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Senate

The Senate met at 9:29 a.m., on the expiration of the recess, and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, Dr. Lloyd John Ogilvie, offered the following prayer:

Gracious God, without whom we can do nothing of lasting value, but with whom there is no limit to what we can accomplish, we ask You to infuse us with fresh strength and determination as we press toward the goal of finishing the work of this 105th Congress. Help us to do all we can, in every way we can, and as best we can to finish well. Inspire us to follow the cadence of Your drumbeat.

Bless the Senators in these crucial hours. Replace any weariness with the second wind of Your Spirit. Rejuvenate those whose vision is blurred by stress and deliver those who may be discouraged or disappointed. In the quiet of this moment, we return to You, recommit our lives to You, and receive Your revitalizing energy. We accept the psalmist's reorienting admonition, ''Wait on the Lord; be of good courage, and He shall strengthen your heart; wait, I say, on the Lord!''—Psalm 27:14. In the Name of our Lord and Saviour. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. ALLARD. Mr. President, this morning there will be a period for morning business until 10 a.m. Following morning business, under a previous order, the Senate will proceed to two stacked rollcall votes. The first vote will be on adoption of the motion to proceed to H.R. 10, the financial services reform bill, followed by a second vote on the motion to invoke cloture on S. 442, which is the Internet tax bill. Assuming cloture is invoked, the Senate will remain on the Internet tax bill with amendments being offered and debated throughout today's session.

In addition to the Internet tax bill, the Senate may consider the VA–HUD appropriations conference report under a 40-minute time agreement reached last night. The Senate may also consider other available conference reports or any legislative or executive items cleared for action.

The leader reminds all Members that there are only a few days left in which to consider remaining appropriations bills and other important legislation. Members are encouraged to plan their schedules accordingly to accommodate a very busy week, with votes beginning early each morning and extending late into the evenings.

I thank my colleagues for their attention, and I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDENT pro tempore. The able Senator from Arkansas is recognized.

TRIBUTE TO SENATOR DALE BUMPERS

Mr. HUTCHINSON. Mr. President, I rise today to pay tribute to my retiring colleague from Arkansas, Senator DALE BUMPERS. Arkansas is a State with a small population, and it is a State where politicians of even opposing political parties and philosophies find their lives and careers intersecting and intertwining.

As a high school student, I followed DALE BUMPERS' meteoric rise from an unknown country lawyer from Charleston, AR, to the Governor of the State and a man who became known in Arkansas politics as the giant killer, defeating such luminaries of Arkansas politics as Win Rockefeller and J.W. Fulbright.

I worked for DALE's opponent in 1980, not because I was enamored by his opponent, but because I was upset with some of DALE's votes. That has always been the way with DALE BUMPERS; you either agreed with him passionately or you disagreed vehemently.

While DALE has always been as smooth as honey, he has never tried to varnish his views or dilute his positions to make them more palatable to the general public, whether it was the Panama Canal or the space station.

Mr. President, I mentioned that in Arkansas, political lives and careers intersect frequently. In 1986, my brother ASA, then a U.S. attorney and now serving in the U.S. House of Representatives, ran against Senator BUMPERS in his second reelection campaign.

I worked in ASA's campaign, and I encountered and experienced firsthand the high esteem in which the people of Arkansas hold DALE BUMPERS. After Senator BUMPERS won that race resoundingly, delivering a good old country thumping to the HUTCHINSONs, I returned to my service in the Arkansas legislature and ASA became the State GOP chairman. We continued to follow Senator BUMPERS' career from afar, occasionally bumping into him at events in the State.

In 1990, ASA ran for attorney general of Arkansas. It was a politically tough, mean, even nasty race. It was hard fought and a very close race. I remember one day as I was working in ASA's headquarters in Little Rock, DALE BUMPERS walked in off the street unannounced. He came by, he said, to wish us well and to say that he always respected us and thought well of us. I saw a side of DALE BUMPERS that those who know him well see all the time. He knows well that there is life beyond the political arena and that politicians are, first and foremost, human beings.

I saw this again in 1996 when I was running for the U.S. Senate. It was the closing days of a very close race. DALE and my predecessor, Senator David Pryor, were campaigning for my opponent in a fly-around of the State. I suppose DALE was returning the favor from a decade before when I was campaigning for his opponent.

In the closing days, my son Timothy was involved in a tragic and terrible automobile accident. Timothy was seriously injured, and I was in the hospital room, not sure whether he was going to make it or not. The phone rang, and it was DALE BUMPERS. He called to assure me of his thoughts and his prayers and to tell me that he and David were suspending campaigning until it was clear that my son was going to be OK.

DALE, we will miss you around this place. I won't miss your votes, but I will miss you. I will miss your stories, and I will miss your humor. I will miss your eloquence, and I will miss your passion. I am grateful that our Senate careers overlapped for these 2 years. Thanks for your advice and counsel, and best wishes on this next phase of your life.

Mr. President, I yield the floor.

Mr. ROBERTS addressed the Chair.

The PRESIDING OFFICER (Mr. ALLARD). The Senator from Kansas.

Mr. ROBERTS. I thank the Chair.

(The remarks of Mr. ROBERTS pertaining to the introduction of S. 2563 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. ROBERTS. I thank the Presiding Officer and yield the floor.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Parliamentary inquiry.

Under the order, how much time does each Senator have in morning business?

The PRESIDING OFFICER. Five minutes.

Mr. DOMENICI. I ask I be given the 5 minutes.

The PRESIDING OFFICER. The Senator from New Mexico.

KOSOVO AND MILITARY READINESS

Mr. DOMENICI. Mr. President, I have asked for this time today to address two serious and interrelated concerns: One, the President's plans to intervene in Kosovo; and, two, the already evident crisis in readiness of the U.S. military.

There are some who believe that these two concerns should be dealt with separately. Some may argue that linking the two is merely an excuse for U.S. inaction. I wish to be very clear. Developments in Kosovo may compel the United States and our allies to intervene. However, this intervention should not be paid for by further hollowing out of the Armed Forces.

I and many of my colleagues, will not support airstrikes in Kosovo, and especially a ground force presence, unless the President agrees to submit a budget that addresses the related readiness and operational tempo requirements of the U.S. military.

Also, we must be careful not to believe that there is an easy or inexpensive long-term solution to the problems in Kosovo. The administration would have us believe that NATO airstrikes will somehow solve the problem. I, and many colleagues, disagree.

The recent massacre of ethnic Albanians in two small villages in Kosovo has heightened awareness and condemnation of Serbian aggression. Powerful airstrikes and military action could send a strong and unambiguous message to the Serbian leader. As in Bosnia, empty threats of NATO action never does anything to get the job done.

There is good reason to be concerned about 400,000 Albanians forced from their homes as winter approaches. I am concerned. I am deeply concerned about that. But I am more concerned about involving U.S. lives in ill-conceived military campaigns. I am deeply concerned that we will be sending an already weary and overextended military into a situation for which there is no quick and easy solution.

Mr. President, as you know, the U.S. defense budget has declined for the past several years. At the same time, nontraditional deployments have stretched an already extended military force to its limits. This is largely the result of downsizing of our force structure while increasing the number and the frequency of deployments overseas for purposes other than a war.

We have been asking our Armed Forces to do more with less for several years. They are finally admitting that they cannot do more with what the President has given them. Yet, the administration is asking them to still do more.

Now I and many of my colleagues wish to ask the administration one question: Will you do more? Will you ensure that readiness does not suffer further? Will you stop the hollowing out of our military forces?

Some may think that this readiness issue isn't real. I am sure there are those who think that there is no crisis in readiness. Well, I believe that a few examples of the crisis in readiness are absolutely persuasive.

Here are just a few of the symptoms of this crisis:

One, Navy pilot retention has sunk to an all-time low of 10 percent. This is the lowest in recorded history of pilot retention programs.

Air Force pilot retention is at 30 percent, and it is projected to decline further. The Air Force is now 700 pilots short.

The aircraft deployed on primary, peacekeeping deployments—such as Bosnia—are being ''cannibalized,'' meaning, they are being stripped for spare parts to keep at least a few flying. It is not uncommon for this to happen at a low-priority unit in the United States; however, allowing this to happen in the front-line deployments like Bosnia where we might soon go into combat is inexcusable.

Aircraft carriers are being deployed with personnel slots empty. A recent report has one carrier on a peacekeeping mission with a crew that is lacking 1,000 persons to perform the essential tasks. In other words, the United States has aircraft carriers on missions that are lacking about 20 percent of what is considered a full crew. How ready are these carriers to perform their missions?

We have Army units arriving for critical combat training at the Army's national training center in California with mechanics and ''mounted'' infantry simply missing. These units have junior noncommissioned officers filling roles traditionally filled by senior experienced noncommissioned officers.

This is a problem that permeates every branch of the Armed Forces. We simply are not retaining the seasoned, well-trained military personnel and professionals. I and Senator STEVENS are commissioning an important study by GAO to find out exactly why our military persons are leaving the service in unprecedented numbers.

The troops that I personally visited in the Persian Gulf made it clear that morale is low there. They are tired of constantly being separated from their families. I believe this separation would be tolerable if the operational tempo required of them were humane.

I believe the separation would also be eased, if they were assured that their families had adequate housing and food on the table.

I believe the separation would be tolerable and their loyalty to the military secure, if it weren't for the fact that they also question the purpose of the missions.

Mr. President, I believe we are failing own soldiers on all counts.

That brings us to the question of money. There is simply not enough money in the defense budget as it is currently projected to do everything that needs to be done. There is an effort underway to provide emergency supplemental funding for military readiness. I support that effort. However, this will not solve the bigger problems.

The U.S. defense budget has been in a constant decline since 1985. In the case of Bosnia, the administration has relied on Congress to repeatedly supply ''emergency supplemental'' moneys to provide for a ''contingency'' operation that started in December, 1995. We are currently supporting over 8,000 troops in Bosnia, and the President persists in asking us to join him in a charade that the U.S. presence in Bosnia is an ''unforeseen emergency.''

The budget shortfalls are eroding readiness, but, more importantly, they

are contributing to a precipitous decline in the moral of the soldiers in uniform.

Mr. President, we believe it would be an unacceptable policy to send our troops into harm's way without addressing the scarcity of spare parts and relevant readiness issues that currently permeate the forces. Of course, I am not prepared to support the half baked, not thought through ideas that I fear are still being contemplated by this administration for what currently serves as our ''policy'' in Bosnia and Kosovo.

We must send a clear signal to the administration that we will not paint ourselves into another Bosnia, especially without the administration's assurance that our military will not once again be asked to do more with even less.

Before we commit American lives to another dangerous mission overseas, we must clearly define our objectives and be realistic in the commitment required to achieve them. More importantly, we must give our men and women in uniform sufficient assurance that their loyalty is not a one-way street. This can only be achieved by stopping the decline in defense budgets and ensuring a higher quality of life for our soldiers.

I am pleased to be joined by the distinguished Senator from Texas in these remarks this morning.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield the floor.

Mrs. HUTCHISON addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I want to really follow on what the distinguished Senator from New Mexico was saying, because I think he laid out very well the problems that we are facing with our military today. No one questions the job our military is doing. They are doing their jobs well. But it is clear that we are losing our experienced people.

As the Senator from New Mexico has just pointed out, we are losing our experienced pilots, we do not have enough parts to keep the airplanes running, and the Army had its worst recruiting year last year since the late 1970s.

At the time that we are looking at mission fatigue, our troops being overdeployed away from their families on missions that are not security threats to the United States, we are now seeing a mixed message from this administration about yet expanding their responsibilities.

We were told in the last few weeks that NATO is contemplating airstrikes in Serbia. This is, of course, a terrible and tragic situation in Kosovo. And, clearly, we want to try to do everything possible to curb atrocities that are happening and may happen in the future in Kosovo. But, Mr. President, a superpower cannot fling around the world without a plan, without a thought, and have credibility.

I ask the question of the administration, Have we done everything we can do at the bargaining table with Mr. Milosevic? Have we put every economic sanction that can be put? Have we isolated this country to the extent that we can—as we have also tried to do with Iraq—to show this leader that he cannot continue to act in an irresponsible manner toward human beings in his own country and get by with it?

Have we done everything we can do first? If we have—and I don't think we have—if the administration makes the case that we have, then, and only then, should we be considering other options.

Mr. President, if we are going to bomb another country because of a civil conflict, a sovereign country that is in a civil conflict, have we thought through what the exit strategy is? Have we thought through what our responsibility is going to be for doing that? I haven't seen a plan. I haven't seen any kind of ''after plan'' after bombing. Yes, we have talked about bombing. But if we are bombing for the purpose of saying to Milosevic, ''You must withdraw your police so that the Albanians who live in Kosovo can come out of the hills and go into their homes,'' how is that to be enforced?

We have been told by administration officials that there would not be American troops on the ground unless there is a peace agreement, something to enforce. Yet yesterday the Secretary of Defense opened the door on American troops on the ground with NATO forces. Yet we haven't seen a plan. We haven't seen what the American role will be. We have certainly not been consulted to determine if the United States is ready to expand its mission in the Balkans.

We were told we would be out of Bosnia a year ago. We were told a year and a half ago, we were told 2 years ago that our mission in Bosnia would be complete when the parties were separated and the elections had been held. The parties are separated. The elections have been held. Yet American taxpayers have spent $10 billion in Bosnia, and the President is now saying there is an ''unending mission'' there. He has refused to put a timetable on it. This week the President has asked the U.S. Congress for $2 billion more for Bosnia in a supplemental appropriation, as if this were an emergency. Why didn't the administration put this in the budget? He says it is an unending mission, yet we have an emergency appropriation.

I conclude by saying we cannot fling ourselves around the world without a clear strategy and a clear role for the United States. I am looking to the President for leadership and I haven't seen it.

I yield the floor.

DON'T TAMPER WITH THIS JURY

Mr. BYRD. Mr. President, I have recently read several articles in the press which are cause for concern. One such article appeared in the Sunday, October 4, edition of the Washington Post, titled ''Bid to Trump Inquiry Shelved.''

The piece discussed White House efforts to produce a letter signed by at least 34 Democratic Senators declaring that they would not vote to convict the President, should the House decide to write articles of impeachment. According to the report, Minority Leader TOM DASCHLE has discouraged such an attempt.

I commend the Democratic leader, Mr. DASCHLE, for his wise and judicious counsel on this matter. He has done the White House, he has done the President, he has done all Senators, and, indeed, the entire nation a great, great service.

I am concerned about the ugly and very partisan tone that has enveloped many discussions of this matter, and about the extreme polarization which has already occurred. The House Judiciary Committee has voted to begin an impeachment inquiry. I have had nothing to say about that. I don't intend to have anything to say about that. This is the House's business. There is a constitutional process in place. That process has begun. The ball is in the field of the House of Representatives at this point. We here in the Senate should await the decision of the House of Representatives as to whether or not articles of impeachment will, indeed, be formulated.

Senators may at some point have to sit as jurors. Let me say that again. Senators may at some point have to sit as jurors in this matter and will be required to take an oath before they do. I read this oath into the RECORD a few days ago. I want to read it again, because the Senate will shortly be going out, not to return at least until after the elections, and perhaps not until the new Congress convenes in January.

To repeat this oath at this point, might be well advised. The Bible says, ''a word fitly spoken is like apples of gold in pictures of silver,'' and so I think it is a good time to repeat this oath, which will be incumbent upon every Senator, should articles of impeachment come to this Chamber. Here it is:

> I solemnly swear that in all things appertaining to the trial of the impeachment now pending, I will do impartial justice according to the Constitution and laws: So help me God.

Note the word ''impartial.'' We all need to remember the solemn responsibility we may be required to shoulder.

I would suggest by way of friendly advice to the White House, don't tamper with this jury. Don't tamper with this jury. I have been in Congress 46 years. I have been in this Senate 40 years. There are some people here who take their constitutional responsibilities very seriously. This will not be politics as usual if articles of impeachment come to this body.

My friendly words of advice to my colleagues are these: We may have to

sit as jurors. Don't let it be said that we allowed ourselves to be tampered with, no matter who attempts the tampering, no matter how subtle the attempt. How can we commit ourselves to vote for or against articles of impeachment without having seen them, without having heard the managers on the part of the House prosecute the articles, without having heard the impeached person's lawyers and representatives or even the impeached person himself make the defense? How can we as Senators, who will be prospective jurors, commit ourselves at this point, or at any point, as to how we will vote on such articles? We cannot do it and live up to the oath that we will be required to take. It is a solemn matter, it is not politics as usual, and I personally will resent—and I hope every other Senator will personally resent—any effort on the part of anybody in these United States to tamper with Senators as prospective jurors. I will personally resent it on behalf of the Senate and on behalf of the Constitution. I urge all Senators to be on their guard.

There has been a great deal of gratuitous advice given by people on the outside, and some on the inside, who know very little, probably, about the history of impeachment, about the history of the Senate, about responsibilities of Senators under the Constitution in such an event. We don't know what the House may decide to include in articles of impeachment when and if they ever come to the Senate. There can be an inquiry by the House, yet never be any articles formulated. That is up to the House. But if the House decides to formulate articles of impeachment, we have no choice here in the Senate but to vote up or down. We can't amend such articles. We have no way of knowing what the House may consider to be an impeachable offense. An impeachable offense does not have to be an indictable offense at law.

So I warn Senators, and I warn those at the other end of the avenue, to exercise the utmost care lest somebody be unjustly prejudiced because of tongues that wag too easily and too early.

I also condemn the circus atmosphere which has overtaken this city. There are attack dogs on both sides, on the talk shows and in the press, and their wild and rabid rhetoric is hardly contributing to an atmosphere of reason or respect. I believe that everyone must stop playing for advantage. And by that, I mean Republicans and Democrats alike; I mean people at both ends of the avenue and in between.

If the Senate votes on impeachment articles, that will be the most solemn, the most sobering, and the most far-reaching vote that Senators in this body will ever cast. Voting for a declaration of war does not compete with voting to convict or not to convict a President. We won't be voting to convict a Federal judge and to remove that judge from office. In this case, it would be the ultimate vote on the ultimate question that could ever face this Senate. So I say to my colleagues: Be careful.

Mr. President, just to illustrate how close we are to making a total farce of the situation, I note that Larry Flynt, publisher of a magazine called Hustler, has offered $1 million to anyone who will come forward with evidence of a sexual liaison with a Member of Congress or other high-ranking official. How much lower can we go? Now, that makes a farce of the Constitution.

Such tactics and countertactics only serve to convince the people of this Nation that whatever course we eventually take will amount to nothing more than partisan politics at its very worst. Now, we all play partisan politics, but this is one thing that won't bear touching with partisan politics on either side, Republican or Democrat. This is the Constitution which we have sworn that we will support and defend. One may say, well, there is no impeachable offense. This is something we don't know. If Senators commit themselves prematurely and then find, in reading the articles, that there is one article that is very, very difficult to vote against, it may be your own seat that you are imperiling.

I urge all Senators, many of whom are going home to stand for reelection, to avoid making commitments on this matter and to resist lobbying attempts, no matter how subtle, and no matter who attempts to lobby them. We must resist pressure from all sides.

The people are watching. This should not, this cannot, this must not, become bad, boring, beltway ''politics as usual.'' This is a matter in which partisan politics should play no role. I say this to my Republican friends as well. There is far, far too much at stake for the President, for the Presidency, for the system of separation of powers, for Members of Congress, and for our country as well.

Mr. President, I ask unanimous consent to have printed in the RECORD the article from the October 4, 1998 Washington Post.

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

[From the Washington Post, Oct. 4, 1998]

BID TO TRUMP INQUIRY SHELVED—CLINTON LOBBYING BEHIND THE SCENES TO AVOID IMPEACHMENT

(By John F. Harris)

Hoping to quash the congressional impeachment process in its nascent stages, President Clinton in recent days discussed with Senate Minority Leader Thomas A. Daschle (D–S.D.) organizing an effort to have Democratic senators sign a letter declaring that none of the allegations or evidence in the Monica S. Lewinsky investigation would merit impeachment, according to Democratic sources.

Daschle discouraged the idea, which Clinton apparently first heard from another Democratic senator about a week ago, and for now it has been shelved.

But the effort illustrates the intensive behind-the-scenes lobbying Clinton is doing to ensure his future in office. The skepticism of Daschle and other Democrats in both the House and Senate also illustrated how even lawmakers who want Clinton to remain in office are placing clear limits on what they will do to short-circuit the constitutional process of reviewing the allegations of impeachable behavior that independent counsel Kenneth W. Starr presented last month.

The hope, as Democrats familiar with the discussions described it, was to get at least 34 Democrats—or more than one-third of the Senate—to declare up front that they would never vote to convict. Since two-thirds of the Senate must vote to evict a president, such a letter would make a House impeachment vote moot, for all practical purposes. Clinton, sources said, apparently hoped that the letter could defeat the gathering momentum for a full impeachment inquiry in the House, which is set to authorize the process later this week.

''This is an idea which was generated on the Hill which is not getting much traction, because it's premature,'' said a senior White House official.

Also yesterday, sources said U.S. District Judge Norma Holloway Johnson had appointed an outside expert known as a ''special master'' to help her determine whether Starr's office illegally leaked grand jury material to reporters, as Clinton's lawyers have complained.

Starr's office has denied illegal leaks, but Clinton's lead private attorney, David R. Kendall, contends that the independent counsel's office has been the source of grand jury material whose publication was damaging to Clinton. Late last month, Johnson decided instead to appoint a special master, whose identity was not revealed, to conduct the inquiry and report back to her.

Clinton's advisers have resigned themselves to the virtual certainty that an impeachment inquiry will be approved by the House this week, but they hope perceptions that the vote was a partisan rush to judgment can turn this legal setback into a political gain.

The House Judiciary Committee will begin its formal deliberations on authorizing an impeachment inquiry Monday, and is planning to vote that day or Tuesday. Democratic sources in the administration and Congress said yesterday they are confident a measure authorizing an open-ended impeachment inquiry will pass with only Republican support, over the objections of Democrats backing a more focused inquiry that would be completed by Thanksgiving.

A day after the last major release of documents from Starr, Clinton's legal and political team yesterday had focused its own vote-counting efforts on the full House floor, in anticipation of a vote authorizing an impeachment inquiry by the end of the week.

On the floor, Clinton's hopes for making the case that the effort against him is a partisan affair are more clouded. A significant number of Democrats are prepared to vote in favor of the impeachment inquiry, which many administration and congressional officials say is all but certain to pass. Estimates on the precise number of these Democratic defectors vary widely. One Democratic source who has consulted with lawmakers said lower-end scenarios would have about 20 Democrats voting with the GOP. A House Democratic leadership aide said the number may be as high as 50; many of these lawmakers are planning to vote yes for both the Democratic inquiry resolution and then, if that fails, the Republican version.

What was striking this weekend was the passive public posture of the White House. Although the Clinton administration usually engages in aggressive public advocacy, on the eve of a vote that is critical to Clinton's future the White House was not sending its representatives on the usual Sunday talk

show circuit. Lawyers yesterday did nothing to expand the public defense they offered Friday, when Clinton's team claimed the 4,610 pages of new material released were further evidence of what they said was Starr's tendency to suppress exculpatory evidence.

The strategy of staying quiet, aides said, reflected a confidence that public perceptions of the case are already breaking in Clinton's favor, and that Democratic House members were better positioned to make the case that the process Republicans are proposing is unfair.

The latest release of documents ''didn't even lead the news last night. There's no reason to look for opportunities to elevate this story,'' one White House official said of the quiet weekend. ''Not that we're uninvolved, but the ball has now shifted to the congressional realm.''

''Whatever was there hasn't caused a huge stir. Without any revelations, it hasn't changed the perception of what we have to do with the Hill and the American public. Our focus is still on the resolution and the Democratic alternative and how we can build on it,'' said another Clinton adviser outside the White House.

Mr. BYRD. Mr. President, I thank all Senators for their patience. I thank the Chair and yield the floor.

Mr. INHOFE addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma has sought recognition earlier.

Mr. INHOFE. Mr. President, first of all, let me associate myself with the remarks of the most distinguished senior Senator from West Virginia.

JUDICIAL NOMINATIONS

Mr. INHOFE. Mr. President, in the midst of all the confusion and anxiety of the last week, we are going to be asked to vote on the confirmation of three judges that I think should be looked at very carefully.

First is the nomination of William Fletcher to the Ninth Circuit Court of Appeals. Groups are in opposition due to a Law Review article in which he stated that judicial discretion trumps legislative discretion when a legislature fails to act.

Presently, Fletcher's mother is sitting on the Ninth Circuit, which is historically the most liberal and activist court in the United States. Over the last 3 years, the Supreme Court overturned the Ninth Circuit more than any other.

In a book review, about which Mr. Fletcher was questioned before the committee, he stated that political circumstances outweigh a literal reading of the Constitution. In short, the Constitution is what Judge Fletcher says it is. Judge Fletcher is an extremist and should not be confirmed.

Nomination of Richard Paez to the Ninth Circuit Court of Appeals: In an outrageous ruling in 1997, Judge Paez ruled that an American company could be liable for human rights abuses committed by their partners in another country.

Paez has shown a bias against religious and conservative groups. In one of the most publicized cases Paez heard as a District Judge was the 1989 trial of Operation Rescue leader Randall Terry. Paez became upset with some of the pro-life language Terry used and ''stormed off the bench.'' Additionally, he angrily warned the defendants that their Bible would be confiscated if they continued to wave or consult it.

While a sitting District Judge, Paez gave a speech at UC-Berkeley's law school in which he called California's Proposition 209 an ''anti-civil rights initiative.'' In that speech, he also said, ''legal action is essential'' to ''achieving the goal of diversifying the bench.'' He characterizes himself as a ''liberal.'' Judge Paez is an extremist and should not be confirmed.

Lastly, and briefly, the nomination of Timothy Dyk to the Federal Court: While in private practice, Mr. Dyk, successfully fought the FCC's ban on indecent programming to protect children.

He has sat on the board of People for the American Way, and while working as an attorney for People for the American Way, he successfully defended a county school board that forced students to read materials their parents believed violated their deeply held religious beliefs. A member of Mr. Dyk's legal team called the concerned parents ''somehow less important'' and said ''the enemy was really not'' the plaintiffs ''but [Rev. Jerry] Falwell.''

I believe that Mr. Dyk is also an extremist and should not be confirmed in his nomination.

I yield the floor.

THE FINANCIAL SERVICES ACT OF 1998—MOTION TO PROCEED

Ms. MIKULSKI. Mr. President, I will vote against the motion to proceed on H.R. 10, the Financial Services Act of 1998. I oppose this legislation because it is inappropriate to bring down the protective firewalls in U.S. financial services while a firestorm is sweeping global financial institutions. Mr. President, this is the wrong time to be relaxing our protective financial services regulations.

I understand the intellectual argument to reform our financial services. In fact, I do not dispute it. There is no doubt that the U.S. needs to be competitive in the global marketplace. I would suggest to my colleagues, though, that changes in the global economic picture make this bill unwise. The global economic situation is vastly different now than when this bill was being drafted.

There are a number of what I call ''yellow flashing lights'' or warning signals that now is not the right time to enact this legislation. Let me mention a few. Former Secretary of State Henry Kissinger recently stated in the Washington Post that no government and virtually no economist predicted this global economic crisis, understood its extent or anticipated its staying power.

Now the United States Senate is going to rearrange the national financial landscape? We need to modernize the United States to go global? I think we need to pause and ask what does going global mean and do we want to go there at this time? In this current global environment of national financial collapses, IMF bailouts and hedge funds rescue packages have become daily occurrences. These are the ''yellow flashing lights'' and I believe we must proceed with caution to avoid rash and irrevocable changes when the savings of hard working families and the viability of our communities could be put in serious jeopardy.

Frankly, I am also concerned that the bill before us is the result of last-minute deal making. The issues here are too important for hasty decision-making. The decisions this bill makes affect the financial security of average Americans who are working and saving to provide for their families, U.S. financial institutions, the American economy and the global financial marketplace.

These are not trivial issues. We are being asked to establish a legislative framework for the financial services industry for decades to come. These are irrevocable decisions.

As changes were made to accommodate this interest or that interest, I am concerned that we have lost sight of the overall impact of the bill before us. I am concerned that we do not know enough about what's in the bill at this juncture, and what it will mean for our economic security. In the haste to get the job done before the Congress adjourns for the year, I have serious and deep reservations that changes have been made that have not been well thought out or thought through. If enacted, we will end up with unintended, but nevertheless, negative consequences because we rushed to the finish line.

Advocates of this legislation always mention the free market. They believe that buyers and sellers acting in their own self-interests will produce winners and losers, and bring about the best and most efficient outcome for banking customers. But look at what the free market has brought us lately— a global financial meltdown and hedge funds that are ''too big to fail''. As Kissinger suggested, indiscriminate globalism has generated a world-wide assault on the concept of free financial markets. In the United States, where we used to boast about our well functioning capital markets, we now bail out those investors who make foolish decisions.

One need look no further than the Long-Term Capital debacle to see evidence that even the brightest minds on Wall Street, acting in the free market, sometimes make very poor decisions. The collapse of this high-flying hedge fund was a failure of proper supervision. As Kenneth Guenther explains in the Baltimore Sun, this raises serious questions about our regulatory structure: ''it doesn't make sense to have too-big-to-fail institutions if the regulatory structure is not up to regulating them. . . . if the regulators

have to make a choice between the safety of the financial system and the free market, the financial system will win. There is no free market and there never will be. It's the height of hypocrisy to talk about the free market in one breath and bail out Long-Term Capital . . . in the next breath.'' Mr. President, I oppose this legislation because in this environment, we need more oversight and enforcement in our financial services, not less.

Beyond these concerns that this is not the right time to enact these sweeping changes buttressed by the follies of the free market, I have other, structural concerns with the proposed changes to our financial services laws.

First, I am concerned that if we relax the laws about who can own and operate financial institutions, an unhealthy concentration of financial resources will be the inevitable result. The savings of the many will be controlled by the few. If we relax banking regulations in this country, Americans will know less about where their deposits are kept and about how they are being used.

Marylanders used to have savings accounts with local banks where the teller knew their name and their family. We have already seen the trend toward mega-mergers, accompanied by higher fees, a decline in service, and the loss of neighborhood financial institutions. This bill accelerates that trend.

With a globalization of financial resources, the local bank could be bought by a holding company based in Thailand. Instead of the friendly teller, consumers will be contacting a computer operator in a country half-way around the globe through an 800 number. Their account will be subject to financial risks that have nothing to do with their job, their community, or even the economy of the United States. I know impersonalized globalization is not what banking customers want when we talk about modernization of the financial services.

Second, I am concerned that complex financial and insurance products will now be sold in a cluttered market by untrained individuals. Investment and insurance planning for families is a very important process, one of the most important decisions a family makes. It should be done with a professional who is certified and who is someone you can trust. By breaking down these firewalls and allowing various companies to offer insurance and complex investment products, we run the risk that consumers will be confused, defrauded, and treated like market segments and not individuals with unique needs and goals.

Finally, I believe that any modernization of our financial services law should not just retain, but expand the important consumer protections and community investment policies currently in place.

Consumers need protections and regulations to guarantee the safety of their deposits and the availability of basic banking services and credit to help their communities grow. If we have a Consumer Product Safety Commission to protect children from flammable sleepware, I believe we should also have a strong regulatory framework to protect consumers, not just investors, in the financial services marketplace.

A strong regulatory framework will not be provided by the Federal Reserve, as is proposed in this legislation. I share the concerns of John Hawke, Undersecretary of the Treasury Department, that shifting the regulatory power from the Office of the Controller of the Currency to the Federal Reserve Board is a highly questionable regulatory protection. This would be like letting the bankers regulate themselves. The decision making of the Federal Reserve is directly linked to the banking industry that it would regulate. Bankers elect two thirds of the Federal Reserves directors. It is true that the Federal Reserve is independent of the administration, but it is not independent of the bankers and finance companies that it would regulate.

