable operator and the franchising authority.

"(e)(1) In addition to any other rate increase which is subject to the approval of a franchising authority, any rate subject to regulation pursuant to this section may be increased after the effective date of this title at the discretion of the cable operator by an amount not to exceed 5 percent per year if the franchise (as in effect on the effective date of this title) does not specify a fixed rate or rates for basic cable service for a specified period or periods which would be exceeded if such increase took effect.

"(2) Nothing in this section shall be construed to limit provisions of a franchise which permits a cable operator to increase any rate at the operator's discretion; however, the aggregate increases per year allowed under paragraph (1) shall be reduced by the amount of any increase taken such year under such franchise provisions.

"(f) Nothing in this title shall be construed as prohibiting any Federal agency, State, or a franchising authority, from—

"(1) prohibiting discrimination among customers of basic cable service, or

"(2) requiring and regulating the installation or rental of equipment which facilitates the reception of basic cable service by hearing impaired individuals.

"(g) Any State law in existence on the effective date of this title which provides for any limitation or preemption of regulation by any franchising authority (or the State or any political subdivision or agency thereof) of rates for cable service shall remain in effect during the 2-year period beginning on such effective date, to the extent such law provides for such limitation or preemption. As used in this section, the term 'State' has the meaning given it in section 3(v).

"(h) Not later than 6 years after the date of the enactment of this title, the Commission shall prepare and submit to the Congress a report regarding rate regulation of cable services, including such legislative recommendations as the Commission considers appropriate. Such report and recommendations shall be based on a study of such regulation which the Commission shall conduct regarding the effect of competition in the marketplace.

#### "REGULATION OF SERVICES, FACILITIES, AND EQUIPMENT

"SEC. 624. (a) Any franchising authority may not regulate the services, facilities, and equipment provided by a cable operator except to the extent consistent with this title.

"(b) In the case of any franchise granted after the effective date of this title, the franchising authority, to the extent related to the establishment or operation of a cable system—

"(1) in its request for proposals for a franchise (including requests for renewal proposals, subject to section 626), may establish requirements for facilities and equipment, but may not establish requirements for video programming or other information services; and

"(2) subject to section 625, may enforce any requirements contained within the franchise—

"(A) for facilities and equipment; and

"(B) for broad categories of video programming or other services.

"(c) In the case of any franchise in effect on the effective date of this title, the franchising authority may, subject to section 625, enforce requirements contained within the franchise for the provision of services, facilities, and equipment, whether or not related to the establishment or operation of a cable system.

"(d)(1) Nothing in this title shall be construed as prohibiting a franchising authority and a cable operator from specifying, in a franchise or renewal thereof, that certain cable services shall not be provided or shall be provided subject to conditions, if such cable services are obscene or are otherwise unprotected by the Constitution of the United States.

"(2)(A) In order to restrict the viewing of programming which is obscene or indecent, upon the request of a subscriber, a cable operator shall provide (by sale or lease) a device by which the subscriber can prohibit viewing of a particular cable service during periods selected by that subscriber.

"(B) Subparagraph (A) shall take effect 180 days after the effective date of this title.

"(e) The Commission may establish technical standards relating to the facilities and equipment of cable systems which a franchising authority may require in the franchise.

"(f)(1) Any Federal agency, State, or franchising authority may not impose requirements regarding the provision or content of cable services, except as expressly provided in this title.

"(2) Paragraph (1) shall not apply to—

"(A) any rule, regulation, or order issued under any Federal law, as such rule, regulation, or order (i) was in effect on September 21, 1983, or (ii) may be amended after such date if the rule, regulation, or order as amended is not inconsistent with the express provisions of this title; and

"(B) any rule, regulation, or order under title 17, United States Code.

#### "MODIFICATION OF FRANCHISE OBLIGATIONS

"Sec. 625. (a)(1) During the period a franchise is in effect, the cable operator may obtain from the franchising authority modifications of the requirements in such franchise—

"(A) in the case of any such requirement for facilities or equipment, including public, educational, or governmental access facilities or equipment, if the cable operator demonstrates that (i) it is commercially impracticable for the operator to comply with such requirement, and (ii) the proposal by the cable operator for modification of such requirement is appropriate because of commercial impracticability; or

"(B) in the case of any such requirement for services, if the cable operator demonstrates that the mix, quality, and level of

services required by the franchise at the time it was granted will be maintained after such modification.

"(2) Any final decision by a franchising authority under this subsection shall be made in a public proceeding. Such decision shall be made within 120 days after receipt of such request by the franchising authority, unless such 120 day period is extended by mutual agreement of the cable operator and the franchising authority.

"(b)(1) Any cable operator whose request for modification under subsection (a) has been denied by a final decision of a franchising authority may obtain modification of such franchise requirements pursuant to the provisions of section 635.

"(2) In the case of any proposed modification of a requirement for facilities or equipment, the court shall grant such modification only if the cable operator demonstrates to the court that—

"(A) it is commercially impracticable for the operator to comply with such requirement; and

"(B) the terms of the modification requested are appropriate because of commercial impracticability.

"(3) In the case of any proposed modification of a requirement for services, the court shall grant such modification only if the cable operator demonstrates to the court that the mix, quality, and level of services required by the franchise at the time it was granted will be maintained after such modification.

