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Dear Senator Bingaman,

Thousands of New Mexicans rely on cell phones as their primary telephone connection. They use the service for emergency health care, for business, and for assuring their safety. Provisions of the proposed Communications, Consumers' Choice, and Broadband Deployment Act of 2006 (the "Proposed Act"), currently being considered by the Senate Commerce Committee would eliminate a state's right and ability to protect the interests of consumers throughout the state. While I understand that you are not a member of the Commerce Committee, it is important that you become aware of the issues presented by Section 1005 of the Proposed Act, and that you confer with your colleagues on the Commerce Committee regarding the problems created by this proposed legislation.

Federal law currently prohibits States from regulating rates charged by wireless companies but expressly allows States to regulate "other terms and conditions." Section 1005 of the Proposed Act is written to alter the existing balance of power established by 47 U.S.C. § 332(c)(3)(A) between the federal government and the States regarding the regulation of "other terms and conditions" of wireless service. The language of Section 1005 would prevent the States from enacting wireless-specific laws, and instead limit the States to enforcing only generally applicable consumer protection statutes. Section 1005, therefore, would severely hamper the States' ability to protect their citizens from the wireless industry's unfair business practices and to enact legislation to target the unique abuses arising in this area.

Every day, the New Mexico Public Regulation Commission receives complaints from New Mexicans about problems they are experiencing with their wireless service. These New Mexicans deserve to be protected from the abusive practices of an industry that continues to grow at an amazing rate. According to the wireless industry's estimates, 207 million Americans subscribe to wireless service, and according to an AARP survey released this week, many wireless customers subscribe in order to have a phone for safety and security. As an increasing number of Americans view wireless phone service as essential to their personal safety, it will become even more important for the States to have authority to protect their interests with regard to this service. Such protections are most likely to be found in wireless-specific legislation, which can be tailored to address problems found only in this industry.

I ask that you carefully weigh the interests at stake and do everything possible to convince your colleagues on the Commerce Committee that Section 1005 represents an unwarranted intrusion into the rights of the States to protect their citizens.

Sincerely,

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