Mr. President, I am not opposed to a necessary reform of our financial services laws. But this is not the legislation and this is not the time to do it. The U.S. stock market has had one of the worst quarters since 1990 and world leaders are currently strategizing about how to stanch the global economic crisis.

The Congress will be back in 90 days. Hopefully, the world market will be calmer, it will be after the election, and we will be able to study the lessons learned from the financial events of the past three months. For all the hard work and all the negotiating and compromise, now is not the time to go forward and add more fuel to what is already a very troubling global financial firestorm.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

FINANCIAL SERVICES ACT OF 1998—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to vote on the motion to proceed to the consideration of H.R. 10, which the clerk will report.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 588, H.R. 10, the financial services bill.

Trent Lott, Alfonse D'Amato, Wayne Allard, Tim Hutchinson, Dan Coats, Rick Santorum, Robert F. Bennett, Jon Kyl, Gordon Smith, Craig Thomas, Pat Roberts, John Warner, John McCain, Frank Murkowski, Larry E. Craig, and William V. Roth, Jr.

Mr. DORGAN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on the motion to proceed to Calendar No. 588, H.R. 10, the financial services bill, shall be brought to a close? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN), is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 88, nays 11, as follows:

[Rollcall Vote No. 301 Leg.]

YEAS—88

Abraham	Enzi	Lott
Akaka	Faircloth	Lugar
Allard	Feinstein	Mack
Ashcroft	Ford	McCain
Baucus	Frist	McConnell
Bennett	Graham	Moseley-Braun
Biden	Grams	Moynihan
Bingaman	Grassley	Murkowski
Bond	Gregg	Murray
Boxer	Hagel	Nickles
Breaux	Harkin	Reed
Brownback	Hatch	Reid
Bryan	Helms	Robb
Burns	Hollings	Rockefeller
Byrd	Hutchinson	Roth
Campbell	Inhofe	Santorum
Chafee	Inouye	Sarbanes
Cleland	Jeffords	Smith (NH)
Coats	Johnson	Smith (OR)
Cochran	Kempthorne	Snowe
Collins	Kennedy	Specter
Conrad	Kerrey	Stevens
Coverdell	Kerry	Thomas
Craig	Kohl	Thompson
D'Amato	Kyl	Thurmond
Daschle	Landrieu	Torricelli
DeWine	Lautenberg	Warner
Dodd	Leahy	Wyden
Domenici	Levin	
Durbin	Lieberman	

NAYS—11

Bumpers	Gramm	Sessions
Dorgan	Hutchison	Shelby
Feingold	Mikulski	Wellstone
Gorton	Roberts	

NOT VOTING—1

Glenn

The PRESIDING OFFICER. On this vote, the yeas are 88, the nays are 11. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

INTERNET TAX FREEDOM ACT

CLOTURE MOTION

The PRESIDING OFFICER. Under a previous order, the cloture motion having been presented under rule XXII, the

Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Calendar No. 509, S. 442, the Internet tax bill:

Trent Lott, John McCain, Wayne Allard, Connie Mack, Gordon Smith, Paul Coverdell, Spencer Abraham, Mike DeWine, Conrad Burns, James Inhofe, Judd Gregg, Rod Grams, Craig Thomas, Olympia Snowe, Rick Santorum, and Larry E. Craig.

CALL OF THE ROLL

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call under the rule is waived.

VOTE

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate on S. 442, the Internet Tax Freedom Act, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

Mr. BYRD. Mr. President, the Senate is not in order. Will the Chair repeat what the question is upon which the Senators will be voting?

The PRESIDING OFFICER. The Senator is correct. The Senate is not in order.

By unanimous consent, the mandatory quorum call under the rule is waived.

The question is, Is it the sense of the Senate that debate on S. 442, the Internet Tax Freedom Act, shall be brought to a close?

The yeas and nays are required under the rule.

The clerk will call the roll.

Mr. BYRD. Thank you.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Vermont (Mr. JEFFORDS) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

The result was announced—yeas 94, nays 4, as follows:

[Rollcall Vote No. 302 Leg.]

YEAS—94

Abraham	Daschle	Kempthorne
Akaka	DeWine	Kennedy
Allard	Dodd	Kerrey
Ashcroft	Domenici	Kerry
Baucus	Durbin	Kohl
Bennett	Enzi	Kyl
Biden	Faircloth	Landrieu
Bingaman	Feingold	Lautenberg
Bond	Feinstein	Leahy
Boxer	Ford	Levin
Breaux	Frist	Lieberman
Brownback	Graham	Lott
Bryan	Gramm	Lugar
Burns	Grams	Mack
Byrd	Grassley	McCain
Campbell	Gregg	McConnell
Chafee	Hagel	Mikulski
Cleland	Harkin	Moseley-Braun
Coats	Hatch	Moynihan
Cochran	Helms	Murkowski
Collins	Hutchinson	Murray
Conrad	Hutchison	Nickles
Coverdell	Inhofe	Reed
Craig	Inouye	Reid
D'Amato	Johnson	Robb
Roberts	Smith (NH)	Thurmond
Rockefeller	Smith (OR)	Torricelli
Roth	Snowe	Warner
Santorum	Specter	Wellstone
Sarbanes	Stevens	Wyden
Sessions	Thomas	
Shelby	Thompson	

NAYS—4

Bumpers	Gorton
Dorgan	Hollings

NOT VOTING—2

Glenn	Jeffords

The PRESIDING OFFICER (Mr. HUTCHINSON). On this vote, the yeas are 94, the nays are 4. Three-fifths of the Senators having voted in the affirmative, the motion is agreed to.

IMPEACHMENT INQUIRY

Mr. LEAHY. Mr. President, as we wind down this session, certainly this body and the other body have much on their mind regarding the actions of the House Judiciary Committee and the whole area of an impeachment inquiry. Every Member will have to speak for himself or herself in both bodies in deciding what they believe is or is not an impeachable offense.

Many times we speak about what is an impeachable offense without discussing what it is not. I ask unanimous consent to have printed in the RECORD an excellent article written in Sunday's Washington Post by Professor Sunstein, entitled ''Impeachment?'' I feel it will be helpful, as his writings usually are, on this issue.

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

[From the Washington Post, Oct. 4, 1998]

IMPEACHMENT? THE FRAMERS

(By Cass Sunstein)

We all now know that, under the Constitution, the president can be impeached for ''Treason, Bribery, or other high Crimes and Misdemeanors.'' But what did the framers intend us to understand with these words? Evidence of the phrase's evolution is extensive—and it strongly suggests that, if we could solicit the views of the Constitution's authors, the current allegations against President Clinton would not be impeachable offenses.

When the framers met in Philadelphia during the stifling summer of 1787, they were seeking not only to design a new form of government, but to outline the responsibilities of the president who would head the new nation. They shared a commitment to disciplining public officials through a system of checks and balances. But they disagreed about the precise extent of presidential power and, in particular, about how, if at all, the president might be removed from office. If we judge by James Madison's characteristically detailed accounts of the debates, this question troubled and divided the members of the Constitutional Convention.

The initial draft of the Constitution took the form of resolutions presented before the 30-odd members on June 13. One read that the president could be impeached for ''malpractice, or neglect of duty,'' and, on July 20, this provision provoked extensive debate. The notes of Madison, who was representing Virginia, show that three distinct positions dominated the day's discussion. One extreme view, represented by Roger Sherman of Connecticut, was that ''the National Legislature should have the power to remove the Executive at pleasure.'' Charles Pinckney of South Carolina, Rufus King of Massachusetts and Gouvernor Morris of Pennsylvania opposed, with Pinckney arguing that the president ''ought not to be impeachable whilst in office.'' The third position, which ultimately carried the day, was that the president should be impeachable, but only for a narrow category of abuses of the public trust.

It was George Mason of Virginia who took a lead role in promoting this more moderate course. He argued that it would be necessary to counter the risk that the president might obtain his office by corrupting his electors. ''Shall that man be above'' justice, he asked, ''who can commit the most extensive injustice?'' The possibility of the new president becoming a near-monarch led the key votes—above all, Morris—to agree that impeachment might be permitted for (in Morris's words) ''corruption & some few other offences.'' Madison concurred, and Edmund Randolph of Virginia captured the emerging consensus, favoring impeachment on the grounds that the executive ''will have great opportunitys of abusing his power; particularly in time of war when the military force, and in some respects the public money, will be in his hands.'' The clear trend of the discussion was toward allowing a narrow impeachment power by which the president could be removed only for gross abuses of public authority.

To Pinckney's continued protest that the separation of powers should be paramount, Morris argued that ''no one would say that we ought to expose ourselves to the danger of seeing the first-Magistrate in foreign pay without being able to guard against it by displacing him.'' At the same time, Morris insisted, ''we should take care to provide some mode that will not make him dependent on the Legislature.'' Thus, led by Morris, the framers moved toward a position that would maintain the separation between president and Congress, but permit the president to be removed in extreme situations.

A fresh draft of the Constitution's impeachment clause, which emerged two weeks later on Aug. 6, permitted the president to be impeached, but only for treason, bribery and corruption (exemplified by the president's securing his office by unlawful means). With little additional debate, this provision was narrowed on Sept. 4 to ''treason and bribery.'' But a short time later, the delegates took up the impeachment clause anew. Mason complained that the provision was too narrow, that ''maladministration'' should be added, so as to include ''attempts to subvert the Constitution'' that would not count as treason or bribery.

But Madison, the convention's most careful lawyer, insisted that the term ''maladministration'' was ''so vague'' that it would ''be equivalent to a tenure during pleasure of the Senate,'' which is exactly what the framers were attempting to avoid. Hence, Mason withdrew ''maladministration'' and added the new terms ''other high Crimes and Misdemeanors against the State''—later unanimously changed to, according to Madison, ''against the United States'' to ''remove ambiguity.'' The phrase itself was taken from English law, where it referred to a category of distinctly political offenses against the state.

There is a further wrinkle in the clause's history. On Sept. 10, the entire Constitution was referred to the Committee on Style and Arrangement. When that committee's version appeared two days later, the words ''against the United States'' had been dropped, probably on the theory that they were redundant, although we have no direct evidence. It would be astonishing if this change were intended to have a substantive effect, for the committee had no authority to

change the meaning of any provision, let alone the impeachment clause on which the framers had converged. The Constitution as a whole, including the impeachment provision, was signed by the delegates and offered to the nation on Sept. 17.

These debates support a narrow understanding of ''high Crimes and Misdemeanors,'' founded on the central notions of bribery and treason. The early history tends in the same direction. The Virginia and Delaware constitutions, providing a background for the founders' work, generally allowed impeachment for acts ''by which the safety of the State may be endangered.'' And considered the words of the highly respected (and later Supreme Court Justice) James Iredell, speaking in the North Carolina ratifying convention: ''I suppose the only instances, in which the President would be liable to impeachment, would be where he had received a bribe, or had acted from some corrupt motive or other.'' By way of explanation, Iredell referred to a situation in which ''the President had received a bribe . . . from a foreign power, and under the influence of that bribe, had address enough with the Senate, by artifices and misrepresentations, to seduce their consent of pernicious treaty.''

James Wilson, a convention delegate from Pennsylvania, wrote similarly in his 1791 ''Lectures on Law'': ''In the United States and in Pennsylvania, impeachments are confined to political characters, to political crimes and misdemeanors, and to political punishments.'' Another early commentator went so far as to say that ''the legitimate causes of impeachment . . . can have referenced only to public character, and official duty . . . In general, those offenses, which may be committed equally by a private person, as a public officer, are not the subjects of impeachment.''

This history casts new light on the famous 1970 statement by Gerald Ford, then a representative from Michigan, that a high crime and misdemeanor ''is whatever a majority of the House of Representatives considers it to be.'' In a practical sense, of course, Ford was right; no court would review a decision to impeach. But in a constitutional sense, he was quite wrong, the framers were careful to circumscribe the power of the House of Representatives by sharply limiting the category of legitimately impeachable offenses.

The Constitution is not always read to mean what the founders intended it to mean, and Madison's notes hardly answer every question. But under any reasonable theory of constitutional interpretation, the current allegations against Clinton fall far short of the permissible grounds for removing a president from office. Of course, perjury and obstruction of justice could be impeachable offenses if they involved, for example, lies about unlawful manipulation of elections. It might even be possible to count as impeachable ''corruption'' the extraction of sexual favors in return for public benefits of some kind. But nothing of this kind has been alleged thus far. A decision to impeach President Clinton would not and should not be subject to judicial review. But for those who care about the Constitution's words, and the judgment of its authors, there is a good argument that it would nonetheless be unconstitutional.

Mr. LEAHY. Mr. President, I urge all Members to keep in mind the necessity to have a strong sense of history in whatever position they take on this matter. It is not something that is done for a 30-second spot on an ad, nor is it something that is done to determine the fate of any one of us in an election whether this year or subsequent years. Whatever we do affects the history and the course of the greatest democracy history has ever known.

In that regard, I believe Members will be wise to take the time to read an op-ed piece written by former President Gerald Ford from the New York Times on Sunday, October 4. After reading it, I was impressed enough to pick up the phone and call President Ford and speak to him at some length.

I had the privilege, when I was first a Member of the Senate, of serving with President Ford. I got to know him then. On many occasions in the 20 or so years since, I have been able to be with him or talk with him or seek his advice. I think what he says here is, again, very worthwhile. It may not be something that each Member would agree with. I find a great deal of merit in it. Again, President Ford speaks not only of the history involved, but of the country and of his own long experiences as a Member of the House. I commend every one of us to read President Ford's op-ed piece.

I ask unanimous consent that article be printed in the RECORD.

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

[From the New York Times, Oct. 4, 1998]

THE PATH BACK TO DIGNITY

(By Gerald R. Ford)

GRAND RAPIDS, MICH.—Almost exactly 25 years have passed since Richard Nixon nominated me to replace the disgraced Spiro Agnew as Vice President. In the contentious days of autumn 1973, my confirmation was by no means assured. Indeed, a small group of House Democrats, led by Bella Abzug, risked a constitutional crisis in order to pursue their own agenda. ''We can get control and keep control,'' Ms. Abzug told the Speaker of the House, Carl Albert. The group hoped, eventually, to replace Nixon himself with Mr. Albert.

The Speaker, true to form, refused to have anything to do with the scheme. And so on Dec. 6, 1973, the House voted 387 to 35 to confirm my nomination in accordance with the 25th Amendment to the Constitution.

When I succeeded to the Presidency, in August 1974, my immediate and overriding priority was to draw off the poison that had seeped into the nation's bloodstream during two years of scandal and sometimes ugly partisanship. Some Americans have yet to forgive me for pardoning my predecessor. In the days leading up to the hugely controversial action, I didn't take a poll for guidance, but I did say more than a few prayers. In the end I listened to only one voice, that of my conscience. I didn't issue the pardon for Nixon's sake, but for the country's.

A generation later, Americans once again confront the specter of impeachment. From the day, last January, when the Monica Lewinsky story first came to light, I have refrained publicly from making any substantive comments. I have done so because I haven't known enough of the facts—and because I know all too well that a President's responsibilities are, at the best of times, onerous. In common with the other former Presidents, I have had no wish to increase those burdens. Moreover, I resolved to say nothing unless my words added constructively to the national discussion.

This much now seems clear: whether or not President Clinton has broken any laws, he has broken faith with those who elected him. A leader of rare gifts, one who set out to change history by convincing the electorate that he and his party wore the mantle of individual responsibility and personal accountability, the President has since been forced to take refuge in legalistic evasions, while his defenders resort to the insulting mantra that ''everybody does it.''

The best evidence that everybody doesn't do it is the genuine outrage occasioned by the President's conduct and by the efforts of some White House surrogates to minimize its significance or savage his critics.

The question confronting us, then, is not whether the President has done wrong, but rather, what is an appropriate form of punishment for his wrongdoing. A simple apology is inadequate, and a fine would trivialize his misconduct by treating it as a more question of monetary restitution.

At the same time, the President is not the only one who stands before the bar of judgment. It has been said that Washington is a town of marble and mud. Often in these past few months it has seemed that we were all in danger of sinking into the mire.

Twenty-five years after leaving it, I still consider myself a man of the House. I never forget that my elevation to the Presidency came about through Congressional as well as constitutional mandate. My years in the White House were devoted to restoring public confidence in institutions of popular governance. Now as then, I care more about preserving respect for those institutions than I do about the fate of any individual temporarily entrusted with office.

This is why I think the time has come to pause and consider the long-term consequences of removing this President from office based on the evidence at hand. The President's harisplitting legialisms, objectionable as they may be, are but the foretaste of a protracted and increasingly divisive debate over those deliberately imprecise words ''high crimes and misdemeanors.'' The Framers, after all, dealt in eternal truths, not glossy, deceit.

Moving with dispatch, the House Judiciary Committee should be able to conclude a preliminary inquiry into possible grounds for impeachment before the end of the year. Once that process is completed, and barring unexpected new revelations, the full House might then consider the following resolution to the crisis.

Each year it is customary for a President to journey down Pennsylvania Avenue and appear before a joint session of Congress to deliver his State of the Union address. One of the binding rituals of our democracy, it takes on added grandeur from its surroundings—there, in that chamber where so much of the American story has been written, and where the ghosts of Woodrow Wilson, Franklin Roosevelt and Dwight Eisenhower call succeeding generations to account.

Imagine a very different kind of Presidential appearance in the closing days of this year, not at the rostrum familiar to viewers from moments of triumph, but in the well of the House. Imagine a President receiving not an ovation from the people's representatives, but a harshly worded rebuke as rendered by members of both parties. I emphasize: this would be a rebuke, not a rebutal by the President.

On the contrary, by his appearance the President would accept full responsibility for his actions, as well as for his subsequent efforts to delay or impede the investigation of them. No spinning, no semantics, no evasiveness or blaming others for his plight.

Let all this be done without partisan exploitation or mean-spiritedness. Let it be dignified, honest and, above all, cleansing. The result, I believe, would be the first moment of majesty in an otherwise squalid year.

Anyone who confuses this scenario with a slap on the wrist, or a censure written in disappearing ink, underestimates the historic impact of such a pronouncement. Nor should anyone forget the power of television to foster indelible images in the national memory—not unlike what happened on the solemn August noontime in 1974 when I stood in the East-Room and declared our long national nightmare to be over.

At 85, I have no personal or political agenda, nor do I have any interest in ''rescuing'' Bill Clinton. But I do care, passionately, about rescuing the country I love from further turmoil or uncertainty.

More than a way out of the current mess, most. Americans want a way up to something better. In the midst of a far graver national crisis, Lincoln observed, ''The occasion is piled high with difficulty, and we must rise with the occasion.'' We should remember those words in the days ahead. Better yet, we should be guided by them.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak in morning business for the next 20 minutes for the purpose of introducing a piece of legislation.

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

(The remarks of Ms. LANDRIEU and Mr. BREAUX pertaining to the introduction of S. 2566 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

CONCERN ABOUT THE DEVELOPMENTS IN KOSOVO

Mr. MCCAIN. Mr. President, this is a letter I sent to the President this morning concerning Kosovo. It reads as follows:

DEAR MR. PRESIDENT: I am writing because of my serious concern about developments in Kosovo. With a brutality that would be almost unimaginable were anyone else responsible for it, Slobodan Milosevic has subjected yet another innocent population to the bloody carnage of ethnic cleansing. The stark depravity of his actions gravely offends the basic moral values of Western civilization. Moreover, the conflict in Kosovo threatens the stability of Europe, as the prospects are quite real that it may eventually embroil other countries in the region in a larger war. More than once, the United States has warned Serbia that NATO will not tolerate its continued aggression against Kosovo. Serbia has ignored our warnings, thereby challenging the credibility of the United States, obliging us and our NATO allies to consider using military force to prevent further aggression against our values and interests in Kosovo.

Congress has reservations about such a course of action, however. While I am inclined to support military action, I understand the basis for my colleagues' reservations, and I believe it is imperative that prior to ordering any military strike on Serbia you take all necessary steps to ensure both Congress and the American people that the action is necessary, affordable, and designed to achieve clearly defined goals.

First, you must state clearly the American interest in resolving this terrible conflict; describe in detail the facts on the ground; identify all parties responsible for perpetrating the terrible atrocities committed in Kosovo while making clear that Serbia is indisputably the primary culprit; explain how our own security is threatened by Serbian aggression and justifies risking the lives of American pilots, and how the use of air power can prevent further aggression. You must also define for the public what will constitute the operation's success so that Americans know that air strikes were launched with a realistic end game in mind.

Second, you must convincingly explain to the American people why it is that we should be involved in a conflict that to many people seems to affect our interests indirectly, and that should be resolved exclusively by those countries most directly threatened by it—our European allies. As I am sure you appreciate, Congress and the public's frustration over Europe's lack of willingness to bear a greater share of the burden for maintaining peace in their own backyard is at an all time high, threatening the nation's consensus that our leadership in NATO should remain a priority interest for the United States. You could go a long way toward alleviating that frustration by ensuring that any ground forces that might ultimately be needed to keep the peace in Kosovo will be provided by European countries alone.

Third, should you order air strikes you must ensure the nation that they will be of sufficient magnitude to achieve their objectives. I hope you will view the following criticism in the constructive spirit in which it is offered. In the past, your administration has too often threatened and then backed down from the use of force, or authorized cruise missile strikes that amounted to little more than ineffective gestures intended, I suspect, to send a message to our adversaries, but because of their small scale interpreted by our adversaries as a lack of resolve on the part of the United States to defend our interests vigorously. Your administration's failure to support UNSCOM inspectors in Iraq has also greatly exacerbated our adversaries' lack of respect for America's resolve.

Finally, you should explain how you intend to find additional resources to fund the operation in order to alleviate well-founded Congressional anxiety regarding the over-extension of U.S. military commitments at a time when spending on national defense is woefully inadequate.

Mr. President, should you convincingly address the issues I have raised, which I believe you can do, I am confident you will have the support of Congress and our constituents for operations against Serbia. You will certainly have mine. I believe there exists a clear and compelling case for such an action that Americans will accept if you avoid the mistakes made in the past when your administration has attempted to build public support for the use of force. I urge to give these concerns your most serious consideration.

INTERNET TAX FREEDOM ACT

The Senate continued with the consideration of the bill.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the pending Coats amendment be 20 minutes in length, 10 minutes on either side.

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

Mr. MCCAIN. I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

AMENDMENT NO. 3695

(Purpose: To exempt from the moratorium on Internet taxation any persons engaged in the business of selling or transferring by means of the World Wide Web material that is harmful to minors who do not restrict access to such material by minors)

Mr. COATS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Indiana (Mr. COATS) proposes an amendment numbered 3695.

Mr. COATS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 17, between lines 15 and 16, insert the following:

(c) EXCEPTION TO MORATORIUM.—

(1) IN GENERAL.—Subsection (a) shall also not apply in the case of any person or entity who in interstate or foreign commerce is knowingly engaged in the business of selling or transferring, by means of the World Wide Web, material that is harmful to minors unless such person or entity requires the use of a verified credit card, debit account, adult access code, or adult personal identification number, or such other procedures as the Federal Communications Commission may prescribe, in order to restrict access to such material by persons under 17 years of age.

(2) SCOPE OF EXCEPTION.—For purposes of paragraph (1), a person shall not be considered to engaged in the business of selling or transferring material by means of the World Wide Web to the extent that the person is—

(A) telecommunications carrier engaged in the provision of a telecommunications service;

(B) a person engaged in the business of providing an Internet access service;

(C) a person engaged in the business of providing an Internet information location tool; or

(D) similarly engaged in the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication made by another person, without selection or alteration of the communication.

(3) DEFINITIONS.—In this subsection:

(A) BY MEANS OF THE WORLD WIDE WEB.—The term ''by means of the World Wide Web'' means by placement of material in a computer server-based file archive so that it is publicly accessible, over the Internet, using hypertext transfer protocol, file transfer protocol, or other similar protocols.

(B) ENGAGED IN THE BUSINESS.—The term ''engaged in the business'' means that the person who sells or transfers or offers to sell or transfer, by means of the World Wide Web, material that is harmful to minors devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income.

(C) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(D) INTERNET ACCESS SERVICE.—The term ''Internet access service'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(E) INTERNET INFORMATION LOCATION TOOL.—The term ''Internet information location tool'' means a service that refers or links users to an online location on the World Wide Web. Such term includes directories, indices, references, pointers, and hypertext links.

(F) MATERIAL THAT IS HARMFUL TO MINORS.—The term ''material that is harmful to minors'' means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that—

(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(G) SEXUAL ACT; SEXUAL CONTACT.—The terms ''sexual act'' and ''sexual contact'' have the meanings given such terms in section 2246 of title 18, United States Code.

(H) TELECOMMUNICATIONS CARRIER; TELECOMMUNICATIONS SERVICE.—The terms ''telecommunications carrier'' and ''telecommunications service'' have the meanings given such terms in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

Mr. MCCAIN. Mr. President, I ask unanimous consent to vitiate the unanimous consent agreement.

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

AMENDMENT NO. 3695, AS MODIFIED

Mr. COATS. Mr. President, I also send a modification to this amendment to the desk and ask unanimous consent that my amendment No. 3695 be considered as modified.

I might just explain the amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 3695), as modified, is as follows:

On page 17, between lines 15 and 16, insert the following:

(c) EXCEPTION TO MORATORIUM.—

(1) IN GENERAL.—Subsection (a) shall also not apply in the case of any person or entity who in interstate or foreign commerce is knowingly engaged in the business of selling or transferring, by means of the World Wide Web, material that is harmful to minors unless such person or entity requires the use of a verified credit card, debit account, adult access code, or adult personal identification number, or such other procedures as the Federal Communications Commission may prescribe, in order to restrict access to such material by persons under 17 years of age.

(2) SCOPE OF EXCEPTION.—For purposes of paragraph (1), a person shall not be considered to engaged in the business of selling or transferring material by means of the World Wide Web to the extent that the person is—

(A) a telecommunications carrier engaged in the provision of a telecomunications service;

(B) a person engaged in the business of providing an Internet access service;

(C) a person engaged in the business of providing an Internet information location tool; or

(D) similarly engaged in the transmission, storage, retrieval, hosting, formatting, or translation (or any combination thereof) of a communication made by another person, without selection or alteration of the communication.

(3) DEFINITIONS.—In this subsection:

(A) BY MEANS OF THE WORLD WIDE WEB.—The term ''by means of the World Wide Web'' means by placement of material in a computer server-based file archive so that it is publicly accessible, over the Internet, using hypertext transfer protocol, file transfer protocol, or other similar protocols.

(B) ENGAGED IN THE BUSINESS.—The term ''engaged in the business'' means that the person who sells or transfers or offers to sell or transfer, by means of the World Wide Web, material that is harmful to minors devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income.

(C) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(D) INTERNET ACCESS SERVICE.—The term ''Internet access service'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(E) INTERNET INFORMATION LOCATION TOOL.—The term ''Internet information location tool'' means a service that refers or links users to an online location on the World Wide Web. Such term includes directories, indices, references, pointers, and hypertext links.

(F) MATERIAL THAT IS HARMFUL TO MINORS.—The term ''material that is harmful to minors'' means any communication, picture, image, graphic image file, article, recording, writing, or other matter of any kind that—

(i) taken as a whole and with respect to minors, appeals to a prurient interest in nudity, sex, or excretion;

(ii) depicts, describes, or represents, in a patently offensive way with respect to what is suitable for minors, an actual or simulated sexual act or sexual contact, actual or simulated normal or perverted sexual acts, or a lewd exhibition of the genitals; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(G) SEXUAL ACT; SEXUAL CONTACT.—The terms ''sexual act'' and ''sexual contact'' have the meanings given such terms in section 2246 of title 18, United States Code.

(H) TELECOMMUNICATIONS CARRIER; TELECOMMUNICATIONS CARRIER SERVICE.—The terms ''telecommunications carrier'' and ''telecommunications service'' have the meanings given such terms in Section 3 of the Communications Act of 1934 (47 U.S.C. 153).

Mr. COATS. The modification is a technical amendment.

The underlying Finance Committee substitute was previously modified changing the definition of ''Internet,'' and the modification that I am sending to the desk simply brings my definition in my amendment in line with the underlying amendment now as modified by the underlying amendment.

Mr. President, I also ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. COATS. Thank you, Mr. President.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I send an amendment in the second degree to the desk.

The PRESIDING OFFICER. Is there objection to the consideration of the second-degree amendment?

Without objection, it is so ordered.

Mr. MCCAIN. Mr. President, did the Senator from Connecticut need unanimous consent in order for this amendment to be considered?

The PRESIDING OFFICER. The Senator may call up a previously filed amendment. He needs consent to modify it.

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DODD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DODD. Mr. President, I also ask unanimous consent that the amendment be considered as read and, further, that my colleague from Indiana proceed to speak on his amendment. Then when he completes his discussion, I will make some comments on the amendment that I am offering.

AMENDMENT NO. 3780 TO AMENDMENT NO. 3695, AS MODIFIED

(Purpose: To provide an exception to the moratorium with respect to Internet access providers who do not offer customers screening software)

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Connecticut (Mr. DODD) proposes an amendment numbered 3780 to amendment No. 3695, as modified.

Mr. DODD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the amendment, add:

(d) ADDITIONAL EXCEPTION TO MORATORIUM.—

(1) IN GENERAL.—Subsection (a) shall also not apply with respect to an Internet access provider, unless, at the time of entering into an agreement with a customer for the provision of Internet access services, such provider offers such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

(2) DEFINITIONS.—In this subsection:

(A) INTERNET ACCESS PROVIDER.—The term 'Internet access provider' means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

(B) INTERNET ACCESS SERVICES.—The term 'Internet access services' means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.

(C) SCREENING SOFTWARE.—The term ''screening software'' means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.

(3) APPLICABILITY.—Paragraph (1) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I don't believe we will need all 20 minutes. There may be other Members who want to speak on this. But I will summarize this in the interest of time, because essentially what we are doing here is something that has already been done in the Senate. It has been passed unanimously by the Senate. But it is not attached to legislation that has as much chance of succeeding, or at least, if that legislation succeeds, we are not sure what the Senate has passed is going to survive the process. It might be dropped from that.

Let me begin by summarizing this just to refresh my colleagues' memory of what we have done before.

This amendment exempts from the moratorium which, if this bill passes—and I believe it will—will be applied to any kind of a taxation on the World Wide Web—my amendment simply exempts from that moratorium any commercial porn site on the World Wide Web that does not comply with the reasonable requirements that are incorporated in this amendment to restrict access by children to sexually explicit material on the site.

The amendment establishes specific measures that porn site operators—commercial porn site operators—must take to restrict access. These restrictions represent standard technology already on the web, and they reflect the technology and the requirements acknowledged by the Court as both technically and economically feasible.

In the Reno v. ACLU case—that is, the Court's decision that struck down the indecency provisions of the Communications Decency Act—the Court said there were two problems with that act.

That act, by the way, is the one that was passed by the Senate in I think a nearly unanimous vote. It was labeled the Exon-Coats amendment, offered in the last Congress by the Senator from Nebraska, the Democrat Senator from Nebraska, Senator Exon, and myself. We included in that amendment—which passed both the House and the Senate and was endorsed wholeheartedly by the President and the administration but did not survive a Court challenge for two reasons:

One, the Court said that the restrictions had to apply only to those engaged in the business; that is, those commercial providers.

Second, it said that our standard of indecency as described in the material not suitable for children was not acceptable, violated first amendment concerns, and they proscribed then a standard as harmful to minors, or suggested that.