"(c) Notwithstanding subsections (a) and (b), a cable operator may, upon 30 days' advance notice to the franchising authority, rearrange, replace, or remove a particular cable service required by the franchise if—

"(1) such service is no longer available to the operator; or

"(2) such service is available to the operator only upon the payment of a royalty required under section 801(b)(2) of title 17, United States Code, which the cable operator can document—

"(A) is substantially in excess of the amount of such payment required on the date of the operator's offer to provide such service, and

"(B) has not been specifically compensated for through a rate increase or other adjustment.

"(d) Notwithstanding subsections (a) and (b), a cable operator may take such actions to rearrange a particular service from one service tier to another, or otherwise offer the service, if the rates for all of the service tiers involved in such actions are not subject to regulation under section 623.

"(e) A cable operator may not obtain modification under this section of any requirement for services relating to public, educational, or governmental access.

"(f) For purposes of this section, the term 'commercially impracticable' means, with respect to any requirement applicable to a cable operator, that it is commercially impracticable for the operator to comply with such requirement as a result of a change in conditions which is beyond the control of the operator and the nonoccurrence of which was a basic assumption on which the requirement was based.

#### "RENEWAL

"Sec. 626. (a) During the 6-month period which begins with the 36th month before the franchise expiration; the franchising authority may on its own initiative, and shall at the request of the cable

operator, commence proceedings which afford the public in the franchise area appropriate notice and participation for the purpose of—

“(1) identifying the future cable-related community needs and interests; and

“(2) reviewing the performance of the cable operator under the franchise during the then current franchise term.

“(b)(1) Upon completion of a proceeding under subsection (a), a cable operator seeking renewal of a franchise may, on its own initiative or at the request of a franchising authority, submit a proposal for renewal.

“(2) Subject to section 624, any such proposal shall contain such material as the franchising authority may require, including proposals for an upgrade of the cable system.

“(3) The franchising authority may establish a date by which such proposal shall be submitted.

“(c)(1) Upon submittal by a cable operator of a proposal to the franchising authority for the renewal of a franchise, the franchising authority shall provide prompt public notice of such proposal and, during the 4-month period which begins on the completion of any proceedings under subsection (a), renew the franchise or, issue a preliminary assessment that the franchise should not be renewed and, at the request of the operator or on its own initiative, commence an administrative proceeding, after providing prompt public notice of such proceeding, in accordance with paragraph (2) to consider whether—

“(A) the cable operator has substantially complied with the material terms of the existing franchise and with applicable law;

“(B) the quality of the operator's service, including signal quality, response to consumer complaints, and billing practices, but without regard to the mix, quality, or level of cable services or other services provided over the system, has been reasonable in light of community needs;

“(C) the operator has the financial, legal, and technical ability to provide the services, facilities, and equipment as set forth in the operator's proposal; and

“(D) the operator's proposal is reasonable to meet the future cable-related community needs and interests, taking into account the cost of meeting such needs and interests.

“(2) In any proceeding under paragraph (1), the cable operator shall be afforded adequate notice and the cable operator and the franchise authority, or its designee, shall be afforded fair opportunity for full participation, including the right to introduce evidence (including evidence related to issues raised in the proceeding under subsection (a)), to require the production of evidence, and to question witnesses. A transcript shall be made of any such proceeding.

“(3) At the completion of a proceeding under this subsection, the franchising authority shall issue a written decision granting or denying the proposal for renewal based upon the record of such proceeding, and transmit a copy of such decision to the cable operator. Such decision shall state the reasons therefor.

“(d) Any denial of a proposal for renewal shall be based on one or more adverse findings made with respect to the factors described in subparagraphs (A) through (D) of subsection (c)(1), pursuant to the record of the proceeding under subsection (c). A franchising authority may not base a denial of renewal on a failure to substantially

comply with the material terms of the franchise under subsection (c)(1)(A) or on events considered under subsection (c)(1)(B) in any case in which a violation of the franchise or the events considered under subsection (c)(1)(B) occur after the effective date of this title unless the franchising authority has provided the operator with notice and the opportunity to cure, or in any case in which it is documented that the franchising authority has waived its right to object, or has effectively acquiesced.

"(e)(1) Any cable operator whose proposal for renewal has been denied by a final decision of a franchising authority made pursuant to this section, or has been adversely affected by a failure of the franchising authority to act in accordance with the procedural requirements of this section, may appeal such final decision or failure pursuant to the provisions of section 635.

"(2) The court shall grant appropriate relief if the court finds that—

"(A) any action of the franchising authority is not in compliance with the procedural requirements of this section; or

"(B) in the event of a final decision of the franchising authority denying the renewal proposal, the operator has demonstrated that the adverse finding of the franchising authority with respect to each of the factors described in subparagraphs (A) through (D) of subsection (c)(1) on which the denial is based is not supported by a preponderance of the evidence, based on the record of the proceeding conducted under subsection (c).

"(f) Any decision of a franchising authority on a proposal for renewal shall not be considered final unless all administrative review by the State has occurred or the opportunity therefor has lapsed.

"(g) For purposes of this section, the term 'franchise expiration' means the date of the expiration of the term of the franchise, as provided under the franchise, as it was in effect on the date of the enactment of this title.

"(h) Notwithstanding the provisions of subsections (a) through (g) of this section, a cable operator may submit a proposal for the renewal of a franchise pursuant to this subsection at any time, and a franchising authority may, after affording the public adequate notice and opportunity for comment, grant or deny such proposal at any time (including after proceedings pursuant to this section have commenced). The provisions of subsections (a) through (g) of this section shall not apply to a decision to grant or deny a proposal under this subsection. The denial of a renewal pursuant to this subsection shall not affect action on a renewal proposal that is submitted in accordance with subsections (a) through (g).

