



# WASHINGTON NEWSLETTER



BOX 54, 110 MARYLAND AVENUE, N.E. • WASHINGTON, D. C. 20002 • TEL. 202-547-4440  
TWX 710-822-1976 ISSN: 0001-1746

Vol. 33

December 21, 1981

No. 15

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CONGRESS ADJOURNED DEC. 16; 2ND SESSION OF 97TH CONGRESS CONVENES JAN. 25, 1982.

### Continuing Resolution, FY 1982

Congress averted another presidential veto and possible government shutdown, but assured that further action will be needed on FY 1982 funding by passing another temporary continuing resolution (HJRes 370) carrying funding for most federal programs only through March 31. President Reagan signed the measure December 15 (PL 97-92), the day the previous resolution expired.

PL 97-92 reduces discretionary budget accounts four percent, but within accounts, individual programs may be reduced by as much as six percent as long as the overall total is a four percent cut. The Education Department has decided on a straight four percent cut for library programs as shown in the table below. However, for the Library Services and Construction Act, which is not advance funded, ED may continue to release funds based on the President's September budget request in anticipation of possible future rescissions. Such an action would be contrary to congressional intent. Sen. Mark Hatfield (R-OR), Chair of the Senate Appropriations Committee, indicated that any deviation from the four percent cut should be considered a re-programming request, which must be submitted to House and Senate Appropriations Committees for approval.

(Figures in thousands)	FY '81 Approp.	Sept. FY '82 Reagan Budget	HR 4560		PL 97-92 Cont. Res. thru 3/31/82 with 4% cut
			FY '82 House-Passed Bill	FY '82 Senate Committee	
LSCA I	\$ 62,500	\$ 41,250	\$ 62,500	\$ 62,500	\$ 60,000
III	12,000	10,560	12,000	12,000	11,520
HEA II-A	2,988	-0-	2,000	-0-	1,920
II-B	917	1,027	1,167	-0-	880
II-C	6,000	5,280	6,000	6,000	5,760
Totals	\$ 84,405	\$ 58,117	\$ 83,667	\$ 80,500	\$ 80,080

House and Senate Republicans had worked out with the President in advance an agreement to cut four percent from most discretionary programs while adding funds to a few -- \$140 million was added to the Senate figure of \$350 million for the school block grant, for instance. Rep. Silvio Conte (R-MA), ranking minority

member of the House Appropriations Committee, offered this agreement as a substitute to the House Appropriations Committee resolution, and the Republican substitute passed on December 10. Defeating several attempts to add funds, the Senate passed the substitute the next day, thus avoiding a House-Senate conference.

The four percent cut applied to the elementary and secondary education block grant (Education Consolidation and Improvement Act Chapter 2) leaves \$470,400,000, compared with amounts in the L-HHS-ED Appropriations Bill (HR 4560) of \$535,485,000 in the House and \$350,000,000 in the Senate. Funding for the National Commission on Libraries and Information Science in the resolution is approximately \$674,000. In the postal area, the \$20 million shift from the public service subsidy to revenue foregone was retained, but it is not yet clear how the four percent cut will be applied. Further details will be provided as they become available.

#### Budget Cuts and Rescissions on the Way

Documents leaked to the education media indicate that President Reagan's FY 1983 budget will cut Department of Education funding almost in half from FY 1981 levels, and that rescissions of FY 1982 funding will be requested at the same time. For library programs, rescissions below the President's September budget request for FY 1982 (shown in the table on p. 1) would include cutting LSCA I to \$30,814,000, HEA II-B to a \$767,000 total for training and research combined, HEA II-C to \$3,944, and the school block grant to \$387,428,000. The FY 1983 budget would request still further cuts in the block grant, and severe reductions in library programs, to perhaps less than 20 percent of FY 1981 levels. LSCA I public library services may be zero funded, and research libraries and library training and research cut further. The request for college libraries would again be zero. The NCLIS budget is threatened as well.

**ACTION NEEDED:** The first session of the 97th Congress adjourned December 16. The second session will convene on January 25. Visit your own Senators and Representatives in their local offices to protest further cuts in library and other programs of concern to you. All Members of the House and a third of the Senate are up for reelection next year. They will be particularly sensitive to constituent reaction to what they've done this year, and what's proposed for next year. Decisions on whether to cut FY 1982 funding further will come up immediately after Congress returns, in order to meet the March 31 deadline, so your visits will be most timely.