We went back and adjusted that Communications Decency Act which was passed by the Congress, signed into law, but rejected by the Court. We revised it to comply with the Court's concerns, so that now it, we believe, will meet the constitutional standard. We have applied it strictly to commercial sites. We have adopted the requirements for establishing the types of technology that the commercial porn providers and the net can require that one will have to comply with and the other require, and we have adopted the definition of ''harmful to minors'' as outlined in the famous case on this issue, the Ginsberg, New York Ginsberg case. That defined ''harmful to minors'' in a way that means you have to be under 17, it has to be patently offensive as to what is suitable for minors, taken as a whole lacking serious literary, artistic, political, and scientific value for minors and appealing to prurient interests.

This is a standard that we are all familiar with. It has been the standard applied in obscenity cases now for several decades, and it is the generally accepted standard. That is the standard we have put into this bill.

So to summarize, what we are doing here is attaching to this legislation, which provides a tax moratorium for users of the World Wide Web, we are saying that that moratorium does not exist, will not be available to those who use the World Wide Web for the purpose of providing sexually explicit material to minors and have not put in place in terms of their provision to all other users restrictions which are technically feasible and already used, which are economically feasible, but restrictions which allow them to certify that the person requesting the material is, in fact, an adult; that is, 17 years and older.

This is exactly the language which was adopted unanimously by this Senate in this Congress. And so everyone here has already read it, understood it, voted for it, supported it. We are simply transferring it now over to this particular bill and applying it in a somewhat different way by denying the tax exemption.

It is inconceivable that we would grant a massive tax perk to commercial porn sites that make their smut available to children. We are going to give a golden egg to commercial entities on the Internet, or giving them a tax shelter, at least a moratorium for a tax shelter for a period of time, but to think that we would give that same tax break to those who are providing obscene material to minors without requiring any good-faith effort on their part to make sure that minors do not have free access to this material is unthinkable. That is the bottom line.

S. 442, the underlying bill that we are talking about, holds out a massive tax shelter to on-line businesses. The question is, Is the Senate going to extend this tax shelter to pornographers who are making their material available to every child in America.

People say, well, look, I mean, this is a proactive thing. Why don't the parents take control and control what their child clicks into and orders up.

Mr. President, I will not display this on the Senate floor because I think it is obscene, and whether or not you agree it is obscene for adults, I think it is absolutely not only obscene but totally inappropriate for minors. This is material that is available free. This is before you click in and say I want to purchase your material or send me more. These are the teasers. The teasers are almost beyond description, and it is something we don't want to talk about here.

There is no excuse in saying, well, an 11-year-old, if he clicks in to find out about a school project and uses the wrong word, all it is is a verbal version; he has to take a proactive effort to obtain the material. That is not true. That youngster, that child, whether they are in the library, whether they are in their school classroom, whether they are at home, is immediately given the most graphic of images and the most graphic of language as a teaser for them to go forward and obtain the material. We are saying that there has to be a provision whereby the provider of this material puts in place reasonable restrictions to assure that the person asking for the material is someone who is 17 years old or older.

We have complied with the Court requirements. This is language that has already been adopted by the Senate, and I hope my colleagues will see it in that light and support this vote that is coming up in the next few moments.

Mr. President, I do not see any other Members on our side who are wishing to speak at this particular time. And I am asking how much time is remaining of the Senator's time and I would reserve that time.

The PRESIDING OFFICER. The Senator has 52 minutes left under cloture.

Mr. DODD. Parliamentary inquiry, Mr. President.

There was no unanimous consent time agreement on this amendment?

The PRESIDING OFFICER. That is correct.

Mr. COATS. That is correct. It was asked, agreed to and vitiated.

The PRESIDING OFFICER. The Senator is correct.

Mr. DODD addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. I commend my colleague from Indiana who is in his closing days in this body, having made the decision not to seek reelection. A lot of Members, as they wind down, spend their last few days winding up work and not being actively involved in the legislative process. It is a tribute to Senator COATS that in his remaining days in this body, he is still very active and involved in issues he has cared deeply about. This is one such issue. I commend him for this amendment. I think it is a very creative way to advance this issue and provide some safety for young people who are being exposed today to an alarming amount of pornography on the Internet.

I strongly support his amendment. Now, let me put my amendment in a framework for some people. My amendment is a second degree amendment, and really complements the Coats amendment. My amendment requires that Internet access providers either provide free of charge, or for a fee, screening software at the time they make sales to customers. Internet access providers that don't do this, as with the Coats amendment, would be denied the benefits of the tax breaks in the underlying bill. This amendment also relies on the Ginsberg definition that has been used in the Coats amendment.

How big is this problem, people say? Let me just put it in perspective for you. According to Wired Magazine, there are 28,000 web sites worldwide that have soft- or hard-core pornography on them. And, fifty new web sites with such material are added to the Internet every single day—50 a day.

My colleague from Indiana has some material he wisely decided not to show on the floor, but suffice to say, most Americans would find it highly offensive, to put it mildly. The idea that this material is available to children is something that ought to be a cause of alarm to all of us. Sadly, many of our children are unwittingly and accidentally exposed to such sites while surfing the web. They type in search terms as innocuous as ''toys''—pretty innocuous—only to find graphic images and language on their display terminals.

Mr. President, the Internet is profoundly changing the way we learn and communicate with people. Today our children have unprecedented access to educational material through the Internet. It provides children with vast opportunities to learn about art and culture and history. The possibilities are endless. It is an incredibly valuable technology for children all across this country and across the globe.

But as with any technology, Mr. President, this advanced technology also brings with it a dark side for our children. Many of these young people are browsing the net, often unaccompanied by an adult, and come across material that is unsuitable, to put it mildly. It is oftentimes very sexually explicit.

Every parent worries about strangers approaching their children in their neighborhood or on a playground at school.

And they teach their children how to avoid these strangers. But today, these strangers can literally enter our homes via the Internet. They are only a mouse click away from our children. In our libraries and bookstores, we store reading material that is harmful to minors in areas accessible only to adults. Yet, in cyberspace, these same materials are as accessible to a child as his or her favorite bedtime story. Pornographic images and sexual predators are now reaching our children, via the Internet, in the privacy and safety of their own homes and classrooms. This kind of access to our children is alarming, and this invasion of our children's privacy and innocence is unconscionable.

Just a few weeks ago, law enforcement agents in a sting operation apprehended 200 members of an Internet pornography ring that possessed and distributed sexually explicit images of children. Members of this ring traded inappropriate images of children on the Internet. One of the sites raided was in my own State of Connecticut. As I noted a moment ago, there are 50 new sites a day added to the Web that contain pornography, these sites are added to the 28,000 that already exist. Despite this successful operation by law enforcement agents, their raid only represents the elimination of approximately four days of new sites.

We, as a nation, have an obligation to ensure that surfing the web remains a safe and viable option for our children. We have a responsibility to make sure that they are able to learn and grow in an environment free of sexual predators and pornographic images. Clearly, there is no substitute for parental supervision; yet, I think we can all agree that many parents know less about the Internet than their children do. Parents are convinced of the Internet's educational value, but they also feel anxious about their ability to supervise their children while they use it. In my view, it is important that we encourage parents and children to use the Internet together. But clearly, it is difficult for any adult to monitor children on line all the time.

Therefore, I believe we need to provide our parents with tools that will help them to protect and to guide their children on the Internet. The amendment I have offered here is a modest measure. It is not a cure-all by any stretch of the imagination. It is a modest idea and just requires that Internet access providers make screening software available to customers purchasing Internet access services.

The amendment would allow customers to have the opportunity, as I said, to either buy or obtain free of charge, as determined by the provider, screening software that permits customers to limit access to material on the Internet that is harmful to minors. Like going to a pharmacy and being asked if you want to buy a childproof lid for prescription medication, my bill will require that Internet access providers ask parents whether they would like to obtain screening software to protect them from the very kind of dangers that we see on the 28,000 existing web sites and the 50 new ones that are added each day. This is a serious problem, and providing this kind of tool to parents is one way we can begin to combat the problem.

At any rate, I hope my colleagues will see fit to support this amendment. It has been offered once before on the floor and passed the Senate overwhelmingly and, not unlike the Coats amendment, we need to have it included in this bill today.

Again, I commend my colleague from Indiana for his fine work on many issues, but once again on this particular issue, and hope as well this second-degree amendment will be adopted.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. I am more than happy to accept the amendment offered by the Senator from Connecticut. I thank him for his tireless work on behalf of children. It has been my pleasure to serve with him on both sides, the majority and minority, of the Children and the Families Committee; under his chairmanship as ranking member, and now as chairman, with Senator DODD as ranking member. He has been a tireless advocate of children and addressing the particular concerns that children have to deal with, the problems they have to deal with growing up, and his support for this legislation and the amendment to my amendment, which I think strengthens what we are attempting to do and is very reasonable, earlier offered by Senator MCCAIN, to utilize the advantages of software that allows for blocking.

We see this as, certainly, a useful tool. It is not a totally useful tool because there are a myriad of ways of defeating it. As we speak, there are undoubtedly computer people far more savvy than this Senator, looking for ways to bypass this and looking for ways to defeat it. But it is a helpful tool, and it should be available to parents to help them in their efforts to protect their children from material that they do not deem appropriate and that certainly is not appropriate.

I will be more than happy to accept the amendment. I do not know that we need a rollcall vote on both. We can combine the two and I think we will have a very worthwhile amendment.

The PRESIDING OFFICER. Is there further debate on the Dodd amendment, No. 3780? The Senator from Montana.

Mr. BURNS. Mr. President, if my friend from Indiana and my friend from Connecticut will yield, I am not going to oppose this amendment. I congratulate both of them, as they have been dedicated to raising the awareness of the garbage that we have on the Internet. No technology that we can devise,

that stays in place very long, is going to actually protect our young children from the pitfalls of the stuff that we find on there. The only thing that we can do, and I think both of them have done this very well, is to raise the awareness of the need for adult supervision whenever young people go on the Internet. That is the only way. That is the only way we are going to get protection and also a public awareness and a public feeling that we are not going to do business with Internet providers who offer this stuff.

We cannot protect and use this great tool called the glass highway and bring any integrity to it unless, No. 1, we secure it when I send a message to you. Of course, that is the encryption issue, and that is an issue we have to fight another day, as far as law enforcement surveillance and this type of thing is concerned. But we cannot be lulled or rocked into a position of where we are in a basket of comfort, thinking we have done the job and protected our children from the pedophiles and the garbage that we find on the Internet, because the Internet is going to reflect what we have in society. No matter where you go, you will find what you are looking for. It is going to be there, too, just like it is downtown or any place in America.

So, I am not going to oppose this amendment. I do have some reservations about it because, No. 1, I think it is overreaching a little bit into industrial policy, as far as what we should be doing. But I tell Americans, don't get comfortable in this basket of security because we have this amendment or that we have this legislation, that we are still going to be susceptible to the people who prey on the Internet with garbage. We will never solve that problem. The only place it will be solved is through parents and us talking about it and raising the awareness that it is there. Parental supervision, supervision in our schools and our libraries, that is the only way we defeat this. Because basically we are decent people, that is what will defeat it. That is what will finally crowd it off of there, and also secure it, so maybe there will not be any room for it. I hope that would be the case, also.

I congratulate the Senator from Indiana. I will miss him and his service in the next U.S. Senate. But nobody has a more stellar record than Senator COATS on these issues of family and decency in the public place. I appreciate that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, first, before my friend from Montana leaves the floor, I want to tell him how much I appreciate his work as chairman of the telecommunications subcommittee on the Commerce Committee. My friend from Montana and I have had spirited discussions and debates on this overall issue. I understand his deeply held views, and I appreciate them. There is great attraction to his argument. There is a fine line in America between the prevention of material which is offensive being forced on our young people and censorship. So I understand the arguments that the Senator from Montana has made. But let me say that it is a huge problem, and the Senator from Montana knows it as well as I do. It is a huge problem.

Anyone who operates the Internet today sees this proliferation of incredible trash that occurs, which is terribly, terribly disturbing to all of us—all of us on both sides of the aisle—because of the influence that it has on young Americans, not to mention older Americans.

We had a hearing in the Commerce Committee. There was testimony that there is a direct relation between pedophilia and the Internet. There are documented cases where pedophiles have corresponded with young people on the Internet and enticed them into meeting. These stories are so terrible and graphic that I am reluctant to discuss them on the floor of the U.S. Senate.

It is a problem in American society when you look at the growth of the Internet in America. All of us, especially those of us who serve on the Commerce Committee, are aware of the incredible potential of the Internet, the unbelievable effects it is going to have on the Nation and the world. With the wiring of schools and libraries in America, for the first time, every child in America, no matter whether they come from the Navajo Reservation and Chinlee High School or whether they attend Beverly Hills High School, are going to have access to knowledge and information like never before.

When you dial in the word ''teen'' on the Internet, or when you dial in the word ''nurse'' and the search engine comes up with a proliferation of pornography and advertisements for it, we have to try to address this problem.

The Senator from North Dakota has discussed this issue in committee hearings, the Senator from Oregon—all of us who are familiar with it. I will tell you right now, Mr. President, one of the problems is that a lot of us don't use the Internet like the now tens of millions of Americans do, so we are not aware of this problem. And, no, none of us would support censorship. No one is in favor of censorship.

I will tell you that when we have actual testimony before our committee by detectives who say that they go out and they find people who entice young children through the Internet to meet with them and then terrible things ensue, then obviously we have a problem. Recently in Phoenix, AZ, a young boy who was on the Internet viewing pornography walked out and molested a 4-year-old child. It is a fact. It is a documented fact. Or parents in the library see pornography as they walk by and their children are in the library and see this.

I am not sure I know the answers. I don't know the answers, but I firmly believe that we at least ought to make an effort to provide parents with the tools and institutions with the tools at least to filter out some of this garbage, which brings me to the Senator from Indiana.

I know of no one who is more involved in the issues of families and morals and decency in America than is Senator COATS. I miss many of my colleagues when they leave; some of them I don't miss. But the fact is, the majority of them I do. I will miss Senator COATS because I view him as a moral compass around here.

When Senator COATS speaks on these issues, we all listen because he is a living example of what we want families in America to be about. Senator COATS has been involved in this particular effort on this piece of legislation for a long, long time.

I believe there may be some question about the bill's constitutionality. Fine, we will let the courts decide that. I have some questions myself. But it is a sad, but inescapable fact that material harmful to children is pervasive on the Internet in America today. It is an indisputable fact. There is no Member of the Senate who is more qualified and has more credibility to address this issue than the Senator from Indiana.

It is my understanding that the Senator from Montana is not going to seek a recorded vote on the second-degree amendment of the Senator from Connecticut. Fairly shortly, if there is no other debate on this amendment, we will move to a vote around noon.

Mr. President, I ask unanimous consent that after adoption of the Dodd second-degree amendment that the Senate vote at 12 noon on the Coats amendment.

Mr. COATS. Reserving the right to object, I would like to reserve 1 minute for summation on the amendment that is being offered before the vote. Hopefully, I can do that before 12 o'clock. In case I can't, I would like that 1 minute.

Mr. MCCAIN. I amend my unanimous consent request that the Senator from Indiana have 2 minutes prior to the vote.

The PRESIDING OFFICER (Mr. BURNS). Without objection, it is so ordered.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I will take 1 minute. I want to use this unique opportunity to add my comments about the Senator from Indiana. I have told people that I am enormously proud to serve in this body. One of the major reasons for that is the men and women with whom I serve, both Republicans and Democrats, liberals and conservatives, I think are the best men and women I have been associated with in my entire life.

One of those is the Senator from Indiana. We became acquainted in 1981 when we both were elected to the House of Representatives in the same election, and although we perhaps have

agreed and disagreed many times on many issues throughout the years, I have deep admiration for Senator COATS and his family.

When he leaves the Senate, as is the case with so many of our colleagues, the Senate will have lost a very important contributor on a good many issues, this one most notable. He has been persistent on this issue and, as the Senator from Arizona just described, we have had hearings in the Commerce Committee about this issue. It desperately needs attention, desperately needs a solution, and the Senator from Indiana has been a significant contributor in that effort. I did not want to let this moment pass without sharing my respect for Senator COATS. I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I appreciate the kind words from my colleagues—the Senator from Connecticut, the Senator from North Dakota and the Senator from Arizona. I am also appreciative of their support for this effort.

I don't know if any of us has a perfect answer to this. We do see the Internet, the World Wide Web, as one of the most extraordinary invasions in the history of mankind. It can provide access to information that can revolutionize our world and provide opportunities for people who heretofore have not had those opportunities for knowledge and for learning that are extraordinary.

At the same time, there is a dark side to the Internet. As with most new technology, it can be used for good; it can be used for evil. Unfortunately, the Internet is no exception. None of us want to put ourselves in the position of being a censor. We decry that material. We don't think it sends the right kind of moral message. We wish we didn't have it.

Yet, as a country dedicated to the freedom of speech, enshrined in its Constitution, we have to accept certain types of material that some of us consider offensive, but doesn't necessarily meet the obscenity test that the Court has laid out, which is a pretty stringent test.

By the same token, surely—surely—we as a society can address the issue of how we protect the innocence of our children and whether we can use reasonable means to give parents tools to protect that innocence. That is what this amendment is about.

Software is an attempt to do that. We know from documented evidence that software is only a partial solution, that it can be defeated, but I think it is helpful and we ought to utilize that and encourage it.

Beyond that, however, we need a sanction, a sanction that imposes some requirements—technologically feasible requirements and economically feasible requirements—on those who seek to bypass the effort to put any kind of restrictions on the availability of this material to children.

We passed legislation earlier, the Communications Decency Act. Even though the Congress and the people of America and the President supported it, the Court did not support it. It struck it down. We have carefully modified and changed this language in this bill that I offered earlier that the Senate passed to comply with those Court restrictions.

We have made sure that it applies to minors; that the requirements put in place meet the Court's standard; that the language harmful to minors meets the Court-ordered test that was given to us years ago in the Ginsberg case. We believe we have something here that not only is acceptable to the American people and to the Congress of the United States and to the administration, but hopefully acceptable to the standards imposed by the Supreme Court. So I thank my colleagues for their generous words. I thank them for their support.

The hour of 12 noon having approached, if there is any time left, I yield it back and hope we can go to a vote and pass this unanimously and send the kind of signal that we need to send, and that is that this country and this Congress is not going to stand for obscene material to be pushed into children's minds through the Internet without reasonable restrictions on that material.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The question now occurs on agreeing to the Dodd amendment No. 3780 to the Coats amendment, as modified.

The amendment (No. 3780) was agreed to.

Mr. DODD. I move to reconsider the vote.

Mr. MCCAIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 3695, AS MODIFIED, AS AMENDED

The PRESIDING OFFICER. The question now occurs on agreeing to the Coats amendment No. 3695, as modified and as amended. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 303 Leg.]

YEAS—98

Abraham	Breaux	Cochran
Akaka	Brownback	Collins
Allard	Bryan	Conrad
Ashcroft	Bumpers	Coverdell
Baucus	Burns	Craig
Bennett	Byrd	D'Amato
Biden	Campbell	Daschle
Bingaman	Chafee	DeWine
Bond	Cleland	Dodd
Boxer	Coats	Domenici
Dorgan	Jeffords	Reed
Durbin	Johnson	Reid
Enzi	Kempthorne	Robb
Faircloth	Kennedy	Roberts
Feingold	Kerrey	Rockefeller
Feinstein	Kerry	Roth
Ford	Kohl	Santorum
Frist	Kyl	Sarbanes
Gorton	Landrieu	Sessions
Graham	Lautenberg	Shelby
Gramm	Levin	Smith (NH)
Grams	Lieberman	Smith (OR)
Grassley	Lott	Snowe
Gregg	Lugar	Specter
Hagel	Mack	Stevens
Harkin	McCain	Thomas
Hatch	McConnell	Thompson
Helms	Mikulski	Thurmond
Hollings	Moseley-Braun	Torricelli
Hutchinson	Moynihan	Warner
Hutchison	Murkowski	Wellstone
Inhofe	Murray	Wyden
Inouye	Nickles	

NAYS—1

Leahy

NOT VOTING—1

Glenn

The amendment (No. 3695), as modified, as amended, was agreed to.

Mr. GRASSLEY. Mr. President, I move to reconsider the vote.

Mrs. HUTCHISON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mrs. HUTCHISON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENTS NUMBERED 3734; 3723, AS MODIFIED, 3717, 3713, 3710, 3712, 3735; AND 3721, AS MODIFIED

Mr. MCCAIN. Mr. President, I understand the following amendments which were filed earlier are acceptable to both sides.

Therefore, I ask unanimous consent that the following amendments be considered en bloc, and agreed to:

Amendments numbered 3734, 3723, as modified, 3717, 3713, 3710, 3712, 3735, and 3721, as modified.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, reserving the right to object, I shall not object, the amendments have been cleared on our side. We have no objection.

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

The amendments (Nos. 3734; 3723, as modified, 3717, 3713, 3710, 3712, 3735; and 3721, as modified) were agreed to, as follows:

AMENDMENT NO. 3734

(Purpose: To modify the Commission membership)

Beginning on page 18, line 17, strike all through page 19, line 21, and insert:

(B) Eight representatives from State and local governments (1 of whom shall be from a State or local government that does not impose a sales tax) and 8 representatives of the electronic commerce industry, telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) five representatives appointed by the Majority Leader of the Senate;

(ii) three representatives appointed by the Minority Leader of the Senate;

(iii) five representatives appointed by the Speaker of the House of Representatives; and

(iv) three representatives appointed by the Minority Leader of the House of Representatives.

AMENDMENT NO. 3723, AS MODIFIED

(Purpose: To establish the relationship between the bill and certain other provisions of existing law, and to set forth the role of the National Commission on Uniform State Legislation)

On page 25, between lines 6 and 7, insert the following:

(3) EFFECT ON THE COMMUNICATIONS ACT OF 1934.—Nothing in this section shall include an examination of any fees or charges imposed by the Federal Communications Commission or States related to—

(A) obligations under the Communications Act of 1934 (47 U.S.C. 151 et seq.); or

(B) the implementation of the Telecommunications Act of 1996 (or of amendments made by that Act).

(h) NATIONAL TAX ASSOCIATION COMMUNICATIONS AND ELECTRONIC COMMERCE TAX PROJECT.—The Commission shall, to the extent possible, ensure that its work does not undermine the efforts of the National Tax Association Communications and Electronic Commerce Tax Project.

AMENDMENT NO. 3717

(Purpose: To add a severability provision for the entire bill)

At the end of the bill, add the following:

SEC. . SEVERABILITY.

If any provision of this Act, or any amendment made by this Act, or the application of that provision to any person or circumstance, is held by a court of competent jurisdiction to violate any provision of the Constitution of the United States, then the other provisions of that section, and the application of that provision to other persons and circumstances, shall not be affected.

AMENDMENT NO. 3713

(Purpose: To correct a reference to ''interstate'', rather than ''electronic'' commerce)

On page 22, line 25, strike ''interstate'' and insert ''electronic''.

AMENDMENT NO. 3710

(Purpose: To correct a reference to ''consumers'' to refer to ''users'')

On page 28, line 6, strike ''consumers.'' and insert ''users.''.

AMENDMENT NO. 3712

(Purpose: To define the term ''Internet'')

On page 27, strike lines 14 through 23, and insert the following:

(4) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

AMENDMENT NO. 3735

(Purpose: To make it clear that the delayed effective date for the Children's Online Privacy Act is keyed to the filing date of the application)

In section 208(2) of title II of the bill, as added by amendment, insert ''filed'' after ''application'' the first place it appears.

Mr. BRYAN. Mr. President, this bill was reported out of Committee last week by voice vote. Because of time constraints at the end of the session, we have been unable to file a committee report before offering it as an amendment on the Senate floor. Accordingly, I wish to take this opportunity to explain the purpose and some of the important features of the amendment.

In a matter of only a few months since Chairman MCCAIN and I introduced this bill last summer, we have been able to achieve a remarkable consensus. This is due in large part to the recognition by a wide range of constituencies that the issue is an important one that requires prompt attention by Congress. It is due to revisions to our original bill that were worked out carefully with the participation of the marketing and online industries, the Federal Trade Commission, privacy groups, and first amendment organizations.

The goals of this legislation are: (1) to enhance parental involvement in a child's online activities in order to protect the privacy of children in the online environment; (2) to enhance parental involvement to help protect the safety of children in online fora such as chatrooms, home pages, and pen-pal services in which children may make public postings of identifying information; (3) to maintain the security of personally identifiable information of children collected online; and (4) to protect children's privacy by limiting the collection of personal information from children without parental consent. The legislation accomplishes these goals in a manner that preserves the interactivity of children's experience on the Internet and preserves children's access to information in this rich and valuable medium.

I ask unanimous consent that a section-by-section summary be printed in the RECORD.

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

SECTION-BY-SECTION SUMMARY

Section 1. Short title

This Act may be cited as the ''Children's Online Privacy Protection Act of 1998.''

Section 202. Definitions

(1) Child: The amendment applies to information collected from children under the age of 13.

(2) Operator: The amendment applies to ''operators.'' This term is defined as the person or entity who both operates an Internet website or online service and collects information on that site either directly or through a subcontractor. This definition is intended to hold responsible the entity that collects the information, as well as the entity on whose behalf the information is collected. This definition, however, would not apply to an online service to the extent that it does not collect or use the information.

The amendment exempts nonprofit entities that would not be subject to the FTC Act. The exception for a non-profit entity set forth in Section 202(2)(B) applies only to a true not-for-profit and would not apply to an entity that operates for its own profit or that operates in substantial part to provide profits to or enhance the profitability of its members.

(7) Parent: The term ''parent'' includes ''legal guardian.''

(8) Personal Information: This is an online children's privacy bill, and its reach is limited to information collected online from a child.

The amendment applies to individually identifying information collected online from a child. The definition covers the online collection of a first and last name, address including both street and city/town (unless the street address alone is provided in a forum, such as a city-specific site, from which the city or town is obvious), e-mail address or other online contact information, phone number, Social Security number, and other information that the website collects online from a child and combines with one of these identifiers that the website has also collected online. Thus, for example, the information ''Andy from Las Vegas'' would not fall within the amendment's definition of personal information. In addition, the amendment authorizes the FTC to determine through rulemaking whether this definition should include any other identifier that permits the physical or online contacting of a specific individual.

It is my understanding that ''contact'' of an individual online is not limited to e-mail, but also includes any other attempts to communicate directly with a specific, identifiable individual. Anonymous, aggregate information—information that cannot be linked by the operator to a specific individual—is not covered by this definition.

(9) Verifiable Parental Consent: The amendment establishes a general rule that ''verifiable parental consent'' is required before a web site or online service may collect information online from children, or use or disclose information that it has collected online from children. The amendment makes clear that parental consent need not be obtained for each instance of information collection, but may, with proper notice, be obtained by the operator for future information collection, use and disclosure. Where parental consent is required under the amendment, it means any reasonable effort, taking into consideration available technology, to provide the parent of a child with notice of the website's information practices and to ensure that the parent authorizes collection, use and disclosure, as applicable, of the personal information collected from that child.

The FTC will specify through rulemaking what is required for the notice and consent to be considered adequate in light of available technology. The term should be interpreted flexibly, encompassing ''reasonable effort'' and ''taking into consideration available technology.'' Obtaining written parental consent is only one type of reasonable effort authorized by this legislation. ''Available technology'' can encompass other online and electronic methods of obtaining parental consent. Reasonable efforts other than obtaining written parental consent can satisfy the standard. For example, digital signatures hold significant promise for securing consent in the future, as does the World Wide Web Consortium's Platform for Privacy Preferences. In addition, I understand that the FTC will consider how schools, libraries and other public institutions that provide Internet access to children may accomplish the goals of this Act.

As the term ''reasonable efforts'' indicates, this is not a strict liability standard and looks to the reasonableness of the efforts made by the operator to contact the parent.

(10) Website Directed to Children: This definition encompasses a site, or that portion of a site or service, which is targeted to children under age 13. The subject matter, visual content, age of models, language or other characteristics of the site or service, as well

as off-line advertising promoting the website, are all relevant to this determination. For example, an online general interest bookstore or compact disc store will not be considered to be directed to children, even though children visit the site. However, if the operator knows that a particular visitor from whom it is collecting information is a child, then it must comply with the provisions of this amendment. In addition, if that site has a special area for children, then that portion of the site will be considered to be directed to children.

The amendment provides that sites or services that are not otherwise directed to children should not be considered directed to children solely because they refer or link users to different sites that are directed to children. Thus a site that is directed to a general audience, but that includes hyperlinks to different sites that are directed to children, would not be included in this definition but the child oriented linked sites would be. By contrast, a site that is a child-oriented director would be considered directed to children under this standard. However, it would be responsible for its own information practices, not those of the sites or services to which it offers hyperlinks or references.

(12) Online Contact Information: This term means an e-mail address and other substantially similar identifiers enabling direct online contact with a person.

Section 203. Regulation of unfair and deceptive acts and practices

This subsection directs the FTC to promulgate regulations within one year of the date of enactment prohibiting website or online service operators or any person acting on their behalf from violating the prohibitions of subsection (b). The regulations shall apply to any operator of a website or online service that collects personal information from children and is directed to children, or to any operator where that operator has actual knowledge that it is collecting personal information from a child.

The regulations shall require that these operators adhere to the statutory requirements set forth in Section 203(b)(1):

1. Notice—Operators must provide notice on their sites of what personal information they are collecting online from children, how they are using that information, and their disclosure practices with regard to that information. Such notice should be clear, prominent and understandable. However, providing notice on the site alone is not sufficient to comply with the other provisions of Section 202 that require the operator to make reasonable efforts to provide notice in obtaining verifiable parental consent, or the provisions of Section 203 that require reasonable efforts to give parents notice and an opportunity to refuse further use or maintenance of the personal information collected from their child. These provisions require that the operator make reasonable efforts to ensure that a parent receives notice, taking into consideration available technology.

2. Prior Parental Consent—As a general rule, operators must obtain verifiable parental consent for the collection, use or disclosure of personal information collected online from a child.

3. Disclosure and Opt Out for a Parent Who Has Provided Consent: Subsection 203(b)(1)(B) creates a mechanism for a parent, upon supplying proper identification, to obtain: (1) disclosure of the specific types of personal information collected from the child by the operator; and (2) disclosure through a ''means that is reasonable under the circumstances'' of the actual personal information the operator has collected from that child. It would be inappropriate for operators to be liable under another source of law for disclosures made in a good faith effort to fulfill the disclosure obligation under this subsection. Accordingly, subsection 203(a)(2) provides that operators are immune from liability under either federal or state law for any disclosure made in good faith and following procedures that are reasonable. If the FTC has not issued regulations, I expect that such procedures would be judged by a court based upon their reasonableness.

Subsection 203(b)(1)(B) also gives that parent the ability to opt out of the operator's further use or maintenance in retrievable form, or future online collection of information from that child. The opt out of future collection operates as a revocation of consent that the parent has previously given. It does not prohibit the child from seeking to provide information to the operator in the future, nor the operator from responding to such a request by seeking (and obtaining) parental consent. In addition, the opt out requirement relates only to the online site or sites for which the information was collected and maintained, and does not apply to different sites which the operator separately maintains.

Subsection 203(b)(3) provides that if a parent opts out of use or maintenance in retrievable form, or future online collection of personal information, the operator of the site or service in question may terminate the service provided to that child.

4. Curbing Inducements to Disclose Personal Information: Subsection 203(b)(1)(C) prohibits operators from inducing a child to disclose more personal information than reasonably necessary in order to participate in a game, win a prize, or engage in another activity.

5. Security Procedures: Subsection 203(b)(1)(D) requires that an operator establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected online from children by that operator.