#### "CONDITIONS OF SALE

"SEC. 627. (a) If a renewal of a franchise held by a cable operator is denied and the franchising authority acquires ownership of the cable system or effects a transfer of ownership of the system to another person, any such acquisition or transfer shall be—

"(1) at fair market value, determined on the basis of the cable system valued as a going concern but with no value allocated to the franchise itself, or

"(2) in the case of any franchise existing on the effective date of this title, at a price determined in accordance with the

franchise if such franchise contains provisions applicable to such an acquisition or transfer.

"(b) If a franchise held by a cable operator is revoked for cause and the franchising authority acquires ownership of the cable system or effects a transfer of ownership of the system to another person, any such acquisition or transfer shall be—

"(1) at an equitable price, or

"(2) in the case of any franchise existing on the effective date of this title, at a price determined in accordance with the franchise if such franchise contains provisions applicable to such an acquisition or transfer.

#### "PART IV—MISCELLANEOUS PROVISIONS

##### "PROTECTION OF SUBSCRIBER PRIVACY

"Sec. 631. (a)(1) At the time of entering into an agreement to provide any cable service or other service to a subscriber and at least once a year thereafter, a cable operator shall provide notice in the form of a separate, written statement to such subscriber which clearly and conspicuously informs the subscriber of—

"(A) the nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;

"(B) the nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;

"(C) the period during which such information will be maintained by the cable operator;

"(D) the times and place at which the subscriber may have access to such information in accordance with subsection (d); and

"(E) the limitations provided by this section with respect to the collection and disclosure of information by a cable operator and the right of the subscriber under subsections (f) and (h) to enforce such limitations.

In the case of subscribers who have entered into such an agreement before the effective date of this section, such notice shall be provided within 180 days of such date and at least once a year thereafter.

"(2) For purposes of this section, the term 'personally identifiable information' does not include any record of aggregate data which does not identify particular persons.

"(b)(1) Except as provided in paragraph (2), a cable operator shall not use the cable system to collect personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

"(2) A cable operator may use the cable system to collect such information in order to—

"(A) obtain information necessary to render a cable service or other service provided by the cable operator to the subscriber; or

"(B) detect unauthorized reception of cable communications.

"(c)(1) Except as provided in paragraph (2), a cable operator shall not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

"(2) A cable operator may disclose such information if the disclosure is—

"(A) necessary to render, or conduct a legitimate business activity related to, a cable service or other service provided by the cable operator to the subscriber;

"(B) subject to subsection (h), made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed; or

"(C) a disclosure of the names and addresses of subscribers to any cable service or other service, if—

"(i) the cable operator has provided the subscriber the opportunity to prohibit or limit such disclosure, and

"(ii) the disclosure does not reveal, directly or indirectly, the—

"(I) extent of any viewing or other use by the subscriber of a cable service or other service provided by the cable operator, or

"(II) the nature of any transaction made by the subscriber over the cable system of the cable operator.

"(d) A cable subscriber shall be provided access to all personally identifiable information regarding that subscriber which is collected and maintained by a cable operator. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such cable operator. A cable subscriber shall be provided reasonable opportunity to correct any error in such information.

"(e) A cable operator shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection (d) or pursuant to a court order.

"(f)(1) Any person aggrieved by any act of a cable operator in violation of this section may bring a civil action in a United States district court.

"(2) The court may award—

"(A) actual damages but not less than liquidated damages computed at the rate of \$100 a day for each day of violation or \$1,000, whichever is higher;

"(B) punitive damages; and

"(C) reasonable attorneys' fees and other litigation costs reasonably incurred.

"(3) The remedy provided by this section shall be in addition to any other lawful remedy available to a cable subscriber.

"(g) Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing laws consistent with this section for the protection of subscriber privacy.

"(h) A governmental entity may obtain personally identifiable information concerning a cable subscriber pursuant to a court order only if, in the court proceeding relevant to such court order—

"(1) such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and

"(2) the subject of the information is afforded the opportunity to appear and contest such entity's claim.

**"CONSUMER PROTECTION**

**"Sec. 632. (a)** A franchising authority may require, as part of a franchise (including a franchise renewal, subject to section 626), provisions for enforcement of—

**"(1)** customer service requirements of the cable operator; and

**"(2)** construction schedules and other construction-related requirements of the cable operator.

**"(b)** A franchising authority may enforce any provision, contained in any franchise, relating to requirements described in paragraph (1) or (2) of subsection (a), to the extent not inconsistent with this title.

**"(c)** Nothing in this title shall be construed to prohibit any State or any franchising authority from enacting or enforcing any consumer protection law, to the extent not inconsistent with this title.

**"UNAUTHORIZED RECEPTION OF CABLE SERVICE**

**"Sec. 633. (a)(1)** No person shall intercept or receive or assist in intercepting or receiving any communications service offered over a cable system, unless specifically authorized to do so by a cable operator or as may otherwise be specifically authorized by law.

**"(2)** For the purpose of this section, the term 'assist in intercepting or receiving' shall include the manufacture or distribution of equipment intended by the manufacturer or distributor (as the case may be) for unauthorized reception of any communications service offered over a cable system in violation of subparagraph (1).

**"(b)(1)** Any person who willfully violates subsection (a)(1) shall be fined not more than \$1,000 or imprisoned for not more than 6 months, or both.

