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May 16, 1997

David Waddell  
Executive Secretary  
Tennessee Regulatory Authority  
460 James Robertson Parkway  
Nashville, TN 37243-0500

Re: Request For Information On UTSE Docket No. 96-01423

Dear Mr. Waddell:

Per your request we are responding to the request for information on UTSE's Docket No. 96-01423. We note for the record that there is a difference between the UTSE transcript pages 35-36 and the version transcribed by Legislative Research, Inc. Legislative Research's pages 69-78 include United's pages 35036 and is the history referred to in our brief at pages 11-15. Legislative Research's H-90 transcript 18-46 continues United's pages 14 and 15. We rely on the transcript prepared by Legislative Research, Inc. and object to any inaccuracies in the UTSE version.

We believe the transcripts should be circulated to all Directors.

Sincerely,

A handwritten signature in cursive script that reads "Vincent".

L. Vincent Williams  
Consumer Advocate

Naifeh: Rep. Purcell.

Purcell: Thank you, Mr. Speaker, members of the House. The House members will remember where we were last week when we last took up this matter. At that time, the previous 16 amendments were withdrawn or in the case of one amendment was rolled down. But this amendment is the heart of everything that Mr. Bragg just talked about, and the heart of our vision, and I hope your vision for the future of telecommunications in Tennessee. This is the amendment that rewrites in most important ways the Senate bill that was sent to us, now, I suppose, two weeks ago. I don't care to talk at any length about perhaps the deficiencies that we found. I think it's perhaps better to emphasize the positive. As Mr. Bragg said, we looked at that bill over a period of weeks, and made the improvements that we think give us the confidence that this is not only the right thing for Tennessee as a whole, but the right for your constituents, and therefore, the right thing for you today. The rewrite of this bill begins right with Section 1. We restated the declaration of policy, the basic foundation upon which this bill will stand, and that policy now stated taking language that was proposed initially by one of the wisest telecommunications lawyers in this state, a policy that says straightforwardly and in a simple way that not only a court but a citizen can understand that what we're trying to do here is foster the development of an efficient and advanced statewide system of services. And it's a system that needs to remain affordable. That's the basic statement of policy. That's the promise on which everything else stands. And the amendment that's before you, you have that assurance. We make clear the powers of both the Public Service Commission and then the successor, the Tennessee regulatory authority, in Section 4 of the bill. The authority of that body to issue orders and to do those things that they need to do to be a regulator. We make clear for the first time their ability to monitor the continued functioning of universal service. There were many issues when the bill first came before us as to whether that was a one time snapshot look or whether it would enable the authority to continue to look on a regular basis on where we were on universal service. The change in this amendment makes that clear. There were those who were concerned that the FYI plan that had been established by the Public Service Commission, and upon which many promises were based, would in some way be set aside, or the promises, put an easier way, wouldn't be fulfilled. Section 10 of the bill, Section 10(k) of the amendment rather, makes it absolutely clear that those funded requirements that were placed upon the companies in this state must be fulfilled. The direction is clear. There should be no question about it. There were concerns that the productivity factor that was placed in the bill was not sufficient to protect consumers. Many of you have heard the discussion. Let me just say that we changed the productivity factor so that consumers get the benefit of

productivity, whether inflation is high or inflation is low. We placed in the bill a provision that is identical in effect to the provision placed in the Georgia legislation by the Georgia legislature, that makes sure again, that whatever the inflationary situation in this state, it's low now, and our change is particularly directed toward low inflation times, that the consumers will be protected whatever later increases may be required in telephone rates. We made absolutely clear in this legislation through this amendment that white pages listings, for examples, 900 and 976 blocking services for example, that 911 emergency services for example would be maintained as basic service. That any consumer that signs up for basic service would know that these things they would receive. And at the same time, we make sure that it would be at least at the same level of quality that they now receive their services. Many were concerned that quality might slip, that competition might change the quality level of the voice transmission and the data transmission that your constituents receive. This amendment makes it absolutely clear that cannot occur. There are further protections for consumers placed within the bill. We make sure for example again that the services that I described are included. We further clarify basic protections to make sure it's not just the monthly bill that is maintained, that is frozen for four years in basic service, but as well that nonrecurring costs, that was not assured in the Senate bill, that means the cost of installing that single line, that means the cost of installing the basic services that are protected, the nonrecurring costs are similarly frozen and similarly controlled. We also made it clear that smaller competitors need protection. That was the issue you heard about, interconnection. This amendment makes it absolutely clear what rights those interconnection companies have, and that's what brought back to this amendment and to this bill the smaller companies that needed to enter telecommunications so as to assure the competition in the markets that we want. Medium sized companies needed to be there too. We assured the responsibilities and the rights of the consumer advocate. We also continued to assure the investigatory responsibilities and authority of the Service, Public Service Commission as well as the authority itself. And again, Rep. Charlie Curtis, many of you may know, in the Commerce Committee, Rep. Curtis brought an important issue up, oversight by this General Assembly to this legislation in the Commerce Committee. The language in this amendment is even stronger at the request and recommendation of Rep. Curtis, that we needed to make sure that we would continue to get the information we need. Every two years, the Public Service Commission, and then the Tennessee Regulatory Authority, will be required to report to you a whole wide range of bits of information that you will need to decide whether this bill is working and whether these people are playing fair, or whether this law needs changing in some way. And then finally, an issue arose as to what

would happen when we went into competition generally. Our hope, you know, is that there is not going to be one single monopoly any more in local service or in any other service. Our hope is that they'll be a whole wide range of people through a whole wide range of technologies who get involved. Who are interested in what we are doing and want to put their money and their expertise on the line in Tennessee to give us the best system we can have, but to give us the cheapest and most affordable system we can have. The bill that came to us from the Senate, in our opinion, did not provide all of that. One concern was those middle level companies. I described that a moment ago. But another concern was how do we get smaller competitors involved in this industry quickly. Because competition needs to come just as soon and as quickly as it can come. We need small business involved too. It's not just enough that big companies from California and other places come into Tennessee and compete. We want Tennessee companies, home grown companies, small companies in your districts involved in competition. We want your neighbors to reap the benefit of competition in Tennessee. We want the people that you go to church with, that you see in your community to have an opportunity to be players at the table in telecommunications deregulation and reform. That's what the last piece of what this amendment does. It gives those people across this state the opportunity to have the financial ability to be players, to be competitors and to be successful just like the big guys in Atlanta and California and other places. That's Section 17 and 16 of the bill. You've heard a lot about that. But that's what that's about at its heart. It's about making it possible for those other people to compete with our hope that they will succeed and when they succeed, your constituents will succeed because rates will go lower. Mr. Speaker, at this time, if I could, let me yield to you, or do you want to do it later at the well, pending any questions, concerning this amendment, with everyone here remembering that this amendment makes the bill, makes the bill an acceptable bill in our view, makes a bill that all of the people Mr. Bragg recommended, rather referred to just a moment ago, puts them in a position to support. Let me say as to this amendment there is no objection. All support the amendment. There may be those who think it doesn't go far enough. There may be those who would like something else. But there is no objection as to this amendment. And so Mr. Speaker, with that understanding and explanation at this time, I'd move adoption of amendment number 17.

**Naifeh:** Gentleman moves adoption of amendment number 17. Properly seconded.  
**Rep. Byrd.**

**Byrd:** Thank you, Mr. Speaker. Would the sponsor yield?

Purcell: I will.

Byrd: I think it's kind of like in this modern day telecommunications bill of '95, it's kind of like the warden said in Cool Hand Luke, we have, what we have here is a failure to communicate. And I think the last part of your bill, Mr. Purcell, as I understand it, this \$10 million, is to be given to small businesses, if I'm correct about that, this actually is a tax upon the consumer, or the phone users in the state of Tennessee. It's a \$10 million tax over the next five years. Now, I, I feel like we, we cannot afford to do that. I've heard of the generosity of some of our fine folks in telecommunications, their generosity in wanting to subsidize or make these loan guarantees. And I appreciate their generosity and their benevolent attitude, but I'm afraid that that money is the money that belongs to or has come out of the pocket of the telephone users in the state of Tennessee. That's where the money comes from. They don't sell other things on the side. It's a, the people of Tennessee have paid their phone bill. They have paid, paid the profits. I'm for profit. For every company to make profit. This is the only part of the bill that I disagree with and I, I, is the fact that we are, this \$10 million, we dress it up, it's kind of like the fellow in Tennessee down here that wanted a Tennessee walking horse. He finally decided, he came to the conclusion that he couldn't afford a Tennessee walking horse. He had an old jackass, and he couldn't afford a Tennessee walker. So he bought what saddles he could and, and the other accouterments to make it appear like a Tennessee walker and he called it a Tennessee walker, but after all was said and done, he still had just a old humble jackass. And I'm afraid we can talk about the generosity, the wanting to subsidize small business. We can talk about all these wonderful and glorious things, but what we have here is \$10 million tax bill on the state of Tennessee of the phone users in the state of Tennessee. If you vote for this bill or this amendment as it is, you have voted a \$10 million tax increase on the state of Tennessee. You've voted for a \$10 million tax increase. Call it what you will. Call it what you will. You can call it a Tennessee walker, you can call it generosity of the great companies and corporations, but what you've got is a lowly jackass tax bill. Thank you.

Naifeh: I'm going to ask the members to watch your language in the House chamber. Rep. Dunn. I'm sorry. Rep. Purcell had asked to respond, and then I'm coming to you.