Exceptions to Parental Consent: Subsection 203(b)(2) is intended to ensure that children can obtain information they specifically request on the Internet but only if the operator follows certain specified steps to protect the child's privacy. This subsection permits an operator to collect online contact information from a child without prior parental consent in the following circumstances: (A) collecting a child's online contact information to respond on a one-time basis to a specific request of the child; (B) collecting a parent's or child's name and online contact information to seek parental consent or to provide parental notice; (C) collecting online contact information to respond directly more than once to a specific request of the child (e.g., subscription to an online magazine), when such information is not used to contact the child beyond the scope of that request; (D) the name and online contact information of the child to the extent reasonably necessary to protect the safety of a child participant in the site; and (E) collection, use, or dissemination of such information as necessary to protect the security or integrity of the site or service, to take precautions against liability, to respond to judicial process, or, to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation related to public safety.

For each of these exceptions the amendment provides additional protections to ensure the privacy of the child. For a one-time contact, the online contact information collected may be used only to respond to the child and then must not be maintained in retrievable form. In cases where the site has collected the parents' online contact information in order to obtain parental consent, it must not maintain that information in retrievable form if the parent does not respond in a reasonable period of time. Finally, if the child's online contact information will be used, at the child's request, to contact the child more than once, the site must use reasonable means to notify parents and give them the opportunity to opt out.

In addition, subsection (C)(ii) also allows the FTC the flexibility to permit the site to recontact the child without notice to the parents, but only after the FTC takes into consideration the benefits to the child of access to online information and services and the risks to the security and privacy of the child associated with such access.

Paragraph (D) clarifies that websites and online services offering interactive services directed to children, such as monitored chatrooms and bulletin boards, that require registration but do not allow the child to post personally identifiable information, may request and retain the names and online contact information of children participating in such activities to the extent necessary to protect the safety of the child. However, the company may not use such information except in circumstances where the company believes that the safety of a child participating on that site is threatened, and the company must provide direct parental notification with the opportunity for the parent to opt out of retention of the information. For example, there have been instances in which children have threatened suicide or discussed family abuse in such fora. Under these circumstances, an operator may use the name and online contact information of the child in order to be able to get help for the child.

Throughout this section, the amendment uses the term ''not maintained in retrievable form.'' It is my intent in using this language that information that is ''not maintained in retrievable form'' be deleted from the operator's database. This language simply recognizes the technical reality that some information that is ''deleted'' from a database may linger there in non-retrievable form.

Enforcement.—Subsection 203(c) provides that violations of the FTC's regulations issued under this amendment shall be treated as unfair or deceptive trade practices under the FTC Act. As discussed below, State Attorneys General may enforce violations of the FTC's rules. Under subsection 203(d), state and local governments may not, however, impose liability for activities or actions covered by the amendment if such requirements would be inconsistent with the requirements under this amendment or Commission regulations implementing this amendment.

Section 204. Safe harbors

This section requires the FTC to provide incentives for industry self-regulation to implement the requirements of Section 203(b). Among these incentives is a safe harbor through which operators may satisfy the requirements of Section 203 by complying with self-regulatory guidelines that are approved by the Commission under this section.

This section requires the Commission to make a determination as to whether self-regulatory guidelines submitted to it for approval meet the requirements of Commission regulations issued under Section 203. The Commission will issue, through rulemaking, regulations setting forth procedures for the submission of self-regulatory guidelines for Commission approval. The regulations will require that such guidelines provide the privacy protections set forth in Section 203. The Commission will assess all elements of proposed self-regulatory guidelines, including

enforcement mechanisms, in light of the circumstances attendant to the industry or sector that the guidelines are intended to govern.

The amendment provides that, once guidelines are approved by the Commission, compliance with such guidelines shall be deemed compliance with Section 203 and the regulations issued thereunder.

The amendment requires the Commission to act upon requests for approval of guidelines for safe harbor treatment within 180 days of the filing of such requests, including a period for public notice and comment, and to set forth its conclusions in writing. If the Commission denies a request for safe harbor treatment or fails to act on a request within 180 days, the amendment provides that the party that sought Commission approval may appeal to a United States district court as provided for in the Administrative Procedure Act, 5 U.S.C. §706.

Section 205. Actions by States

State Attorneys General may file suit on behalf of the citizens of their state in any U.S. district court of jurisdiction with regard to a practice that violates the FTC's regulations regarding online children's privacy practices. Relief may include enjoining the practice, enforcing compliance, obtaining compensation on behalf of residents of the state, and other relief that the court considers appropriate.

Before filing such an action, an attorney general must provide the FTC with written notice of the action and a copy of the complaint. However, if the attorney general determines that prior notice is not feasible, it shall provide notice and a copy of the complaint simultaneous to filing the action. In these actions, state attorneys general may exercise their power under state law to conduct investigations, take evidence, and compel the production of evidence or the appearance of witnesses.

After receiving notice, the FTC may intervene in the action, in which case it has the right to be heard and to file an appeal. Industry associations whose guidelines are relied upon as a defense by any defendant to the action may file as amicus curiae in proceedings under this section.

If the FTC has filed a pending action for violation of a regulation prescribed under Section 3, no state attorney general may file an action.

Section 206. Administration and applicability

FTC Enforcement: Except as otherwise provided in the amendment, the FTC shall conduct enforcement proceedings. The FTC shall have the same jurisdiction and enforcement authority with respect to its rules under this amendment as in the case of a violation of the Federal Trade Commission Act, and the amendment shall not be construed to limit the authority of the Commission under any other provisions of law.

Enforcement by Other Agencies: In the case of certain categories of banks, enforcement shall be carried out by the Office of the Controller of the Currency; the Federal Reserve Board, the Board of Directors of the Federal Deposit Insurance Corporation, the National Credit Union Administration Board, and the Farm Credit Administration. The Secretary of Transportation shall have enforcement authority with regard to any domestic or foreign air carrier, and the Secretary of Agriculture where certain aspects of the Packers and Stockyards Act apply.

Section 207. Review

Within 5 years of the effective date for this amendment, the Commission shall conduct a review of the implementation of this amendment, and shall report to Congress.

Section 208. Effective date

The enforcement provisions of this amendment shall take effect 18 months after the date of enactment, or the date on which the FTC rules on the first safe harbor application under section 204 if the FTC does not rule on the first such application filed within one year after the date of enactment, whichever is later. However, in no case shall the effective date be later than 30 months after the date of enactment of this Act.

LIST OF SUPPORTERS OF CHILDREN'S INTERNET PRIVACY LANGUAGE

The Federal Trade Commission.
The Direct Marketing Association (representing 3,500 domestic members).
GeoCities.
Time Warner.
Commercial Internet eXchange Association.
Disney.
AOL.
Highlights for Children.
American Academy of Pediatrics.
American Advertising Federation.
American Association of Advertising Agencies.
Center for Democracy & Technology.
Center for Media Education.
Viacom.

AMENDMENT NO. 3721, AS MODIFIED

(Purpose: To make minor changes in the commission established by the bill)

On page 17, beginning with line 18, strike through line 21 on page 19 and insert the following:

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the ''Commission''). The Commission shall—

(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax * * *) and one representative shall be from a state that does not impose an income tax.

(C) 8 representatives of the electronic commerce industry, telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) 5 individuals appointed by the Majority Leader of the Senate;

(ii) 3 individuals appointed by the Minority Leader of the Senate;

(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

AMENDMENT NO. 3722

(Purpose: To direct the Commission to examine model State legislation)

Mr. MCCAIN. Mr. President, I ask unanimous consent that amendment numbered 3722 be the pending business.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), for himself, Mr. GREGG, and Mr. LIEBERMAN, proposes an amendment numbered 3722.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 23, beginning with line 14, strike through line 2 on page 25 and insert the following:

''(D) an examination of model State legislation that—

''(i) would provide uniform definitions of categories of property, goods, service, or information subject to or exempt from sales and use taxes; and

''(ii) would ensure that Internet access services, online services, and communications and transactions using the Internet, Internet access service, or online services would be treated in a tax and technologically neutral manner relative to other forms of remote sales; and''.

Mr. MCCAIN. Mr. President, this amendment is simple. It is offered by myself for Senators GREGG and LIEBERMAN. The amendment instructs the commission created in this bill to examine model state legislation and provide definitions of what should be subject to or exempt from taxation. Additionally, the Commission would be instructed to look specifically at Internet transactions.

Some would like to see the scope of the commission expanded. This is not necessary. The Commission may look at any form of remote sales, but it is not forced to.

This bill is about the Internet, and its potential as a new technology—but more importantly, as a medium for electronic commerce. The Internet is not like the mail. It is not a monopoly. It is unlike anything that we have seen to date. For that reason we believe that it should be protected from discriminatory taxation.

Mr. President, there will be some who seek to defeat this amendment or will offer second degree amendments to it regarding remote sales, specifically mail order sales. We dealt with that subject specifically the other day. My good friend from Arkansas offered an amendment to overturn the Quill decision regarding mail order sales. Senator GRAHAM of Florida spoke in favor of the amendment. And then the Senate voted on the matter. The amendment was defeated handily: 65–30. We don't need to revisit this issue again. If we do, I would hope the vote to table would be the same.

We should let this commission do its work. We should not prejudge what they will decide or attempt to force them to examine certain subjects or come to certain conclusions. That would be wrong and would undermine the mission of the Commission. The bipartisan amendment before the Senate gives the commission free reign to decide what it believes is best and report such findings to the Congress. I urge my colleagues to support the McCain/Gregg/Lieberman amendment and defeat any second degree amendments that may be offered.

Mr. President, I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

AMENDMENT NO. 3760 TO AMENDMENT NO. 3722

(Purpose: Relating to the duties of the Advisory Commission on Electronic Commerce)

Mr. HUTCHINSON. Mr. President, I call up second-degree amendment 3760.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arkansas (Mr. HUTCHINSON), for himself, Mr. ENZI, and Mr. GRAHAM, proposes an amendment numbered 3760 to amendment No. 3722.

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the McCain amendment, add the following:

(F) an examination of the effects of taxation, including the absence of taxation, on all interstate sales transactions, including transactions using the Internet, on local retail businesses and on State and local governments, which examination may include a review of the efforts of State and local governments to collect sales and use taxes owed on in-State purchases from out-of-State sellers.

Mr. HUTCHINSON. I ask unanimous consent that Senator ENZI be added as cosponsor to my amendment.

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

Mr. HUTCHINSON. Mr. President, I ask unanimous consent that the amendment be modified by deleting the word ''local'' on line 6 of page 1 of the amendment.

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

The modification is accepted.

Mr. HUTCHINSON. Mr. President, this amendment amends the McCain first-degree underlying amendment to allow the commission to establish by the Internet Tax Freedom Act a study of the effects of taxation on interstate sales, or the lack thereof on retail businesses and State and local governments.

I can think of nothing more reasonable and nothing more common sense than saying that the commission that we are creating should conduct a study to look at and examine the implications upon retail businesses and the implications upon local and State governments that this moratorium and this bill would have.

The Senate rejected an amendment last week which would have immediately authorized States to require out-of-State sellers to collect sales taxes and remit them to the State in which the purchase was made. My colleague from Arkansas, Senator BUMPERS, offered that amendment. I think that many of my colleagues who joined me in voting against this amendment would agree that this issue warrants further study.

Why not have the commission establish by this bill conduct a study and examine the issue that is so important to State and local governments and which is so important to local businesses that are trying to survive and who are remitting those sales taxes. This issue, which is so critical, ought to be, I believe, examined and studied. For the sake of small mom-and-pop businesses who find themselves in competition with Internet entities and other out-of-State sellers who do not have to collect State sales taxes from out-of-State buyers, we should allow the commission to study the impact that the lack of taxation on these transactions has on small businesses.

For the sake of out-of-State sellers who do collect and remit sales taxes while their competitors do not, let's allow the commission to study this issue. This is, in fact, a commission study.

It should be noted that Congress and Congress alone can either accept or eject the recommendations that the commission might make. The Supreme Court decided in the case of *Quill* v. *North Dakota* that States cannot require out-of-State sellers to collect and remit sales taxes on goods purchased for use in a particular State, unless Congress authorizes them to do so.

My amendment does not overturn Quill. I want to emphasize that. This amendment does not overturn the Quill decision. It simply allows the commission to study the implications, to study the ramifications of Quill on small businesses and State and local governments.

Electronic commerce is estimated to reach $8 billion in 1998. And by the year 2002, electronic commerce is expected to reach $300 billion.

Let me say that the Internet is an incredible tool both for education purposes and business promotion. My amendment in no way is intended to thwart the growth of the Internet. Again, it merely says that in light of the incredible growth in electronic commerce that we have witnessed over the last 5 years and that we anticipate in the next 5 years that this commission that we are about to create should have the right to examine its impact on businesses serving local markets.

We will have an argument that my good friend from Arizona has argued—that this Internet Tax Freedom Act should focus solely on the Internet. But I argue that the Internet is a form of interstate commerce just like mail order, just like catalog sales. And when we talk about the impact of such interstate sales on local businesses, there is no distinction between the three. We should not address this issue in a vacuum.

So the commission that is created ought to have the right to examine all of the implications of what we are doing and its impact upon that small businessman, that small businesswoman, that city, that county, that State government, and the effect upon their revenue stream.

So the amendment I propose is a compromise. It is, I believe, one that is worthy of support.

I ask my colleagues to support this second-degree amendment.

Mr. WYDEN. Mr. President, first, let me say that I strongly support the Gregg amendment. Let me say to the Senator from Arkansas, I think his amendment is in the wrong place. I think it is supposed to go at page 25. But if we could work with him, we want to make sure that there is fair consideration of his amendment.

Mr. President, let me also say that the whole point of the Internet Tax Freedom Act is to focus on electronic commerce. We have had, since the beginning of this discussion, efforts to bring into this debate a variety of other kinds of subjects, but it seems to me at a time when we have 30,000 taxing jurisdictions, many of which have varied and sundry ideas with respect to electronic commerce and the Internet, what we ought to do is stick to the subject at hand, and that is calling a brief time-out to look at these issues, a time-out in which the Internet would be treated like everything else, by the way.

At various points in this debate we have heard about how we are establishing a tax haven for the Internet. That is simply wrong. During the moratorium, sales on the Internet would get treated just like other sales. It is very important now, with the extraordinary growth of the Internet, as our colleagues have noted, that we do this job right, which requires that we go forward with language such as that offered by the Senator from New Hampshire to ensure that we focus on electronic commerce.

By doing that, we also increase the prospects for making sure that at the end of our work we have a policy that guarantees technological neutrality. We don't have that today in America. We have parts of the country, for example, where you get the newspaper through traditional mail, and you pay no tax on it. But if you read that very same newspaper on line, you pay a tax. That is not technologically neutral. That is what our legislation is all about. The Internet should not get a preference, nor should the Internet be discriminated against. It seems to me that by adopting the Gregg amendment we will ensure that the focus is on electronic commerce, No. 1; No. 2, we will have a chance to look at the very complicated and technical questions dealing with what is close to 30,000 taxing jurisdictions, and I urge my colleagues to support the original Gregg amendment.

I yield the floor.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. GREGG. Mr. President, I rise in opposition to the amendment offered by the Senator from Arkansas as a second degree to the amendment offered by myself, Senator MCCAIN, and Senator LIEBERMAN, which is the underlying amendment here. I think the Senator from Oregon, who has certainly

been a core player in bringing this matter to the Senate, outlined the issue rather well by pointing out that the purpose of this moratorium and the commission that is created under the moratorium should be to review the electronic commerce under the Internet and to pursue a path which will make that commerce more efficient.

This bill, this attempt to protect the Internet from arbitrary taxation across the country with the 30,000 potential municipalities that could assess against the Internet and thus create chaos in what is truly one of the great engines of prosperity and economic entrepreneurship which has occurred within this century, and may be the economic engine for the next century—this bill, which is an attempt to put a hold on that sort of tax policy which might undermine, fundamentally harm, the expansion of the Internet during this formative period is a good bill, but it should not be used to bootstrap other issues onto the question.

What is being attempted here is a backdoor bootstrapping of the whole issue of tax policy as it relates to the question of sales at distant points, whether it happens to be under the Internet, cable, catalogs or by telephone. And another study in this area, which is the proposal that is put forward by the Senator from Arkansas, is simply an attempt to broaden the scope of the underlying effort, which is to protect and address the issues that evolve around the Internet. It is totally inappropriate. There is no reason we should go down that road.

There have been enumerable studies of this issue already. In fact, I have two right here, one done by the League of Cities and the other done by the Center for Budget and Policy Priorities. I also understand there has been one done by the Governors' Association, I believe. The fact is, the issues which are being raised by the Senator from Arkansas have been studied and studied extensively. Putting another study into this bill is not going to in any way change the tenor of the debate. It is simply going to attempt to expand the debate into a whole separate arena, which is inappropriate to this moratorium.

The bottom line of this moratorium—and I will come to that after we have disposed of the amendment of the Senator from Arkansas, but the bottom line issue here is whether or not by voting to expand the moratorium and to get into areas such as the Senator from Arkansas has proposed we wish to dramatically expand the taxing authority of States and local jurisdictions and basically use this bill to become a huge vehicle for expansion in tax policy and expansion of taxes.

I do not think that most Members of this body want to do that, and we already voted on this issue once with the Bumpers amendment. The vote was overwhelming. This body said no, it did not want to use this vehicle for the purposes of creating an explosion in new taxes. And yet there is another attempt being made now to do that, this time through a study. We will hear another attempt, I suspect, from the Senator from Florida who will do that with his amendment to this bill and this underlying amendment.

So I guess what it comes down to is that this body has to make a policy decision: Does it want to use the Internet bill and the protection of the Internet, which has been proposed through the moratorium, which has been energized in large part by the Senator from Oregon, and obviously the Senator from Arizona, and which I have strongly supported, does it want to use that effort to try to protect the Internet to also be an effort to grossly expand the tax laws of this country and the tax policy of this country and the tax activity of municipalities and States, or do we want to stay focused on the subject at hand, which is how to make the Internet an efficient and effective place to do business, how to keep it as a dynamic engine for entrepreneurship and prosperity that it has become through a moratorium on taxes which might be assessed at the local community level?

Although this amendment is couched in the terms of a study, it really gets back to that core issue of whether or not we want to have a moratorium which addresses the Internet or whether we want to use this moratorium as a bootstrapping event for purposes of dramatically increasing taxes and the tax collection capacity of local communities and States across the country.

I oppose this study. I think it is misdirected to be attached to this bill, and I would say that if you really are interested in such a study, here is one you can read. Here is another one you can read. And the Governors' Association has one you can read. You don't have to pay for a new one.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Florida.

Mr. GRAHAM. Mr. President, parliamentary inquiry. Is there a time limit on this amendment?

The PRESIDING OFFICER. No time limit has been agreed to.

Mr. GRAHAM. Mr. President, first let us come back to what we are fundamentally about. What the Internet Tax Freedom Act says is that there shall be a moratorium, a pause, in the State and local governments' exercise of their otherwise legal authority to impose a tax on access to or transactions consummated over the Internet.

That is an unusual action. For the Congress of the United States to preempt State and local governments from their otherwise lawful responsibilities to establish what they feel to be appropriate policy for their citizens is an unusual act for the Congress and one which we should only take after careful consideration.

Why should we exercise such care? Because the consequences of this action, of establishing a moratorium on the taxation of one form of commerce as opposed to all forms of commerce, is to create or to continue a competitive disparity. In this case, it is the comparative disparity between the Main Street retailer, the person who is selling hardware on Main Street and is legally responsible for collecting a sales tax from those who purchase hammers and saws, and those who buy the same hammers and saws over the Internet where they are not subject to the requirement to pay, and the seller to collect, that same sales tax. That is a level of obvious inequity that we would, only under exception circumstances, impose.

Second, at a time when we are underscoring our commitment to fundamental activities such as law enforcement and education, we are about to drive a major hole in the ability to do so of those levels of government which have the primary responsibility for law enforcement and education, which are our colleagues at the State and local level. I will be giving some current examples, as recently as today's newspaper, of the potential that we are about to open up.

So it would only take an extremely persuasive argument to convince the Congress of the United States that it ought to inflict that inequality in the marketplace and the threat to the ability to deliver fundamental police, fire, and educational services at the local level as this legislation does.

What is that rationale? The rationale: This is a new, rapidly evolving technology and we need to have this pause so we can assure that whatever tax policies are developed are developed with uniformity, with nondiscrimination, with predictability, so as not to interfere with the natural growth and evolution of this very important part of our commerce at the end of the 20th century that no doubt will play even a larger role as we go into the 21st. That is the argument for the discrimination and threat to State and local governments for which we are about to be asked to vote.

I will personally support the basic proposition of a pause. But I will only do so if that pause is for a reasonable period of time, that period of time that we would consider necessary to carry out this review and recommendation as to uniform, nondiscriminatory, predictable tax policy, and, second, that we have a commission, which is going to be making this study, which will represent all of the diversity of interests on this matter and will have a charter broad enough to look at all the questions that are relevant to establishing proper policy for the Internet.

The argument here is a direct clash between what the Senate Finance Committee found and what the authors of this amendment support. The language which I support is the language which is in the bill that was reported by the Senate Finance Committee with 19 favorable votes.

If you will look in the bill that appears on our desk, starting on page 22, which is the beginning of the issues to be studied, as stated by the Senate Finance Committee, on page 23, under paragraph (d), the Finance Committee, under the leadership of Senator ROTH, who advocated this language, states that:

> . . . there will be an examination of the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contact sufficient to permit a State or local government to impose such taxes on such interstate commerce.

That is the essence of the language that the McCain-Gregg-Lieberman amendment is going to strike.

Mr. President, I ask my fellow colleagues, is that unreasonable for a commission we are going to set up to study the effects of Internet taxation on State and local governments and on fairness in the marketplace? Is that language unfair? I do not believe it is. The McCain amendment would strike that language.

Senator HUTCHINSON of Arkansas, who has worked very diligently on this issue—and I commend him for his leadership on this matter and his deep understanding of the implications of this issue—has offered a second-degree amendment to the McCain amendment which essentially inserts the same concept of Senator ROTH's language that was in the Finance Committee. His amendment would provide for ''an examination of the effects of taxation, including the absence of taxation on all interstate sales transactions, including transactions using the Internet, on local retail businesses and on State and local governments, which examination may include a review of the efforts of State and local governments to collect sales and use taxes owed on in-State purchases from out-of-State sellers.''

That is the amendment that Senator HUTCHINSON has offered which I think is as eminently reasonable as the language which was offered by Senator ROTH in the Finance Committee. So I strongly support Senator HUTCHINSON's very thoughtful and significant amendment and would go on to say that current events are underscoring the urgency of this look at all forms of remote sales.

One of the purposes of the underlying bill is to eliminate discrimination. That raises the question, Discrimination in relationship to what? If we end up with a bill that says that the commission cannot even look at the taxation and the effect of that taxation on fairness in the marketplace and on the ability of State and local governments to support their police and fire and schools, we are already guaranteeing that the commission will give us a report that, in order to be nondiscriminatory, the Internet should not be subject to taxation. That would make it the same as catalog sales. That would be a result with very serious long-term implications.

If, on the other hand, we are able to adopt the language that either was in the underlying bill or the language that Senator HUTCHINSON has offered, then the commission is going to look at the taxation of all forms of remote sales and will be able to come back with a set of policy regulations that will in fact meet the test of uniformity, nondiscrimination, and predictability, which is the whole purpose of this exercise.

I said the issue is one that is as topical as today's paper. I refer you to the Washington Post of October 7, on page C–10, which carries a story, ''Publisher, Bookseller Join Forces.''

I will not read the whole article but let me just give you a flavor of what it says:

> Taking direct aim at Amazon.com, publishing conglomerate Bertelsmann AG said [yesterday] it will spend $200 million to buy half of the online book service of Barnes & Noble.

So, what we have is a major bookseller which already has an on-line service, where they are selling through the Internet as well as through their Barnes & Noble megabookstores; now they have sold half of their on-line service to yet another publisher, the publisher who has well known book houses such as Random House, Doubleday, and Bantam Publishing. They now together own an on-line bookselling firm which is going to try to compete with Amazon.com.

Why are they doing this? While still a tiny segment of the book retailing marketplace, on-line sales are exploding in popularity. I underscore ''exploding in popularity.''

> Seattle-based Amazon.com, founded three years ago, had revenues of $204 million in the first six months of 1998.

The implications of this to the independent bookstores in Helena, MT, or in Concord, NH, are obvious. In addition to the other benefits of convenience of the Internet, we are now going to have a situation where, if you buy a copy of your book at the Main Street independent bookstore, you are going to be paying the State and local sales tax, but if you buy it over the Internet, you will not be paying the sales tax, and, thus, we are institutionalizing a significant competitive disadvantage.

Why we would want to adopt the policy that puts the Main Street seller at a disadvantage to cyberspace is beyond me. It also happens to be beyond a number of important organizations, whose letters I will ask unanimous consent be printed in the RECORD immediately after my remarks, beginning with the National Home Furnishings Association, which states:

> The home furnishing industry has struggled with the issue of whether there is an obligation for remote sellers to collect and remit sales/use taxes to the state in which the purchaser resides on sales of furniture, long before the first sale was made on the Internet.

It goes on to say:

> In addition to the lost revenue to the state, the in-state retailer is placed at a distinct disadvantage. There is, of course, the differential in the customer's total cost reflecting the sales/use tax. . . . Indeed, many times they serve as the unwilling ''showroom'' and sales adviser for the remote seller, as customers visit their store, discuss a purchase with the sales staff, scribble down model numbers and then call the remote seller.

That is an example of the kind of institutionalization of competitive disadvantage we are about to enact.

I also ask to have printed immediately after my remarks a letter from the Newspaper Association of America representing 1,700 newspaper members. This organization has supported the Internet Tax Freedom Act, but they state:

> . . . I am writing to express support for your efforts to amend the Internet Tax Freedom Act to ensure that the advisory commission examines the tax treatment of all remote sales. . . . The major thrust behind the Internet Tax Freedom Act is to ensure that the Internet is not subjected to unfair, discriminatory and inconsistent taxes at the state and local level. Proponents of the legislation—including NAA—have argued that business transactions and services should be treated similarly regardless of whether they are offered through electronic means or through existing channels of commerce. However, if the commission is not directed in the legislation to examine all remote sales, a discriminatory tax structure could be established that treats one form of remote sales—the Internet—differently from other forms of remote sales. Therefore, we believe a comprehensive approach works best.

Mr. President, I ask unanimous consent that the letter from the National Home Furnishings Association and the Newspaper Association of America be printed in the RECORD immediately after my remarks.

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

(See Exhibit 1.)

Mr. GRAHAM. Mr. President, the second issue which is directly related to the first, the first being the discrimination against the local Main Street sale, is the impact on the ability of local governments and State governments to carry out their fundamental educational, health, and other responsibilities. I will be a Floridian for a moment and cite some of the statistics about the potential impact that an out-of-control moratorium leading to permanent exemption from taxation of the Internet could have on a State such as mine.

In 1996, the State of Florida collected a total of $11.4 billion in general sales tax revenue. This represented 77.3 percent of Florida's tax revenue generated from sales and excise taxes, excise taxes representing $3.8 billion of that total.

Florida is not unique in having a high percentage of its tax revenue generated by sales and excise taxes. For instance, Nevada gets 84.3 percent of its total revenue from these two

sources; Texas, 81 percent; South Dakota, 78.4 percent; Tennessee, 76.7 percent; Washington, 74.3 percent; Mississippi, 67.3 percent; Hawaii, 61.7 percent; Arizona, 57 percent; North Dakota, 56.8 percent; and New Mexico, 56.7 percent. They are examples of States which are heavily dependent on sales and excise taxes, the kind of taxes that are generated by Main Street activity.

Currently, mail order nationwide has sales of $100 billion to $120 billion a year. That is the catalog of remote selling. This results in an estimated $3.5 billion to $4 billion in lost sales tax. It is estimated, for instance, in the State of Florida that that would represent something in excess of $200 million a year in lost sales. That is, if the same sale had taken place at the local shopping mall that took place over the remote sales catalog process, it would have been an additional $200 million of sales tax collected.

Internet sales are expected to grow by the year 2004, not to the $100 billion to $120 billion of current catalog sales, but rather to $400 billion to $500 billion. So Internet sales, by the year 2004, are expected to be four to five times what current catalog sales are. If $100 billion in sales loses $3.5 billion, then the $500 billion would represent a loss of $17.5 billion. For Florida, this means there could be an estimated loss of $875 million in sales tax per year as a result of this removing of the responsibility of the Internet seller to collect the taxes on those transactions.

Florida's Department of Revenue states that the cost of exempted Internet taxation costs the State $60 million in sales tax revenue and $18 million for the gross receipts tax. This gross receipts tax is what is used to fund our school construction costs.

Mr. President, the impact of this on State and local governments in their ability to put an adequate number of police on the streets and an adequate fire defense, and particularly an adequate number of schools and teachers and the other support personnel necessary for their educational system, will be extremely vulnerable if this legislation gets out of control.

This is the amendment which I believe begins to break the dam of reasonability. It is reasonable to have a brief pause to look at all of the implications of Internet taxation. I support that brief pause. It is also reasonable to look at one that is conducted by people who represent all the interests that will be affected by these decisions and that those persons have a charter broad enough to give us wise, comprehensive policy.

To adopt the McCain-Gregg-Lieberman amendment, which would essentially say we are going to put a blindfold over our eyes and we will not be able to look at those remote sales activities which are the most analogous to what the potential for Internet sales would be, is, in my opinion, to render this legislation ineffective in terms of its purpose and to strengthen the doubts that some of us have that its real purpose is, not to have a thoughtful examination, but rather to have this as the beginning of what will be a permanent bar to State and local governments' ability to manage their fiscal affairs and that the principal loser of this will be the shuttered stores along Main Street of the traditional seller, like the bookstore unable to compete when he or she has to collect the local sales tax but its competitor thousands of miles away does not, and will also be seen in the diminishment of vital public services, especially the education of our children.

So, Mr. President, for those reasons, I strongly support the amendment offered by the Senator from Arkansas as eminently reasonable and consistent with the stated purpose of this legislation, and I urge its adoption.

EXHIBIT 1

NATIONAL HOME
FURNISHINGS ASSOCIATION,
Washington, DC.

NHFA CONCERNS WITH PROPOSED MANAGER'S AMENDMENT TO S. 442, THE INTERNET TAX FREEDOM ACT

The home furnishings industry has struggled with the issue of whether there is an obligation for remote sellers to collect and remit sales/use taxes to the state in which the purchaser resides on sales of furniture, long before the first sale was made on the Internet. Sales are frequently made over the telephone or through the mails.

In addition to the lost revenue to the state, the in-state retailer is placed at a distinct disadvantage. There is, of course, the differential in the customer's total cost reflecting the sales/use tax. However, the in-state retailer also makes a significant investment in the community. Indeed, many times they serve as the unwilling ''showroom'' and sales adviser for the remote seller, as customers visit their store, discuss a purchase with the sales staff, scribble down model numbers and then call a remote seller.

NHFA has long sought a consistent, realistic definition of what constitutes nexus for the purpose of determining the sales/use tax obligation of a remote seller.

S. 442 imposes a moratorium on so-called telecommunication taxes, and establishes a commission to examine a variety of issues. Both the Senate Finance and Commerce Committees' versions of the bill, as does the House bill, include language authorizing the commission to examine the issue of the obligation of remote sellers to collect and remit a variety of taxes includes sales and use taxes. For example, the Senate Finance Committee bill states: ''an examination of the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contracts sufficient to permit a State or local government to impose such taxes on such interstate commerce.''

We have learned that a proposed manager's amendment would severely limit the scope of the commission's mission and strike the language allowing an examination of the broader sales/use tax issue.