#### Taxation - Independent Research Libraries as Public Charities

The Senate Taxation and Debt Management Subcommittee held a hearing December 11 on S. 696 which provides that certain permanent libraries which are open to the public at no charge and are operated as the sole activity of the organization, can be treated like other educational institutions as a public charity for federal income tax purposes without regard to the source of their funds. By treating an organization operating a qualified library as a public charity without regard to whether it is publicly supported, S. 696 would automatically exempt such an organization from the general private foundation restrictions and would exempt it from the 2-percent excise tax on net investment income. Two libraries which would benefit from the legislation were represented at the hearing although the bill may also apply to other libraries. Testifying for the legislation were Thomas Gillies, Director of the Linda Hall Library in Kansas City, MO, and Michael Newmark, on behalf of the St. Louis Mercantile Library Association. A Treasury Department spokesman testified in opposition to the legislation. However, Senate Finance Committee members present at the hearing, Sen. John Danforth (R-MO) and Chairman Bob Packwood (R-OR), both strongly supported the bill. Rep. Richard Gephardt (D-MO) has introduced a companion bill, HR 2834, but no hearings are scheduled so far.

## Telecommunications

Major legislation revising the common carrier provisions of the Communications Act of 1934 was introduced December 10 by Rep. Timothy Wirth (D-CO), Chairman of the House Telecommunications, Consumer Protection, and Finance Subcommittee. HR 5158, the Telecommunications Act of 1981, is "a procompetitive and prouser piece of legislation" according to Rep. Wirth's introductory statement in the December 10 Congressional Record (pp. H9302-3). Subcommittee staff indicate that although the goals of HR 5158 and the Senate bill (S. 898, passed by the Senate on October 7) are essentially the same and many provisions are similar, the tactics and focus differ considerably. The focus of the House bill is intended to be more on the ratepayer and user, with more attention to the transition to competition.

Although not listed as cosponsors, ten of the fourteen other members of the House telecommunications subcommittee wrote to Wirth commending him on the openness of the bill drafting process, and noting:

We have achieved broad consensus on the direction and purpose of telecommunications reform. We have agreed, for instance, that legislation must be strongly pro-competitive, while ensuring fair treatment of ratepayers, users, and existing suppliers. A bill must also contain incentives for the maintenance and improvement of the public network, and guarantee the continued availability of universal service at affordable rates.

While we have not reached conclusions about all the details of common carrier reform, most of the provisions in your bill reflect our consensus.

The subcommittee plans hearings on the bill in February, markup in March, and conference with the Senate this summer, and is resolved to meet this ambitious schedule. The climate for enactment of legislation is better than ever before, as evidenced by the easy passage of the Senate bill by a 90-4 vote. Basing the legislation on predecessor bills and S. 898, narrowing the focus to common carrier provisions (leaving out for the most part broadcast and cable issues), diligence in achieving consensus -- all have improved the climate for the House bill.

As part of the bill development process, the House subcommittee held hearings earlier this year on competition, resulting in a recent subcommittee majority staff report, "Telecommunications in Transition; the Status of Competition in the Telecommunications Industry," which is available for \$7.50 from the Government Printing Office, Washington, D.C. 20401 (Stock No. 052-070-05654-1). The subcommittee also held hearings on protecting diversity of information sources; Rep. Wirth feels strongly that major carriers should not control information content. The subcommittee solicited statements on this subject from ALA and a wide variety of other sources. This input may result in a later subcommittee report on diversity of information sources.

**REACTIONS NEEDED:** Because of the growing rise by libraries of telecommunications technologies to provide library and information services, the outcome of this legislation will directly and profoundly affect libraries for decades to come. In preparation for the February hearings, the ALA Washington Office would appreciate reactions to HR 5158 from a variety of sources in the library community, including library network representatives. Attached to this Newsletter is a summary of HR 5158 prepared by House Telecommunications Subcommittee staff. The text of the 120-page bill is available through your own Representative.