Purcell: Let me just say that I appreciate the strength of the speaker's convictions. The amendment is in my opinion as described. I'd be happy to discuss it at some greater length, but there is an additional amendment that will place this issue directly before the body. It is the next amendment in order. It is

amendment number 16 which was moved down by Rep. Dunn the last time we were together. It was moved down behind this amendment so that the issue that was raised by the representative in the northeast corner of the chamber could be addressed. Now, we can debate it now or we can debate it later. And that, in that Mr. Speaker, I'm at the will of the body, but the only way for that issue to be, in my opinion, completely and fully before the House, is for us to get into a procedural posture where Rep. Dunn's amendment can be considered and debated and discussed. That's what will occur if we place amendment number 17 on the bill and then take up amendment number 16 after that. The speaker, the individual who spoke indicated that there is nothing else in the amendment that he disagrees with. And that being the case, Mr. Speaker, I would just hope that those who for whatever reason, for whatever reason that I probably would not agree with might have some feeling along those lines, would allow us to get amendment number 17 on the bill and then allow number 16 to come up and be discussed at that time. That would be my position. On the other hand, if the House would prefer at this point to discuss 16 before we get 17 on the bill, I can do that as well. I leave it in the hands of the House.

Naifeh: Further discussion on the bill. Rep. Dunn.

Dunn: Will the sponsor yield?

Purcell: I will.

Dunn: First of all, I think the first thing that needed to have been said was thank you to you and to Chairman Bragg and to Stancil Ford and all the people who have worked so hard on this bill. I know you've gone through a lot. I've got a representative that sits close to me who's been telling me how you have been working on it. You have tried to go through it and you have done all that you can. And believe me, I appreciate hard work. And I do want to thank you for that. In your working you sat down with the telephone companies, you sat down with the lobbyists, the special interests, you stood up for your constituents and spoke, and now I feel at the table where everyone has sat down to make the deal, there's still one chair left and that is the floor of the House. And the reason that I would like to discuss Section Number 17 now is I haven't been here too long, but I've figured out when an amendment comes up, it can get tabled and disappear before everyone has a chance to speak. So I would really like to address Section Number 17, ask some questions, get some answers, and that might affect what happens with Amendment 16. So with that, could I comment on number 17 and perhaps ask you some questions?

Naifeh: Rep. Dunn, that is your prerogative to ask any question you want to about the amendment that is before us. And you're recognized.

Dunn: Right. Thank you. When this, when telecommunications were first, when I first started hearing about them way back right after the election in November and they were talking about the big telecommunications bill, one whole sound byte I kept hearing over and over from representatives, from senators, well, we're going to do what's best for the folks back home. We're going to what we can to get the rates down. And I really believe that is how it's been working. As I have been watching and with my limited knowledge of telecommunications, I have figured out that there has been a, a good faith effort by all parties involved to get the rates down for the consumers to bring competition into the field. However, I believe it was last Tuesday I first heard about Section 17. And to me, it stuck out like a sore thumb. It just didn't seem to fit. And when the, the sponsor of the bill first came up and spoke about what the bill did, he mentioned many things like capping rates, and the different things that this bill would do, but he failed to mention Section 17. And then the sponsor of the amendment came up and said the, the sponsor just spoke to the heart of the matter. And I think that's what we have. We have the heart of the matter in Sections 1 through 16, skip 17, take the rest, but 17 is sort of stuck on there. Sort of like there's a train going, you can see the train going, and someone has stuck a car on there in order to get a program. And as I read Section 17, while I don't know that much about telecommunications, I did work for the government for about eight years. And some of the language in Section 17 brings back memories not all that fond about exactly what government programs, though well intentioned can turn into. And I believe there's no doubt that Section 17 is a new state government program, a program that is repetitive. We already have things like the Small Business Administration, and TIPS that help people get into the business. They help make loans. They help make it possible for the small folks in our counties to get involved in business. We don't need to create another state government program that does exactly what we already have, especially with a bill to the rate payers of \$10 million. In here I've talked with the lobbyists, they have come in, they have all been ladies and gentlemen, and they've been very honest in answering the questions that I have asked. And in answering, in, in getting their answers, I have come to some conclusions. And number one, indeed, the \$10 million will eventually come out of the pocket of the rate payers. The questions that I asked and I tried to get to the bottom of it, the, the final answer was yes, indeed, the \$10 million come from the rate payers. There's not a pot of gold sitting out there. Also, I'm very concerned about this new government program and especially some of the wording. We have a, a feeling that that what this really goes for is to give money or to make loan

guarantees to get businesses started. But when you have terminology such as technical assistance, services, consulting and education services, believe me, I've seen people write grants before, and there are folks out there right now waiting for Section 17 to pass so they can write their grants and get in there and get \$50,000 to bring a bunch of folks to a motel, feed them, fly in a speaker, give them their little notebook that says I attended the telecommunications conference, and send it back off. And I see nothing in this amendment in Section 17 that is going to say exactly how the money will be divided out on that. So those are my main problems with it, and I would like for the sponsor of the amendment to specially address the part about the loan guarantees, technical assistance, services, consulting and education services, and the plan that's in place, so that we don't have people come in and use up the rate payers' money.

Naifeh: Rep. Purcell. On the loan guarantee fund was his direct question.

Dunn: And education.

Naifeh: And education.

Purcell: I'm sorry, I, I, I thought that you were making a statement, and I apologize for not hearing your question. Could you restate it for me?

Dunn: Yes, my question really dealt a lot with the loan guarantees, technical assistance services and consulting and education services.

Purcell: Right.

Dunn: That's where the \$10 million are going to go. And I'm very unclear as to where that's going to head off to. What plan has been set up so that the money doesn't just go down a rabbit hole?

Purcell: I, I am delighted that you asked that, because I think that that is one of the most important questions, and the answer I am about to give you I think will resolve any concern that you have. The money is going to go to the executive branch that is now maintained and run by Gov. Don Sundquist. Gov. Sundquist under this legislation through his Commissioner of ECD is given full responsibility for the program. ECD specifically is directed to develop all of the details that concern you now about how this program would go forward. None of us at this moment has all the answers about how a program like this should be developed. As many over here on the, on the north, east side of the chamber indicated to me a moment ago, when we began the TIPS program that is now, I think, one of this governor's, as it was



the last governor's most important programs and certainly the one that they felt most strongly about, we did not know with any great confidence exactly how TIPS would work. But we trusted here now nine years ago that the governor of the State of Tennessee would be able to develop a means and a method that would defeat each and every one of the concerns that you raised, to make sure that for whatever reason, people that weren't deserving wouldn't receive help, to make sure that the businesses that we wanted to assist were assisted. That was the beauty of the TIPS program, and this bill and your vote for this bill and your continued support for this bill shows that you have the same confidence in Gov. Sundquist that we had in his predecessor when we created the other program, because he will have complete authority, as his department will, to write the rules and regulations. Now, from your very demeanor, I have some sense that you may not be as confident as I am that this will occur. Let me say, we foresaw that in this amendment. The amendment by its very terms say (sic) that the State and Local Government Committee and the Commerce Committee is to receive specific details of what the executive branch provides, what the executive branch would propose and they need to do it on two important occasions. First, this September, the State and Local Government Committee and the Commerce Committees of both houses will be fully informed as to what the executive branch is doing. If you or any member of this House for any reason should disagree with what the executive is doing, and it would be my hope and belief that you would not, because we have a confidence through this amendment that ECD and the executive branch will do the right thing with this money, but if for any reason you disagree in September with what they are doing, your comments will be heard and received. And here is the key. And the most important protection, and the thing that you need to take home to defeat and diffuse all of the misinformation you received, this section will not be effective until March of next year. And that's key, because it gives you the opportunity to receive the report of the executive in the fall, and then come back here as a General Assembly before anything happens, before there is any effectiveness at all, before any of the things, true or not, that have occurred or been described on the floor, none of those things, even if they were possible, and of course, most of them are not, but even if those things that were described were possible, they couldn't occur before next March, and that's the protection that I think finally, if for some reason, you don't trust the executive branch, then trust your own branch. Because this legislation provides that by March of next year if we for any reason disagree with what the executive is proposing be done, as to raising the money or spending the money, then we this General Assembly retain in ourselves the ability to change or repeal the entirety of the program. So you have concerns today as a new member. You're expected to have concerns, any member has concerns, and I appreciate that. But none of

those concerns and none of those harms that have been described to you by others perhaps here today can happen in any way that would cause you or your constituents a problem. I'm glad you asked that question. Mr. Speaker, I think that brought, some, perhaps some of the most important information to the members of the House.

Naifeh: Rep. Dunn.

Dunn: In response to trust, it's not so much I don't trust the governor, I do. I really trust the folks in my district and the folks around Tennessee that if we let the \$10 million stay in their pocket, I trust them to know how to spend it best on their children and on their lives. And so what I would like to do is to see that. Now, you brought out a very important point when you bring up the dates. You know, it seems to me that if there is some contention, some difference of opinion on Section 17, and yet it can't even go into effect until March the first, it seems like it might make sense, and perhaps we will see that later today, to remove this and have it come back in January and see if it can stand on its own and not be hooked up to the telecommunications train. And thataway, we, by then there could be a plan that will let us know, and I'm sure the executive branch of government will be happy to give us a plan to tell how much will go toward loan guarantees, how much will go towards education and how much will go towards these other government programs. So perhaps we, we together by talking we have come up with a solution to this.

Naifeh: Rep. Ford. Either one.