**"(2)** Any person who violates subsection (a)(1) willfully and for purposes of commercial advantage or private financial gain shall be fined not more than \$25,000 or imprisoned for not more than 1 year, or both, for the first such offense and shall be fined not more than \$50,000 or imprisoned for not more than 2 years, or both, for any subsequent offense.

**"(c)(1)** Any person aggrieved by any violation of subsection (a)(1) may bring a civil action in a United States district court or in any other court of competent jurisdiction.

**"(2)** The court may—

**"(A)** grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain violations of subsection (a)(1);

**"(B)** award damages as described in paragraph (3); and

**"(C)** direct the recovery of full costs, including awarding reasonable attorneys' fees to an aggrieved party who prevails.

**"(3)(A)** Damages awarded by any court under this section shall be computed in accordance with either of the following clauses:

**"(i)** the party aggrieved may recover the actual damages suffered by him as a result of the violation and any profits of the violator that are attributable to the violation which are not taken into account in computing the actual damages; in determining the violator's profits, the party aggrieved shall be required to prove only the violator's gross revenue, and the violator shall be required to prove his deductible expenses and the elements of profit attributable to factors other than the violation; or

"(ii) the party aggrieved may recover an award of statutory damages for all violations involved in the action, in a sum of not less than \$250 or more than \$10,000 as the court considers just.

"(B) In any case in which the court finds that the violation was committed willfully and for purposes of commercial advantage or private financial gain, the court in its discretion may increase the award of damages, whether actual or statutory under subparagraph (A), by an amount of not more than \$50,000.

"(C) In any case where the court finds that the violator was not aware and had no reason to believe that his acts constituted a violation of this section, the court in its discretion may reduce the award of damages to a sum of not less than \$100.

"(D) Nothing in this title shall prevent any State or franchising authority from enacting or enforcing laws, consistent with this section, regarding the unauthorized interception or reception of any cable service or other communications service.

#### "EQUAL EMPLOYMENT OPPORTUNITY

"SEC. 634. (a) This section shall apply to any corporation, partnership, association, joint-stock company, or trust engaged primarily in the management or operation of any cable system.

"(b) Equal opportunity in employment shall be afforded by each entity specified in subsection (a), and no person shall be discriminated against in employment by such entity because of race, color, religion, national origin, age, or sex.

"(c) Any entity specified in subsection (a) shall establish, maintain, and execute a positive continuing program of specific practices designed to ensure equal opportunity in every aspect of its employment policies and practices. Under the terms of its program, each such entity shall—

"(1) define the responsibility of each level of management to ensure a positive application and vigorous enforcement of its policy of equal opportunity, and establish a procedure to review and control managerial and supervisory performance;

"(2) inform its employees and recognized employee organizations of the equal employment opportunity policy and program and enlist their cooperation;

"(3) communicate its equal employment opportunity policy and program and its employment needs to sources of qualified applicants without regard to race, color, religion, national origin, age, or sex, and solicit their recruitment assistance on a continuing basis;

"(4) conduct a continuing program to exclude every form of prejudice or discrimination based on race, color, religion, national origin, age, or sex, from its personnel policies and practices and working conditions; and

"(5) conduct a continuing review of job structure and employment practices and adopt positive recruitment, training, job design, and other measures needed to ensure genuine equality of opportunity to participate fully in all its organizational units, occupations, and levels of responsibility.

"(d)(1) Not later than 270 days after the effective date of this section, and after notice and opportunity for hearing, the Commission shall prescribe rules to carry out this section.

"(2) Such rules shall specify the terms under which an entity specified in subsection (a) shall, to the extent possible—

"(A) disseminate its equal opportunity program to job applicants, employees, and those with whom it regularly does business;

"(B) use minority organizations, organizations for women, media, educational institutions, and other potential sources of minority and female applicants, to supply referrals whenever jobs are available in its operation;

"(C) evaluate its employment profile and job turnover against the availability of minorities and women in its franchise area;

"(D) undertake to offer promotions of minorities and women to positions of greater responsibility;

"(E) encourage minority and female entrepreneurs to conduct business with all parts of its operation; and

"(F) analyze the results of its efforts to recruit, hire, promote, and use the services of minorities and women and explain any difficulties encountered in implementing its equal employment opportunity program.

"(3) Such rules also shall require an entity specified in subsection (a) with more than 5 full-time employees to file with the Commission an annual statistical report identifying by race and sex the number of employees in each of the following full-time and part-time job categories:

"(A) officials and managers;

"(B) professionals;

"(C) technicians;

"(D) sales persons;

"(E) office and clerical personnel;

"(F) skilled craft persons;

"(G) semiskilled operatives;

"(H) unskilled laborers; and

"(I) service workers.

The report shall include the number of minorities and women in the relevant labor market for each of the above categories. The statistical report shall be available to the public at the central office and at every location where more than 5 full-time employees are regularly assigned to work.

"(4) The Commission may amend such rules from time to time to the extent necessary to carry out the provisions of this section. Any such amendment shall be made after notice and opportunity for comment.

"(e)(1) On an annual basis, the Commission shall certify each entity described in subsection (a) as in compliance with this section if, on the basis of information in the possession of the Commission, including the report filed pursuant to subsection (d)(3), such entity was in compliance, during the annual period involved, with the requirements of subsections (b), (c), and (d).