## Copyright

Copyright Notice. The Copyright Office has issued final regulations giving examples of methods of affixation and positions of the copyright notice on various types of works. The regulations, published in the December 1 Federal Register (pp. 58307-14), implement section 401(c) of the 1976 copyright law (PL 94-553). The regulations are intended to provide guidance to those seeking to affix the notice in a manner and location that will comply with the statutory requirements. They will also prove useful to library employees and users attempting to locate the copyright notice on a work. For instance, ten possible locations are described for works published in book or periodical form. Responding to a comment by the Special Libraries Association that this could increase the burdens placed on librarians and library users both in terms of time and labor, the Copyright Office agreed that "a librarian or library user should not be forced to embark on a 'treasure hunt' in search of a copyright notice. However, the Office also believes that limiting the examination to no more than the first or last ten pages of a work will not prove onerous provided 'the notice is reproduced prominently and is set apart from the other matter on the page where it appears.'"

Piracy and Counterfeiting. The Senate passed on December 1 the Piracy and Counterfeiting Amendments Act of 1981 (S. 691). The bill would amend titles 17 and 18 of the U.S. Code to increase the penalties for trafficking in counterfeit labels for copyrighted records, tapes, and audiovisual works, and for copyright infringements involving illicit reproduction and distribution of these products. Piracy is the term used for unauthorized duplication of original commercial products. In counterfeiting, the packaging and/or labeling of the original products are forged as well. According to the Senate Judiciary Committee report (S. Rept. 97-274), such piracy and counterfeiting have grown rapidly into a highly sophisticated, billion-dollar-a-year business. The Committee hopes to bring penalties into line with the enormous profits being reaped from such activities. An earlier 1974 law (PL 92-140) prohibiting piracy of sound recordings included language in the House report (H. Rept. 92-487, p. 7) making clear that long-established lending or renting practices of nonprofit libraries were not limited by the legislation. The recent Senate measure does not contain such assurances, although the emphasis is clearly on illegal commercial activity.

## Human Development Services Discretionary Grants

The Office of Human Development Services within the Department of Health and Human Services expects to award up to \$35,000,000 in FY 1982 for new grants and cooperative agreements funded under multiple discretionary funds programs. An announcement in the November 16, 1981 Federal Register, pp. 56364-56382 solicits preapplications for new research, demonstration, evaluation and training and technology transfer grants and cooperative agreements. The preapplication, which should include only a concept paper and specified related information, is due by January 15, 1982. Several priority areas could have library applications: e.g., assisting state/local governments in sharing information through telecommunications and other mechanisms; assisting state/local governments to improve their management information systems; and the development, implementation, and operation of community-wide information systems. Any state, public or other nonprofit organization or agency may submit concept papers under this announcement. Concept papers jointly developed by state and local community multiprogram social services agencies, foundations, and universities are encouraged in order to promote a comprehensive approach to complex issues involved in developing and administering social services programs.

### Higher Education Act II-B and C Application Deadlines

HEA II-B Training. February 8, 1982 is the closing date for applications from institutions of higher education and other library agencies and organizations for the Higher Education Act title II-B Library Career Training Program. The notice in the December 2 Federal Register (p. 58547) indicates that because of limited funds in FY 1982, only approximately 34 fellowship projects will be awarded. Application forms and program information packages will be available after December 28 from: Library Education, Research and Resources Branch, Attn: II-B, Dept. of Education (Rm. 3622, ROB-3), 400 Maryland Ave., S.W., Washington, D.C. 20202-3320 (202/245-9530).

HEA II-B Regs Correction. The December 7 Federal Register (p. 59555) lists a few corrections for the HEA II-B Library Career Training Program proposed regulations which were published in the October 28 Federal Register (pp. 53362-7).

HEA II-C Research Libraries. February 18, 1982 is the closing date for applications under the Higher Education Act title II-C Strengthening Research Library Resources Program. The notice in the December 2 Federal Register (p. 58548) indicates that grants will be awarded to approximately 40 major research libraries either directly or through joint applications. Application forms and program information packages will be available after December 21 from: Library Education, Research and Resources Branch, Attn: II-C, Dept. of Education (Rm. 3622, ROB-3), 400 Maryland Ave., S.W., Washington, D.C. 20202-3320 (202/245-9530).