Ford: Thank you, Mr. Speaker, and ladies and gentlemen of this body. Certainly I would like to say that to Rep. Dunn, when we're talking about the \$10 million, we're talking about \$2 million per year over five years. I'd like to just remind you of, if I may, some of the things that are going on now as we speak in regard to small business funds. Small business funds we are discussing is nothing more than an extension of the initiatives already undertaken by our states and local exchange telephone companies. They have been actively involved in the economic development of our state and the education of our workforce for years. And this section of the bill insures that they will extend that involvement at the specified level for another five years. Examples of current participation are annual payments to the Chambers of Commerce across the state, participation in virtually every regional economic development organization in the state. This includes activities promoting individual cities as well as small counties in combined regions of the state. In addition to these economic development efforts, the local exchange companies are heavily involved in the education of both

children and adults in our state. Believe me, that's very important, their community involvement across this state, is very, very important. I don't think we want to every (sic) do, do anything that will change that environment. I know a lot of you have had the opportunity to be personally involved in what some of our local companies do in regard to the economic development across the state. It's very, very important. They furnish a lot of materials to our schools. They do a lot, they do a lot of programs, educational programs concerning advanced telecommunications. The local exchange companies were instrumental in the creation of a statewide economic development group called the Tennessee Tomorrow, Incorporated, which works directly with the state Department of Economic and Community Development to create jobs for Tennessee. These are just a few examples, but I hope that you can see that the commitment to our state business and the education of Tennessee's work force is nothing new for the local exchange telephone companies. We have put many protections in this bill to ensure that consumers and potential competitors to the exchange, local exchange companies are given a level playing field. It seems consistent to me and appropriate that the bill contains some assurance that the small businesses owners are given a fair opportunity to participate in this exciting and growing industry. I would like to also say if I may, comments were made earlier today in regard to this being a tax increase to our consumers. Please let me say this, if I may. This \$10 million that we're talking about that goes into the mill over five years is profits, profits from the company, and I think the companies have the right, the local operating companies, have the right to reinvest those dollars as they see fit and to, into the area which they serve. And it's very, very important that we do take heed that if this part of the bill is important not only to the telephone consumers, but for jobs across this state. So with that, Mr. Speaker, thank you. Thank you for allowing me this comment.

Naifeh: I've got Rep. Kerr, Rep. Ritchie, Rep. Rigsby, and Rep. Walley on the list. Rep. Kerr. We are still on the amendment. Everybody understands that.

Kerr: Thank you, Mr. Speaker. Sponsor yield?

Naifeh: Mr. Sponsor.

Kerr: Sponsor yield?

Purcell: I will.

Kerr: Rep. Purcell, I think there's no one in this chamber that's more supportive of this bill than I am in regards to the essential importance of getting on with

promoting competition in our state in the telecommunications industry. I look at this Section 17, however, and the question comes to my mind as to how Section 17 appears in this bill, and I also understand the concept of economic development. However, I have to say that I view this bill without Section 17 as one of the most significant pieces of legislation that I'm aware of that we've addressed this year, significant in the terms of magnitude of impact and the scope of impact across the state. It is extremely important and I am personally concerned about that Section 17 and the possible dissension and confusion associated with that, and I have a very strong feeling that we need to look at the question of Section 17, about leaving it in the bill. The bill otherwise to me is terribly important, and terribly totally acceptable. So I would ask consideration to move swiftly toward addressing whether we can remove Section 17 from this amendment.

Naifeh: Rep. Purcell.

Purcell: Well, Rep. Kerr, I couldn't agree with you more, and I, you may remember I tried now 20 minutes ago to do that, but the folks who oppose Section 17 didn't want to do that. They wanted to talk about 17 now. And if we can get to the issues there fairly quickly, but we have to get amendment 17 on so that amendment 16 can deal directly with the issue. So I understand your concern and all I, I'm with you, but at this point, that's not, for whatever reason, what the people that agree with you apparently want to do.

Naifeh: Rep. Ritchie.

Ritchie: Thank you very much, Mr. Speaker. The sponsor knows of course that Section 17 is an integral part of this amendment, so that those who want to thoughtfully consider this amendment as a whole, must also consider Section 17 as a part of it. If there was one message that was clear from last fall's elections, it's that people across the country and particularly in Tennessee want less government and more competition. And most of this bill does that. However, Section 17 disturbingly sets forth only more bureaucracy and it's (unintelligible).

Naifeh: Rep. Ritchie, hold on. Try Rep. Brown's mike. You're recognized.

Ritchie: Thank you, Mr. Speaker. For those reasons, ladies and gentlemen of the House, I would urge you to thoughtfully consider whether Section 17 is consistent with the goals of competition and deregulation as the rest of this bill was to be. Thanks.

Naifeh: Rep. Rigsby.

Rigsby: Thank you, Mr. Speaker, members of the House. You know, this, this whole issue has been around here a long time. There's been a lot of work gone into it. We're taking a chance in Tennessee. We're plowing in new ground and we don't know where the stumps are, but we've set up an agency today, the Tennessee Regulatory Commission, that for the first time in this state, this body is going to have some input. Our Speaker is going to appoint one of those members to that body. The executive branch is going to have their person there. We're going to have the people and the oversight capacity to regulate this industry but it's time for Tennessee to move forward. It's time for us to go the 21st century. And Mr. Speaker, with that, I'd call for the question on the amendment.

Naifeh: That is a proper motion. It's properly seconded. Is there objection on the amendment? One, two, three, four, five, six, seven. All those in favor of the previous question will vote when the bell rings. Those opposed will vote no. Let every member cast their vote. Rep. Chumney aye. Turner of Hamilton aye. Ford aye. Rep. Pruitt and Brooks are aye. Rep. Kisber is on the board. Mr. Clerk, take the vote.

Clerk: Ayes 67, noes 22.

Naifeh: Previous question prevails. We're on amendment 1. Rep. Dunn, for what purpose?

Dunn: For parliamentary question.

Naifeh: You're recognized.

Dunn: I think we've had a lot of discussion on Section 17 and whether it belongs here or not, so I'd like to call for a division of the question in keeping with House rules.

Naifeh: Too late. We, the previous question has prevailed.

Dunn: I believe Section, I'm sorry if I'm breaking some etiquette, but Section 316 number 3 would allow me to make this motion right now.

Naifeh: Rep. Dunn, the previous question was called on the entire amendment. That cut off all debate. Cut off everything but the sponsors. I called on you for what, what purpose and you said parliamentary inquiry. I recognized

you for that. You cannot make a motion under a parliamentary inquiry because it has, the debate has been cut off. You're, you're recognized.

Dunn: Thank you.

Naifeh: On a parliamentary inquiry.

Dunn: I, I just read my manual of legislative procedure and I was under the impression that since it's not covered in our little green book, that in Section 316 number 3 that I am able to make that motion after the call for the question, and I've got the book here if...

Naifeh: Hold on. It is in the rule book, Rep. Dunn. The following motions only shall be in order and may be entertained by the Speaker in this, in this order. To adjourn, to lay on the table, for the previous question. And we have done the previous question. Now, you know...

Dunn: I, I, I...

Naifeh: You have, I want to tell you, you have a right to, to overrule my ruling now.

Dunn: Well, you're smarter and bigger and tougher than me so...

Naifeh: No, I am not...

Dunn: I might be wrong, you know, I try to be a good little legislator and read this book, and it said that you can, you can make a motion after the question, that it is possible after the question because...

Naifeh: But it's covered in our rule book, Representative. I'll have the clerk get with you and...

Dunn: That, that's fine, we'll, that, that's fine. That's fine. I'll, I'll go the clerk's school after this is over with.

Naifeh: Fine. I, I hope you're comfortable.

Dunn: Thank you. I thank you for that time.

Naifeh: OK. We're on the, the previous question has prevailed. We are on the motion to adopt amendment number 17. All those in favor of amendment number 17 will vote, will say aye. Opposed, no. The ayes have it.

Clerk: Mr. Speaker, the House is ready for amendment number ....

Naifeh: Rep. Rigsby, for what purpose?

Rigsby: Mr. Speaker, I would move the previous question on the bill.

Naifeh: Previous question is called for on the bill. Is there objection to the previous question on the bill? We're on the board. All those in favor of the previous question will vote aye when the bell rings. Those opposed will vote no. Let every member cast their vote. Rep. Ford votes aye. Mr. Clerk, take the vote.

Clerk: Ayes 55, noes 39, 1 present not voting.

Naifeh: Mr. Clerk.

Clerk: Mr. Speaker, the House is ready for amendment number 16 by Rep. Dunn, which was moved behind 17.

Naifeh: Rep. Dunn.

Dunn: Thank you, Mr. Speaker. Will the sponsor yield?

Purcell: I will.

Dunn: First of all I'd just like to say I appreciate everybody who realizes that the best results come from when we communicate and when we talk, and thank you for giving me that opportunity to come up with this amendment. I appreciate it. This amendment basically does what I wished to do with the division of the question where we can see Section 17 and the rest of the bill as two distinct bills, especially since Section 17 can stand as itself as itself as a, a bill to form a new state government program. And I think as Representative, my fellow representative from Knoxville stated, you know, there was a clear message last November that we don't need more government. We don't need to go to people and say I'm the government, I am here to help you, just give me \$10 million. I don't plan to belabor the point. If someone else would like to speak on behalf of this amendment, I would appreciate, but I really think we need to remove Section 17 because it is the part of the bill that for sure makes the rate payer pay more. It takes it out of the pocket instead of putting it in which was the whole intention and was the thing that I heard time and time again probably from every single member in the House and in the Senate, saying we want to do what is best

for the consumer. There are problems with section 17, things that could be worked out, things that could be brought back before this bill comes into effect. So let's remove it, let's give the consumers a truly friendly bill, and let's not take some more money out of their pockets. I thank you, and I see there are other people who would like to speak on this, so I will sit down.