If a moratorium on telecommunication taxes is enacted, even though it does not technically apply to sales/use taxes on the purchase of the goods themselves, the moratorium will still have a chilling impact on the collection of those taxes. We thought we could live with that moratorium, in the belief we would gain more in the long run, if the commission could resolve once and for all, the broader issue of jurisdiction over remote sellers for all tax purposes including sales and use taxes. It would seem to us, if the manager's amendment strips the commission of the authority to examine the nexus issue, we get the worst of both worlds.

NEWSPAPER ASSOCIATION
OF AMERICA,
Vienna, VA, October 6, 1998.

Hon. ROBERT GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: On behalf of the more than 1,700 newspaper members of the Newspaper Association of America (NAA), I am writing to express support for your efforts to amend the Internet Tax Freedom Act to ensure that the advisory commission examines the tax treatment of all remote sales. As you are aware, we have supported and continue to support enactment of the Internet Tax Freedom Act.

The major thrust behind the Internet Tax Freedom Act is to ensure that the Internet is not subjected to unfair, discriminatory and inconsistent taxes at the state and local level. Proponents of the legislation—including NAA—have argued that business transactions and services should be treated similarly regardless of whether they are offered through electronic means or through existing channels of commerce. However, if the commission is not directed in the legislation to examine all remote sales, a discriminatory tax structure could be established that treats one form of remote sales—the Internet—differently from other forms of remote sales. Therefore, we believe a comprehensive approach works best.

We believe the Internet Tax Freedom Act provides a unique opportunity for a thoughtful and deliberative examination of a uniform tax structure for goods and services. By including all remote sales in the scope of the advisory commission's work, the Congress is encouraging the development of tax policies that present one set of rules that will be applied to all businesses. A uniform approach not only promotes fairness and consistency—it's sound public policy.

Sincerely,

JOHN F. STURM,
President and CEO.

Mr. WYDEN addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Oregon.

Mr. WYDEN. Thank you, Mr. President.

Mr. President, I urge adoption of the Gregg amendment and the rejection of the Hutchinson amendment. First, it is quite clear that this legislation is going to, in fact, study all of the questions related to the subject this bill deals with thoroughly. Let me just read into the RECORD exactly what it says with respect to what will be studied. It says:

> The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

So it is right there at pages 21 and 22.

Mr. HUTCHINSON. Will the Senator yield?

Mr. WYDEN. In just 1 minute I will be happy to yield.

It is quite clear, at page 21 and page 22, that there will be ''a thorough study'' of the issues and that the commission will look at ''comparable interstate or international sales activities.''

The question, Mr. President, and colleagues, is whether or not we are going to focus on yesterday's concerns, which are the mail-order or catalog issues—and they are important ones—or are we going to look at trying to come up with some sensible policies with respect to tomorrow's issues which essentially involve the ground rules for the digital economy.

Somehow, those that want to look at mail-order and catalog sales feel that they can resolve all of their concerns on this legislation. We feel otherwise. The reason that it is so important to have the Gregg language is that it does put the focus on electronic commerce. I and others believe that if we do look at electronic commerce, and look at it thoughtfully, that it may, in fact, come up with some answers to these other issues—mail-order and catalog questions, which are important—but if we change the focus of this bill, which is essentially what the Senator from Arkansas wants to do, I believe what is going to happen is, A, we will not get any sensible ground rules for electronic commerce, nor will we deal with the issues with respect to mail orders.

The fact of the matter is that Main Street America overwhelmingly has endorsed this bill. We have entered into the RECORD the list of the groups that are for it. And the reason that Main Street has endorsed this legislation is that if you are a small business on a main street in rural Arkansas or rural Oregon, or any other part of the country that is essentially rural, right now you are having a lot of difficulty competing against the Wal-Marts and the economic giants in our country.

The Internet is a great equalizer. By having a web page, by having the ability to do business on line, that Main Street business in rural Oregon or rural America, for the first time, has the ability, in an inexpensive way, to market and look at lucrative markets around the world.

Picture, if we will, what will happen to a home-based business in Wyoming or Arkansas or Oregon if we do nothing. There are 100,000 of these home-based businesses in my State alone. They are the fastest growing part of our economy, and if we do not come up with some uniform tax treatment for these home-based businesses, what is going to happen is they will be subject to scores of different taxes all over America.

How is a home-based business in the State of Oregon or the State of Arkansas going to go out and hire a battery of accountants and lawyers and experts to help them sort this out? They are not going to be able to do it. And that is why, when we had the hearings on this legislation in the Senate Commerce Committee, we heard from a small Tennessee business that tried to operate through this thicket of different kinds of State and local rules and ended up going out of business.

These home-based businesses are simply not going to be able to hire the battery of experts and accountants and lawyers that some of those who have opposed this legislation are going to mandate on these small businesses. So I hope that we can stick to the issue in front of us. That would mean going forward with the Gregg amendment and rejecting the amendment of the Senator from Arkansas.

The Senator from Arkansas did ask me to yield, and I am happy to do so.

Mr. HUTCHINSON. I thank the Senator for yielding.

In the early part of your remarks, you emphasized and read from the bill that the commission would be authorized to conduct a thorough study. You emphasized the word ''thorough.'' I think you found a couple places where the term is used. It seems you are implying they will look at all issues affected by this legislation and by Internet sales.

My question is, why, if in fact it is to be a thorough study looking at all issues and all the implications and ramifications of Internet sales on retailers and on government, why then would the Gregg amendment exclude, in effect, say this is off the table, this is one area of issues you cannot look at? When the Finance Committee, by a vote of 19–1, said this should be included, this should be an area that should be examined, this should be the purview of the commission, why then, if it is to be a thorough study, would this amendment, the Gregg amendment, exclude this particular area from study?

Mr. WYDEN. Reclaiming my time, as I said, the debate here is over, Do you want to focus on the subject of this bill, which is electronic commerce—that is what the legislation does; that is what the Gregg amendment seeks to do—or are we going to go back and study in this legislation essentially yesterday's economy?

We believe that if you put the focus on electronic commerce—that is what the Gregg amendment does—we are going to be able to deal with the digital economic issues; and we may well, in fact, come up with some ideas and some innovative approaches that may well resolve the mail-order and catalog question as well.

My concern, and the concern of the Senator from New Hampshire, is that essentially this is going to change the focus of this legislation to put it on the mail-order and catalog issues. There are Members of the U.S. Senate who feel that mail-order and catalog sales are insufficiently taxed. I am not one of them. I am one who believes that we all ought to work together, on a bipartisan basis, to deal with tomorrow's set of economic concerns, which involves the digital economy.

I tell the Senator from Arkansas that as the original sponsor of this legislation, I have made more than 30 separate changes to this legislation in an effort to accommodate what I think are valid concerns which come from States and municipalities and others who are advocating the viewpoint of the Senator from Arkansas.

But what I am not willing to support is essentially changing the focus of this legislation. If we do that, I believe that the 100,000 home-based businesses in my State, and the hundreds of thousands across this country, are not going to see their concerns addressed; I think we will not be taking advantage of the opportunity to look at the Internet issues objectively, and we will lose that focus and take it off into another area which is, in my view, likely to not produce consensus with respect to the mail-order or catalog issue, nor make the progress we need to with respect to the Internet.

Mr. President, I yield back the time.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I rise in strong support of the amendment offered by my friend from Arkansas. This amendment addresses the issue that is being changed by the Senator from New Hampshire. The second-degree amendment would change things back to the way that they were.

We have to take a look at the Internet sales tax issue for people who might be using this piece of legislation to develop huge loopholes in our current system. I am not talking about changing the system. I am talking about preserving for those cities, towns, counties, and States that rely on sales tax the ability to collect the tax they are currently getting.

We are talking about a 2-year moratorium. Do you know how much the Internet will change in a 2-year period? Right now, with the current technology in the Internet, there are ways I could eliminate every single bit of retail sales tax in the United States, every day, if this bill passes. And I don't think that is our intent.

I don't care if we have 30 amendments; if it needs 40 amendments, we will have to have 40 amendments. The number of amendments has nothing to do with the issue that we are addressing. There are some critical issues here that have to be solved to keep the stability of State and local government—just the stability of it—not increase sales tax, just protect what is there right now.

We introduce these amendments because we don't think there is adequate protection now. An increase in catalog sales, I agree, is a topic for another time. It is very important we don't build electronic loopholes on the Internet, an ever-changing Internet, one that is growing by leaps and bounds, one that is finding new technology virtually every day. What we know as the Internet today is not what we will be using by the time this report comes

out. More people are using it every day.

It is fascinating to me that one of the biggest areas of increased use of the Internet is by senior citizens. It probably has something to do with the quality of entertainment. If they do use computers, they are spending an average of 6 hours a day on the Internet. Part of that is purchasing; part of that is learning.

The stated purpose of this bill is:

To establish a national policy against state and local government interference with interstate commerce on the Internet or interactive computer services, and for other purposes.

Let me repeat that:

To establish a national policy against State and local government interference. . . .

Mr. President, I recognize this body has a constitutional responsibility to regulate interstate commerce. Furthermore, I understand the desire of the bill's sponsors to protect and promote the growth of Internet commerce. Internet commerce is an exciting field. It has a lot of growth potential. The new business will create millions of new jobs in the coming years.

The exciting thing about that for Wyomingites is that our merchants don't have to go where the people are. For people in my State, that means their products are no longer confined to a local market. They don't have to rely on expensive catalogs to sell merchandise to the big city folks. They don't have to travel all the way to Asia to display their goods. The customer can come to us on the Internet. It is a remarkable development, and it will push more growth for small manufacturers in rural America, especially in my State. We are just beginning to see some of the economic potential in the Internet. It is a valuable resource because it provides access on demand. It brings information to your fingertips when you want it and how you want it.

We should probably take another look at using it on the Senate floor, but we need laptops for that; I will save that issue for another day.

Having said that, I do have concerns about the bill before the Senate today. I come to this debate having been the mayor of a small town, Gillette, WY, for 8 years. I later served in the State house for 5 years and the State senate for 5 years. Throughout my public life I have always worked to reduce taxes, to return more of people's hard-earned wages to them.

I am not here to argue in favor of taxes. There were times in Gillette when we had to make tough decisions. I was mayor during the boom time when the size of our town doubled in just a few years. We had to be very creative to be sure that our revenue sources would cover the necessary public services—important services like sewer, water, curb and gutter, filling in potholes, shoveling snow, collecting garbage, mostly water. It is a tough job because the impact of your decision is felt by all of your neighbors. They can look you in the eye. One of the biggest problems with local government is the ''Oh, by the ways.'' You go to dinner and somebody says, ''By the way, I have a little problem. Don't get up and solve it. Tomorrow morning will be fine.'' And tomorrow morning they know if you solved that problem.

Hardly any of those problems is solved without money. When you are the mayor of a small town, you are on call 24 hours a day. You are in the phone book. People can call you at night and tell you that the city sewer is backing up into their house. I was fascinated how they were always sure that it was the city's sewer that was doing it. When they call to say that the power is out, they don't want a delay before it is fixed. When they call to tell you a neighbor has stolen a D–8 Cat and is tearing up the street and driving over sports cars and mailboxes and ripping up sprinkler systems, you have to go to work. Those are exciting things that happen from time to time in cities.

The point is that the government that is closest to the people is also on the shortest time line to get results. I think it is the hardest work. I am very concerned with any piece of legislation that mandates or restricts local government's ability to meet the needs of its citizens. This has the potential to provide electronic loopholes that will take away all of their revenue. It may not seem like a big restriction, it may not exceed the $50 million limit that Congress set in the Unfunded Mandates Reform Act, but it does establish a national policy against State and local government. It does take an affirmative step to tie the hands of local government.

Congress has to be very careful when we pass a law like this. We have to realize the effect of all of those people living at the local level—not the Federal level. I have not met anybody who lives on the Federal level; they all live at the local level.

I am also concerned about the bill's impact on small businesses. My wife Diana and I owned a shoestore on Main Street, Gillette, for 28 years. My wife did most of the managing on that. She greeted the people, she sold the shoes, ran the cash register, swept the floor, all the things that have to be done by a small business.

We recognize the advantage of the Internet for these small businesses, these home-based businesses that were mentioned earlier. Yes, we understand the complications of trying to keep track of every kind of sales tax that is levied across the whole United States regardless of what kind of jurisdiction it is in. That is current law. That is current collection, to some degree, particularly if you have a presence in the State where the product is being sold.

What is a ''presence'' in the State? Internet goes into absolutely every State. There is now the easy capability to set up another corporation in another State that does not have sales tax and still make the sale local, with immediate delivery, and avoid all sales tax through the Internet. That is going to be a problem.

The problem with small business is, we talk about whether a business is 500 employees or just 150 employees. That is not the kind of small business I am talking about. I am talking about sweeping the sidewalk, carrying out the trash, filling out the myriad reams of required Federal paperwork. It really doesn't have much application to your business—probably five employees or less. These are the people who sponsor Little League, the basketball camps, the yearbooks, and all of the other things that happen in municipalities. They donate the raffle prizes and uniforms and they support all kinds of community activity. Every kid in town comes to the local small business and asks for help. Fortunately for America, they donate, and they donate gladly. They serve on the parade committees. They serve on the fair committees. They are the volunteers in the church and in the school and in local government. They are not only the neighbors, they are the customers for a small town for any retailer.

We buy mail-order goods often because they are cheaper; there is no sales tax. That is a part of the pitch that is used. That is like a 5- to 7- to 9-percent reduction.

Congress is now going to decide to prohibit local governments from taxing certain businesses—easy businesses to set up, easy businesses to locate in a State that has no sales tax whatever. We haven't seen anything like this before in the history of the United States, but we are about to see the biggest boom in the Internet that we have ever seen. We need a few amendments to this bill to provide some protection for the current system. I am not talking about expanding, I am talking about the current system.

Are we going to be in the business of picking the tax winners and the tax losers? I am talking about the towns where the people of America live. We know who the losers will be. It will be the small retailer in your town, the one that you rely on to run down and pick up the emergency item.

I do support this amendment. The commission should be allowed to study all of the issues with the Internet, all of the issues related to taxation. They definitely ought to be able to look at those that change with the technology so that the current system of collecting revenues for those towns and States can be preserved. I don't think we have all the answers, or we wouldn't be asking for this bill.

I don't think we are going to have all the answers on the technology that is going to transpire in the next 2 years. So whatever we do, we have to have some amendments that will preserve the way that small business and small towns function at the present time. This amendment will help Congress to

make a decision in the future. It restores language that would be taken out with the Gregg amendment. It is critical for towns, small businesses, and you and me. I urge my colleagues to support it.

I yield the floor.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, I rise in support of the second-degree amendment for all of the reasons previously stated by the Senator from Wyoming, the Senator from Arkansas and the Senator from Florida. I have, beginning with the origin of this bill in the Senate Commerce Committee, been very concerned about exactly what the language in this legislation will mean to this country, to our Main Streets, to our States and local governments.

The issue here is a relatively simple one, and I don't need to restate all of the reasons that were offered by the Senator from Wyoming for being concerned about it. But the genesis of this bill was to be concerned about State and local governments applying ''punitive'' tax programs against Internet commerce. They were worried that this growth of the Internet and the expansion of commerce on the Internet would be retarded by local governments or State governments, seeing that as a big, juicy target, and apply some kind of new discriminatory or punitive tax regime upon it. Therefore, they said, let us at least have a time-out until we understand how to impose some sort of tax system that is fair to the Internet sellers and that does not discriminate against the Internet sellers.

Well, the question here, then, is, if in this legislation where you have a time-out, or a moratorium, and you create a commission during that moratorium to investigate or evaluate all of these issues, why then would you say to that commission that you can take a look at all of this, you can take a look at what this means with respect to Internet commerce, but you cannot look at the other issues; you cannot look at how it relates, Internet commerce versus mail-order firms; you cannot look at how it relates to Internet commerce versus Main Street sellers? What kind of logic is that? If you are going to have a commission to try to figure out how this piece fits in the puzzle, then make sure all the pieces are there. That is all this second degree says—make sure all the pieces are there.

The people who are here saying we don't want to solve this puzzle are people who have a vested interest. They are here, frankly, because of mail-order firms and the Internet. They are saying we don't want anybody to look at all of this. We want a moratorium for the Internet over here, and over here we don't want anybody discussing mail-order issues.

The Senator from Wyoming said he and his wife had a shoestore. I didn't know that. I have never been to their shoestore. I have never shopped in Gillette, WY, and I probably never will shop there. But the issue he raises is essential to this point. When he and his wife opened the door in the morning and displayed shoes for sale in that store, they knew a couple of things: They rented the building, they hired the employees, and they bought an inventory. They opened their door and said: We are in business on Main Street in Gillette, WY. They knew that when somebody came through the door and took their shoes off and got fitted up and bought a brand new shiny pair of shoes, when they paid for it, they had to apply the local sales tax. That is what you have to do on Main Street. You are a tax collector for the local consumption tax in the State of Wyoming. I didn't hear him complain about that. That is what they do on Main Streets all across this country. I believe 45 States have a sales tax.

Another thing he and his wife knew, I am sure, and he is not here to answer the question, but I am sure they knew that if someone three blocks away decided they were not going to go to Main Street to buy shoes today, they were going to buy them through a mail-order catalog, in most cases they will buy those through the catalog without paying a local sales tax or a State sales tax, which means that his local business ended up being undersold by someone, perhaps by 4 percent, maybe 6, or maybe even 7 or 8 percent, because the catalog seller, in most cases, didn't charge the State sales tax.

Is that discriminatory vis-a-vis the Main Street businessperson? I think it is. Of course, it is. Does it mean there is not a tax on the transaction? No, there is a tax. When they mail that pair of shoes from the mail-order catalog house to the person in Gillette, WY, or Fargo, or Bismarck, ND, the person who receives that pair of shoes has a responsibility in most every State to pay a use tax. Of course, they don't know that and they won't ever pay that, but that is the responsibility.

The net result of all of this is that the Main Street folks will end up always being at a disadvantage with respect to taxation versus those who are doing business elsewhere, those who have constructed a catalog and haven't hired the employees, haven't rented a place to do business, and they haven't hired local folks; they have just operated through a catalog.

I happen to think catalog sellers are very important to this country. Frankly, they are wonderful marketers. I think it is wonderful for a lot of people in this country to be able to shop that way. There is no question about that. I think when you look at the tax issue here—whether it is buying it through a catalog or going through a computer and getting on the Internet and buying it through a seller on the Internet or buying it on Main Street—there ought to be some symmetry here in the tax treatment to make sure the tax treatment is not going to retard the growth of the business on Main Street, it is not going to retard the business growth of people who have catalogs and the business opportunities of the people on the Internet.

But what is being said in the underlying amendment is, let's take a look at this only with respect to how it relates to the Internet, and you must ignore everything else. My friend, the Senator from Oregon, says, well, we want to explore everything. But, of course, this says you cannot, you must not; in fact, we are going to fight to the end here to see that you are unable to explore everything. That doesn't make any sense to me. That is what the second-degree amendment is about.

The Senate Finance Committee got this right. It passed a bill, came to the floor, created a commission and said, take a look at all of this. We will have a commission that evaluates and studies all of this with respect to the tax neutrality, with respect to the opportunities in growth, and the impact of these taxes on a wide range of commerce—not just Internet commerce, but a wide range of commerce.

The Senate Finance Committee got it right. The underlying amendment now offered by a couple of good legislators, I think for understandable reasons, would say that the Finance Committee is wrong; this commission must not, cannot, and will not be able to study the whole range of circumstances. The second degree says, no, we don't accept that; we want to insert language that is effectively the language coming out of the Senate Finance Committee.

I say again, as I did yesterday when the Senator from Florida was on the floor, and I say it now to the Senator from Arkansas, who along with the Senator from Florida and the Senator from Wyoming were primary sponsors of the second degree, in my judgment, they are dead right. They are absolutely right on target. I hope that the Senate, notwithstanding whatever curves and straightaways we find with this legislation—I assume this legislation will be worked out in the coming hours and days and, perhaps, be passed tomorrow, and I hope it will be passed in a satisfactory form.

But one of the ways that this legislation will be made a better piece of legislation is to pass this second-degree amendment and restore it to the condition it was in when it came out of the Senate Finance Committee. These folks spent a lot of time on tax issues in the Finance Committee. I used to be on the House Ways and Means Committee in the other body for 10 years, and I spent a lot of time on tax issues. I think the Senate Finance Committee got it right. They said, study these issues, evaluate them all, understand the consequences of them all, and then, with that knowledge, let's make some judgments. That is the purpose of the time-out; that is the purpose of the moratorium.

I have, as the Senator from Oregon stated, spent a fair amount of time

with him, and I think we have made a lot of progress on these issues.

My expectation is we will pass a piece of legislation that is an acceptable piece of legislation that has a timeout moratorium. But it must, in my judgment, include this in order to really give us the assurance that that moratorium is used effectively by a commission that has divisions to look at all of these issues.

I yield the floor.

Mr. LIEBERMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I rise to oppose the amendment offered by the Senator from Arkansas and others and to express my support of the underlying amendment offered in the first instance by the Senator from Arizona, the chairman of the committee. I am proud to be a cosponsor of that one.

I was a cosponsor of the initial legislation, one of the pieces of legislation earlier in the session, along with my colleague from New Hampshire, Senator GREGG, which had the intention of trying to create some order and predictability and a little space for this extraordinary new area of economic activity, activity which has benefited so many people around our country, which is to say, e-commerce over the Internet.

The aim was to say to the taxing jurisdictions, of which there are thousands and thousands and thousands—30,000, as a matter of fact—potential taxing jurisdictions which exist in the United States, catch your breath, sit back, and let this new sector of our economy—Internet commerce, e-commerce, which the United States is heading and which has benefited so many people, which has created so many jobs—let it grow out of its infancy before we begin to put the teeth of the taxman into various parts of its anatomy; and let's let this commission begin to grow some ground rules for the consistent and fair handling of this new area of economic activity.

The fact is today that an Internet service provider, or a merchant selling goods or services over the Internet, has no way of knowing in advance whether a State decides to tax them. As an example, in New Mexico, Internet access charges are subject to New Mexico gross receipts taxes. In Ohio, their sales are taxed as an electronic information service; in Tennessee, it is a telecommunications service; in my own State of Connecticut, as a computer and data processing services. Texas officials, I gather, have threatened to tax transactions that go through Internet servers in its State, even if the buyer and seller, in conventional terms, are not located in the State of Texas.

The uncertainty of this tax liability is real and is having what you would expect—a negative, destabilizing effect on this business. Peat Marwick, a respected, recognized firm, just released a survey of industry executives of companies that sell over the Internet. Fifty percent of the executives said that the current State tax ambiguities and conflicting tax treatment of electronic commerce among the States are inhibiting their companies' involvement in electronic commerce. Ninety percent describe the current State sales tax procedures with regard to electronic commerce as ''overly burdensome,'' and 75 percent expressed their concern that State and local tax laws will place their companies at a disadvantage. It is because the industry is in its infancy.

A predictable legal environment is exactly what the President's Report on Electronic Commerce recommended that we promote internationally. In fact, the administration has been sending out emissaries over the last year to persuade international organizations and individual countries to agree to create a predictable legal environment for the spread of electronic commerce. That is not only fair, it is good for American business, which happens to have a lead over business in any other countries in the effective use of the Internet.

What the underlying bill, the underlying amendment, is saying is that it is time that we create the same sense of predictability here in the United States that our Government is urging on countries around the world. That is what this commission would do.

The commission is asked to draft model State legislation that creates uniform definitions and categories of commercial transactions on the Internet so that States will be using the same vocabulary when it comes to categorizing the tax liabilities of an Internet company, or transaction—not unifying a tax rate among States, but creating a legal environment in which companies can do business.

The National Commission on Uniform State Legislation has been working for the past 2 years on updating the treatment of Internet transactions according to various State laws. But it has not looked directly at taxes. This commission that would be created by this legislation would work with the national commission and other groups that have already been active in trying to update laws to be certain that Internet commerce is treated fairly. We would extend their work through this commission in the tax arena.

I want to stress that the measure introduced by the distinguished chairman of committee, the Senator from Arizona—Senator GREGG, I, and others are proud to be cosponsors—does not preclude the commission created by this legislation from considering the question of nexus or taxation of remote sales. The danger in this amendment before us, the second-degree amendment, is that it singles these particular questions out as a requirement and thereby, I think, puts the commission in danger of falling into a very dense thicket.

A battle has been waging for more than three decades, and taken right to the Supreme Court at one point, as to how remote sales by catalog-telephone sales would be taxed by the 30,000 taxing jurisdictions in the States in the country. In so doing, I think the amendment threatens what is and should be the focus of the commission, which is to direct its attention on this extraordinary new sector of commerce, Internet commerce, and it runs the risk really of getting the commission so tied up in the thicket of remote sales that it will never really contribute what we hope it will to creating some order and predictability in e-commerce.

Mr. President, the fact is that this commission that is created by the underlying legislation may well—I think we who are its sponsors hope it will—create some language to reach some judgments that may in fact offer some counsel and help in this ongoing debate about taxation of remote sales, but let that happen naturally—that is my hope and prayer—as opposed to forcing it into the second-degree amendment in a way that would run the risk of destroying the underlying purpose of the proposal, and in that sense doing damage to Internet commerce and all who both benefit from it as consumers and benefit from it because they work in companies that are using it.

I want to mention one other matter before closing. That is this: There are times when we talk about Main Street and the effect of Internet commerce on Main Street as if it were, one wins and one loses.

The reality is that e-commerce has the potential to expand the winner's circle, to make more winners. I want to cite real cases from Connecticut which I learned about in the last 6 months to a year, and I think are typical of what is happening all over the country.

First, let me say that a recent survey in Connecticut found that 38 percent of small- and medium-sized companies have a web page—almost two out of five. A little over half of those are using their web page to sell goods and services—right now. And 21 percent are planning to add a web page next year. I am sure those numbers are going to grow dramatically in coming years.

The fact is, insofar as some folks who are in taxing jurisdictions and the concern of this amendment has to do with treatment of direct mail-order sales or phone sales, if the mail-order catalogs that I get at my house are any indication of what the future is, I am being truly encouraged, aggressively encouraged by those catalogs instead of calling up, to use the Internet. So I think more and more of that kind of commerce will be done by e-commerce.

But let me give you two great examples from home about the effect that the Internet is having on Main Street. A small company in old Broad Brook, CT, beautiful town by the water on Long Island Sound, called Stencil Ease, family-owned, 18 employees, sells stencils for home decorating and crafts. It

started a web page in 1996. They have been averaging 100 to 200 hits a day. Their sales increased 10 percent the first year due to the web site and 20 percent the next year.

Here is a startling story in the second one—Coastal Tool & Supply. I have been there. It is a small, family-run hardware store in Hartford, CT, capital city. It was threatened, interestingly, by a location nearby of one of the large chain hardware stores. It was having a hard time. They decided to go on the Internet, in a sense to leap over the big competitor down the street. I think it was Home Depot, but it doesn't matter—a big competitor down the street and in a sense enter the global main street and hired a very able young man, skilled in computer matters, who put their catalog essentially on the Internet. Sales have grown almost 500 percent. They are doing more business over the Internet than they are from people coming into the store.

So this is what the future holds, and it is a situation, if we do it right, where not only the big companies, but a lot of mom-and-pop stores and businesses are going to be able to benefit from Internet sales.

Now, as it grows, it will actually have an effect on taxing jurisdictions, and we will naturally, in the normal order of business, want to create an opportunity for equity and to protect State and local jurisdictions that we represent. But this is not the time to do it, and this amendment is not the place to do it. Let's let this commission deal with the unique problems of e-commerce.

Mr. WYDEN. Will the Senator yield?

Mr. LIEBERMAN. I will be glad to yield to my friend from Oregon.

Mr. WYDEN. I want to say that I think the Senator has made an especially effective approach and tell him that hardware account he gave is essentially what this legislation is all about. There has been discussion about who benefits here, huge corporations and the like. The people who benefit here are the 100,000 home-based businesses in my State, the hardware store that the Senator from Connecticut is talking about.

The reason why that is the case is that the Internet is a great equalizer for those small businesses. The small businesses now that we are seeing in the State of the Senator from Connecticut and rural Oregon are having great difficulty today competing against the Wal-Marts of the world. They do not have huge advertising budgets like Wal-Mart. They don't have batteries of lawyers and accountants. These are small, entrepreneurial operations that now look at the Internet as a tool that can trampoline them into extraordinary economic opportunities they have never had.

Without this legislation and the good work that has been done by the Senator from Connecticut and the Senator from New Hampshire, if you are a small, home-based business in Oregon or Connecticut, you may well face a good chunk of the thousands of taxing jurisdictions in our country looking at your business as a cash cow.

One of our colleagues said the threat here is the World Wide Web would become the ''World Wide Wallet'' if that kind of approach went forward.

So what the Senator was talking about with respect to that hardware store account is why I introduced this legislation early in 1997. That is the very kind of operation that I think we ought to be looking to grow in the 21st century.

I thank the Senator for yielding me this time. I heard his account of the hardware store from the Cloakroom, and I think some have said—in fact, I heard it again today—that this was about Amazon.com or someone like that. Those people are not going to be in need of this kind of approach. This is going to benefit the small entrepreneurs, the home-based business, the kind of person the Senator from Connecticut is talking about. I thank him for yielding me this time.

Mr. LIEBERMAN. I thank the Senator from Oregon for his comments. I thank him for his leadership. Senator GREGG and I were happy to merge together with the work the Senator from Oregon and the Senator from Arizona have done.

I want to end with one story the Senator from Oregon has stimulated in my memory when I visited that hardware store. It shows how you not only jump over the big store down the block but into the global shopping mall.

One of their favorite stories—and this is not a pure market example because the particular customer I am about to refer to is from a Middle Eastern country—is about a man who happened to work for his country's national airlines, so his trip here was paid for, but he needed some large, heavy tools. He went on the Internet, found his way to the Coastal Tool & Supply web site, competitively priced, figured out the advantage, was on a flight to New York as part of his normal work, got off the plane, rented a truck, drove up to Hartford, bought the tools that he needed, drove back, put them on the plane, and went back to the Middle East, all smart shopping and good for business.

So I hope that our colleagues will resist the allures of this second-degree amendment and will not disrupt the noble and, I think, very necessary intention of the underlying bill. We can come back some other day, hopefully, informed by the work of the commission created herein to deal with the border problems that I know concern the Senator from Arkansas and the other cosponsors of the amendment.

I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. HUTCHINSON. I thank the Chair. I just want to make a few closing observations of my perspective on this second-degree amendment and clarify a few things that I think are not representative at all of what this second-degree amendment does.

May I just say also, being the Senator from the State of Arkansas and being from the hometown in which Wal-Mart stores are nationally headquartered, world wide headquartered, and Wal-Mart has been disparagingly mentioned several times——

Mr. WYDEN. Will the Senator yield?

Mr. HUTCHINSON. Not at this time. In my office in the Dirksen Building I have a hanging portrait of the 5-&-10-cent store where Sam Walton started the Wal-Mart stores. There is nothing in this amendment that is antientrepreneur. The fact is that Wal-Mart, with their huge advertising budget, as it was alluded to, started as a little 5-&-10-cent store, as a mom-and-pop store in Arkansas. That is an American success story which ought to be applauded, not disparaged. Every American ought to have that opportunity, to have that dream. We ought not with legislation undercut that little Main Street store that cannot be replicated, cannot be replaced. No matter how great the Internet is, no matter how great catalogs are, they cannot replace that store on Main Street giving to the little league and supporting the local efforts and local initiatives.