### Museum Services Awards

Although funds for the museum services program are uncertain, applications are invited for new general operating support awards for fiscal year 1982 (November 16 Federal Register, pp. 56231-53232). Closing date is January 19, 1982. For further information contact Mary Kahn, Program Director, Institute of Museum Services, Room 4006, 330 C Street, S.W., Washington, D.C. 20202/2407 (202/426-6577).

### Standards for Federal Librarians Proposed - ACTION NEEDED

The U.S. Office of Personnel Management recently issued proposed classification standards for federal library/information positions. Changes from the current standards are substantive and the potential ramifications for the library profession are serious. Librarians in federal agencies and elsewhere are urged to comment before the February 6 deadline to OPM and as soon as possible to the ALA Washington Office. The inch-thick draft, available for reference in federal agency personnel offices, is best reviewed by leafing through the whole document first. The attached fact sheet gives highlights of the draft standards.

#### FEDERAL LIBRARY REGISTER OPEN FOR TWO WEEKS

Librarians who want positions in federal agency libraries should contact the nearest Federal Job Information Center IMMEDIATELY to obtain applications forms. The GS-7 through GS-12 federal library register is open between January 4 and January 18. However, for certain specialities, the register is open indefinitely.

Proposed Classification and Qualification Standards  
for Federal Library/Information Positions

New classification and qualification standards for federal librarians and technical information specialists were proposed on December 8 by the U.S. Office of Personnel Management (OPM). Suggestions for revision of the draft standards are due by February 6, 1982. The proposed standards have implications not only for federal librarians but may influence positions in other types of libraries, as well as education for the profession.

The current Librarian Series, GS-1410, and Technical Information Specialist Series, GS-1412, have been restructured and will be superseded by a new Bibliographic-Information Analysis Series, GS-1409, and a Library-Information Service Management Series, GS-1410. The current Technical Information Specialist Series, GS-1412, would be abolished and replaced as part of these proposals for new and revised series and standards. The Library-Information Service Assistance Series, GS-1411, will replace the present standards for the Library Technician Series. In addition, a revision of the Guide for the Classification of Positions Providing Professional Level Library and Information Services is included, edited and re-titled Grade-Level Evaluation Guide for Professional Positions Providing Information Services.

Significant changes. The draft standards were developed by OPM after a comprehensive study of the current GS-1410, GS-1411, and GS-1412 occupations. Significant changes are proposed from the existing series and standards:

- Restructuring of the GS-1410 and GS-1412 series. This involves complete revision and replacement of the GS-1410 and GS-1412 series definitions and series coverage standards, of major segments of the Guide for the Classification of Positions Providing Professional Level Library and Information Services, and of GS-1410 and GS-1412 qualification standards. These items will be replaced with the proposed GS-1409 and GS-1410 series definitions, individual standards, and a revised classification guide application to science, engineering, and other non Library-Information Service (LIS) positions. Greater emphasis is placed on experience vis-a-vis education as a basis for specialization development and grade-level progression in LIS management and bibliographic-information analysis work.
- Revision of the MLS requirement and related experience requirements. Currently, the requirements are the MLS or educational equivalent or substantial experience in combination with passing an MLS-equivalency, written test. The proposed revision is to recognize and provide for fully qualifying alternatives for entry into the GS-1410 series through specific experience or combinations of experience and education. However, the MLS or equivalent programs continue to receive recognition in the GS-1409 qualification standard and particularly in the GS-1410 standard; according to the draft standards, they form a key basis for continuing the restructured GS-1410 series as a "professional" series. In addition, the GS-1410 proposals for qualifying education and/or experience in LIS activities include some specific, new job-related requirements to assure that the background of all beginning LIS professionals includes certain general knowledge and skills plus knowledge of the range of LIS services and functions.
- Reduction of the present GS-1410 entry grade levels. Entry level for the revised GS-1410 series will be at the GS-7 grade level, as compared with current use of both GS-7 and GS-9. The GS-1409 series will have a basic GS-5 entry level; however, certain MLS or equivalent qualifications will meet requirements for advanced or GS-7 level entry.

- Updating of coverage of computer-related and other occupational developments. Skills in the use of bibliographic data bases, systems, networks, audio-visuals, etc., are included.
  