Naifeh: Rep. Walley. Gentleman moves adoption of amendment number 16. It's properly seconded. Rep. Walley.

Walley: Thank you, Mr. Speaker. Would the sponsor yield, please?

Purcell: I will.

Walley: Rep. Purcell, Rep. Bragg, I need to get some clarification on where we are now with Section 17. As I've been listening to the debate, as I've been discussing with various interests on both sides of this matter, I want to understand clearly. Let's suppose that Section 17 was removed and there was not this \$10 million portion of the bill. How, if at all, would that affect what rate payers are being charged?

Purcell: We would not expect any change at all. For two or three reasons. The first reason why you wouldn't expect any change, is as I described just a moment ago. Even upon this law, this act becoming law, there's a process that's begun. The description of this as a tax couldn't be any more wrong. This is not dealing with tax payers. It's deals with rate payers. And as Mr. Bragg has pointed out, and may again describe, this is not something that is going to affect the basic rates in this state. The basic rates in this state cannot go up, members of the House, for a period of four years, as was described and are controlled in the ways that you've heard. So the rates in this state as a result of this can't go up this year or the next year or the year after that and the year after that. But you've heard described a sort of frightening scenarios outlined can't happen as a matter of law. But secondly, obviously, nothing can occur until first the commission has determined how this should be distributed, rather how this should be collected. Now, remember you've heard the figure of \$10 million, but it is at maximum a \$2 million contribution on an annual basis, spread across the whole state of the telecommunications industry. Ultimately, whatever effect, in my opinion, it will have will likely be borne by, not by even the rate payer. And by, as a matter of law, I guess to answer your question more directly, rates for basic service in Tennessee as defined are frozen for a period of four years.

Walley: Mr. Speaker.



Naifeh: You're recognized, Rep. Walley.

Walley: Thank, thank you, sir. So if I understand you correctly, Chairman Purcell, Chairman Bragg, whether or not Section 17 is included in this legislation, the rates are going to be the same. Let's say we had a \$30.00 per month charge on basic rates, if Section 17 is in, am I understanding correct, correctly, that those those persons that are paying for these services in my county and yours are going to paying that same rate irregardless?

Purcell: That's right.

Walley: And this money is being, the \$10 million, is being set aside, \$2 million per year for five years basically from the profits of the shareholders, for lack of a better understanding?

Purcell: That would be our expectation, yes.

Walley: All right, thank you.

Naifeh: Rep. Kisber.

Kisber: Thank you, Mr. Speaker. Would the sponsor of the bill yield?

Purcell: We will.

Kisber: Is it correct in my understanding that as part of the main bill, there is a provision that creates a fund to subsidize universal service so that in areas where rates could without this fund be abnormally high, this would keep those rates stable?

Purcell: That's exactly right.

Kisber: And, OK, let me go further and, and not so much in question, but in commentary, it appears...

Bragg: Let me...

Kisber: OK, I yield.

Bragg: Let me answer this for you. For those services currently priced below the cost, below cost, this bill legislates a four year cap on those, even though they are now being billed at the low cost because they are sparsely settled

areas. And I might read from the bill itself. About on universal service, it says, nothing in this section shall be construed to require the regulators to raise residential basic local exchange telephone rates.

Kisber: Thank you, Mr. Chairman Bragg. It, it strikes me very interesting to hear the debate taking place on this floor in regards to this amendment, and it does so, because I have on the floor later today, a bill that the governor has requested that this state enact. A bill that would cost \$8 million that would forego revenue out of our existing tax base for the purpose of encouraging business to locate in Tennessee, for the purpose of bringing in jobs that would otherwise go to other states. We have in the budget that will be before us just in a few hours from now, or within a few hours, a, a budget bill that is going to have \$28 million to go into the TIPS program to provide for infrastructure funds that help industries locate in Tennessee. It strikes me very interestingly to hear us debate about \$2 million a year for five years that's going to come out of the companies, come out of the capital structure because it can't come out of the rates, because we've frozen the rates. We've protected the rate payer. We've even gone so far with the rate payer to say your rates aren't going to go up if rates, because we're going to provide a universal fund to subsidize rates. What we're trying to do, which is part of our economic development policy in this state, but this in a small way is a drop in the bucket of what we do in terms of dollars spent on economic development, is insure that the technologically advanced jobs and industries that will spawn out of deregulation they spawn here in Tennessee. What we're trying to do in small way is do the same thing that we did with Columbia-HCA, when we said we were going to forego \$9 million a year in taxes for 10 years, because you're going to bring the focus of the healthcare industry to this state for the entire United States, and possibly for the entire world. What we're saying is, we're making an economic development policy that in my opinion gives credence to the fact that we are looking not only for what's going to happen tomorrow, but we're going to look out for what's going to happen in the next decade. Because there are a to of small businesses out there that no bank wants to deal with. They've got a great idea. They've got a great concept. They're the Steve Jobs and the Apple Computer of tomorrow that started in a garage or a basement. But no bank's going to take the risk on them and yet they might be the next Fortune 100 company to locate in Tennessee. For us to take a \$2 million a year for five year chance I think is worthwhile, because it's not us taking it, it's those companies that recognize that as a part of deregulation, as part of opening up this whole new technology, what we're going to do is create further technologies, further industries, newer companies, and with that come jobs, expansion in the tax base, and all kinds of positive benefits that we recognize, because we are recognizing them in legislation we pass every day

up here, that we're going to pass later today in an economic development jobs bill, that we're going to pass later today in the budget. I support the efforts. I'm against the amendment. For those purposes, Mr. Speaker, I would like to move that amendment to the table.

Naifeh: Proper motion. Properly seconded. Cuts off all debate except the proponent, Rep. Dunn. You're recognized.

Dunn: Thank you, Mr. Speaker. It is true that we already have many, many government programs that do exactly what amendment 17 does, and I appreciate that being pointed out, because that is one reason that I don't like Section 17. It's a duplication of government services. You know, we could spend ourselves into prosperity, and we would be a lot richer than we are now, when you think of the billions and trillions of dollars we've spent. When the lobbyists came in and talked to me about this amendment, and came and told me things like this comes out of the stockholder's pay check, this comes out of profit, I asked them a question. I said, according to this bill then, if you don't make a profit one year, then you don't have to pay this money. And they stopped and they thought, and thank God, they were honest, and they said, no, it wouldn't come, we'd, we'd still have to pay it, and everybody here knows exactly where that would come from. It would come from rates. There is a cap. There is a cap, and that's what I like about this bill. There is a cap on rates, and it's not a matter of can these rates go higher because of this \$10 million, it's can they go as low as what we've told the consumers we can do for them. Have we fulfilled our promise to do what is best for them with this telecommunications bill? When I started speaking out, or at least speaking for the proposal, let's wait on Section 17 until next year, when we know what's going on, when we have a better plan, when we have answers to all these questions, when I started out, I talked about a table and the folks who came to me, the lobbyists, the leaders, they kept talking about we sat at the table, we made the deal. At that table we had lobbyists, we had special interest groups and we had a few representatives. And in very good faith effort they came to us. But like I said, there was one more chair there, and that's the floor of this House, and everyone of us represent people back home. And right now, we're supposed to cut the deal, cut the deal for those millions of folks back home and give them the best telecommunications bill that we can. And folks, we're not giving them the best one if we've got a \$10 million rate increase in there. We've heard a talk about South Central Bell being wonderful and contributing. We don't need to legislate kindness. Let them give the money but let's not be here coming up with another government program. And so since we are very curious about exactly what will happen to this \$10 million, that we'll be, we'll be removing from those folks who I trust to make the

decisions, because they were the ones who went out and sweated all day and worked all day to get it, I'd like to leave it in their hands until we have a better plan and a better program. So with that, I'd like to ask you to please vote for this amendment, and let's come back next year and get it together. But...

Naifeh: Parliamentary...

Dunn: You can, you can tell I'm a freshman, I appreciate it, but I would ask you to vote against the tabling motion so we can continue with this. Thank you.

Naifeh: Parliamentary situation. Rep. Dunn has moved adoption of amendment number 16. Rep. Kisber has moved that to the table. We're on the tabling motion. All those in favor of the tabling motion will say aye. Opposed, no. Ayes have it. We're on the board. All those in favor of the tabling motion will vote aye when the bell rings. Those opposed will vote no. Let member cast their vote. Every member voted? Any member wish change their vote? The three gentlemen in the well vote aye. Rep. Lewis is aye. Mr. Clerk, take the vote.

Clerk: Ayes 47, noes 42.

Naifeh: The tabling motion prevails. Mr. Clerk.

Clerk: Amendment number 18 by Rep. Rhinehart.

Naifeh: Chairman Rhinehart.

Rhinehart: Would the clerk read that amendment?

Naifeh: Mr. Clerk.

Clerk: Amendment number 18 by Rep. Rhinehart. Amend Senate Bill Number 891 by adding the following language at the end of Section 17: (e). Any business located in a county in Tennessee whose per capita income is below the state average is entitled to participate as a small business in the small and minority telecommunications business assistance program.