"(2) The Commission shall, periodically but not less frequently than every five years, investigate the employment practices of each entity described in subsection (a), in the aggregate, as well as in individual job categories, and determine whether such entity is in compliance with the requirements of subsections (b), (c), and (d), including whether such entity's employment practices deny or abridge women and minorities equal employment opportunities. As part of such investigation, the Commission shall review whether the entity's reports filed pursuant to subsection (d)(3) accurately reflect employee responsibilities in the reported job classifications.

"(f)(1) If the Commission finds after notice and hearing that the entity involved has willfully or repeatedly without good cause failed to comply with the requirements of this section, such failure shall constitute a substantial failure to comply with this title. The failure to obtain certification under subsection (c) shall not itself constitute the basis for a determination of substantial failure to comply with this title. For purposes of this paragraph, the term 'repeatedly', when used with respect to failures to comply, refers to 3 or more failures during any 7-year period.

"(2) Any person who is determined by the Commission, through an investigation pursuant to subsection (e) or otherwise, to have failed to meet or failed to make best efforts to meet the requirements of this section, or rules under this section, shall be liable to the United States for a forfeiture penalty of \$200 for each violation. Each day of a continuing violation shall constitute a separate offense. Any entity defined in subsection (a) shall not be liable for more than 180 days of forfeitures which accrued prior to notification by the Commission of a potential violation. Nothing in this paragraph shall limit the forfeiture imposed on any person as a result of any violation that continues subsequent to such notification. In addition, any person liable for such penalty may also have any license under this Act for cable auxiliary relay service suspended until the Commission determines that the failure involved has been corrected. Whoever knowingly makes any false statement or submits documentation which he knows to be false, pursuant to an application for certification under this section shall be in violation of this section.

"(3) The provisions of paragraphs (3) and (4), and the last 2 sentences of paragraph (2), of section 503(b) shall apply to forfeitures under this subsection.

"(4) The Commission shall provide for notice to the public and appropriate franchising authorities of any penalty imposed under this section.

"(g) Employees or applicants for employment who believe they have been discriminated against in violation of the requirements of this section, or rules under this section, or any other interested person, may file a complaint with the Commission. A complaint by any such person shall be in writing, and shall be signed and sworn to by that person. The regulations under subsection (d)(1) shall specify a program, under authorities otherwise available to the Commission, for the investigation of complaints and violations, and for the enforcement of this section.

"(h)(1) For purposes of this section, the term 'cable operator' includes any operator of any satellite master antenna television system, including a system described in section 602(6)(A).

"(2) Such term does not include any operator of a system which, in the aggregate, serves fewer than 50 subscribers.

"(3) In any case in which a cable operator is the owner of a multiple unit dwelling, the requirements of this section shall only apply to such cable operator with respect to its employees who are primarily engaged in cable telecommunications.

"(i)(1) Nothing in this section shall affect the authority of any State or any franchising authority—

"(A) to establish or enforce any requirement which is consistent with the requirements of this section, including any requirement which affords equal employment opportunity protection for employees;

"(B) to establish or enforce any provision requiring or encouraging any cable operator to conduct business with enterprises which are owned or controlled by members of minority groups (as defined in section 309(i)(3)(C)(ii)) or which have their principal operations located within the community served by the cable operator; or

"(C) to enforce any requirement of a franchise in effect on the effective date of this title.

"(2) The remedies and enforcement provisions of this section are in addition to, and not in lieu of, those available under this or any other law.

"(3) The provisions of this section shall apply to any cable operator, whether operating pursuant to a franchise granted before, on, or after the date of the enactment of this section.

#### "JUDICIAL PROCEEDINGS

"SEC. 635. (a) Any cable operator adversely affected by any final determination made by a franchising authority under section 625 or 626 may commence an action within 120 days after receiving notice of such determination, which may be brought in—

"(1) the district court of the United States for any judicial district in which the cable system is located; or

"(2) in any State court of general jurisdiction having jurisdiction over the parties.

"(b) The court may award any appropriate relief consistent with the provisions of the relevant section described in subsection (a).

#### "COORDINATION OF FEDERAL, STATE, AND LOCAL AUTHORITY

"SEC. 636. (a) Nothing in this title shall be construed to affect any authority of any State, political subdivision, or agency thereof, or franchising authority, regarding matters of public health, safety, and welfare, to the extent consistent with the express provisions of this title.

"(b) Nothing in this title shall be construed to restrict a State from exercising jurisdiction with regard to cable services consistent with this title.

"(c) Except as provided in section 637, any provision of law of any State, political subdivision, or agency thereof, or franchising authority, or any provision of any franchise granted by such authority, which is inconsistent with this Act shall be deemed to be preempted and superseded.

"(d) For purposes of this section, the term 'State' has the meaning given such term in section 3(v).

#### "EXISTING FRANCHISES

"SEC. 637. (a) The provisions of—

"(1) any franchise in effect on the effective date of this title, including any such provisions which relate to the designation, use, or support for the use of channel capacity for public, educational, or governmental use, and

"(2) any law of any State (as defined in section 3(v)) in effect on the date of the enactment of this section, or any regulation promulgated pursuant to such law, which relates to such designation, use or support of such channel capacity,

shall remain in effect, subject to the express provisions of this title, and for not longer than the then current remaining term of the franchise as such franchise existed on such effective date.

"(b) For purposes of subsection (a) and other provisions of this title, a franchise shall be considered in effect on the effective date of this title if such franchise was granted on or before such effective date.