A couple other things. It has been implied that somehow this amendment, this second-degree amendment would mandate that they focus the study, the commission focus their study on interstate sales. Nothing could be further from the truth. If you look at the bill, it says, and I quote, ''may include in the study *under subsection,'' may include a study of. It is, in fact, the Gregg amendment, the McCain-Gregg amendment that excludes even their authorization to study the impact, the obvious impact of remote sales including catalog, including Internet, all of the Internet remote sales, its impact upon small businesses and upon local and State government. It simply says ''may.'' It is simply authorizing, permissive language. It is, in fact, the House bill that mandated that they study this area and its impact, because it is so obvious the impact that it could potentially have, and that any study that should be done, if it is in fact to be a thorough study, must include this area.

It is the proponents of the Gregg amendment who would say what the Finance Committee did by a vote of 19 to 1 should be overturned. The Finance Committee, led by Senator ROTH, included a study of these issues—and they should be included. They should be studied. The language in the bill says ''thorough study.'' How can you have a thorough study and then delete the area of interstate sales? It puzzles me. How can anyone object to having a broader study that would include all of the various issues involved in a very complex subject?

It has been implied that somehow this second-degree amendment, which would say this issue ought to be studied, is protax. My goodness, anybody who has ever looked at TIM HUTCHINSON's record in the statehouse in Arkansas, the U.S. House of Representatives, and the U.S. Senate, would have a hard time believing this amendment I am offering is protax or somehow a roadmap to higher taxes. Nothing could be further from the truth. We are not prejudging any kind of conclusions or any kind of recommendations that this commission might make. And, I remind my colleagues, it requires a two-thirds vote of the members of the commission to make any recommendation, and that is all they can make, is a recommendation. The final say remains with the Congress.

How in the world can you say this somehow is going to lead to higher taxes or somehow thwart the growth of the Internet? And that, may I say, has been another mischaracterization of this amendment—that it is somehow not only protax but anti-Internet.

We have applauded, and I applaud, the growth of the Internet. I quoted the statistics, from $8 billion in 1998 to the estimated $300 billion in sales in the year 2002; that is a good thing. But while it is a good thing, we should not be so blind as to think it is not going to have serious consequences, serious impacts, that ought to be examined in advance.

I support the bill. I support the timeout. I support the pause. I support the moratorium. But I also believe, if we are going to have a study, it ought to truly be a thorough study. It ought not say look at everything but don't look at the impact upon business, don't look at the impact upon the city government or the State government. It ought to truly be a thorough study. You cannot deal with these issues in a vacuum. They are interrelated, all of these, and they need to be, in fact, thoroughly studied.

Let me just conclude by saying I thought Senator ENZI's comments were moving. I, like Senator DORGAN, did not realize that he and his wife operated a little Main Street shoestore for over 20 years in Gillette, WY. I did not know that. I had a great appreciation for Senator ENZI. I have a greater appreciation now. But I think also that, as he paid those sales taxes day in and day out, as he made the struggles that any small business person makes in order to stay in existence, as he contributed to the Little League, as he contributed to the United Way, as he did everything that only a physical entity actually being right there in the community can do—irreplaceable—that we need to consider them, we need to think about them, as we pass this needed legislation.

I believe if they will simply look at the language of the second-degree amendment restoring what the Finance Committee did by a 19-to-1 vote and saying this is an area that ought to be examined, ought to be looked at, then I think my colleagues will realize that in fact it does make good sense and they will support it. I ask for their support.

I yield the floor.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Arizona.

Mr. MCCAIN. Mr. President, the amendment does not say anything about what to do or not to do. What we are talking about here is whether the commission should say we should overturn the Quill decision. That is what we get down to, if we want to get through all the rhetoric and language about this. We don't think the Quill decision should be overturned. Obviously, the proponents of the amendment do, and that really is, to a significant degree, what this amendment is all about.

Mr. President, I move to table the amendment and ask for the yeas and nays.

Mr. BUMPERS. Mr. President, will the Senator withhold for about 2 minutes?

Mr. MCCAIN. I will be glad to withhold for 2 minutes before I make the motion to table.

Mr. BUMPERS. I thank the distinguished manager very much.

Mr. President, this is really a strange scenario for me. I have fought for years to allow States to do exactly what the Supreme Court, in the Quill decision, said we had the right to do, and that was to allow States to make mail order houses collect sales taxes on merchandise being shipped into our respective States. That is what the Supreme Court said. We would not be overturning the Quill decision. We would simply be taking advantage of what the Supreme Court said we had a right to do: Remove the interstate commerce clause as a burden and allow the States, 45 of whom have sales taxes on merchandise from out of State—allow those States who have passed those laws to implement them. They cannot be implemented. We are saying we do not care what kind of laws you pass at the State level, we are not going to allow you to implement them.

Last week we once again killed my amendment to allow states to mandate that remote sellers collect the taxes they ought to. Yesterday, the Senate decided that we cannot even make Internet sellers alert consumers to the fact that there is a sales tax in the State. We cannot even tell them to alert people to the fact that somebody may knock on their door from their state revenue department and try to collect the unpaid use tax. Think about that. Mr. President, 45 States have a sales tax and we voted yesterday not to even require Internet sellers to tell consumers there may be a tax on their purchases.

Now we come here today saying we cannot even study it. My God, how far are we going to go?

The PRESIDING OFFICER. The 2 minutes has expired.

Mr. MCCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Arizona. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER (Mr. GRAMS). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 30, nays 68, as follows:

[Rollcall Vote No. 304 Leg.]

YEAS—30

Boxer	Gregg	Moseley-Braun
Burns	Hagel	Murray
Campbell	Kempthorne	Shelby
Coats	Kerry	Smith (NH)
Collins	Kohl	Smith (OR)
Craig	Kyl	Snowe
Dodd	Lautenberg	Stevens
Faircloth	Lieberman	Thompson
Frist	McCain	Torricelli
Grams	McConnell	Wyden

NAYS—68

Abraham	Dorgan	Levin
Akaka	Durbin	Lott
Allard	Enzi	Lugar
Ashcroft	Feingold	Mack
Baucus	Feinstein	Mikulski
Bennett	Ford	Moynihan
Biden	Gorton	Murkowski
Bingaman	Graham	Nickles
Bond	Gramm	Reed
Breaux	Grassley	Reid
Brownback	Harkin	Robb
Bryan	Hatch	Roberts
Bumpers	Helms	Rockefeller
Byrd	Hutchinson	Roth
Chafee	Hutchison	Santorum
Cleland	Inhofe	Sarbanes
Cochran	Inouye	Sessions
Conrad	Jeffords	Specter
Coverdell	Johnson	Thomas
D'Amato	Kennedy	Thurmond
Daschle	Kerrey	Warner
DeWine	Landrieu	Wellstone
Domenici	Leahy	

NOT VOTING—2

Glenn	Hollings

The motion to lay on the table the amendment (No. 3760), as modified, was rejected.

Mr. MCCAIN. Mr. President, the Senate has spoken. I move that we adopt the underlying amendment and the pending amendment.

The PRESIDING OFFICER. The question is on the second-degree amendment.

Without objection, the amendment is agreed to.

The amendment (No. 3760), as modified, was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3722, AS AMENDED

The PRESIDING OFFICER. The question is on the first-degree amendment.

The amendment (No. 3722), as amended, was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENTS NOS. 3732 AND 3733, EN BLOC

Mr. MCCAIN. Mr. President, I send two amendments to the desk, en bloc, and ask for their immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes amendments numbered 3732 and 3733, en bloc.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

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

The amendments are as follows:

AMENDMENT NO. 3732

(Purpose: To modify the duties of the Commission)

On page 22, line 2, strike ''interstate'' and insert ''instrastate, interstate''.

AMENDMENT NO. 3733

(Purpose: To modify the report of the Commission)

On page 25, line 12, insert ''Any recommendation agreed to by the Commission shall be tax and technologically neutral and apply to all forms of remote commerce.'' after ''this title.''.

Mr. MCCAIN. These have been accepted by both sides. I know of no further debate.

The PRESIDING OFFICER. If there is no further debate, without objection, the amendments are agreed to.

The amendments (No. 3732 and No. 3733), en bloc, were agreed to.

Mr. MCCAIN. Mr. President, we are now down to basically two issues about which the Senator from Wyoming, the Senator from North Dakota, and the Senator from Oregon are deeply concerned. We are negotiating those. We hope we can get an agreement on those so that we can finish up on this legislation. If not, we will probably have votes on those two issues. But we have resolved the remaining amendments, except for those two. There is more than one amendment associated with those two issues. But if we can get that agreement within the next half hour or so, I think we can move to final passage. I thank the Senator from North Dakota for his cooperation with this difficult issue.

I yield the floor.

Mr. DORGAN. Mr. President, it is also my hope that in a relatively short period of time we will be able to resolve the remaining issues. We have made a lot of progress on the bill. I will say again that the Senator from Arizona has done an excellent job, and the Senator from Oregon and others have pushed very hard to get us to this point. There are other significant issues, but I expect to get them resolved in relatively short order. I hope we will make the final progress necessary on this piece of legislation.

I yield the floor.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. LOTT. Mr. President, we are working on a unanimous consent agreement now that we hope we can get approved, which would allow us to get to a conclusion and a final vote on the Internet tax freedom bill. I commend all who have been involved, including Senators MCCAIN, DORGAN and WYDEN. I believe we can actually get to a conclusion. There has been the possibility that it would be tangled up in other matters, but I think maybe we have an agreement that will allow us to complete that.

UNANIMOUS CONSENT REQUEST—S.J. RES. 40

Mr. LOTT. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Democratic leader, may proceed to the consideration of S.J. Res. 40, proposing an amendment to the Constitution of the United States prohibiting the physical desecration of the flag; further, that there be 2 hours of debate equally divided on the resolution, with no amendments or motions in order, and at the conclusion or yielding back of time, the Senate proceed to vote on passage of the resolution.

The PRESIDING OFFICER. Is there objection?

Mr. KERREY. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST—S. 505

Mr. LOTT. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 505, and that the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. DODD. Mr. President, reserving the right to object, is this the copyright bill?

Mr. LOTT. Yes.

Mr. DODD. I don't want to object, but I have been asked about clearing this. Maybe a couple of us have questions about this. If the majority leader will withhold for about 15 minutes so we might be able to clear it up, we would appreciate it.

Mr. LOTT. That is a reasonable request. I will withhold on that. I had believed that we cleared it with both sides of the aisle, but some Members may not have had a chance to check on it.

Mr. LEAHY. Mr. President, I take the blame for that. I assumed it had been cleared. The Senator from Connecticut said he had an issue, so if the majority leader will give us a few minutes to see if we can work it out.

Mr. LOTT. I will do that.

Let me just say again that I hope we can get this cleared because it looks like, after a lot of hard and good work by a number of Senators—Senator HATCH worked very hard on this—that we are now in the position of being able to move the music licensing issue, the copyright bill, the international property issue, the international treaty; those are three major achievements that I thought a week ago we probably could not get done. They are all interrelated, actually. I hope we can get clearance to move forward on these issues. This is a reasonable request, and I withhold the unanimous consent request at this time.

Mr. LEAHY. Mr. President, will the Senator from Mississippi yield to me for a moment on this?

Mr. LOTT. I yield to the Senator from Vermont.

Mr. LEAHY. The Senator from Mississippi is right. He has been working very hard with both sides of the aisle to clear the items he has mentioned. As he knows, we have been working very hard, as well. These are extraordinarily complex pieces of legislation. Unfortunately, the more complex they are, the more like a Rubik's Cube they are. I think we are extremely close, and we will continue to work with him. I compliment him on his efforts to help work these out.

Mr. LOTT. Again, I say that I appreciate the help from Senator LEAHY, and I also urge that we do this as soon as we can, because, as you know, at this late stage of the game, sometimes people come in with unrelated issues that start causing problems. Let's do it as quickly as we can.

I yield the floor.

OBJECTION TO 2–HOUR TIME AGREEMENT ON S.J. RES. 40

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, I will be very brief on this. There was another unanimous consent request just now to which the distinguished senior Senator from Nebraska objected. I join in that objection. The Senator from Nebraska is a distinguished veteran. In fact, he is the only person I have ever served with in either body that has been awarded the Congressional Medal of Honor. He is a servant of his country in every sense of the word.

Mr. President, the reason we were objecting is not that people would hesitate to vote on this, but a 2-hour proposal is not realistic. We are dealing here with a proposal to amend the Constitution of the United States. That is something that, as Madison put it, should be reserved for ''certain great and extraordinary occasions.''

This is a serious issue—one deserving of our full attention, our most thoughtful consideration, and our most serious debate. Instead, we are asked to consider this at the most hectic time of

the entire legislative calendar—at the end of a session when the attention of Senators quite properly is focused on passing the necessary appropriations bills so that we will not once again shut down the Federal Government. This is inappropriate timing. I might say that it is entirely unnecessary.

This amendment was reported by the Judiciary Committee on June 24, over 3 months ago. The committee report was sent to the Senate on September 1, over a month ago. This amendment could have been brought up at any time.

I ask, why is it being proposed to be brought up now? It would be nothing less than irresponsible for us to consider it in the short, hectic time line that is available. As if this matter could be made worse, we are asked to consider it not only during 2 hours of debate, but also when one of our most distinguished colleagues, also a distinguished veteran of World War II and of the Korean conflict, Senator GLENN, necessarily is absent on a dangerous and important project on behalf of the Nation.

Frankly—I don't want to interrupt the conversation going on to the right of me, Mr. President. So I will withhold for a moment.

The PRESIDING OFFICER. May we please have order on the Senate floor?

The Senator from Vermont.

Mr. LEAHY. I thank the Chair.

No one has fought harder for the flag than JOHN GLENN. No one has fought harder than he to protect the Bill of Rights. It shocks and really offends me that the proponents of this amendment would take advantage of his absence to debate this proposal as he embarks once again in harm's way in the service of the United States.

I am astounded to have something as important as an amendment to the Constitution of the United States called up at this late date in the session. We are less than a week away from adjournment. We have important work to do—work that cannot wait. And to call this up seems even less responsible when you consider the restraint of some of our other Members.

This is not the only constitutional amendment pending before the Congress. The Senator from Arizona, Mr. KYL, and the Senator from California, Mrs. FEINSTEIN, have worked long and hard on an amendment to the Constitution to deal with the rights of victims of crime. While I have not supported that amendment and very much am for a statutory approach to that important issue, I know that it was propounded in a responsible fashion. Both Senator KYL and Senator FEINSTEIN came to the floor just a few days ago, on September 28, to acknowledge that as much as they support the amendment, there simply is not time left in the session to consider it properly.

The Senator from Arizona made this point: ''It has been very difficult in the waning days of the session to get floor time to take up even the most mundane of bills, because the Senate is very much concentrated on getting the appropriations bills passed so that we can fund the Government.'' He went on to note: ''We understood that for something as important as amending the Constitution we want to do it right. The last thing Senator FEINSTEIN and I would ever do is hurry an amendment to the U.S. Constitution to try to push this through without an adequate debate without giving everyone an opportunity to have their say.''

The last thing we would ever do, as these two distinguished Senators said, is to hurry an amendment to the U.S. Constitution. Frankly, that should be the last thing any U.S. Senator should do—Republican or Democrat. But to ask to consider an amendment to the Constitution that would for the first time in our history cut back on the First Amendment and to propose that the Senate do so under a 2-hour time agreement would be just that. It comes across as just politics.

The sponsor of this amendment, the distinguished senior Senator from Utah, told reporters last Friday that he did not have the votes to win it, that this amendment was not going to pass. If it is not going to pass, why are we even being asked to bring it up as a constitutional amendment in these waning days? It is because it is not a question of passing this amendment that the request is being made. It is to get some material for a campaign commercial. It is for a sound bite, for 30-second attack ads, politics at its worst. It has less to do with passing an amendment than with avoiding things that we should be doing, like HMO reform, or protecting the Social Security system, or protecting veterans' health care.

In the closing days of a session, where Congress has not passed a budget, which was required to be passed by April 15, where both sides flirt with the idea of what might happen with another Government shutdown, we should be completing the matters that must be completed this week.

Obviously, there will be amendments that may come up from all sides for political points. But the one place that should be off limits for such political points is the Constitution of the United States—this short and powerful document that holds the greatest democracy history has ever known together. We should not trivialize it by talking about a 2-hour debate to amend it.

Mr. President, even as we speak here today, this Congress is facing a major test of our Constitution just down the hall in the other body. This is a test that no matter how one looks at it, no matter what position one takes, whether that of special prosecutor Starr, that of the President, or that of anybody else, the American people, no matter how they feel about this, have some sense that the bedrock of our country is our Constitution, and somehow the Constitution, if upheld by 535 people, men and women who are sworn in a most solemn oath to uphold that Constitution, that somehow the Constitution will pull us through.

Mr. President, having said that, I believe that no matter how much politics may or may not get played, that in the end the American people will be justified in relying on us and the Constitution. But we do not give them hopes in that if we in turn trivialize the Constitution.

At one time this year, I am told, there were over 100 amendments filed in the Congress to the Constitution—over 100 amendments. Somehow some feel that Congress should be considering over 100 amendments and asking this great country to consider 100 amendments to its Constitution.

Mr. President, the genius of our Constitution and the reason why this democracy has been able to survive is that we have been very careful about amending it—extremely careful about amending it, because we like the integrity of it, the consistency of it, and in some ways the comfort of a Constitution that we know so well.

So we should never hurry through an amendment to the U.S. Constitution. We should never try to push one through without an adequate debate. We should never try to do it without giving everyone an opportunity to have their say. Especially today, Mr. President, with the crisis the country faces, we of all people—the Members of the U.S. Senate—should make it very clear to the country that we revere the Constitution, and that, whatever else we may get involved in with regard to politics, the Constitution will not be part of that.

There are over a quarter billion Americans—over a quarter of a billion Americans. Only 100 of us get the opportunity to serve in this Chamber at any time. The seat I now hold, in the last 58 years only two Vermonters have held this seat. I am one of the two in 58 years. It is a great privilege. Frankly, it is one that humbles me every day when I come to work. I still feel the same thrill coming up this Hill and coming into this Chamber as I felt when I was a day away from being a 34-year-old prosecutor in Vermont and was the junior-most Member of the U.S. Senate.

Part of that thrill is to know that it is a rare opportunity, a rare privilege, an honor that I have never been absolutely sure I deserve, but one I cherish, given to me by the people of Vermont to represent them and to speak as one of the 100 voices for this country, in full knowledge that there will be somebody else outstanding at this seat who will also represent my State of Vermont and the United States. But I hope that they will carry with them the same reverence for the Constitution that I feel I carry. There will be times to amend the Constitution. We did it after the tragic death of President Kennedy to allow for the succession of a Vice President. Time showed the necessity for it and the American public

came together and knew the need for it.

But let us make it very clear how we feel about the Constitution and the Bill of Rights, as the 100 who hold this responsibility, so that the American people know that if we are going to change our Constitution, we will do it with real debate and real consideration, and all 100 of us will be able to stand up on this floor and vote.

Now, the entire Senate has known—in fact, the Nation has known—for weeks that Senator GLENN would be unavailable this week, and certainly that alone would be a reason not to bring this up now. Senator GLENN is one of the most distinguished Americans of all time. He obviously should have a chance to vote on this. So I am glad the Senator from Nebraska has lodged the objection he did. I concur with it. I have voted on this proposed constitutional amendment before. I am not afraid to do so again. But the First Amendment, the Constitution, the Bill of Rights deserve more than cursory attention.

Let us all make it clear to the people of this country that the Constitution stands first and foremost. We serve here only for the time our States allow us to serve. The Constitution predated us and will be here after us.

I see the distinguished majority leader once again in the Chamber, and so I will yield the floor.

UNANIMOUS CONSENT REQUEST—S. 505

The PRESIDING OFFICER (Ms. COLLINS). The majority leader is recognized.

Mr. LOTT. I thank the Chair. I thank Senator LEAHY for completing his remarks so we could proceed with this unanimous consent agreement.

This is with regard to S. 505, the copyright bill. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 505 and the Senate then proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection——

Mr. LEAHY addressed the Chair.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I am told there is one other Senator who still has a question on this, and I would tell my friend from Mississippi that as a result of that, while I have no objection to this unanimous consent agreement, and I will be supporting the bill and have worked hard on the bill, there is an objection over here and I will have to lodge an objection.

Mr. LOTT. I will withhold the unanimous consent request, but I would once again like to urge my colleagues to agree to this. This is a very important bill that work has been done on for a period of months, and it also is connected to the music licensing issue which has been worked out. It has been extremely tedious, working with all the interested parties, but they have been responsible, they have agreed, and I want to commend and thank all of those who worked with us and helped us reach agreement with music licensing, including the Restaurant Association, the National Federation of Independent Businesses, and the writers who have been involved in this music issue, including BMI and ASCAP and others. They have all given more than they wanted to, but I think we have come to a reasonable agreement. And then also, it is connected to the treaty with regard to intellectual property.

So I will withhold at this time, but I hope Senators will not begin putting a hold on this very important legislation because of unrelated issues that we probably are going to get resolved in the next 2 days anyway.

Mr. LEAHY. Madam President, I say to my friend from Mississippi, I have worked on each one of these pieces of legislation so much. There are times when I have attempted to pull out what little bit of hair I have left, and, frankly, I hope we can move this. I will personally go to anybody who is lodging objection to see what I can do to clear it up, because I absolutely concur with the Senator from Mississippi and the Senator from South Dakota, the Democratic leader, that this is something which should be moved forward; we want to move it forward. I hope I can tell the distinguished majority leader within a few minutes we do have it cleared.

Mr. LOTT. I yield the floor, Madam President.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LOTT. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

COPYRIGHT TERM EXTENSION ACT OF 1997

Mr. LOTT. I renew my unanimous consent request that the Judiciary Committee be discharged from further consideration of S. 505, and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

A bill (S. 505) to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

AMENDMENT NO. 3782

Mr. LOTT. Senator HATCH has a substitute amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Mississippi [Mr. LOTT], for Mr. HATCH, proposes an amendment numbered 3782.

Mr. LOTT. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. LEAHY. Madam President, I am delighted that the Senate is finally considering the Copyright Term Extension Act.

Copyright has been the engine that has traditionally converted the energy of artistic creativity into publicly available art and entertainment. Historically, government's role has been to encourage creativity and innovation by protecting rights that create incentives for such activity through copyright.

On July 1, 1995, the European Union issued a directive to its member countries mandating a copyright term of 20 years longer than the term in the U.S. As a result, the E.U. will not have to guard American works beyond the American term limit, whereas European works will have 20 years more security and revenues in the marketplace.

The songwriter Carlos Santana put it eloquently in his statement submitted to the Senate Judiciary Committee three years ago on this subject, ''As an American songwriter whose works are performed throughout the world, I find it unacceptable that I am accorded inferior copyright protection in the world marketplace.''

His reasons are as relevant today as the day he made that statement. The 1998 Report on Copyright Industries in the U.S. Economy issued by the International Intellectual Property Alliance indicates just how important the U.S. copyright industries are today to American jobs and the economy and, therefore, how important it is for the U.S. to give its copyright industries at least the level of protection that is enjoyed by European Union industries.

The Report indicates that from the years 1977 through 1996, the U.S. copyright industries' share of the gross national product grew more than twice as fast as the remainder of the economy. During those same 20 years, job growth in core copyright industries was nearly three times the employment growth in the economy as a whole. These statistics underscore why it is so important that we finally pass this legislation today.

I cosponsored the original Senate copyright term legislation, the Copyright Term Extension Act of 1995, S. 483. The Senate Judiciary Committee held a hearing on that bill on September 20, 1995. At that hearing, we heard the testimony of Marybeth Peters, Register of Copyrights, and Bruce Lehman, Assistant Secretary of Commerce and Commissioner of the Patent and

Trademark Office. We also heard testimony of Jack Valenti, President and CEO of the Motion Picture Association of America, Alan Menken, a composer and lyricist, Patrick Alger, President of the Nashville Songwriters Association International, and Peter Jaszi, Professor at American University, Washington, College of Law. That bill was favorably reported to the Senate, and the Committee filed its report, Senate Report No. 104–315, on May 23, 1996.

Alert to the possibility that copyright term extension could impose unintended costs, I, along with Senators KENNEDY, DODD, Brown and Simpson, asked Marybeth Peters, Register of Copyrights, and Daniel Mulhollan, Director of Congressional Research Service, to conduct a study and issue a report to Congress on the financial implications of copyright term extension. The Congressional Research Service issued its report on February 17, 1998, and the Copyright Office issued its report February 23, 1998.

This Congress, I introduced the Copyright Term Extension Act, S. 505, on March 20, 1997, along with Senators HATCH, D'AMATO, THOMPSON, ABRAHAM and FEINSTEIN. Despite the merits of passing copyright term extension legislation, the bill has been held hostage to other matters far too long. In the global world of the next century, competition in the realm of intellectual property will reach a ferocity even more ruthless than it is today. Congress should equip American creators with a full measure of protection for their copyrighted works, else U.S. intellectual property owners are reduced in their reach and their effectiveness. I am therefore pleased that the Senate is finally considering the Copyright Term Extension Act, and I urge its passage.

Mr. KENNEDY. Madam President, I am pleased that the Senate is enacting this legislation to extend the period of copyright protection for an additional twenty years. This extension is needed to coordinate the term of copyright for our creative authors and artists with their European counterparts.

The principles of copyright are established in the Constitution. They reflect our enduring belief that our nation prospers when it advances knowledge, understanding and the arts. As President Kennedy said, ''There is a connection, hard to explain logically but easy to feel, between achievement in public life and progress in the arts. The age of Pericles was also the age of Phidias. The age of Lorenzo de Medici was also the age of Leonardo da Vinci. The age of Elizabeth was also the age of Shakespeare.''

Effective copyright protection is an important national priority. If the United States is to continue its leadership in world of ideas and creativity, we must continue to provide a climate that encourages America's authors, artists, inventors and composers and the important work that they do.

The pending legislation also includes an important compromise on the music licensing issue that has prevented adoption of copyright term legislation until now. I am pleased that agreement has been reached between the business and the music licensing communities so that musical authors and composers can enjoy an appropriate return from their creative achievements.

Finally, the bill also includes an important reference to the current negotiations between the film industry and its guilds. It is gratifying that negotiations will be taking place on the appropriate division of residuals from the earliest films, and I hope that the negotiations will be resolved to the satisfaction of both sides on this important issue of fairness.

Overall, I commend the bipartisan cooperation that has produced this worthwhile legislation. Our cultural heritage will be strengthened by this measure, and I urge the Senate to approve it.

Mr. THURMOND. Madam President, I wish to express my support for S. 505, the Copyright Term Extension Act, as amended. I wish to thank the Majority Leader, Senator HATCH, and others in the Senate for their commitment to this important issue. I also wish to thank Speaker GINGRICH, Congressman SENSENBRENNER, and others in the House for their hard work in this regard.

This bill will greatly benefit the American copyright community by making our copyright term protections consistent with Europe. At the same time, it provides meaningful relief to small businesses, including restaurants, hair salons, and many other establishments, regarding licensing fees for broadcast music. It exempts eating and drinking establishments to a certain square footage and other establishments to a certain square footage of a lesser degree. It also creates a fairer venue for rate dispute resolution through the circuit court venue.

It is also my understanding that nothing in Section 512(4) of the Copyright Act, as amended by the bill, is intended to change the burden of proof with respect to rates or fees under applicable consent decrees, which places the burden of showing a reasonable rate or fee on the performing rights society.

The agreement is not nearly as extensive as S. 28, the Fairness in Musical Licensing Act, which I introduced at the start of this Congress. However, this legislation represents a fair compromise to this important and complex issue of National significance. I am pleased that we have reached this resolution.

Mr. LOTT. I ask unanimous consent that the amendment be agreed to, the bill be read a third time and passed, as amended, the motion to lay on the table be agreed to, and any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3782) was agreed to.

The bill (S. 505), as amended, was passed, as follows:

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

TITLE I—COPYRIGHT TERM EXTENSION

SEC. 101. SHORT TITLE.

This title may be referred to as the ''Sonny Bono Copyright Term Extension Act''.

SEC. 102. DURATION OF COPYRIGHT PROVISIONS.

(a) PREEMPTION WITH RESPECT TO OTHER LAWS.—Section 301(c) of title 17, United States Code, is amended by striking ''February 15, 2047'' each place it appears and inserting ''February 15, 2067''.

(b) DURATION OF COPYRIGHT: WORKS CREATED ON OR AFTER JANUARY 1, 1978.—Section 302 of title 17, United States Code, is amended—

(1) in subsection (a) by striking ''fifty'' and inserting ''70'';

(2) in subsection (b) by striking ''fifty'' and inserting ''70'';

(3) in subsection (c) in the first sentence—

(A) by striking ''seventy-five'' and inserting ''95''; and

(B) by striking ''one hundred'' and inserting ''120''; and

(4) in subsection (e) in the first sentence—

(A) by striking ''seventy-five'' and inserting ''95'';

(B) by striking ''one hundred'' and inserting ''120''; and

(C) by striking ''fifty'' each place it appears and inserting ''70''.

(c) DURATION OF COPYRIGHT: WORKS CREATED BUT NOT PUBLISHED OR COPYRIGHTED BEFORE JANUARY 1, 1978.—Section 303 of title 17, United States Code, is amended in the second sentence by striking ''December 31, 2027'' and inserting ''December 31, 2047''.

(d) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—

(1) IN GENERAL.—Section 304 of title 17, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (B) by striking ''47'' and inserting ''67''; and

(II) in subparagraph (C) by striking ''47'' and inserting ''67'';

(ii) in paragraph (2)—

(I) in subparagraph (A) by striking ''47'' and inserting ''67''; and

(II) in subparagraph (B) by striking ''47'' and inserting ''67''; and

(iii) in paragraph (3)—

(I) in subparagraph (A)(i) by striking ''47'' and inserting ''67''; and

(II) in subparagraph (B) by striking ''47'' and inserting ''67'';

(B) by amending subsection (b) to read as follows:

''(b) COPYRIGHTS IN THEIR RENEWAL TERM AT THE TIME OF THE EFFECTIVE DATE OF THE SONNY BONO COPYRIGHT TERM EXTENSION ACT.—Any copyright still in its renewal term at the time that the Sonny Bono Copyright Term Extension Act becomes effective shall have a copyright term of 95 years from the date copyright was originally secured.'';

(C) in subsection (c)(4)(A) in the first sentence by inserting ''or, in the case of a termination under subsection (d), within the five-year period specified by subsection (d)(2),'' after ''specified by clause (3) of this subsection,''; and

(D) by adding at the end the following new subsection:

''(d) TERMINATION RIGHTS PROVIDED IN SUBSECTION (c) WHICH HAVE EXPIRED ON OR BEFORE THE EFFECTIVE DATE OF THE SONNY BONO COPYRIGHT TERM EXTENSION ACT.—In the case of any copyright other than a work made for hire, subsisting in its renewal term on the effective date of the Sonny Bono Copyright Term Extension Act for which the

termination right provided in subsection (c) has expired by such date, where the author or owner of the termination right has not previously exercised such termination right, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated in subsection (a)(1)(C) of this section, other than by will, is subject to termination under the following conditions:

''(1) The conditions specified in subsection (c)(1), (2), (4), (5), and (6) of this section apply to terminations of the last 20 years of copyright term as provided by the amendments made by the Sonny Bono Copyright Term Extension Act.

''(2) Termination of the grant may be effected at any time during a period of 5 years beginning at the end of 75 years from the date copyright was originally secured.''.

(2) COPYRIGHT AMENDMENTS ACT OF 1992.—Section 102 of the Copyright Amendments Act of 1992 (Public Law 102–307; 106 Stat. 266; 17 U.S.C. 304 note) is amended—

(A) in subsection (c)—

(i) by striking ''47'' and inserting ''67'';

(ii) by striking ''(as amended by subsection (a) of this section)''; and

(iii) by striking ''effective date of this section'' each place it appears and inserting ''effective date of the Sonny Bono Copyright Term Extension Act''; and

(B) in subsection (g)(2) in the second sentence by inserting before the period the following: '', except each reference to forty-seven years in such provisions shall be deemed to be 67 years''.