- Clarification of kinds of work and knowledge/skills required. The GS-1409 series covers positions concerned with in-depth analysis of information needs and literature-information resources such as cataloging, indexing, bibliographic data base development or retrieval, and reference services. Development of expertise as a specialist in the function and/or subject matter is the principal characteristic of the series. At the entry level, the proposed standards specify that any bachelor's degree program, or an equivalent level of experience and training is qualifying. The GS-1410 positions cover professional work primarily concerned with managing library-information service activities in library and in other information facilities, or major segments within these. This is more of a "generalist" category and deals with broader organization problems, relationships, and contacts than the GS-1409 group. GS-1410 positions would require a bachelor's degree and a master's degree which provides knowledge of library-information and basic skills required for library information center management. The proposed standards say that other backgrounds of experience and training can be alternatively qualifying for entry into the profession.

Note well: a section of the proposed standards which specifies functions and duties assigned to the three series; a glossary of terms (the definition of "National Library-Center" deserves special attention); the exclusions within each series; representative LIS education course titles.

Implications for the profession: The proposed standards lessen the value of the MLS degree as a credential for entry into the library profession within the federal government, one of the single largest employers of librarians. State and local position standards in publically-supported libraries often are influenced by federal personnel standards. At a time when librarians strive to raise salary levels and increase professional status, the federal government would reduce them through the proposed standards. The professionalism of the job functions now performed by many librarians is questioned. Greater emphasis is placed on experience in relation to education. Language in the proposed standards could exclude managers in the GS-1410 series from heading science, engineering and technical library-information centers. Vague language could make it difficult to hire the handicapped. Librarians and library educators should review the draft standards carefully.

ACTION NEEDED: Suggestions for revision of the draft standards are due by February 6, 1982. Copies of the draft standards are available for review in federal agency personnel offices. OPM stresses that reviewers should read an additional document, Instructions for the Factor Evaluation System, before attempting to review the drafts. Additional information may be obtained from OPM staff, Raymond Yinger (202/632-5631), Eleanor Adams or Jeanne Monk (202/632-5632). OPM solicits written comments from program officials, personnel specialists, and others who have first-hand knowledge of the occupations. Individual librarians are strongly encouraged to comment through their agency, union and professional association. Comments should be sent to: Office of Standards Development, Staffing Services Group, Office of Personnel Management, Washington, D.C. 20415. ALA will review the proposed standards and comment. Please send written suggestions for revision to the ALA Office for Library Personnel Resources, 50 East Huron St., Chicago, IL 60611 (Director, Margaret Myers, 312/944-6780), or the ALA Washington Office, Box 54, 110 Maryland Ave., N.E., Washington, D.C. 20002 (FLRT liaison, Anne Heanue, 202/547-4440.)

House Telecommunications, Consumer Protection, and Finance Subcommittee Chair Timothy Wirth (D-CO) introduced a major revision of the common carrier provisions of the Communications Act of 1934 on December 10, 1981. The following is a summary prepared by subcommittee staff:

-2-

SUMMARY ANALYSIS OF H.R. 5158  
THE TELECOMMUNICATIONS ACT OF 1981

Purpose

This legislation revises and updates Title II of the Communications Act of 1934, governing the provisions of telecommunications services and facilities. As amended by the Telecommunications Act of 1981, it is the purpose of Title II to guarantee to the public the availability of reliable, efficient, and diverse telecommunications services and facilities at reasonable and affordable rates. To the maximum extent possible, marketplace forces -- rather than regulation -- are to be relied upon to achieve this purpose. The Telecommunications Act of 1981 explicitly directs the FCC to deregulate where markets are competitive, and to promote competition where they are not.

Part A -- The Regulatory Authority of the FCC

Under the bill, the FCC's authority is limited to the regulation of electronic transmissions (instead of telecommunications generally), defined as the delivery of information to a designated destination by electromagnetic impulses or light waves with a capability for response. Commission authority also extends to the non-transmission activities of both telecommunications carriers and non-carriers, but only to the extent that such activities directly affect the provision of electronic transmission.

The legislation focuses federal and state regulatory bodies on a number of issues that will require special scrutiny during the transition from monopoly to competition and gives the FCC regulatory priorities. Thus the FCC and the State commissions are prohibited from regulating either the resale of any transmission service, or data processing service.