**"CRIMINAL AND CIVIL LIABILITY**

"SEC. 638. Nothing in this title shall be deemed to affect the criminal or civil liability of cable programmers or cable operators pursuant to the Federal, State, or local law of libel, slander, obscenity, incitement, invasions of privacy, false or misleading advertising, or other similar laws, except that cable operators shall not incur any such liability for any program carried on any channel designated for public, educational, governmental use or on any other channel obtained under section 612 or under similar arrangements.

**"OBSCENE PROGRAMMING**

"SEC. 639. Whoever transmits over any cable system any matter which is obscene or otherwise unprotected by the Constitution of the United States shall be fined not more than \$10,000 or imprisoned not more than 2 years, or both."

**JURISDICTION**

SEC. 3. (a)(1) Section 2(a) of the Communications Act of 1934 is amended by adding at the end thereof the following: "The provisions of this Act shall apply with respect to cable service, to all persons engaged within the United States in providing such service, and to the facilities of cable operators which relate to such service, as provided in title VI."

(2) Section 2(b) of such Act is amended by inserting after "section 301" the following: "and title VI".

(b) The provisions of this Act and amendments made by this Act shall not be construed to affect any jurisdiction the Federal Communications Commission may have under the Communications Act of 1934 with respect to any communication by wire or radio (other than cable service, as defined in section 602(5) of such Act) which is provided through a cable system, or persons or facilities engaged in such communications.

**POLE ATTACHMENTS**

SEC. 4. Section 224(c) of the Communications Act of 1934 is amended by adding at the end thereof the following new paragraph:

"(3) For purposes of this subsection, a State shall not be considered to regulate the rates, terms, and conditions for pole attachments—

"(A) unless the State has issued and made effective rules and regulations implementing the State's regulatory authority over pole attachments; and

"(B) with respect to any individual matter, unless the State takes final action on a complaint regarding such matter—

"(i) within 180 days after the complaint is filed with the State, or

"(ii) within the applicable period prescribed for such final action in such rules and regulations of the State, if the

prescribed period does not extend beyond 360 days after the filing of such complaint.”.

**UNAUTHORIZED RECEPTION OF CERTAIN COMMUNICATIONS**

**SEC. 5.** (a) Section 705 of the Communications Act of 1934 (as redesignated by section 6) is amended by inserting “(a)” after the section designation and by adding at the end thereof the following new subsections:

“(b) The provisions of subsection (a) shall not apply to the interception or receipt by any individual, or the assisting (including the manufacture or sale) of such interception or receipt, of any satellite cable programming for private viewing if—

“(1) the programming involved is not encrypted; and

“(2)(A) a marketing system is not established under which—

“(i) an agent or agents have been lawfully designated for the purpose of authorizing private viewing by individuals, and

“(ii) such authorization is available to the individual involved from the appropriate agent or agents; or

“(B) a marketing system described in subparagraph (A) is established and the individuals receiving such programming has obtained authorization for private viewing under that system.

“(c) For purposes of this section—

“(1) the term ‘satellite cable programming’ means video programming which is transmitted via satellite and which is primarily intended for the direct receipt by cable operators for their retransmission to cable subscribers;

“(2) the term ‘agent’, with respect to any person, includes an employee of such person;

“(3) the term ‘encrypt’, when used with respect to satellite cable programming, means to transmit such programming in a form whereby the aural and visual characteristics (or both) are modified or altered for the purpose of preventing the unauthorized receipt of such programming by persons without authorized equipment which is designed to eliminate the effects of such modification or alteration;

“(4) the term ‘private viewing’ means the viewing for private use in an individual’s dwelling unit by means of equipment, owned or operated by such individual, capable of receiving satellite cable programming directly from a satellite; and

“(5) the term ‘private financial gain’ shall not include the gain resulting to any individual for the private use in such individual’s dwelling unit of any programming for which the individual has not obtained authorization for that use.

“(d)(1) Any person who willfully violates subsection (a) shall be fined not more than \$1,000 or imprisoned for not more than 6 months, or both.

“(2) Any person who violates subsection (a) willfully and for purposes of direct or indirect commercial advantage or private financial gain shall be fined not more than \$25,000 or imprisoned for not more than 1 year, or both, for the first such conviction and shall be fined not more than \$50,000 or imprisoned for not more than 2 years, or both, for any subsequent conviction.

"(3)(A) Any person aggrieved by any violation of subsection (a) may bring a civil action in a United States district court or in any other court of competent jurisdiction.

"(B) The court may—

"(i) grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain violations of subsection (a);

"(ii) award damages as described in subparagraph (C); and

"(iii) direct the recovery of full costs, including awarding reasonable attorneys' fees to an aggrieved party who prevails.

"(C)(i) Damages awarded by any court under this section shall be computed, at the election of the aggrieved party, in accordance with either of the following subclauses;

"(I) the party aggrieved may recover the actual damages suffered by him as a result of the violation and any profits of the violator that are attributable to the violation which are not taken into account in computing the actual damages; in determining the violator's profits, the party aggrieved shall be required to prove only the violator's gross revenue, and the violator shall be required to prove his deductible expenses and the elements of profit attributable to factors other than the violation; or

"(II) the party aggrieved may recover an award of statutory damages for each violation involved in the action in a sum of not less than \$250 or more than \$10,000, as the court considers just.

"(ii) In any case in which the court finds that the violation was committed willfully and for purposes of direct or indirect commercial advantage or private financial gain, the court in its discretion may increase the award of damages, whether actual or statutory, by an amount of not more than \$50,000.