Rhinehart: Mr. Speaker, ladies and gentlemen, I want to go back a long, long time, I guess, 30 years, every governor, every person running for the United States Senate, and Congress has said that the Northern tier of counties in Middle Tennessee, which incidentally, most of them are below the state average per capita income, we're going to help you. You can take \$10 million and you

can make those flowers glow, glow up there. But we haven't done that. Never have we do it. The only thing that Northern tier of counties in Middle Tennessee and East Tennessee from Hancock County to Macon County has ever received was a pickup truck and a load of wood from Lyndon Johnson. That was supposed to turn it all around. But yet we cannot bind ourselves in a group to vote as a group. We split up, we do not, we do not vote together. We've going to have to start binding ourselves as we know 13 people in this House, and I admire them for it, bound themselves together and said we will not vote for the bill unless we get the \$10 million. They got the \$10 million. There's enough of us from these counties that's poverty stricken and underemployed and have a low per capita income. They no longer can mine coal. There's no coal there. They can't cut staves, as we used to know it. There's no staves there. Now, a lot of those counties are always number one or number 2 in marijuana growth, because those people have to live. And I would hope that we could serve notice on the governor and on the General Assembly and anyone else concerned, that they can take a few million dollars and bring these counties about the state average. It's a terrible thing. We've got another bill where we had to go to court to be able to have decent schools in those counties. No one tried to ever help us then until we went to court. And do we have to go to court on these other things? Mr. Speaker, I'm going to withdraw this amendment.

Naifeh: Without objection, withdrawn. Mr. Clerk.

Clerk: Amendment number 19 by Rep. Rhinehart.

Naifeh: Rep. Rhinehart.

Rhinehart: Mr. Speaker, ladies and gentlemen of the House, most of this amendment has been taken care of in the bill that passed regarding PSC. A lot of people have, we don't want that under the Comptroller's Office, most of the important specs going to the Comptroller's Office on the legislation we previously passed, so I also withdraw this amendment.

Naifeh: Without objection. Withdrawn.

Clerk: Amendment number 20 by Rep. Winningham.

Naifeh: Rep. Winningham.

Winningham: Thank you, Mr. Speaker. This amendment is filed to, to broaden the \$10 million, I think. I think we've had an effective speech concerning \$10

million is a drop in the bucket, when you address the area of telecommunications across this state. Now, I have no problem with the \$10 million that's in Section 17 that we've been discussing. This amendment would put an additional \$10 million, the same circumstances, going to rural economic and telecommunications and economic development. Now, a concern that's been expressed that people come down here and get \$50,000 and they'll call a meeting in a hotel and they'll invite a speaker in, they aren't familiar with the process, I can tell you that now. It's difficult to get it, \$10 million across the state, I've been told that every county, every area of the state has access to this fund. But we know, as the representative mentioned a while ago there's already people out there preparing applications. Now, the rural areas do not have for the most part people on the staff preparing an application for this. We need, Chairman Bragg, the sponsor of the bill referred to the information super highway. That's what this bill, this amendment is designed to do, is to provide some assistance in rural areas that can develop telecommunications systems and get on the information super highway, and I would urge its adoption.

**Naifeh:** Gentleman moves adoption of amendment number 20. Properly seconded. Rep. Purcell.

**Purcell:** Thank you, Mr. Speaker, members of the House. I appreciate everything that the representative from Scott County said. And I think it's important that everyone here heard it, because I think it was first an important statement of support for Section 17 that we have been discussing for so long. Basically, what this amendment does is bring to each of you the importance of what we've done to this point and at the same time, I think the representative's hope is that because of how important and successful he believes the existing program that we will create will be, he'd like another program the same size, an additional funded program that would operate kind of in tandem or along side. You would have, if this amendment goes on the bill, you'd have a statewide program that would be available for small business and minority owned business and then you would have another program running in tandem that would be specifically more restricted. Now, let me say in the interest of making sure that everyone here understands, if you don't like the idea of the existing program that we recommend to you, the guarantee program and so forth, then I would think that you would dislike this particular amendment twice as much, because it puts you in a posture now where you've doubled the size of the existing program. For those of you that like the program that we are creating here today, and I, I hope there are, ultimately there will be many of you, I do think you need to think about whether or not you want to have two programs in tandem. That, I think, is both an administrative and in many

other ways a logistical concern. The program that we've creating in this amendment today, is a program right now I think can reach out to every Tennessean. I said this in my earlier remarks but let me repeat if for Rep. Winningham, because I heard what he said. This is not an urban or rural issue. The intention is that the money be available to entrepreneurs all across the state. Now, arguably, given where the people live and the subscribers are, and also given the fact that all of the rural co-ops have been excluded from the effect of this bill, one might say that if one were to raise the money in the overall area of local exchanges and transfer it into just certain rural areas, that it was a transfer of funds. One could argue that. I think the major issue here is this. We have created in this bill a program that's available for small businesses everywhere. Small businesses, period. We have created as well a program that is available for those small minority owned businesses. It is not an either or proposition. It is not an end proposition. Rep. Jackson and I have discussed this at some length and he asked that I make it clear, that small businesses anywhere in this state, irrespective of ownership can utilize this program. That's what the bill says. At the same time, it also focuses on those who we've been unable to reach in the past for credit purposes, many of those are minority owned, owned by women, owned by ethnic minorities and so forth. So I appreciate the vote of confidence that the proponent of the amendment shows for the overall idea. I appreciate his enthusiasm for our moving forward with this whole concept, but I do think that sometimes we have to take small steps, and a small step is in the bill now. It is a small step, funded on an annual basis of \$2 million and I have to say that at this moment, that step is probably all that the sponsors of the bill believe that we can do. To double the size of the program to double the number of dollars involved, to double it in every way, and have two separate basic thrusts, I think, would not only be probably uneconomic but more than we should do first at this time. So for that reason, Mr. Speaker, and for that reason only, at this time, I would move this well-intentioned amendment to the table.

Naifeh: Proper motion. Properly seconded. Cuts off all debate except for Rep. Winningham. You're recognized.

Winningham: Thank you, Mr. Speaker. The sponsor of, of that bill comments he made certainly speaks highly of the amendment, I think. He endorses this amendment. He's gone through the spiel of all the confidence he's got in the governor and his economic and community Development Commissioner that they can do this. This would not even be a challenge to them to do another, because that's their role. That's what they do. He makes another endorsement of it. Those of you that like this bill, Section 17 ought to love this part of it. Because if you like it in one area, you ought to like it in

another area. Those he said that don't like it, wouldn't like but it only makes it fair for everybody. It gives everyone, every area of this state an opportunity to do something for their communities. This is not for people to apply for to profit. It's for community development in rural areas. Community development, goes into your communities. It doesn't go in someone's pocket. And with that I urge that you vote against the tabling motion.

Naifeh: Parliamentary situation. Rep. Winningham has moved the adoption of amendment number 20. Rep. Purcell has moved that motion to the table. We're on the tabling motion. All those in favor of the tabling motion will say aye. Opposed, no. Ayes have it. We're on the board. All those members in favor of the tabling motion will vote aye when the bell rings. Those opposed vote no. Let every member cast their vote. Every member voted? Any member wish to change their vote? Rep., the representatives in the well vote aye. Mr. Clerk, take the vote.

Clerk: Ayes 65, noes 20.

Naifeh: The tabling motion prevails.

Clerk: Amendment number 21 by Rep. Fitzhugh.

Naifeh: Rep. Fitzhugh.

Fitzhugh: Thank you, Mr. Speaker. Mr. Majority Leader, members of the House, I appreciate the opportunity to proffer this amendment to the, to the House. This one is not nearly as controversial and it's very straight forward. And it's done in the sincere attempt to strengthen this bill for those constituents of mine and those similarly situated in the, around this state, that is, those, and to where this bill would not automatically mean competition. I, I support this bill. I think it's the right thing to do. I think competition is the right thing to do. I am sincerely concerned, however, with those in rural areas and nonmetropolitan areas where this competition won't get there for a while. If competition comes into this state, as this bill, as the sponsors suggest, then my amendments will have no effect. But basically they just do two things. One is extend the cap on the basic rates from four to six years. This is consistent with what other states have done. As I understand the four year cap was not arbitrarily chosen, but was one chosen out of a range of caps. And I believe six years would be more consistent with what we, we want to do here in Tennessee to protect consumers, and at the same time foster competition. Secondly, the, this amendment would broaden to a degree, the definition of basic service, that would, if something, some



service that was brought into our state was used by the majority of the members of, of, of, the citizens of this state, then that would be considered basic service, would fall under the realm of universal service, and would fall under the cap. As I said, if, if, the intent of the bill follows out, this amendment will have no effect. However, this is just a little additional protection in my mind for especially those consumers who are situated in nonmetropolitan areas, those where this competition will not be in effect tomorrow and it may not be in effect in two years, four years, six years, or even longer than that. So with that, I respectfully move passage of this amendment.

Naifeh: Gentleman moves passage. Properly seconded. Rep. Purcell.