The FCC is required to classify carriers that own transmission facilities as either dominant, regulated, or deregulated -- with the classification determining the degree and type of regulation (if any) to which a carrier is subject. AT&T would be the only dominant carrier under the bill, given current industry structure; all telephone companies that provide joint long distance and local exchange services today would be regulated; the small competing long distance carriers like MCI, which have no market power, would be almost entirely deregulated.

In the future, deregulation of any given carrier or transmission service depends upon a determination by the FCC that there are adequate alternatives to the service or facility. Alternatives are adequate if they provide comparable quality and geographic range -- at a comparable cost -- to the relevant service or facility.

Significantly, the adequacy of alternative facilities or services also hinges on whether they offer sufficient capacity to ensure competitive pricing in the absence of regulation. This test forces the Commission to focus its regulatory authority on "bottlenecks" identifiable by both overall market power, and the likelihood that the facilities could otherwise be priced at levels which would injure the public.

In order to promote competition among carriers, the legislation requires all carriers -- dominant, regulated, and unregulated -- to interconnect on non-discriminatory terms with any transmission facility, service, or terminal equipment, upon reasonable request. The Commission has authority to enforce this right to interconnection.

Part B -- Interexchange Transmission

After an initial transition period of 5 years, the FCC will exercise sole authority over all interexchange (toll) transmission, whether intrastate or interstate. The Commission has explicit authority to prescribe conditions governing the provision of interexchange service to ensure that any carrier's monopoly ratepayers do not subsidize its competitive offerings. The Commission also has the power to obtain from any carrier full and complete information necessary to perform its regulatory responsibilities and to evaluate the extent of competition in interexchange markets (in order to determine when deregulation or continued regulation in some form is appropriate).

Upon reasonable request, every regulated carrier must furnish "regulated services" (services for which there are not adequate facilities other than the carrier's). Carriers who provide such services must establish just, reasonable, and nondiscriminatory tariffs. To the extent practical, the tariffs must permit customers to obtain a wide range of qualities, options, capabilities, prices, and geographic range -- enabling customers to have access to a variety of "customized" services. No tariff for a given regulated service may include any costs associated with the provision of any other service or product.

Interexchange carriers must file any new or revised tariff with the FCC, which can accept, reject, or conditionally accept the tariff -- or prescribe a different tariff. The burden to show that a tariff is just, reasonable, and nondiscriminatory lies with the carrier proposing the tariff. No tariff may become effective until the carrier has met that burden. To preserve the joint through services available today carriers are allowed to file joint tariffs and to pool certain types of revenues and costs. Deadlines for Commission action on tariffs are established.

Part C -- Exchange Transmission

State public utility commissions retain existing authority over electronic transmission provided within a local exchange area. Each State commission must establish the exchange area boundaries within

that particular State (consistent with guidelines set forth in the legislation), and specify the carriers, rates, terms, and conditions for the offering of exchange service.

To prevent control of local exchange facilities from being used as a bottleneck to restrict interexchange, enhanced services, or terminal equipment competition, the bill imposes a number of specific requirements on exchange carriers. For instance, such exchange carriers must, by 1985, offer all interexchange carriers exchange access that is equal in type, quality, and range of supporting functions. The Commission may postpone this requirement for small local carriers.

Exchange carriers must also allow customers to interconnect any terminal equipment that meets Federal technical standards. Such carriers may not discriminate between affiliated and non-affiliated persons or firms in the provision of transmission services to "dependent" markets such as terminal equipment and enhanced services.

To reform the current separations and settlements process, the bill establishes a system of access fees to compensate regulated exchange carriers for the use of their local distribution services and facilities by interexchange carriers. The access fee system is designed to ensure the continued availability of universal service at reasonable and affordable rates, while bringing under public scrutiny the assignment and payment of the costs of exchange access.

Under the system, each exchange carrier must submit to the FCC a schedule of fees that identifies the direct costs of interconnection, a portion of joint and common costs, and subsidies set by the Transitional Joint Board to keep rates in high cost areas reasonable. Interexchange carriers must reimburse exchange carriers for the direct costs and for the determined portion of joint and common costs. Exchange carriers that provide service in a given exchange area may pool their costs in determining a standard access charge within that exchange.

All interexchange carriers must also contribute to a National Telecommunications Fund. Payments from the Fund to exchange carriers are intended to keep the costs of exchange service for small, rural carriers and toll links to rural or remote areas to within 110% of the national average of such costs, and to ease the transition from the current jurisdictional separations rules to a system that more accurately allocates costs between exchange and interexchange service.