"(iii) In any case where the court finds that the violator was not aware and had no reason to believe that his acts constituted a violation of this section, the court in its discretion may reduce the award of damages to a sum of not less than \$100.

"(4) The importation, manufacture, sale, or distribution of equipment by any person with the intent of its use to assist in any activity prohibited by subsection (a) shall be subject to penalties and remedies under this subsection to the same extent and in the same manner as a person who has engaged in such prohibited activity.

"(5) The penalties under this subsection shall be in addition to those prescribed under any other provision of this title.

"(6) Nothing in this subsection shall prevent any State, or political subdivision thereof, from enacting or enforcing any laws with respect to the importation, sale, manufacture, or distribution of equipment by any person with the intent of its use to assist in the interception or receipt of radio communications prohibited by subsection (a).

"(e) Nothing in this section shall affect any right, obligation, or liability under title 17, United States Code, any rule, regulation, or order thereunder, or any other applicable Federal, State, or local law."

(b) The amendments made by subsection (a) shall take effect on the effective date of this Act.

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 6. (a) Title VI of the Communications Act of 1934 (as in effect before the enactment of this Act) is redesignated as title VII, and sections 601 through 610 are redesignated as sections 701 through 710, respectively.

(b)(1) Section 309(h) of the Communications Act of 1934 is amended by striking out "section 606" and inserting in lieu thereof "section 706".

(2) Section 2511 of title 18, United States Code, is amended—

(A) in subsection (2)(e), by striking out "section 605 or 606" and inserting in lieu thereof "section 705 or 706"; and

(B) in subsection (2)(f), by striking out "section 605" and inserting in lieu thereof "section 705".

(3) Section 105(f)(2)(C) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(f)(2)(C)) is amended by striking out "section 605" and inserting in lieu thereof "section 705".

SUPPORT OF ACTIVITIES OF THE UNITED STATES TELECOMMUNICATIONS TRAINING INSTITUTE

SEC. 7. Nothing in this Act, the Communications Act of 1934, or any other Act, shall be construed to preclude the Federal Communications Commission or the National Telecommunications and Information Administration within the Department of Commerce from participation (including use of staff and other appropriate resources) in support of any activities of the United States Telecommunications Training Institute.

TELECOMMUNICATIONS POLICY STUDY COMMISSION

SEC. 8. Title VII of the Communications Act of 1934 (as redesignated by section 6 of this Act) is amended by adding at the end thereof the following new section:

"TELECOMMUNICATIONS POLICY STUDY COMMISSION

"SEC. 711. (a) There is hereby established the Telecommunications Policy Study Commission (hereinafter in this section referred to as the 'Commission') which shall—

"(1) compare various domestic telecommunications policies of the United States and other nations, including the impact of all such policies on the regulation of interstate and foreign commerce, and

"(2) prepare and transmit a written report thereon to the Congress, the President, and the Federal Communications Commission.

"(b)(1) Such Commission shall be composed of the chairman and ranking minority members of the Committee on Commerce, Science, and Transportation and the Communications Subcommittee of the Senate and the Committee on Energy and Commerce and the Telecommunications, Consumer Protection and Finance Subcommittee of the House of Representatives (or delegates of such chairmen or members appointed by them from among members of such committees).

"(2) The chairmen of such committees (or their delegates) shall be co-chairmen of the Commission.

"(c)(1) The report under subsection (a)(2) shall be submitted not later than December 1, 1987. Such report shall contain the results of all Commission studies and investigations under this section.

"(2) The Commission shall cease to exist—

"(A) on December 1, 1987, if the report is not submitted in accordance with paragraph (1) on the date specified therein; or

"(B) on such date (but not later than May 1, 1988) as may be determined by the Commission, by order, if the report is submitted in accordance with paragraph (1) on the date specified in such paragraph.

"(d)(1) The members of the Commission who are not officers or employees of the United States, while attending conferences or meetings of the Commission or while otherwise serving at the request of the chairmen, shall be entitled to receive compensation at a rate not in excess of the maximum rate of pay for grade GS-18, as provided in the General Schedule under section 5332 of title 5 of the United States Code, including traveltime, and while away from their homes or regular places of business, they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons in the Government service employed intermittently.

"(2) The Commission may appoint and fix the pay of such staff as it deems necessary.

"(e)(1) In conducting its activities, the Commission may enter into contracts to the extent it deems necessary to carry out its responsibilities, including contracts with nongovernmental entities that are competent to perform research or investigations in areas within the Commission's responsibilities.

"(2) The Commission is authorized to hold public hearings, forums, and other meetings to enable full public participation.

"(f) The heads of the departments, agencies, and instrumentalities of the executive branch of the Federal Government shall cooperate with the Commission in carrying out this section and shall furnish to the Commission such information as the Commission deems necessary to carry out this section, in accordance with otherwise applicable law.

"(g) There are authorized to be appropriated such sums as may be appropriated to carry out this section for a period of three fiscal years.

"(h) Activities authorized by this section may be carried out only with funds and to the extent approved in appropriation Acts.

"(i) Nothing in this section shall be construed to affect any proceedings by, or activities of, the Federal Communications Commission, except that the Federal Communications Commission shall consider submissions by the Commission submitted pursuant to subsection (a)(2)."

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S. 66—28

**EFFECTIVE DATE**

SEC. 9. (a) Except where otherwise expressly provided, the provisions of this Act and the amendments made thereby shall take effect 60 days after the date of enactment of this Act.