SEC. 103. TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM.

Sections 203(a)(2) and 304(c)(2) of title 17, United States Code, are each amended—

(1) by striking ''by his widow or her widower and his or her children or grandchildren''; and

(2) by inserting after subparagraph (C) the following:

''(D) In the event that the author's widow or widower, children, and grandchildren are not living, the author's executor, administrator, personal representative, or trustee shall own the author's entire termination interest.''.

SEC. 104. REPRODUCTION BY LIBRARIES AND ARCHIVES.

Section 108 of title 17, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

''(h)(1) For purposes of this section, during the last 20 years of any term of copyright of a published work, a library or archives, including a nonprofit educational institution that functions as such, may reproduce, distribute, display, or perform in facsimile or digital form a copy or phonorecord of such work, or portions thereof, for purposes of preservation, scholarship, or research, if such library or archives has first determined, on the basis of a reasonable investigation, that none of the conditions set forth in subparagraphs (A), (B), and (C) of paragraph (2) apply.

''(2) No reproduction, distribution, display, or performance is authorized under this subsection if—

''(A) the work is subject to normal commercial exploitation;

''(B) a copy or phonorecord of the work can be obtained at a reasonable price; or

''(C) the copyright owner or its agent provides notice pursuant to regulations promulgated by the Register of Copyrights that either of the conditions set forth in subparagraphs (A) and (B) applies.

''(3) The exemption provided in this subsection does not apply to any subsequent uses by users other than such library or archives.''.

SEC. 105. VOLUNTARY NEGOTIATION REGARDING DIVISION OF ROYALTIES.

It is the sense of the Congress that copyright owners of audiovisual works for which the term of copyright protection is extended by the amendments made by this title, and the screenwriters, directors, and performers of those audiovisual works, should negotiate in good faith in an effort to reach a voluntary agreement or voluntary agreements with respect to the establishment of a fund or other mechanism for the amount of remuneration to be divided among the parties for the exploitation of those audiovisual works.

SEC. 106. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE II—MUSIC LICENSING EXEMPTION FOR FOOD SERVICE OR DRINKING ESTABLISHMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Fairness In Music Licensing Act of 1998.''

SEC. 202. EXEMPTIONS.

(a) EXEMPTIONS FOR CERTAIN ESTABLISHMENTS.—Section 110 of title 17, United States Code is amended—

(1) in paragraph (5)—

(A) by striking ''(5)'' and inserting ''(5)(A) except as provided in subparagraph (B),''; and

(B) by adding at the end the following:

''(B) communication by an establishment of a transmission or retransmission embodying a performance or display of a nondramatic musical work intended to be received by the general public, originated by a radio or television broadcast station licensed as such by the Federal Communications Commission, or, if an audiovisual transmission, by a cable system or satellite carrier, if—

''(i) in the case of an establishment other than a food service or drinking establishment, either the establishment in which the communication occurs has less than 2000 gross square feet of space (excluding space used for customer parking and for no other purpose), or the establishment in which the communication occurs has 2000 or more gross square feet of space (excluding space used for customer parking and for no other purpose) and—

''(I) if the performance is by audio means only, the performance is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space; or

''(II) if the performance or display is by audiovisual means, any visual portion of the performance or display is communicated by means of a total of not more than 4 audiovisual devices, of which not more than one audiovisual device is located in any 1 room, and no such audiovisual device has a diagonal screen size greater than 55 inches, and any audio portion of the performance or display is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space;

''(ii) in the case of a food service or drinking establishment, either the establishment in which the communication occurs has less than 3750 gross square feet of space (excluding space used for customer parking and for no other purpose), or the establishment in which the communication occurs has 3750 gross square feet of space or more (excluding space used for customer parking and for no other purpose) and—

''(I) if the performance is by audio means only, the performance is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space; or

''(II) if the performance or display is by audiovisual means, any visual portion of the performance or display is communicated by means of a total of not more than 4 audiovisual devices, of which not more than one audiovisual device is located in any 1 room, and no such audiovisual device has a diagonal screen size greater than 55 inches, and any audio portion of the performance or display is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space;

''(iii) no direct charge is made to see or hear the transmission or retransmission;

''(iv) the transmission or retransmission is not further transmitted beyond the establishment where it is received; and

''(v) the transmission or retransmission is licensed by the copyright owner of the work so publicly performed or displayed;''; and

(2) by adding after paragraph (10) the following:

''The exemptions provided under paragraph (5) shall not be taken into account in any administrative, judicial, or other governmental proceeding to set or adjust the royalties payable to copyright owners for the public performance or display of their works. Royalties payable to copyright owners for any public performance or display of their works other than such performances or displays as are exempted under paragraph (5) shall not be diminished in any respect as a result of such exemption''.

(b) EXEMPTION RELATING TO PROMOTION.—Section 110(7) of title 17, United States Code, is amended by inserting ''or of the audiovisual or other devices utilized in such performance,'' after ''phonorecords of the work,''.

SEC. 203. LICENSING BY PERFORMING RIGHTS SOCIETIES.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by adding at the end the following:

''§512. Determination of reasonable license fees for individual proprietors

''In the case of any performing rights society subject to a consent decree which provides for the determination of reasonable license rates or fees to be charged by the performing rights society, notwithstanding the provisions of that consent decree, an individual proprietor who owns or operates fewer than 7 non-publicly traded establishments in which nondramatic musical works are performed publicly and who claims that any license agreement offered by that performing rights society is unreasonable in its license rate or fee as to that individual proprietor, shall be entitled to determination of a reasonable license rate or fee as follows:

''(1) The individual proprietor may commence such proceeding for determination of a reasonable license rate or fee by filing an application in the applicable district court under paragraph (2) that a rate disagreement exists and by serving a copy of the application on the performing rights society. Such proceeding shall commence in the applicable district court within 90 days after the service of such copy, except that such 90-day requirement shall be subject to the administrative requirements of the court.

''(2) The proceeding under paragraph (1) shall be held, at the individual proprietor's election, in the judicial district of the district court with jurisdiction over the applicable consent decree or in that place of holding court of a district court that is the seat

of the Federal circuit (other than the Court of Appeals for the Federal Circuit) in which the proprietor's establishment is located.

''(3) Such proceeding shall be held before the judge of the court with jurisdiction over the consent decree governing the performing rights society. At the discretion of the court, the proceeding shall be held before a special master or magistrate judge appointed by such judge. Should that consent decree provide for the appointment of an advisor or advisors to the court for any purpose, any such advisor shall be the special master so named by the court.

''(4) In any such proceeding, the industry rate shall be presumed to have been reasonable at the time it was agreed to or determined by the court. Such presumption shall in no way affect a determination of whether the rate is being correctly applied to the individual proprietor.

''(5) Pending the completion of such proceeding, the individual proprietor shall have the right to perform publicly the copyrighted musical compositions in the repertoire of the performing rights society by paying an interim license rate or fee into an interest bearing escrow account with the clerk of the court, subject to retroactive adjustment when a final rate or fee has been determined, in an amount equal to the industry rate, or, in the absence of an industry rate, the amount of the most recent license rate or fee agreed to by the parties.

''(6) Any decision rendered in such proceeding by a special master or magistrate judge named under paragraph (3) shall be reviewed by the judge of the court with jurisdiction over the consent decree governing the performing rights society. Such proceeding, including such review, shall be concluded within 6 months after its commencement.

''(7) Any such final determination shall be binding only as to the individual proprietor commencing the proceeding, and shall not be applicable to any other proprietor or any other performing rights society, and the performing rights society shall be relieved of any obligation of nondiscrimination among similarly situated music users that may be imposed by the consent decree governing its operations.

''(8) An individual proprietor may not bring more than one proceeding provided for in this section for the determination of a reasonable license rate or fee under any license agreement with respect to any one performing rights society.

''(9) For purposes of this section, the term 'industry rate' means the license fee a performing rights society has agreed to with, or which has been determined by the court for, a significant segment of the music user industry to which the individual proprietor belongs.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by adding after the item relating to section 511 the following:

''512. Determination of reasonable license fees for individual proprietors.''.

SEC. 204. PENALTIES.

Section 504 of title 17, United States Code, is amended by adding at the end the following:

''(d) ADDITIONAL DAMAGES IN CERTAIN CASES.—In any case in which the court finds that a defendant proprietor of an establishment who claims as a defense that its activities were exempt under section 110(5) did not have reasonable grounds to believe that its use of a copyrighted work was exempt under such section, the plaintiff shall be entitled to, in addition to any award of damages under this section, an additional award of two times the amount of the license fee that the proprietor of the establishment concerned should have paid the plaintiff for such use during the preceding period of up to 3 years.''.

SEC. 205. DEFINITIONS.

Section 101 of title 17, United States Code, is amended—

(1) by inserting after the definition of ''display'' the following:

''An 'establishment' is a store, shop, or any similar place of business open to the general public for the primary purpose of selling goods or services in which the majority of the gross square feet of space that is nonresidential is used for that purpose, and in which nondramatic musical works are performed publicly.

''A 'food service or drinking establishment' is a restaurant, inn, bar, tavern, or any other similar place of business in which the public or patrons assemble for the primary purpose of being served food or drink, in which the majority of the gross square feet of space that is nonresidential is used for that purpose, and in which nondramatic musical works are performed publicly.'';

(2) by inserting after the definition of ''fixed'' the following:

''The 'gross square feet of space' of an establishment means the entire interior space of that establishment, and any adjoining outdoor space used to serve patrons, whether on a seasonal basis or otherwise.'';

(3) by inserting after the definition of ''perform'' the following:

''A 'performing rights society' is an association, corporation, or other entity that licenses the public performance of nondramatic musical works on behalf of copyright owners of such works, such as the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc.''; and

(4) by inserting after the definition of ''pictorial, graphic and sculptural works'' the following:

''A 'proprietor' is an individual, corporation, partnership, or other entity, as the case may be, that owns an establishment or a food service or drinking establishment, except that no owner or operator of a radio or television station licensed by the Federal Communications Commission, cable system or satellite carrier, cable or satellite carrier service or programmer, provider of online services or network access or the operator of facilities therefor, telecommunications company, or any other such audio or audiovisual service or programmer now known or as may be developed in the future, commercial subscription music service, or owner or operator of any other transmission service, shall under any circumstances be deemed to be a proprietor.''.

SEC. 206. CONSTRUCTION OF TITLE.

Except as otherwise provided in this title, nothing in this title shall be construed to relieve any performing rights society of any obligation under any State or local statute, ordinance, or law, or consent decree or other court order governing its operation, as such statute, ordinance, law, decree, or order is in effect on the date of the enactment of this Act, as it may be amended after such date, or as it may be issued or agreed to after such date.

SEC. 207. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act.

Mr. LOTT. Again, Madam President, I thank the Senator from Vermont for his cooperation and his allowing us to go ahead and proceed quickly on this very important matter.

I yield the floor.

Mr. LEAHY. Madam President, I thank the Senator from Mississippi. I think we are clearing a lot of things.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MCCAIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Ms. COLLINS). Without objection, it is so ordered.

INTERNET TAX FREEDOM ACT

The Senate continued with consideration of the bill.

AMENDMENT NO. 3719, AS MODIFIED
AMENDMENT NO. 3779, AS MODIFIED TO AMENDMENT NO. 3719

Mr. MCCAIN. I ask unanimous consent that amendment No. 3719, as modified, be the pending business; that Senator DORGAN be recognized to offer a second-degree amendment, as modified, that will be adopted; and it be in order for me to offer a nonfiled second-degree amendment.

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

Mr. MCCAIN. Madam President, let me comment on what is going on here for the benefit of my colleagues. We have agreed on the language concerning the grandfathering of this legislation, which was important.

Now we have resolved all matters with the exception of whether the moratorium should last for 3 or 4 years. My amendment, after we accept the grandfather language from the Senator from North Dakota, will be to have the moratorium expire at the end of 4 years, for which there will probably be a recorded vote, after which it is most likely—although we have to check with both sides about further debate—we will have completed the amending process of the germane amendments that were on the bill and we will be very close to final passage of the legislation.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. WYDEN, proposes an amendment numbered 3719, as modified.

The Senator from North Dakota [Mr. DORGAN] proposes an amendment numbered 3779, as modified, to amendment No. 3719.

The amendments (No. 3719, as modified, and No. 3779, as modified) are as follows:

AMENDMENT NO. 3719, AS MODIFIED

(Purpose: To make minor and technical changes in the moratorium provision)

On page 16, beginning with line 23, strike through line 15 on page 17, and insert the following:

(a) MORATORIUM.—No State or political subdivision thereof shall impose any of the following taxes during the period beginning on October 1, 1998, and ending 3 years after the date of the enactment of this Act:

(1) Taxes on Internet access, unless such tax was generally imposed and actually enforced prior to October 1, 1998; and

(2) Multiple or discriminatory taxes on electronic commerce.

(b) PRESERVATION OF STATE AND LOCAL TAXING AUTHORITY.—Except as provided in this section, nothing in this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or superseding of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States or other Federal law and in effect on the date of enactment of this Act.

(c) LIABILITIES AND PENDING CASES.—Nothing in this Act affects liability for taxes accrued and enforced before the date of enactment of this Act, nor does this Act affect ongoing litigation relating to such taxes.

AMENDMENT NO. 3779, AS MODIFIED

On page 2, after line 14, add the following:

(d) DEFINITION OF GENERALLY IMPOSED AND ACTUALLY ENFORCED.—For purposes of this section, a tax has been generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

(1) a provider of Internet access services had a reasonable opportunity to know by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

(2) a State or political subdivision thereof generally collected such tax on charges for Internet access.

Mr. MCCAIN. Madam President, I don't know if there is any debate on the Dorgan second-degree amendment.

Mr. DORGAN. Madam President, the second-degree amendment to the first-degree amendment that was offered by the Senator from Arizona is an amendment that has been worked out over a period of several days dealing with the grandfather clause. It is something that I think represents a workable solution which improves the legislation. It would be my hope that the Senate would approve it.

I do want to point out that the amendment that was referred to by Senator MCCAIN would be an amendment dealing with the length of the moratorium. My understanding is that the passage of the first-degree and second-degree amendments would leave in place a 3-year moratorium with respect to this legislation. The Senator from Arizona would then offer an amendment, and I believe there would be a recorded vote after some debate on that amendment, that would propose that the 3-year moratorium be extended to 4 years, and the Senate then would make a judgment on that question.

I offer that by way of explanation of what is happening here. I hope the Senate will approve by voice vote the first- and second-degree amendments.

The PRESIDING OFFICER. The question is on agreeing to the amendments.

The amendments (No. 3779, as modified, and No. 3719, as modified, as amended) were agreed to.

Mr. MCCAIN. I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3783 TO AMENDMENT NO. 3719, AS MODIFIED, AS AMENDED

Mr. MCCAIN. Madam President, I have a second-degree amendment at the desk, and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN] proposes an amendment numbered 3783 to amendment No. 3719, as modified and amended.

Mr. MCCAIN. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

On line 5, strike ''3'' and insert ''4''.

Mr. MCCAIN. As I explained earlier, this will be a simple vote on whether the moratorium should last for 3 years or 4 years. I am sorry we have to have a recorded vote on it since we were able to reach agreement on far more contentious issues surrounding this legislation. There will be some debate and discussion on this amendment.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCAIN. I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 3678, AS MODIFIED

Mr. MCCAIN. Madam President, the other day the Senate adopted amendment No. 3678, which had technical and drafting errors. I ask unanimous consent that the modification of the amendment be adopted.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 3678), as modified, is as follows:

At the end of the bill add the following new title:

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Government Paperwork Elimination Act''.

SEC. ___02. AUTHORITY OF OMB TO PROVIDE FOR ACQUISITION AND USE OF ALTERNATIVE INFORMATION TECHNOLOGIES BY EXECUTIVE AGENCIES.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.''.

SEC. ___03. PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES BY EXECUTIVE AGENCIES.

(a) IN GENERAL.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures for the use and acceptance of electronic signatures by Executive agencies.

(b) REQUIREMENTS FOR PROCEDURES.—(1) The procedures developed under subsection (a)—

(A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;

(B) may not inappropriately favor one industry or technology;

(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

(2) The Director shall ensure the compatibility of the procedures under paragraph (1)(A) in consultation with appropriate private bodies and State government entities that set standards for the use and acceptance of electronic signatures.

SEC. ___04. DEADLINE FOR IMPLEMENTATION BY EXECUTIVE AGENCIES OF PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act, Executive agencies provide—

(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

(2) for the use and acceptance of electronic signatures, when practicable.

SEC. ___05. ELECTRONIC STORAGE AND FILING OF EMPLOYMENT FORMS.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

SEC. ___06. STUDY ON USE OF ELECTRONIC SIGNATURES.

(a) ONGOING STUDY REQUIRED.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall conduct an ongoing study of the use of electronic signatures under this title on—

(1) paperwork reduction and electronic commerce;

(2) individual privacy; and

(3) the security and authenticity of transactions.

(b) REPORTS.—The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

SEC. ___07. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

SEC. ___08. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this title, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. ___09. APPLICATION WITH INTERNAL REVENUE LAWS.

No provision of this title shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision—

(1) involves the administration of the internal revenue laws; or

(2) conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. ___10. DEFINITIONS.

For purposes of this title:

(1) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of the electronic message; and

(B) indicates such person's approval of the information contained in the electronic message.

(2) EXECUTIVE AGENCY.—The term ''Executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

AMENDMENT NO. 3721, AS MODIFIED

Mr. MCCAIN. There was a technical error in amendment No. 3721. Therefore, I send a modification to the desk and ask it be accepted on the proviso we will try to hire more efficient staff so these kinds of things are not required in the future.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 3721), as modified, is as follows:

On page 17, beginning with line 18, strike through line 21 on page 19 and insert the following:

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the ''Commission''). The Commission shall—

(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax).

(C) 8 representatives of the electronic commerce industry (including small business), telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) 5 individuals appointed by the Majority Leader of the Senate;

(ii) 3 individuals appointed by the Minority Leader of the Senate;

(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

Mr. MCCAIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WYDEN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AMENDMENT NO. 3783

Mr. WYDEN. Madam President, let me try to describe briefly for the Senate where we are with respect to the important issue coming up now on the length of the moratorium. As Chairman MCCAIN and my colleague, Senator DORGAN, noted, the two issues we have been trying to deal with, the question of grandfathering in existing States and localities and the length of the moratorium are linked, and we think we have a fair process in place now for resolving the two important issues.

I would like to tell my colleagues why I think it is important that we go with the McCain amendment on the length of the moratorium. The legislation, when I introduced it in March of 1997, did not specify how long the moratorium should last. When we considered it in the Senate Commerce Committee, after a very lengthy debate and, in effect, taking a break for 5 or 6 months after the hearings were held to try to work with Senators on both sides of the aisle, the Senate Commerce Committee voted out legislation that set in place a 6-year moratorium.

As Senators know, the Finance Committee then went forward with its legislation and imposed a 2-year moratorium. In a sense, this moratorium isn't even the most accurate way to describe it because even during this period Internet transactions were treated exactly like any other transaction. We have heard discussion of how, in some way, the legislation would create some sort of special tax haven for the Internet, and that is simply not the case. Internet transactions would be treated just like any other.

The reason the McCain amendment with respect to the length of the moratorium is important is not just because it is a compromise—4 years—between the Commerce Committee bill and the Finance Committee bill, but I think it is going to take that long in order to deal with these issues in a thoughtful way. They are complicated questions. It is very clear that if, for example, someone orders fruit from Harry and David's in Medford, OR, uses America Online in Virginia to make the order, pays for it with a bank card in California, and ships it to a cousin in Boston, this transaction could affect scores and scores of local jurisdictions, as well as a number of States. So we do want sufficient time to sort out these issues.

Under the amendment that will be first offered by Senator MCCAIN and myself, there would be a two-step process. First, the commission studies the issues and makes its recommendations to the Congress. Second, the recommendation must be implemented. Our concern is that a number of State legislatures do not meet every year; mine is one. You are going to need the McCain-Wyden amendment with respect to the moratorium in order to make sure that you have sufficient time for both the study of these issues and recommendations to the Congress, as well as an adequate amount of time for legislative bodies to consider them.

So we felt that the amendment we were offering not only was a fair compromise between what was passed in the Senate Commerce Committee overwhelmingly and what was passed in the Senate Finance Committee, but in terms of the actual logistics of State legislative sessions, we believe the amendment that we will be offering with respect to the length of the moratorium is a critical one.

The fact of the matter is, when you have in the vicinity of 30,000 taxing jurisdictions—and that is the number in our country—you have the prospect of different taxing jurisdictions in States and localities that all see the Internet as the golden goose; you have the real prospect that policies could be adopted that would cause great damage to the Internet's development and cause that golden goose to lay far fewer eggs.

What we are trying to do in this legislation is to restore a balance with respect to the moratorium. We think it is a fair compromise between what the two committees dealt with here in the U.S. Senate, and at the same time we think it is an approach that will give adequate time for the States and localities to deal with the recommendations that are made while making sure that businesses aren't confused and, in a number of instances, paralyzed by discriminatory and multiple taxation about which they are already expressing concerns.

I think we have made a considerable amount of headway. As I have said in a couple of instances when I came to the floor, if you look at the legislation that the Presiding Officer heard discussed in the Commerce Committee

early in 1997 and the legislation that is before the Senate now, it is clear that there have been many, many changes, over 30. Those are changes that were made specifically to try to deal with the legitimate concerns of States and localities that are concerned about their revenue prospects with respect to the digital economy.

We have tried to be fair. We had a number of votes on the floor of the Senate. There were several which I thought would have done great damage to the philosophy of what we are trying to do in this legislation. There were others raised with respect to ensuring the fair analysis of a variety of issues and participation on the commission where, clearly, Senators have tried very hard to work together.

The issue that is coming up now with respect to the length of the moratorium is critical. When I introduced this legislation last year, there was no end date on the moratorium. The reason there was not is that it was our view that if ever there was something that ought to be treated as interstate commerce, it was the Internet. The Internet is global; it knows no boundaries. It is not something that ought to be balkanized in the 21st century into kind of a toll-riddled freeway where it will be very hard to tap the potential of the Internet.

We should make no mistake about it. The great potential for the Internet is for those individuals, such as those in rural America and inner cities, senior citizens, handicapped individuals, many of them operating home-based businesses, who with sensible governmental policies will be able to, in my view, make a very decent living in the global economy. But the prerequisite of having those kinds of opportunities will be policies that allow the Internet to flourish. Those policies should neither be discriminatory against the Internet nor should they be preferential.

I have heard various Senators say over the last few days that in some way this legislation would ensure preferential treatment for the Internet. It would do nothing of the sort. It would say very specifically that Internet sales ought to be treated just like everything else. If you pay a specific tax by buying the goods in a jurisdiction in the traditional way, by walking into a retail store, under this legislation, even with the moratorium, you pay exactly the same tax if you order those goods over the Internet—exactly the same tax. There is nothing preferential, nothing discriminatory.

In a little bit we will have that first vote on the amendment that Chairman MCCAIN and I offered together with respect to the length of the moratorium. It will ensure that we have enough time to study the various issues with respect to electronic commerce and make recommendations, and it will give adequate time to have those recommendations implemented by the localities and the States. There are a number of States that do not meet every year, for example, with their legislatures. They would not have adequate time under the shorter version of the moratorium.

Madam President, and colleagues, we will have those votes before too long. I thank the various Senators who have weighed in with myself and Chairman MCCAIN, both today and over the last few days. This has been a good debate. And it is only the beginning of our discussions on the ground rules for the digital economy.

This presents a whole new set of questions for the U.S. Senate. When we look at traditional commerce, even with the Senate Commerce Committee of 40 or 50 years ago, we were talking about moving goods from point A to point B. There was a role for traditional business. There was a role for labor unions and various other key economic sectors such as the transportation sector. That has changed now in many respects, because information—in effect, goods and services—can move on the Internet in a flash of light. So we need sensible policies.

I urge my colleagues to support that first amendment that Chairman MCCAIN and I are offering with respect to the length of the moratorium. It will ensure that States and localities have an adequate amount of time to act after the recommendations of the commission to go forward. It is a true compromise. The Senate Commerce Committee passed legislation that called for a moratorium of 6 years after my original bill with Chairman MCCAIN, which had no end date at all. The Senate Finance Committee bill was 2 years. We are going forward with 4. That would give the States an opportunity to act in a thoughtful way.

I hope on that first vote the Senate will support the McCain-Wyden amendment with respect to the length of the moratorium.

Madam President, I yield the floor.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. GORTON). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I urge the advocates of the 3-year moratorium to come to the floor and help us explore this very complex issue as to whether we are going to have a 3-year or a 4-year moratorium. I know it is a subject that is complex in detail. However, we would like to complete the debate on this very complicated issue that we were unable to resolve with our friends on the other side of this issue.

Again, I find it remarkable that we were able to work out grandfather language, and about 15 other amendments. But somehow this one is worthy of a vote as to whether a moratorium is 3 or 4 years.

I can't add a lot to what the distinguished Senator from Oregon just said, except to say that I hope we can minimize the debate. But I say to those who are the 3-year advocates to come over and make their case, because as soon as Senator DORGAN comes back we would like to move on that amendment, because I believe that, following Senator MURKOWSKI's motion on the underlying amendment, we can move to final passage on this bill.

I know the Senator from Oregon would like to dispense of this legislation but not nearly so much as I would.

Mr. WYDEN. Will the chairman yield?

Mr. MCCAIN. I am glad to yield to my friend from Oregon.

Mr. WYDEN. I thank the chairman for all of his patience.

I think it would be helpful, and perhaps the chairman would lay it out, to know that through this discussion there has been an effort to link the grandfather provision effort to make sure that States and localities that already have laws on the books are protected and to link that to the moratorium so that there would be an effort to be fair to both sides. I think the Senator has been very fair, and perhaps the Senator could elaborate a little bit on some of the challenges with respect to that grandfather debate.

Mr. MCCAIN. Will the Senator repeat his question?

Mr. WYDEN. I am sorry. The fact is the grandfathering provision and the moratorium really are linked, and I think that the Senator has been very fair to both sides with respect to this discussion, and to the extent that there are greater protections for grandfathering and more jurisdiction protected that obviously affects the discussion about the length of the moratorium. I think the Senator struck a fair balance, and I think it would be helpful if the Senator could take the Senate through those discussions a bit.

I thank the Senator for yielding me some time.

Mr. MCCAIN. I thank the Senator from Oregon.

The reality is that the original legislation as proposed by the Senator from Oregon had no grandfathering. It had no time limit. This legislation received overwhelming support both in the committee and, very frankly, throughout the country, and gradually, interestingly enough, many Governors who would experience, in the view of some, a loss of revenue came on board this legislation—the Governor of California, the Governor of Texas, the Governor of New York, and many other Governors, but practically every Governor of every major State.

Along those lines, Mr. President, I ask unanimous consent that a letter from the distinguished Governor of Virginia, Mr. Gilmore, be printed in the RECORD.

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

COMMONWEALTH OF VIRGINIA
Richmond, VA, September 25, 1998.

Hon. JOHN MCCAIN,
Chairman, Committee on Commerce, Science, and Transportation, U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: I am very pleased the Senate will soon vote on the Internet Tax Freedom Act (S. 442).

Since its introduction last year, I have been—and continue to be—in strong support of the Internet Tax Freedom Act. Your work on this important legislation goes hand in hand with the compromise agreement reached by the Commerce and Judiciary Committees in the House of Representatives. Both Committees as well as the full House passed the bill unanimously after well reasoned compromise from all those concerned.

As you know, the Internet is one of our most valuable and fastest-growing resources, presenting enormous potential to revolutionize both global and domestic commerce. But this incredible tool currently faces some significant obstacles with respect to state and local taxation. With more than 30,000 state and local taxing jurisdictions in the United States, Internet development is in danger of being stifled by a maze of inconsistent, unfair, and burdensome taxing regimes.

There are currently thousands of Internet companies, which can be found in every state in the nation. They are small but important vehicles of economic development and are unfairly assessed taxes based on interpretations of existing tax law written well before the establishment of the Internet. Because of the importance of these businesses, the substance of the act should do what its title suggests.

The Internet Tax Freedom Act is important to our state economies, to online consumers, and to the future success of electronic commerce. This legislation places a temporary moratorium on certain taxes so that an appropriate, non-discriminatory Internet tax policy can be developed and implemented by policymakers at all levels.

For these reasons, I urge the enactment of the Internet Tax Freedom Act this year and look forward to working with you and the Congress to ensure our nation remains the undisputed leader in cutting edge technology industries.

Very truly yours,

JAMES S. GILMORE III,
Governor of Virginia.

Mr. MCCAIN. Mr. Gilmore says:

I am very pleased the Senate will soon vote on the Internet Tax Reform Act, S. 442.

Not as pleased as I am. He says in his concluding paragraph:

For these reasons, I urge the enactment of the Internet Tax Freedom Act this year and look forward to working with you and the Congress to ensure our Nation remains the undisputed leader in cutting edge technology industries.

So another Governor and a very important one, the Governor of Virginia, has weighed in in favor of this legislation.

I believe the fact that we were willing to agree to certain grandfathering provisions was very helpful in moving this process forward, but I also think that it made an argument for a 4-year moratorium. Again, when it came out of the committee, it was 6 years originally and now the Finance Committee reduced it to 2. We think that 4 years is obviously a reasonable compromise.

So again I urge the 3-year moratorium advocates to come to the floor so we could have vigorous debate on that issue and a vote sometime around 4:45, with the agreement of the majority leader.

AMENDMENT NO. 3727

(Purpose: To include legislative recommendations in the commission's report.)

Mr. MCCAIN. Mr. President, I know of no opposition to the amendment 3727 by Senator ENZI, and I therefore call up the amendment and ask that it be adopted.

The PRESIDING OFFICER. Is the Senator asking that the pending amendment be laid aside?

Mr. MCCAIN. I ask unanimous consent that the pending amendment be laid aside for the Enzi amendment 3727.

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

The clerk will report the Enzi amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for Mr. ENZI, proposes an amendment numbered 3727.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 25, beginning on line 10, strike ''a report reflecting the results'' and insert the following: ''for its consideration a report reflecting the results, including such legislative recommendations as required to address the findings''.

Mr. MCCAIN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3727) was agreed to.

Mr. MCCAIN. Mr. President, I move to reconsider the vote.

Mr. ENZI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MCCAIN. I congratulate the Senator from Wyoming for his amendment.

AMENDMENT NO. 3718, AS MODIFIED

(Purpose: To revise the definitions of the terms ''tax,'' ''telecommunications service,'' and ''tax on internet access,'' as used in the bill)

Mr. MCCAIN. Mr. President, on behalf of myself, I send an amendment to the desk, No. 3718, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment is set aside and the clerk will report the amendment of the Senator from Arizona.

The legislative clerk read as follows:

The Senator from Arizona, [Mr. MCCAIN], for himself and Mr. WYDEN proposes an amendment numbered 3718, as modified.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

On page 29, beginning with line 20, strike through line 19 on page 30 and insert the following:

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any charge imposed by any governmental entity for the purpose of generating revenues for governmental purposes, and is not a fee imposed for a specific privilege, service, or benefit conferred; or

(ii) the imposition on a seller of an obligation to collect and to remit to a governmental entity any sales or use tax imposed on a buyer by a governmental entity.