#### Part D -- Telecommunications Equipment

The FCC retains authority to establish and enforce technical standards for terminal equipment and network facilities in order to foster competition, prevent harm to carriers' facilities, and to support the national defense and emergency preparedness.

The legislation deregulates the provision of new terminal

equipment. After a transition period of two years, no regulated carrier may file a tariff that includes any cost associated with the provision of new terminal equipment.

In order to both ensure the best prices for ratepayers and to encourage the growth of a competitive domestic transmission facilities industry providing a base for increased foreign sales, the bill requires regulated carriers affiliated with facilities manufacturers to procure such facilities on a non-discriminatory basis.

The dominant carrier (which now has over 80% of the domestic market) is directed to purchase an increasing percentage of its requirements from unaffiliated manufacturers up to 30% over a period of years, at which time the FCC is to modify or eliminate the percentages if the dominant carrier is procuring competitively. The FCC is granted authority to modify or eliminate the percentage requirements for outside procurement. The Commission may also prescribe rules for sale of equipment from the affiliated manufacturer to unaffiliated persons in order to provide a market test for the charges and terms under which the dominant carrier purchases facilities from affiliates.

#### Part E -- Dominant Carriers

The legislation repeals that portion of the 1956 consent decree that today bars AT&T from offering data processing, and enables the dominant carrier to offer unregulated services and products through a separate subsidiary or subsidiaries. However, the range of activities in which a subsidiary may engage depends upon the degree to which the subsidiary is independent of the dominant carrier. Reflecting this tradeoff, the legislation offers a dominant carrier a choice between a general separate subsidiary and one or more limited separate subsidiaries.

A limited separate subsidiary may manufacture and market terminal equipment, offer enhanced services like data processing, or provide information publishing services (Yellow Pages); it cannot engage in more than one of these activities, although the dominant carrier may establish three limited subsidiaries. Such a subsidiary may not own transmission facilities, or offer transmission services that are similar to those provided by the parent.

The parent retains complete control over its limited separate subsidiaries including a 75% share of the initial capitalization and all subsequent capitalization of each such subsidiary, and the ability to engage in some joint planning with it. Joint ventures, partnerships, and shared use of property is prohibited, however, and relations between parent and subsidiary must be arms length and pursuant to contract available for public inspection. These protections are required to ensure that competitive activities are not subsidized by regulated ones.

The general separate subsidiary, by contrast, may choose to

"compete" with its parent by constructing and owning transmission facilities (but may not lease capacity back to the parent). Once resale competition has developed, such a subsidiary may also offer services similar to those the parent provides on a regulated basis using circuits leased from the parent. With the exception of information publishing services, the general separate subsidiary may offer under single roof all the services and products that require two limited separate subsidiaries to be offered.

The dominant carrier may own less of a general separate subsidiary than it would of any limited separate subsidiary. During the 5 or 6 year transition period in which assets are being transferred to a separate subsidiary, the dominant carrier may own 80% of all issues of securities by the subsidiary. After the transition, all financing must come from the open market. The strictures against joint ventures, partnerships, etc., between parent and limited separate subsidiary apply in the general case of a general separate subsidiary as well. In addition, all joint marketing and planning (other than management control by the parent's board of directors) are barred, and the parent and the general separate subsidiary are considered separate persons for anti-trust purposes.

The general separate subsidiary's ability to construct facilities makes the subsidiary a competitor of the parent; in effect, the dominant carrier will be competing against itself. It is necessary and appropriate that the parent and the subsidiary be treated as separate entities, in particular so that the parent does not lose its incentives to maintain and upgrade the public network, or use revenues from that network to construct a competitor.

#### Part F -- Telecommunications Industry

The provisions of this portion of the bill address general, industry-wide issues, rather than the responsibilities and regulation of individual carriers or classes of carriers.

First, the bill enables carriers jointly to meet, plan, and agree -- under the auspices of the FCC -- on matters affecting the design, maintenance, management, development, and coordination of any network of telecommunications services or facilities. Meetings with the purpose or effect of violating Federal or State antitrust laws are prohibited.