(b) Nothing in section 623 or 624 of the Communications Act of 1934, as added by this Act, shall be construed to allow a franchising authority, or a State or any political subdivision of a State, to require a cable operator to restore, retier, or reprice any cable service which was lawfully eliminated, retiered, or repriced as of September 26, 1984.

*Speaker of the House of Representatives.*

*Vice President of the United States and  
President of the Senate.*

2/22/85

HB868

Submitted by: Rep. Kadas

49th Legislature

LC 1608

## STATEMENT OF INTENT

\_\_\_\_ BILL NO. 808

A statement of intent is required for this bill because it delegates rulemaking authority to the public service commission. Because the information required for the plan requirement is very technical, it is the intent of the legislature that the public service commission may adopt rules specifying these requirements and the methods and formulas to be used by the public utility in developing the required information. The rules should address energy demand forecasting, the effect of conservation and load management on reducing energy demands, the determination of the best sources of supply to meet these projected demands, and other areas considered by the commission to be necessary for an accurate and comprehensive plan. In addition, the rules should specify the consideration to be given by the public utility to conservation; load management; pooling of power; purchases of power from neighboring states or countries; solar, geothermal, and wind generation facilities; and facilities that operate on

the principle of cogeneration and hydrogeneration. The goal of rules adopted by the commission should be to clarify the requirements of the plan by providing detailed guidance to the public utility on each requirement for the plan.

2/22/85

HB868

Submitted by: Dick Cromer

Testimony of The Montana Power Company  
in Opposition to House Bill 868  
49th Legislature

RF Cromer  
February 22, 1985

The Montana Power Company (MPC) opposes House Bill 868, because it is unnecessary. This bill gives the Public Service Commission redundant authority to require information they already receive or have the authority to require. The kind of plan the bill purports to require is already developed each year by utilities in Montana in compliance with existing law.

The Commission also already has the authority to require utilities to purchase power from Qualifying Facilities and to purchase conservation.

Even the public hearings called for in House Bill 868 to review a utility's load forecast and resource plan is nothing new. This kind of public scrutiny is already effected through the rate hearing process.

The only thing that is really new about House Bill 868 is in the provision of Section 2 which requires that the Commission, through an appropriate order, indicate its acceptance of the utility plan or specify any portions of the plan that it considers to be inadequate. If the Commission were to be required by law to accept, or modify and accept, a utility load forecast and resource plan, then, in order for that requirement to make sense, the Commission should also be bound by law to accept into rate base any resources which are developed by the utility in accordance with the Commission approved plan. Also, it would be of critical importance to eliminate the current situation whereby one department of State Government (the DNRC) determines the need for a major utility generation facility, based on utility forecasts subjected to careful public scrutiny, while another department of State Government (the PSC) sits in judgment on utility and DNRC determinations made a decade earlier, based on the present situation. Either the Commission or the DNRC should make the appropriate need determinations, and speak for State Government with a single, unified voice in authorizing a utility to proceed with construction of a major facility. Once the need is established through the appropriate public process, the Commission should be bound to include in the utility's rate base whatever facility was authorized for construction through the need determination process.

It is inappropriate in our view, to expand the role the Commission now occupies as a "Monday-morning-quarterback", sitting in judgment with 20/20 hind-sight on difficult utility decisions which must be made far in advance of the time those decisions will affect utility consumers, as if the Commission were totally isolated from the

decision making process. If the Commission wants to influence (or make) utility management decisions, then it must also be willing to live with the consequences of those decisions and to be held responsible and accountable for them. This bill fails miserably in this respect.

49th Legislature

LC 1668

## STATEMENT OF INTENT

       BILL NO. 874

A statement of intent is required for this bill because it delegates rulemaking authority to the public service commission to adopt guidelines for its determination of the investment that a utility supplying natural gas or electricity must make in cost-effective weatherization for low-income housing. It is contemplated that rules adopted by the commission to determine cost-effectiveness will describe the evaluation of costs to other utility ratepayers caused by low-income customers who have no funds to invest in cost-justified conservation measures. These cost considerations should include the uncollectible utility bills and the increased demands for energy caused by inadequate home weatherization.

VISITORS' REGISTER  
BUSINESS AND LABOR COMMITTEE

BILL NO. House Bill 868

DATE 2/22/85

SPONSOR Representative Kadas

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## COMMITTEE

DATE 2/22/85

SPONSOR

NAME (please print)

RESIDENCE

## SUPPORT

OPPOSE

Dianne Donnelly

MACo

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. House Bill 898

DATE 2/22/85

SPONSOR Representative Kadas

[illegible]

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. House Bill 874DATE 2/22/85SPONSOR Representative Kadas

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Dianne Donnelly	Mont Assoc of Counties	—	—

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## VISITORS' REGISTER

BUSINESS AND LABOR

COMMITTEE

BILL NO. House Bill 896DATE 2/22/85SPONSOR Representative Iverson

NAME (please print)	RESIDENCE	SUPPORT	OPPOSE
Dennis Schweitzer	1611 S. Willson Bozeman	✓	
Bob Schweitzer	PO Box 1222	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FORM.

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## COMMITTEE

DATE 2/22/85

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## COMMITTEE

DATE 2/22/85

[illegible]

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

## BUSINESS AND LABOR

BILL NO.      House Bill 877

DATE 2/22/85

SPONSOR Representative Pavlovich

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.