Purcell: Thank you, Mr. Speaker, members of the House. I, I ask you on this one if you could just try at least for a moment to stay with what I know will be a too long answer because Rep. Fitzhugh makes some very appealing comments that I know he is sincere in advancing about what he wants to do. This is an industry that you now know probably at least as well as I do is very very complicated. And what you do in any one part of a deregulation effort will have effect all across the board in the deregulation of telephone service as we move ahead. He is accurate absolutely in saying there are two parts to what he wants to do. The first is to extend the existing cap on basic service. Now, when this bill was first brought, to this House, many of you may know the telephone companies were recommending to us simply a three year cap. We at that time, Chairman Bragg, myself, others, looked at what was occurring in other states. We looked at the caps that were out there. We looked at basically what the average was across the area. We looked at our neighbor in Missouri at four years, Indiana, five. We looked at all of the states around us, and we concluded that three years was not satisfactory. And the amendment and the bill before you has a four year cap on service. But we also then thought about what would happen if you further capped services, and basically it was our conclusion that a further cap of service would not provide any economic advantage to consumers and in fact would inhibit the development of the market. Having said that to you, let me me tell you that in all the discussion we had with all of the consumer representatives that were, that were there, no one advanced any desire to see this cap go further beyond the period in which we think competition will begin. So first of all I think the extension from four to six does not give you any advantage, and in fact may disadvantage competition. Secondly, and this is most important, especially from, for people from rural areas, and I ask you to focus on this issue. We have included today for the first time the only services that actually have penetrated the market in Tennessee by more than 50 percent. That's call waiting. In the South

Central Bell area, approximately 58 percent of all subscribers have call waiting now. We froze that. The Senate bill did not. Call waiting will be frozen for a period of four years from the time that anyone enters price regulation at the level presently charged by South Central Bell in this state. No call waiting can go higher than that charge. That's already covered. But what this amendment seeks to do is say that anytime a telecommunications provider is successful in pushing usage beyond 50 percent, then at that moment they will be frozen in place. Now, I can tell you what the result of that will be. And it's simple. You don't have to know anything about telecommunications to know what that will mean in your districts if they are outside of a city, and I mean a big city. They are going to promote these services in big cities, and they are going to push penetration into those markets. They're going to advertise in their newspapers, and they're going to push services into those big places until they get right up close to 50 percent penetration. The rural areas that have lagged in the provision of these same services will then be confronted with the reality that the phone company will have no incentive to come in and provide that service. There will be no reason if that company knows that the minute they go over 50 percent they are locked in at the present rate for four years or six years as this amendment would require, you better believe that service won't be promoted, it won't even be offered in your area. You'll find that the phone companies take their new services only into those concentrations where they can most economically deliver the service and most easily promote it. And where is that? Big cities. Now, from a big city perspective this amendment has no effect. And for that reason you may not care. But I think you still should. I wouldn't be promoting this if I didn't think you still should. Because telecommunications is about the whole state. Universal service is about the whole state. People here who argued about subsidization and all the rest of it, let's face it. Forever we've been transferred the money out of the easy places to access services and moving it to the fellow that lives down at the end of the road long, long away from the central office, because we believed that everybody ought to pay the same low rates. This amendment goes exactly contrary to that policy that we've established all these years, that people in rural places ought to get the same benefits in telecommunications that people in urban places do. You put this amendment on, and that will be turned on its head. There will be no economic or other incentive for anybody to come into a rural place with a new service or to promote a service that's there. That's not what Rep. Fitzhugh intends. But that's what this amendment does. And for that reason, and because I think every Tennessean ought to benefit from deregulation, I respectfully, most respectfully move this amendment to the table.

Naifeh: That's a proper motion. Properly seconded. Cuts off all debate except for Rep. Fitzhugh. You are recognized.

Fitzhugh: Thank you, Mr. Speaker. I am a realist. I know where I am on, you know, at, at this late hour, but I, but I am sincerely concerned about something two or three years down the road, especially, ladies and gentlemen, in those areas where not like Shelby County, where probably tomorrow or the next day, the switch will be turned and competition will be there. I am concerned that we've got what we've got in rural West Tennessee and rural Middle Tennessee and rural East Tennessee. And for those reasons, if the bill does what it's supposed to do, if competition is there, the cap won't matter. I disagree with the learned majority leader about the effect of this amendment on the basic service because I am concerned about whether any of those services will go to the rural areas, and I think that if this amendment is adopted, then that will assure those communities, those small businesses that do not, that do not now have those services, but some of those services are in the metropolitan areas, that they will at least have a chance to get them. And I appreciate the opportunity to be heard on the matter.

Naifeh: Parliamentary situation. Rep. Fitzhugh has moved adoption of amendment number 21. Rep. Purcell has moved that to the table. We are voting on the tabling motion. All those in favor of the tabling motion will say aye. All those opposed, no. Ayes have it. We're on the board. All those in favor of the tabling motion will vote aye when the bell rings. Those opposed will vote no. Let every member cast their vote. Has, the three gentlemen in the well vote aye. Has every member voted? Any member wish to change their vote? Mr. Clerk, take the vote.

Clerk: Ayes 75, noes 21.

Naifeh: The tabling motion prevails.

Clerk: No further amendments.

Naifeh: Rep. McAfee, for what purpose?

McAfee: Thank you, Mr. Speaker. I'd like to, for the purpose of calling, I'm making a motion, Mr. Speaker.

Naifeh: You're recognized.

McAfee: Mr. Speaker, we have discussed this issue pro and con for, really, for several months. The majority leader, Rep. Bragg, and Rep. Ford and others, have worked with and have gone about getting what they think is the best situation for the companies involved and for the people of the state of Tennessee. The majority leader last week gave us the amendment that would make the bill that we would be considering today. So we've had a lot of time to talk about and to look at and to ask questions about this particular piece of legislation. Therefore, Mr. Speaker, I think, having discussed it as long as we have on the floor today, the question's have been asked, the information that's been provided by the sponsors and others, I think we should be well knowledgeable, Mr. Speaker, on what we are doing, and we have a lot of other things to do. And Mr. Speaker, I would call for the question on the bill.

Naifeh: That's a proper motion. It's properly seconded. Is there objection to the question? I see one hand. The previous question prevails. Cuts off all debate except the proponents of the bill. The sponsors. Rep. Purcell.

Purcell: Mr. Speaker, members of the House, in, in just a moment I may yield to other sponsors. I need to at this point with your indulgence read three brief statements into the record for legislative intent purposes as this bill leaves this House and goes to the Senate. The first was requested by the AARP. The audit provisions of this bill were requested by the AARP and it was their hope that we would as a matter of legislative intent make it clear what we mean. And so let me say on the subject of Section 13, legislative intent is that this bill establishes a process by which consumers are assured affordable rates. To achieve this, the bill provides that the rates of incumbent local exchange companies will be based on an audit of the company's actual achieved results and not on a speculative forecast. An audit consistent with the provisions of this bill is currently being performed by the TPSC staff, by their compliance unit of SCB's TPSC 3.01 form, as stated by Dr. Chris Kline, director of the PSC's utility rate division in a letter sent earlier this year. The TPSC 3.01 form is a monthly report showing monthly year to date and 12 month to date financial information, including rate of return adjusted to reflect the Commission's prior rate making decision. The compliance audit verifies that the amount shown on the TPSC 3.10 form (sic) one, are accurately taken from the company's books and records; two, accurately reflect any commission order or rate making adjustments; three, do not include unusual or abnormal financial occurrence; four, were calculated following proper accounting rules and procedures for separating the company's interstate and intrastate operations as well as its regulated and nonregulated operations, and finally accurately reflect allowable charges from affiliated companies. Section 13 makes clear

that this TPSC 3.01 compliance audit of actual achieved results and without speculative forecasts will be completed and affordable rates will be set pursuant to Section 10 (c) and (j) of this bill.

Further there were concerns by interconnect companies, including AT&T, this language comes by and large from those companies that need to interconnect and ask that we state as a matter of intent that in order for competition to develop and for there to be competitive telecommunications systems, system customers served by one company must be able to call customers served by any other company. That service is called interconnection. Interconnection services are provided only to other telecommunications providers. We have included some special provisions regarding these services in this bill. First this bill requires all companies to provide such interconnection under reasonable terms and conditions without discrimination and it requires the Commission to adopt rules to implement the technical aspects of that requirement. And second this bill has provisions to set caps on the rates for interconnection services, giving the Commission some powers to prevent abuses and unfair practices. And finally now for a company that has previously been opposed to the bill, with this clarification would be supportive, LDDS, the fourth largest long distance company in the country, let me state for the record this bill provides for equal access through the provisions for inter-LATA presubscription, in other words, Tennessee consumers can continue to dial long distance by one plus regardless of who provides their local telephone service. Resale of local services and nondiscriminatory pricing and provisioning of services. Mr. Speaker, with those further explanations of legislative intent as we take up and consider this bill, I thank everyone involved. I especially thank the House of Representatives for their indulgence and for making this a much better bill than it otherwise would have been. I renew my motion, you want to, and I would yield to Stancil Ford.

Naifeh: Rep. Ford.

Ford: Thank you, Mr. Speaker, and members of the body. I'd like to say just a few words before we vote on this bill. I think we have before us today one of the most important pieces of legislation that we will vote on while we're here this year. I think we as law makers need to be concerned about two items. Will this bill serve the customers of Tennessee? Will it afford, will it offer them affordable rates? And yes, I think it will. From Mountain City to Memphis, I think we've got a bill that will serve all of our customers across this state, in a way and a fashion that will allow affordable rates throughout

this state. Also I would like to say this. One other thing that we must be very aware of. We in Tennessee are on the leading edge of technology. And we need to stay that way. I think this bill addresses that. I think we will continue to be in a position to attract industry into the state of Tennessee. All of you know how very important that is. Those two items are very important and this bill will take care of that. I feel like we've got a good bill before us and I'd like to encourage you when we vote to vote for this bill today.

Naifeh: Chairman Bragg.