Second, the FCC is empowered to coordinate the development and establishment of arrangements among interexchange carriers for mutual backup, restoration, and interconnection of services necessary to ensure the continuity of telecommunications essential to the national defense. In time of national defense or other emergencies, the President may override the provisions of the bill to order any carriers or their affiliates to furnish telecommunications services or facilities to any Federal agency.

Third, the bill contains provisions intended to promote the widest

possible diversity of information sources. The dominant carrier is prohibited from engaging in any electronic information publishing service (except for limited electronic directory information) over any of its regulated transmission facilities.

The legislation also requires regulated carriers with over two million stations (the other largest telephone companies) to make services and facilities they make available to any information publisher available to any other information publisher upon request. No regulated carrier may cross-subsidize information publishing services with revenues derived from regulated services or discriminate between their own information publishing services and those of others.

Regulated exchange carriers are barred from offering cable television services where they are offering exchange service except in rural areas.

Finally, the FCC is directed to establish regulations that restrict foreign manufacturers' or carriers' ability to enter the U.S. market to the degree that U.S. manufacturers' and carriers' entry is limited in those countries.

#### Part G -- Protection of Ratepayers and Employees in Transition to Competitive Marketplace

The legislation is intended to ensure a transition to a competitive telecommunications marketplace in a manner that is fair to ratepayers and protects them against unnecessary and undue financial burdens. Thus, installed terminal equipment remains available to a customer under regulation until it is fully depreciated; alternatively, customers have the option of purchasing installed equipment on their premises for a price determined by state public service commissions. The authority vested in state commissions to auction fully depreciated or returned installed equipment is intended to be used to (1) promote the orderly development of a secondary market in terminal equipment (a valuable check on prices of new equipment that does not exist today) and (2) ensure that ratepayers are fully compensated for the transfers of equipment to carriers' unregulated activities.

Inside wiring installed prior to the end of a 2 year transition period, like embedded equipment, remains available under tariff until fully depreciated. Thereafter, any person may offer inside wiring on an unregulated basis -- while the local carrier continues to provide it on a regulated basis for five years, or longer at the discretion of the FCC in consultation with the state commissions.

The gradual deregulation of equipment and wiring offers customers maximum choice, while easing the impact that loss of these items from the rate base will have on local telephone rates. State commissions, the regulatory agencies closest to customers, are given a significant responsibility in overseeing this transition.

The legislation establishes a transitional joint board, consisting

of 3 FCC commissioners and 2 State commissioners, to establish and initially administer the National Telecommunications Fund, to price the assets transferred by regulated local carriers to unregulated activities and to modify the existing procedures for allocating joint costs of local and long distance transmission. In evaluating any transferred asset, the board is directed to choose the greater of fair market value or book value. Fair market value includes the going concern value of any transferred business.

The transition portion of the legislation also includes provisions detailing the procedures a dominant carrier must follow in establishing any separate subsidiary and the time periods under which manufacturing and applied research activities must be shifted to the subsidiary.

The legislation recognizes that the structural changes required of a dominant carrier may have an impact on employees in the telecommunications industry today, and therefore explicitly secures employee rights and benefits during a substantial transition period. These labor protection provisions extend to all regulated carriers which may be required to establish a separate entity. The bill also requires the FCC to establish rules to protect the privacy of business-related conversations between carrier employees and customers.

#### Part H -- Rights of Ratepayers

The bill is designed to ensure that users of regulated services continue to enjoy access to high quality telecommunications facilities that offer universal service, and reap the benefits of competition without cross-subsidizing unregulated services or products. So that ratepayers may enforce these and other rights, the legislation authorizes the FCC to provide public participation funding, and empowers users to bring lawsuits on their own in a limited number of instances to enforce selected portions of the Act.

NOTE: In preparation for House subcommittee hearings in February 1982, the American Library Association Washington Office (110 Maryland Avenue, N.E., Box 54, Washington, D.C. 20002, 202/547-4440) is very much interested in receiving comments on this legislation from the library community. Those interested should also see Rep. Wirth's introductory statement in the December 10 Congressional Record (pp. H9302-3), and a recent subcommittee report, "Telecommunications in Transition; the Status of Competition in the Telecommunications Industry," available for \$7.50 from the Government Printing Office, Washington, D.C. 20401 (Stock No. 052-070-05654-1).