Bragg: Mr. Speaker, in mentioning people who have spent a lot of time on this bill, I, I overlooked and forgot about all the work that Rep. Rufus Jones did in calling these people together around the table and going through this bill line by line. And it was a great exercise that he did. I want to thank Bill Purcell for handling this amendment. I appreciate very much. He did a masterful job. I think it's time now for us to vote. This, I consider this probably the most important thing we will do this entire session, and I urge you to vote in favor of this bill. It pushes us forward unbelievably. So Mr. Speaker, I'd renew my motion.

Naifeh: Gentleman renews his motion. We're voting on Section Bill 891. All those members in favor vote aye when the bell rings. Those opposed will vote no. Rep. Purcell, Bragg, Ford vote aye. Has every member voted? Any member wish to change their vote? Mr. Clerk, take the vote.

Clerk: Ayes 89, noes 8.

Wilder: No, sir.

Rochelle: Then I would ask you not to adopt amendment 18.

Wilder: On the amendment. Are you ready? Those favoring vote aye when the bell rings. Opposed, no. Two-thirds. Every senator vote on the amendment. Every senator vote on the amendment. Has every senator voted? Does any senator desire to change his vote? Take the roll, Mr. Clerk.

Clerk: Ayes 11, nays 19.

Wilder: It failed.

Clerk: Amendment number 19 by Sen. Haun, filed today.

Wilder: Sen. Haun.

Haun: Withdraw.

Wilder: All the amendments.

Clerk: All the amendments.

Wilder: Sen. Rochelle. Sen. Kyle is recognized. Sen. Henry is recognized.

Kyle: Would the sponsor yield?

Wilder: Sen. Kyle.

Kyle: The questions I have for you on the bill as amended, Sen. Rochelle, the same questions I've asked previous. On the issue of universal service, sir, does this bill change the funding mechanism or how 911, does one get 911 service in universal service on this bill?

Wilder: Sen. Rochelle.

Rochelle: Yes, and no. My understanding is is that that is a topic desired to be proposed by a group in the House, and we expect that they will propose it, and we expect that we will be able to agree to it when they propose it. But it was felt that we should allow them to propose it. So it's not in there, but I would anticipate that it will be in there. It will be coming back to the Senate to approve it.

Wilder: Sen. Kyle.

Kyle: So in present, do you, in, all right. Second question concerns directory assistance. 411 service. Does one get directory assistance under universal service of this bill?

Wilder: Sen. Rochelle.

Rochelle: One does not get directory service under the basic set of services, basic services, no. They don't now, I don't believe. Right now, there's competition out there. And so, so because there's competition now, that's not addressed in the bill.

Wilder: Sen. Henry. Sen. Kyle is still, I thought you yielded, Sen. Kyle. I apologize, you sat down, I didn't know.

Kyle: I'm sorry.

Wilder: Yes.

Kyle: In directory assistance, I believe, and I, I assume the Senate is going to go forward and, and pass this legislation today based upon the votes that I've seen and the mood that I feel on the floor. I, I hope that the House addresses the issue of 911 service. I question the wisdom of hoping they're going to do something, and hoping that we're going to agree with it, because with them, we're getting, we're concurring in amendments, we can't amend how the House deals with the 911 issue. And to me it's a very simple concept that we need to make sure that everybody that's got a telephone in this state has 911 service and doesn't have the option of not having it. I don't know how that's funded. I don't how that's funded when two or three people are in the phone business. This is not something I've raised today. I mean, I asked this question four weeks ago. Well, on that, but I hope that the House can resolve that, and I, I know there are not amendments on the point, and I haven't entered into the debate on that particular issue. The second matter...

Wilder: Sen. Rochelle.

Kyle: Yes, please.

Rochelle: If I could clarify the answer to that, my understanding is that 911, it again, it was assumed that it would be in there because you've got a separate 911 statute. There has been a request made by a House group that's been looking at the bill to expressly state it, that's what we anticipate will be done, but yes, it's my understanding that the 911 service will be included in the basic service.

Wilder: Sen. Kyle, Sen. Kyle.



Kyle: Secondly, the directory assistance issues, I didn't realize, I hope that is addressed in there also. Perhaps it may be, perhaps it will not, perhaps there is full competition on directory information services today. I was unaware of that particular matter. Mr. Speaker, I want to clarify to everyone in this room, why I am going to vote as I am going to vote on this bill. And I guess it goes back to the very first matter that we had. And I realize that I am most the unpersuasive person in the Senate on this point, but I will predict to you this time next year, we will have passed the telecommunications bill, there will be competition, it will be three weeks from the end of session, and you won't have agreed who your regulator is going to be unless that bill Sen. Haynes passes, passes this Senate. And you need to ask yourself, where you are going to be at this time next year if you don't agree, if you don't vote today, agree today, that you're going to support the creation of a regulatory body this year. You're going to find yourself right down here right now at the end, and until we determine the viability of that particular bill, I am not in a position to support this legislation.

Wilder: I have Sen. Henry, I think, and then Sen. Dixon.

Henry: Mr. Speaker, I'd like to make a statement on this bill. I think everybody agrees right now Tennessee enjoys very advantageous telephone rates. I believe that's agreed to by both the proponents and the opponents of this bill. If that's the case, you start from there. Yesterday, I spent more than an hour or two with the very best lawyers in Tennessee on, in opposition to this bill, and I spent the same amount of time with knowledgeable people who are for it. And what I make it out to be in the final analysis is this, when the competition begins, the new companies will pick off the best accounts from the Bell company, and in order to counteract that, and to have some money to operate on to tool up to meet this competition, they need to make some money, and under this bill, they will have four years to see if by economy, they can do better than these lower rates which we already have, which are guaranteed for four years. If they are able to do that by economizing, they will have a fighting chance, even though their best accounts will have been picked off, and now, it seems to me that that's what the bill is all about.

Haynes: Sen. Dixon, and then Sen. Gilbert, and then Sen. Burks. Sen. Dixon, you're recognized.

Dixon: Thank you, Mr. Speaker, members of the Senate, I too rise to say that I won't vote for this bill. This is a bad bill. We haven't done our homework on this bill. There are so many unanswered questions, just simple. What are the basic services provided in this bill? When we look at it, what is, what is going to happen when somebody orders a phone, if they just disconnect that telephone? None of those points have been addressed. We always seem to be in hurry. But just about every citizen in this state has a telephone and you are going to impact their lives as you make a decision

here today. If we're going to vote for this bill, we ought to do it in a responsible, diligent fashion. If we are going to support this legislation, we need to take the necessary time. Time ought not to be an object. We should be looking out for the interests of the citizens of this state first. I'm not concerned about what South Central Bell or AT&T. I'm concerned about those seniors that we will see this summer and them asking me why did you raise my phone bill or why did you change the way services were provided without at least talking to me about that. We haven't done that. We'll go back home, and at some point down the road, changes will be made, and when they will be made, I don't think we will have an adequate answer for those persons who are just common everyday citizens. We came here to represent them first, and then the interests of these other forces secondly. And I hope we never forget that, that we're here to represent the 5 million people of Tennessee first, and then those other interests second. Too many questions have been unanswered and the information is readily available. Sen. Gilbert talked about Mississippi. They've got a piece of legislation you can look at. Florida has got a piece of legislation you can look at. Georgia has got a piece of legislation you can look at. Pennsylvania has got a piece of legislation you can look at, and none of those pieces of legislation, ladies and gentlemen, look like what you are about to pass today.

Wilder: Sen. Gilbert.

Gilbert: Mr. Speaker, members of the Senate, first of all, I just to applaud Sen. Rochelle. He's done an excellent job on a very difficult bill. And I'm glad he's a part of the Senate. I enjoy serving with him. It's a privilege and a pleasure. I also want to just compliment all the telecommunication companies and their employees that are here. We bandied your names about for the last couple of weeks and you're great corporate citizens, and we appreciate what you contribute. And obviously we're going to pass the bill here in a little bit, and hopefully it will be for the best of Tennessee. Sen. Rochelle, I need to ask you four simple questions just to make sure the record is straight so that I'll understand and so that everybody in the Senate will appreciate what the impact of this bill would be. First question, sir, if you would be so kind to tell us, is it not true under the bill as is before us with the amendments, that the telecommunication company, let me just use Bell, could institute charges for directory assistance?

Wilder: Sen. Rochelle. Sen. Rochelle.

Rochelle: I believe they already are authorized to institute charges for directory assistance, and they don't, they don't do any now, and so, that's my understanding, they are, but it doesn't really change that.

Wilder: Sen. Gilbert.

Gilbert: The first answer. Let me just add, I did not know that they could charge residential customers for directory service assistance, and as I understood it took some kind of requirement by the PSC to do it, but I think the answer is under this bill, they'd be permitted to do it without PSC approval. Second, one of the things that many of us have enjoyed in our own counties is county-wide calling, metropolitan calling, that's something the PSC has ordered in past year, has been of great benefit, economic development. Is it not true, under the bill as you passed, that telephone companies could choose that system away and start charging again?

Wilder: Sen. Rochelle.

Rochelle: OK, I am told by the balcony, that is not, you say, can they take away, ask me again. What can they take away? What are you asking about?

Wilder: Sen., Sen. Gilbert.

Gilbert: Can they start charging again for it? Is it a basic service?

Wilder: Sen. Rochelle.

Rochelle: For what?

Wilder: Sen. Gilbert.

Gilbert: For instance in the Knox County region, we can now call into the adjoining counties without a toll charge. That was something the PSC mandated. Now, the question is, under this system, can that be taken away, and charges be assessed for those kind of calls?

Wilder: Sen. Rochelle.

Rochelle: Again, that's a question I, I, I've been trying to get you all for months now to ask me questions so that I can get you the answers. I'm told from the balcony, because I hadn't heard that one before, I'm told from the balcony, the answer to you is no.

Wilder: Sen. Gilbert.

Gilbert: I would submit to the ladies and gentlemen of this Senate body that it is not a universal service, it is not basic service, and that is not controlled under this bill, so that they could. Indeed, I spend two years in the city of Los Angeles as a resident there, and as you all may know, if you've been in some of the bigger cities, the cost system that they use in some of the larger cities is they charge you per call, even if it's

a call within the city limits. It's per call and per time, and there's nothing in this bill that will prohibit that kind of regulatory scheme to self-imposed, as long as they stay under the price caps. Third question, is there anything in this bill that would permit the Public Service Commission to initiate something like FYI which they did several years back and which we hope to reap great benefits from. Where is that in the bill that will allow that kind of innovative future thinking as we get into more technological advancements?

Wilder: Sen. Rochelle.

Rochelle: First, let me tell you on the directory assistance, I am told that the companies have an agreement with the consumer advocate that would be effective on that to prevent your concern there. And under, under the rules as they would exist after this passed, no they would not be able to charge, charge tolls for what are now toll free. In regard to the, to the, you are talking about the fiber optics network, what would encourage them to be forward thinking in the future? I guess, you know, I have to say to you, the company that is best equipped, the better, the company that becomes the most technologically advanced is the company that's going to be operating the most efficiently, and so that, that basic principle of the free market that you've got to consider not only your income, you've got to consider your outgo, you've got to consider the state of your technology. And so I think that's what will encourage every competitor to try to be as technology, as technologically advanced as possible.

Wilder: Sen. Gilbert.

Gilbert: I hope so, members of the Senate. All I can say to you is, the reason we got FYI, is because the Public Service Commission instead of ordering that profits that came from decreased costs go back as a rate refund, they ordered that they reinvest it in modern technology. That is not provided for under this bill. The fourth question, and I'll be quiet and we can vote. Is it not true under the, the system that's set up under your amendment, that if indeed costs continue to decline in this industry as they have in the last five years, as technological advances occur, that even if those costs, the savings that you get from the cost decline which they call the productivity factor, let's say it's six percent, seven percent, I don't know what the number is, but let's say it's a lot more than inflation, and that could happen, there's nothing in this bill that requires those savings to be passed on to the citizenry of Tennessee.

Wilder: Sen. Rochelle.

Rochelle: That's the whole essence of the bill, is to take what you have learned all your life, to take what you have learned about America, is that competition drives costs down and improves services.

Wilder: Sen. Gilbert.

Gilbert: I would just reply to the benefit of the Senate, that that is exactly what Louisiana took up and considered and said that there's been no proof that we're going to have it. I agree. There is going to be competition. It's going to be meaningful. I just don't know when. And so the essence of this bill boils down to whether you think it's going to occur tomorrow, two years or three years, and if you think it's going to be out there, a year, two years or three years down the road, I would ask you to think about who is getting the profits in the intervening time. Where are they going, and whether the citizens of Tennessee are getting a fair deal. In Louisiana and Mississippi, their regulatory body said it wasn't a fair deal, and they instituted proceedings so that Tennessee, or so their consumer will have a fair chance. I don't think we're doing that today.

Wilder: Sen. Burks, Sen. Koella, Sen. Ford, Sen. Burks.

Burks: Mr. Speaker, members of the Senate, I believe Sen. Henry a moment ago was talking about the companies and how they would have to compete and really watch their dollars, but you know, looking at the four companies that are involved in this being worth \$70 billion, I don't believe they are going to support a bill, Sen. Henry, that's going to cause them to lose money. They are not going to do that. They didn't get to be \$70 billion and come and introduce a bill that's going to cause that. The thing that worries me is that, that these are monopoly type companies that have been under the PSC and who's to say that four companies of this size cannot come together in collusion and do what they want to do out in the public. Because, anti-trust works very slow. Very slow. And I look at this bill like going and buying a new car. They can give you the car, the basic rate that you're charged at your home, but the accessories that you put on that car or the accessories that you put within that home, the number of different supply units in that home, the number of phones, call waiting, all of these things, I don't believe that's addressed in this bill. And I believe that any company could agree to keep that base rate the same on the homeowner, and then all these other charges come in. And that's, I think that's what you're getting to land on you, and that's all of these accessories. And I, that's like I had old bulldozer, Thompson and Green, I thought they ought to give me the dozer and just sell me the parts, because they could make a living off of the parts. And that's exactly what you're going to have happen with this legislation. The way it is worded with the, all the regulations that we have took out of it. And competition is the finest thing that has ever been. If you don't have a certain segment of the economy that's got control of the economy. These few companies have control. They don't just anybody up and go out here and get in the phone business, like a retail establishment, building it. And it's altogether different than the regular free enterprise system because you don't the numbers of people that can be involved in it.

So I, I see the bill is going to pass, but I'm thinking that you are going to be down here, some of you are going to have some sad looks on your face when these things go to happening out here. Because companies of this size and this amount of dollars that really, they outweigh state government nearly, our entire state government in value of things that they've, they've got going, but, and I wonder some times, they say there's two sides to this issue, I'm wondering if both sides are not involved in it, and would like to see this bill. Sometimes there's a lot of games played, and that's something to think about, and the people that have been lobbying on it, are fine people, and they get paid fine for doing it, and that's their job to do, is to try to sell legislation like this, but when you're representing a constituency out here and they expect you to be watching out for their interest, then think about this bill when you vote on it today as to whether you're representing them or what is really taking place. And these accessories that are going to be charged and profits are going to be made, all the while that we are saying that the basic rate of the home is the same. May be, six or seven dollars, but that bill at the end of the month may be \$55.

Wilder: Sen. Koella.

Koella: Sen. Rochelle, would you take a very friendly amendment on this bill? This friendly amendment wouldn't cost too much, but do a heck of a lot of good to a heck of a lot of us, is the next time that one of these bills come through here, I want your help to require the telephone pages and their writing on it is just a little blacker and not quite as small. Could you do that for me?

Wilder: I have Sen. Ford, Sen. Jordan. Sen. Ford.

Ford: Mr. Speaker, let me say this right over here. PSC for years has regulated the phone industry. To answer some of the questions that Sen. Gilbert and others raised. They have regulated them to the extent that they told them, South Central Bell has been the only carried for local phone service, I'm not talking about long distance. They haven't regulated long distance. They've given access. And what they have said is you can have only a certain rate of return. It is a rate of return on your overall investment. If any of you know anything about finance and accounting, a return on investment, that's not the same as profit and loss, not the same, two different things altogether. That's what they've allowed them to do. We don't need the expert down here sitting with us telling us that. I can tell you that, and that's a fact, and that's the truth. When you are the only person in that business, and someone tells you you can have this percent, 11 percent, 10 percent, you look at it over the years, they've gone anywhere from 8 to 12 percent probably rate of return on investment. They don't necessarily have to invest in equipment and technology that will yield you the lowest possible cost. Not necessarily. The answer is so very simple. You know the reason why? You don't have any competition. I am in the funeral business, and whatever other kind of business, if I have competition, I can invest in 1932 model hearses. You

got competition, you're going to invest in the latest of equipment, because your competitor hags and you're going to keep your prices low. South Central Bell, for whatever reason did not necessarily invest all the latest, well, fiber optic, fiber optic system in place today. There are others up there that are putting in place today a fiber optic system, the latest in technology. I guarantee you in three years they will have one. Sen. Gilbert, they will have one. Who's to insure that? The competition. They're up there. This bill brings about competition in effect that will yield the best popular rate, pop-, the best possible rate or the constituent for the consumer. That's what it will do. When will it do it? It will start after it goes into effect. It's not going to go into effect until one or two months. Give them 15 to 18 months. You'll see a change. If we need to regulate something, we'll be back here in January. We can regulate by statute whatever we want to do. Whatever we want to do. We can regulate by statute and we can regulate behavior. The bill is a good bill, as it has been amended. I am going to vote for it.

Wilder: Sen. Jordan.

Jordan: Mr. Speaker, I, I'm going to try and be very brief. I have some concerns about the legislation. I addressed the body about those concerns. In effect, I share what Sen. Henry has expressed, the fear that what is going to happen is competition is going to be fierce, it's going to be strong, but it's going to be directed toward a small share of the market, and that the effect of that on the consumer, particularly those in the rural areas will not be a good effect. But we have to start from some place. And I trust this legislature will continue to exercise responsible oversight in the intervening years to insure that the assumptions we're making today are in fact the correct assumptions. And that we will continue to provide efficient cost effective telephone service to the citizens of our state, and for that reason, and that reason only, I'm going to be voting for the bill.

Wilder: Further discussion? Are you ready on the bill? On the bill. Those favoring passage on,... Sen. Cohen is recognized.

Cohen: Thank you, I'd like to move for a division of the question.

Wilder: Can you tell me?

Cohen: Just joking, Sen. Rochelle.

Wilder: That's a proper request. He wants to divide, Sen. Gilbert. Sen. Rochelle.

Rochelle: No, he's joking.

Cohen: (Off mike - Just joking.)

Wilder: You ready on the bill? Those favoring vote aye when the bell rings. Opposed, vote no. Every senator vote on the bill. Has every senator voted? Does any senator desire to change their vote? Take the roll, Mr. Clerk.

Clerk: Ayes 24, nays 8.