(B) EXCEPTION.—Such term does not include any franchise fee or similar fee imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573), or any other fee related to obligations or telecommunications carriers under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(9) TELECOMMUNICATIONS SERVICE.—The term ''telecommunications service'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(56)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

(10) TAX ON INTERNET ACCESS.—The term ''tax on Internet access'' means a tax on Internet access, including the enforcement or application of any new or preexisting tax on the sale or use of Internet services.

Mr. MCCAIN. Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. The Senator has sent up a different version. Did the Senator want to modify it?

Mr. MCCAIN. As modified, 3718 as modified. I sent up a modified version.

The PRESIDING OFFICER. Without objection, the amendment is modified.

Is there further debate on the amendment? If not, the amendment is agreed to.

The amendment (No. 3718), as modified, was agreed to.

Mr. MCCAIN. Mr. President, while he is on the floor, I thank the Senator from Wyoming for his involvement in this issue. He won a significant victory. I believe that his knowledge of this issue and this technology is very helpful not only on this issue, but we will be addressing numerous other issues regarding these emerging technologies in the future and I appreciate his participation. We look forward to working with him.

Mr. President, I yield the floor.

Mr. ENZI. Mr. President, I also thank the Senator from Arizona and the Senator from Oregon for their cooperation and the careful work they have done on the bill with the acceptance of the amendments that I and a number of other people worked on. I appreciate that. I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. BIDEN. Mr. President, I ask unanimous consent that I be able to

proceed for 7 minutes as in morning business.

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

NEED FOR IMF FUNDING

Mr. BIDEN. Mr. President, I want to talk very briefly about the International Monetary Fund and the meeting that took place in Washington yesterday and today and will be taking place this week.

The eyes of the world are on Washington this week where the major international financial institutions search for answers to the most serious international economic crisis in years. As the world's most successful economy at the moment, the United States bears, in my view, an unavoidable responsibility, and that responsibility is to lead—lead in a search for answers to this crisis.

But as last year's Asian financial turmoil has evolved into a global financial crisis, to my great disappointment, the House of Representatives persists in what I must say—and I realize it is a strong word—in its irresponsible refusal to approve funding for the International Monetary Fund.

Twice this year the U.S. Senate has overwhelmingly supported the so-called U.S. quota, our share of a larger capital reserve for the IMF to pull threatened countries back from the brink of economic collapse. And twice this year, the House of Representatives has refused to provide the resources—at no cost to the American taxpayer—that the IMF needs to contain this widening crisis.

As President Clinton, Secretary Rubin, and our representatives to the international financial institutions in Washington this week urge their counterparts from the rest of the world to join us in controlling the crisis, the response that we are hearing is: ''Show us the money.''

There was a movie out that won an Academy Award, and in that movie, they said, ''Show me the money.'' We have our Secretary of the Treasury and our President constituting an American plea for the rest of the world to act responsibly, and they are being told, ''Show us the money.'' I want to point out that even if these other countries ante up their share, the IMF cannot take any action, absent us putting in our share, because you need an 85-percent vote.

Try as they might, how can we expect our leadership to lead the rest of the world with the albatross of the House's irresponsibility hung squarely around their necks? By failing to provide full funding of our participation in the IMF, we undercut our credibility and our authority, the credibility and the authority of the world's indispensable economic leader, in the most serious international economic crisis, at least of my generation and the Presiding Officer's.

Go down to these meetings, Mr. President—and I suggest this to all my colleagues—and the first thing you will hear from both our representatives and their counterparts from around the world is the complaint that the U.S. Congress is holding up one of the key elements they need to construct a response to the current crisis: the funds to protect vulnerable economies from financial collapse.

Every State in the Union—from States as far away as Washington and Delaware—every State in the Union has been hit by the decline in our agricultural and manufacturing exports because of the collapse of major markets for American goods around the world.

In my own State of Delaware, exports to Asia are down 20 percent compared to last year. That translates into jobs—Delaware jobs. The crisis that began last year in Asia has spiraled around the planet to Russia, a nuclear power facing economic and political collapse, and on to our closest trading partners in Latin America.

Mr. President, I do not believe it is an exaggeration to say that without the resources to support Brazil and other countries threatened by the wild swings of international capital flows, countries as important to us as Mexico, our third largest trading partner, could be the next to fall. And yet, in my view—and I realize some may disagree, even those who voted with me on funding of IMF in the Senate—in my view, the House continues to play politics with our obligation to the only international institution in the position to attempt to control the spread of economic meltdown.

Once again, I urge my colleagues in the House to come to their senses, to match the Senate in action and provide the U.S. share for the IMF quota increase. Time is running out, Mr. President. I hope what I read in the papers—what we all read in the papers—that the leadership in the House is about to release this money, about to vote for it, is true, because time is running out and there will be a price to pay for inaction.

I thank my colleagues. I yield the floor and suggest the absence of a quorum.

Mr. BUMPERS. Will the Senator withhold?

Mr. BIDEN. I withhold the request suggesting the absence of a quorum.

Mr. BUMPERS. Mr. President, I ask unanimous consent that I be permitted to speak as in morning business for 5 minutes.

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

OZONE LAYER

Mr. BUMPERS. Mr. President, my time left in the Senate is very brief. I have—I don't know—3, 4, at the most 5 days left of active duty on the Senate floor. I read a story in the paper this morning that gives me some satisfaction at least about some of the things I have done since I came here.

As I have said on the floor many times, there isn't anything as gratifying to a Senator as being able to stand on the floor and say, ''I told you so.''

When I first came here, I had read a story in some science magazine about two young physicists at the University of California at Irvine who had developed a theory that chlorofluorocarbons—a gas, normally found in aerosols and freon, which we use in our air conditioners and refrigerators—that these chlorofluorocarbons that we sprayed on our hair in the morning were wafting up into the stratosphere over a period of 12 to 15 years and destroying the ozone layer.

Before I came to the Senate, I thought ''ozone'' was a town in Johnson County, AR, which indeed it is. As a matter of fact I spoke at the high school graduation at Ozone last year. Nevertheless, this theory about something we were doing rather mindlessly that had almost cataclysmic consequences for the future intrigued me.

I had been put on the Space Committee when I came here. I did not ask for the Space Committee—it was a spacey committee. We abolished it a couple years after I came here, but I asked the chairman, Senator Moss of Utah, if I could hold some hearings on this theory and invite some atmospheric scientists to come in and testify. And he said, ''I have no objection to that.'' Just ad hoc hearings. I certainly was not chairman of the subcommittee or anything else. I had just gotten here. He said, ''I don't mind you doing that, but you need to get a Republican to sit with you in these hearings.'' So I recruited my good friend, Senator DOMENICI, from New Mexico.

Senator DOMENICI and I held nine hearings over a period of about 6 months. We had the best atmospheric scientists in the United States coming in and testifying—Dr. Rowland and Dr. Molina.

In those hearings, we probably had an average of 15 people in the audience. We had a television camera show up only once. When we finished, Senator DOMENICI did not feel quite as strongly as I did about abolishing the manufacturing of CFCs immediately, and so Senator Packwood and I took it on and brought it to the floor of the Senate to abolish the manufacturing of CFCs.

The chemical lobbyists in that lobby, through that door, were so thick I could hardly get to the floor to vote. And as I recall, we got a whopping 33 votes. I was arguing that if we were to cut off all manufacturing of CFCs right now, we still had 12 to 15 years of damage coming because that is how long it took from the time you sprayed your hair the morning we voted for it to get there and start destroying ozone.

You know all the arguments: This is untested; unproved; and we need to ''study'' it. That is the way you kill things around here—study it. And so that is the end of the story in 1975.

In 1985, the National Academy of Sciences, who we had assigned to do the study—10 years later—discovered that there was a developing hole in the

ozone layer over Antarctica. And almost every year since then that ozone hole has grown bigger and bigger and bigger. We have phased out the manufacturing of CFCs—we do not use it anymore to spray our hair with; and we have substitutes for air-conditioning and refrigeration. Nevertheless, if you saw the Post this morning, the current estimates are that the ozone hole is deeper and wider than it has ever been, and has been growing almost every year since 1975 when we first discovered it.

The good news is, while scientists were shocked by the size of the ozone hole in their current study, they still believe that it can be stabilized by the year 2050. Well, let's hope so, because if it isn't, we can anticipate 300,000 additional cases of skin cancer.

I ask unanimous consent for 1 additional minute.

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

Mr. BUMPERS. The ozone layer protects us from the ultraviolet rays of the Sun. The hole that we have already caused is going to cause thousands and thousands of cases of skin cancer before we even begin to stabilize the ozone layer.

Mr. President, I tell that little story with some satisfaction, because I daresay there are not many Senators who fought as many losing battles in the U.S. Senate as I have. So the only reason I tell that story is to let people know that sometimes when you cast unpopular votes you will be proven right. A lot of Senators get beat before they ever get a chance to be proven right.

I voted against more constitutional amendments than any Senator in the U.S. Senate. I am proud of every one of them. Rest assured, if they bring the flag desecration amendment up again, I will be happy to vote against that, too, for reasons I will not belabor now.

I see my good friend from Nevada wanting to speak. And I want to follow him on the matter pending before the Senate.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent to speak as in morning business.

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

Mr. REID. I say to my friend from Arkansas, the mere fact that you lose the vote on the floor does not mean that you lose the issue. And I say to my friend, I have been on the floor on the Senator's side, joining him on a number of causes which we have won and which we have lost; and I have been his adversary on a number of issues. I only wish that everyone had the Senator's demeanor, his ability and his sense of fairness. We would be a much better Senate, a much better country.

Mr. BUMPERS. I thank the Senator for his comments.

PRESCRIPTION CONTRACEPTION EQUITY AMENDMENT

Mr. REID. Mr. President, one of the distinct honors I have had is joining with the senior Senator from Maine in legislation that passed unanimously in this body and passed by an overwhelming margin in the House. It was an amendment we placed in the Treasury-Postal Service bill. It was a bill that we had introduced on the floor.

On this occasion, we decided to limit it just to Federal employees, which we did. We were elated that we were able to make great strides on this issue about which we felt so strongly. And we were contemplating the day when this bill would be signed and become law, because certainly it should. It passed over here unanimously; passed the House by an overwhelming margin.

I cannot speak for my colleague from Maine, but I am sure she feels just as disappointed as I am that this bill was stripped during the conference of the Treasury-Postal Service bill for really no reason. There was no debate among the conferees. It was just taken from the bill.

It would be easy for me to be partisan here and say this is some cabal by the Republicans. The fact of the matter is, Mr. President, this bill had bipartisan support. It was not a Democratic bill; it was not a Democratic amendment. It was not a Republican bill, a Republican amendment.

So I am here to complain about the process. This should not have happened. I am not going to point fingers as to why it happened, but it happened. I am tremendously disappointed.

What am I talking about? I am talking about a bill that the senior Senator from Maine and I have been working on for over a year, a bill that has 35 cosponsors in the Senate. It is a bill that recognizes that each year in this country there are 3.6 million unintended pregnancies. Forty-four percent of those pregnancies wind up with abortion. We find that insurance companies' health care providers routinely pay for abortions, vasectomies, tubal ligations, but they don't pay for the simple contraceptives that are approved by the Food and Drug Administration. There are only five. They don't pay for them.

We are saying it should be done. Women pay almost 70 percent more for health care than men. It seems unusual that when Viagra came out there was a mad rush to make sure that there was insurance coverage and every other kind of coverage for Viagra. We said at that time, the Senator from Maine and I, shouldn't we recognize the fact that women pay more, that insurance companies and health maintenance agencies do not pay for contraceptives and they should? We would save huge amounts of money. We would have healthier mothers and healthier babies. But it doesn't appear we are going to have it this year.

Our bill, called the Prescription Contraceptive Fairness Act, would apply this to Federal health care plans. There are 374 different health care plans under the Federal system that would cover these pills or the other four devices. It would save money.

It was killed in conference based upon some illusion that it had something to do with abortion. It has nothing to do with abortion. In fact, it would cut down on abortions. We are not forcing anyone to use contraceptives if they don't want to. We think they should be made available.

I was on a talk show. A woman called in and said, ''I'm pregnant with our third child. I'm a diabetic. I would prefer I were not pregnant. I'm going to carry the baby to term but it could endanger my health. I hope the baby is healthy. My husband's insurance company does not cover contraceptives, and as a result of that, I'm pregnant because the stuff we used doesn't work very well.'' There are a multitude of stories just like this. Remember, there are 3.6 million unintended pregnancies in our country every year. Not every 10 years—every year.

I am embarrassed this was stripped from the bill for some reason that is not justifiable. The Federal Government serves as a role model for other employers across the Nation. This would have been a great start. It has received support from the American College of Obstetricians and Gynecologists. We have received little static from the insurance companies. Why? It creates an even playing field. If they all have to do the same thing, it doesn't hurt anyone. In the long run, people in the plans would save money.

Individuals who led the effort to strip this historic amendment from this Treasury-Postal Service bill are ignoring the will of both the House and the Senate. The House voted in favor of this amendment in July; the Senate accepted our amendment in July, also. I don't think it is fair. I think these individuals who feel they have the authority to ignore the decision already made in both Houses should consider why they did this. They had no good reason to do it. It has nothing to do with abortion, which is supposedly the reason it was done.

Politics aside, the real losers in this battle are the 1.2 million women covered under the FEHBP system who will continue to be denied the quality in health care coverage they deserve. People who fought behind closed doors to strip this amendment from the bill are using the anti-abortion statement as a defense. That is wrong. They shouldn't do that. This argument is unfounded.

As I said, this bill would lead to healthier mothers, healthier babies, and lower health care costs for all Americans. This legislation doesn't require any woman to use contraceptives, but it gives them a choice.

I see my colleague on the floor. It has been an honor for me to work with her on this legislation. She has been the driving force in getting this legislation to the point we thought we were.

I will yield the floor.

INTERNET TAX FREEDOM ACT

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 3783

Mr. KERREY. Mr. President, what is the order of business?

The PRESIDING OFFICER. The pending business is the McCain amendment No. 3783 to amendment No. 3719.

Mr. KERREY. Mr. President, I rise to speak against the McCain second-degree amendment which would extend the moratorium on States taxing Internet transactions from 3 years to 4. The Finance Committee had knocked it back to 2 years. We thought that was a reasonable length of time, given that we allowed 15 months to restructure the IRS; 18 months in getting the Medicare Commission to do its work. We believed that 2 years was a reasonable period of time. I was willing to go along with an extension of that from 2 years to 3. To go to 4 years is just much too long a time.

This is an issue where the Federal Government is intervening, saying the States can't raise taxes in a certain way. This is, in my judgment, without precedent.

I am willing to support this piece of legislation. I am willing to provide this moratorium so we can reach an understanding of how we will tax these transactions. But to allow 4 years—when we allow approximately 15 months in getting a commission to restructure the IRS, and 18 months in getting Medicare, Mr. President—is an unreasonable length of time.

I hope my colleagues will vote against the McCain amendment. We have been contacted by our Governors who are actually asking us to go along with the Finance Committee, which was 2 years. As I said, I'm willing to support a compromise to 3 years, but 4 years, given the amount of time we have allowed for some things that are more complicated than this, it is unreasonable and too lengthy a period of time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I agree mostly with what the Senator from Nebraska said. I prefer a 2-year moratorium.

As the Senator from Nebraska stated, earlier this year, we passed a bill to reform the Internal Revenue Service. That legislation arose from the IRS Commission, which had a mere 15 statutory months to take a top to bottom look at, and make recommendations on, how to restructure the IRS. The entire commission process plus the legislating process resulted in a bill the President signed in just a shade over two years.

The point I am trying to make is this: Fair taxation of the Internet is not more complicated than restructuring the IRS. The bill to which the two amendments presently pending are offered, is a bill that provides a 2-year moratorium. Two years is enough. To allow any more time would do nothing but prove that the U.S. Senate is knuckling under to the Internet industry.

I see my good friend from Florida on the floor. He and I were both Governors. The Governors signed off on 2 years and now here is a letter saying they hope we will compromise on 3 years. ''Do not adopt,'' they say, ''the 4 year moratorium. Accept the compromise of 3 years.''

I can tell you, Senator, if I were still Governor of my State, I would be squealing like a pig under a gate. Here a significant percentage of the State's entire tax base is being eroded, literally destroyed, by remote sellers, and the Internet industry and the Governors say let's compromise at 3 years. We are willing not to tax the Internet for a 3-year period. Think about that. In 3 years' time the estimates are that sales over the Internet will be $300 billion. We know that catalog sales right now are in excess of $100 billion.

The States are saying they are willing to forgo their right to tax the Internet for 3 years. If there were no catalog sales, if there were no Internet, $400 billion worth of goods would be sold by Main Street merchants in America on which they would pay a 4, 5, 6, or 7 percent sales tax to support their community schools, their fire departments, their police departments, their landfills, paving their streets and everything else that cities have to do.

Yes, if I were still Governor, trying to raise teachers' salaries, trying to making better schools, trying to increase the size of the police department and reduce crime in my community, if I were charged with the responsibility as mayor or Governor and had the responsibility of our children, our environment, all of those things, I would never sit still. I would never sit still for allowing these people to escape taxation. It has been a mystery to me for 7 years, as I have fought to try to give the States the right—not the mandate, but the right—to make remote sellers collect sales taxes. There are only 7,500 of them. The bill I offered would only affect 675 of them. We exempted everybody that did less than $3 million in business a year. I have been soundly defeated each time I have tried to correct this problem. And as I leave the U.S. Senate after 24 years, it is a mystery to me. Why do people vote to allow the tax bases in their States to be eroded when their Governors and their mayors and local officials are scrounging for money to improve schools and everything else?

My State has a sales and use tax on all mail-order sales coming into my State. Do you know how much we collect on it? Zero. Do you know why? Because the tax is on the purchaser. I promise you there is not 1 in 10,000 people in the State of Arkansas that even know that the tax exists. Of course, they don't pay it. Literally millions of dollars of goods come into my State every year on which not one cent of tax is collected, even though it is owed. But it is owed by the person who bought the merchandise, and he or she doesn't even know the tax exists.

When we try to say to the States—Senator GRAHAM, Senator DORGAN and myself—that we are going to help you, we want to honor what you are trying to do, they have all championed my bill. They haven't been very effective, but the Governors and mayors have all championed my legislation every year I have offered it. But the U.S. Senators sit up here, with all their arrogance, and say to their legislatures, Governors and mayors: We don't care what you want, we will decide what you get. For 7 years, so far, and much longer than that, we have said you get nothing. We are not going to let you tax mail-order sales. So quit talking about it. You might as well quit talking about it. I think 30 or 35 votes is my high-water mark in trying to address what I consider a terrible problem.

The Presiding Officer heard me talk a while ago about how the first thing I did when I came here was to try to stop the manufacturing of CFCs that are destroying our ozone. We all know the ozone is being systematically destroyed, but back then we had to study it. It was just a theory. As I said, the best way to kill something in the U.S. Senate is to say let's study it. If you want to never hear of something again, get an amendment adopted that says, no, you can't do that anymore, you have to study it.

That is what we are doing here. We are saying to the mayors and Governors and legislatures of our respective States—45 of the 50 States already have a tax, but it is on the consumer and nobody knows it, and they are desperate. The reason I mention that again is because I will be sitting down in Arkansas, or someplace, a few years from now and this thing will crescendo and will reach a level where the Senate won't have any choice but to deal with it and to give the States that right, because if they don't their schools are going to start crumbling, their police departments are going to go to pot, as are their fire departments.

Did you see in the paper this morning where Amazon.com's stock is selling for over $100 a share, and they haven't made a nickel profit yet? It is estimated they are selling two-thirds of all the books sold over the Internet, and their sales are growing exponentially. I have a lot of friends that never buy a book from a local bookstore anymore. They buy it over the Internet. Not only do they get a little discount, they pay no sales tax on it. So this morning's paper says Amazon.com has become so terrific and so powerful that a publishing house is buying Barnes & Noble's on-line system. They have a third and Amazon.com has two-thirds. The publishing house knows that they are

going to be put out of business if they don't get with the program, because Amazon.com is going to be selling all the books in the country. So they are buying Barnes & Noble's on-line book service.

That is good for the consumers, but it is terrible for State and local government. Yesterday afternoon, I offered an amendment to say at least make the Internet state that the merchandise you buy may be subject to local taxation. You think about that. Senator DORGAN voted with me, Senator GRAHAM voted with me, and we got 27 votes. They don't even want the people to know that there is a sales tax on which the purchaser is liable.

Then, this morning, we finally won a little battle. There was an amendment here that I could not believe that said you can't study this issue. Think of that. Normally you use studies to kill things. This morning, we get an amendment saying you can't even study it. I am telling you, I don't know what the Internet and these mail-order catalog houses have on the Senate, but it must be something. Larry Flynt ought to be offering a million dollars to find out the answer to that one. So here we are standing around debating an issue, the merits of which are not even in question. Everybody knows that we ought not to be giving a free ride to the to people who are selling merchandise by the hundreds of billions of dollars over the Internet and eroding the tax base of almost every State in the Nation. I am for computers; I am for technology, but I am not for allowing them to destroy the tax base of the states.

Mr. DORGAN. Will the Senator yield for a question?

Mr. BUMPERS. Yes, I am happy to.

Mr. DORGAN. Mr. President, I have listened to the Senator from Arkansas, and I am reminded again why we are going to miss him when he is gone. He fights hard for the things he feels strongly about, and this has been one of them for many years.

This vote coming up, probably in 20 minutes, is a very simple vote. This issue started with the notion that people said, gee, we must do something here to provide a shield so that nobody would impose punitive taxes on the Internet and retard the growth of the Internet. Lord, have you ever seen anything grow like the Internet and Internet commerce? That is mushrooming so fast you can't get your arms around it. And they are saying we have to be sure that we protect them.

Well, in the matter of protecting them, they have created a moratorium on the ability of State and local governments to impose taxes. The vote that we are going to have in a moment is regarding how long that moratorium is going to last. The committee on which I serve reported a bill out that said let's have a moratorium for 6 years. I didn't vote for that. The House of Representatives said let's have a moratorium for 3 years. The Senate Finance Committee said let's have a moratorium for 2 years. The underlying bill will now say 3 years. The amendment we are going to vote on says no, that is not enough; we need a 4-year moratorium. The Senator from Arkansas will be fishing in Arkansas, and at the end of 4 years we will have folks—I guarantee it—who will stand here on the floor of the Senate, and they will say, ''We have got to have an extender. We have to extend this moratorium.'' How long? Another 4 years. How about permanently? Make it a permanent extender. That is exactly what is going to happen.

We ought to decide as a Senate 3 years—no more. And at the end of 3 years we are done. If we can't figure it out by the end of 3 years, there is something wrong with us.

I ask the Senator from Arkansas. Does he agree that this ought not be a circumstance where we create a tax system that says, ''Oh, by the way. We will favor folks doing this over a computer,'' which means we will penalize the folks that hire the folks on Main Street who rent the building, put the inventory in, open their door early in the morning, and hold themselves open for business. And we say to them that we will penalize them because the other folks don't have to comply with the tax laws when they come in and compete with them.

That is what this fight is about. The amendment here is going to be 4 years or 3 years. There will be a lot of folks who come to the well of the Senate and say, ''What is the issue?'' The issue is that for every, I assume, 4 years, or for every 3 years. But what does good sense tell us ought to be the case here? Three years maximum, and then no more. Then let's have a tax system that is fair to everybody regardless of how they are selling—off the Internet, catalogs, or Main Street. Let's be fair with respect to this tax system of ours.

Let me conclude by saying I worked on this issue when I was in the House of Representatives on the Ways and Means Committee for 10 years. I know what the problem is. You start talking about this issue, and the first thing you know you have a million friends—not friends. You get a million postcards, because everybody who buys from a catalog seller is told to send a postcard to this person, or that person, and they are told that person is trying to increase your tax. Of course, that is not true. Nobody is talking about any additional taxes. There is no increase in tax. This is a different issue—the moratorium. So you get a million cards out there, or 10 million cards that affects all of the interests that are voting.

Mr. President, again, let me say to the Senator from Arkansas that his dedication to this issue is important, and he will leave a long and lasting impact on the Senate. I think the most immediate impact and the most immediate presentation now is a good vote so we can at least turn back the 10 years. I think that would be a good public service.

Mr. BUMPERS. Mr. President, the distinguished Senator from North Dakota, my good friend, has been a steadfast ally with me in this battle for many, many years, because the State of North Dakota took this case to the Supreme Court. And the Supreme Court said we are reversing ourselves in previous decisions. If the Congress wants to give the right to the States to collect this tax, they can now do it. But Congress has to do it. Congress has steadfastly refused to do what the Supreme Court told them they had the authority to do.

I will be sitting down in Arkansas fishing 3 years from now, and I assume that is probably the number of years we are going to adopt in a few minutes. I am not going to vote for it. I am not going to vote for 4 years. I am not going to vote for the bill either. It has a 2-year moratorium. As far as I am concerned, that is enough.

But having said that, I will be down there fishing. I will be watching C–SPAN. I will smile to myself when somebody gets up as though it is the most original idea that was ever created, and says, ''Mr. President, I send an amendment to the desk that would create a commission to study taxation of the Internet. We have had 3 years to study it, but we are really not quite finished and we don't know what havoc this is going to create. We need to get the National Academy of Sciences, the Council of Economic Advisers, or the GAO. We need somebody to study this a while longer.'' They will buy it again. I can tell you that 3 years from now the makeup of this place will not change that much. They will buy it again, and we will extend it again. But just like the ozone layer, the time will come when everybody knows that you can't do it anymore, because the States and the cities can't afford to let this go any longer. They are barely making ends meet the way it is. That is the way it goes. If you do not learn anything in 24 years here, you will learn the way the game is played.

Mr. President, I am pleased to be able to take a firm stand on an issue that I felt strongly about for so many years. As I say, I don't intend to vote for a second-degree amendment which would take it to 4 years. I don't intend to vote for the second-degree amendment that will take us to 3 years. The bill, as it came out of committee and came to this floor provided for a 2-year study. That is too long. They don't need 2 years. I am going to vote for the bill because 2 years is much too long anyway.

I don't believe there ought to be a tax exemption for anybody who is competing with Main Street merchants.

Let me add one further thing. The Senator from North Dakota piqued my memory on this. Outside of being the entire Charleston South Franklin County Bar Association, I was also a Main Street merchant. I can tell you

even then, 40 years ago, my biggest competitor was the catalog. I detested it. I was a Main Street merchant having to organize the Christmas parade, be president of the Chamber of Commerce, and trying to attract industry into town so we could create a few jobs. I paid sales tax on every dime I sold, all of which went for the schools of our State and our city, which went to the police department, which went to the fire department, which went to help us pave our streets, take care of our landfill, dispose of our garbage.

Those are the things that Main Street merchants do in this country. We are saying to them and the National Federation of Independent Businesses—NFIB. I don't want to get started on them. As far as I am concerned, they represent big business, and not small business. But I think they are for this bill. It is the most damaging thing to Main Street merchants I can imagine. I know. I used to be one.

I yield the floor.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the time until 5:30 be equally divided for debate on the pending McCain-Wyden amendment, and at the conclusion of the debate the Senate proceed to vote on or in relationship to the amendment.

I further ask that no second-degree amendments be in order prior to the vote.

Mr. GRAHAM. Mr. President, is there currently a limitation on debate on this amendment?

The PRESIDING OFFICER. There is not.

Mr. GRAHAM. I object to the unanimous consent.

The PRESIDING OFFICER. Objection is heard.

The Senator from Arizona controls the floor.

Mr. MCCAIN. Mr. President, I ask the Senator from Florida what he wants.

Mr. GRAHAM. I want just—Mr. President, I would also settle——

The PRESIDING OFFICER. The Chair did not hear the Senator from Florida.

Mr. MCCAIN. I ask unanimous consent to engage in a colloquy with the Senator from Florida.

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

Mr. MCCAIN. What time agreement will the Senator from Florida agree to?

Mr. GRAHAM. I would like to complete my remarks, and then we will consider what will be an appropriate time limitation.

Mr. MCCAIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I go back to the same point that I have made on two or three occasions in the debate of this legislation. That is to remind us what we are doing. We are doing quite an exceptional thing. We are telling to 50 States and multiple local jurisdictions that their legal authority to establish what is the appropriate fiscal policy for their citizens is going to be preempted. We are telling them for this purpose that they will be precluded from exercising a judgment that they might otherwise feel is in the interest of their residents and citizens.

We are doing this in order to provide a pause, a time-out, a brief period in which to sort out the application of public policy, particularly as it relates to tax policy, and the new technology of the Internet.

I think that we ought to accept the fact that the presumption should be that that preemption of our brethren at the State and local level should be respectfully as brief as possible. We should not easily or excessively indulge in this kind of behavior, particularly when the consequences of this behavior are so obvious and perverse.

I have used the analogy, and I will use it again, of what we are doing to that Main Street merchant, as if to say that Main Street had a north side and a south side. On the north side, all the people who come to buy their hardware, their clothes, their shoes would be responsible for paying the legislated State and local sales tax, and they would be responsible for collecting it and then remitting it back to the appropriate tax collection authorities. That is not adding a new tax; that is the administration of a tax which the democratic processes in Little Rock or Tallahassee or Salem or any other State capital have prescribed as a means of funding the essential responsibilities of local and State government. We are saying that on the north side that collection has to take place. But on the south side, which is a virtual south side because it doesn't really exist other than in cyberspace, because it is reached through the Internet, there is not such a responsibility to collect on exactly the same hardware, shoes and clothing that we now ask the north side merchant to collect.

That is a fundamentally unfair proposition. We would be shocked and appalled if someone were to suggest that as a de novo proposition. But that is what we are doing with this Internet Tax Freedom Act.

The second consequence that we are accepting as a result of this legislation is that we are about to drive a major hole into the ability of local governments and States to finance their most basic responsibility—police who secure our neighborhoods, fire officials who protect us in times of emergency, and most specifically our schools. I will talk in a moment about what has happened to education during this 105th Congress, but I suggest that of all the things we have done or we have not done, the most important education bill that we are going to consider in 1998 is the one that is before us today.

Now, the question that I ask, and I hope that we receive a response, is why 4 years? I was reticent to object to the unanimous consent to call for a vote at 5:30, but I felt that we ought to allow enough time for the proponents of the 4 years to make the strongest case they could to overcome what I think should be the very strong presumption against making this moratorium excessive, against lengthening by an unnecessary day, week, month or year the time in which we will allow this unfairness in the marketplace and this threat to the ability of State and local governments to carry out their fundamental functions to remain in existence.

Let's talk about what had been some appropriate times for major tasks. Well, we find in Genesis, chapter 1 and chapter 2, that God created Heaven and Earth in 7 days: ''In the beginning, God created the Heaven and the Earth, and the Earth was without form and void and darkness was upon the face of the deep, and the spirit of God moved upon the face of the waters.'' And 6 days later Earth, the oceans, the mountains, the valleys, the streams, all of the fishes, the animals, and finally man and woman themselves had been created by God—in 7 days, according to Genesis, chapter 1 and 2. And yet it is going to take us 48 months to figure out what the appropriate tax policy should be for bits and bytes and all of the terminology of the Internet.

We have some more recent examples that have already been cited. Senator KERREY said the commission which was responsible for looking at the Internal Revenue Service, clearly one of the most complex agencies administering one of the most complex set of laws that man has ever known, was able to conduct its work in 15 months—3 months less than its original charter, and its work was so good that it formed the basis of the Congress this year enacting the most significant reform of the Internal Revenue Service since it was created. So the fact that they had an 18-month charter to accomplish this very complicated task did not degrade the quality of the ultimate recommendations and the receptivity of Congress to those recommendations.

We have currently at work a commission studying Medicare. That commission, which was created by this Congress in 1997, was given 18 months to do its work. Medicare is one of the largest and most complex programs that this Congress has ever created. It serves to finance the health care of over 35 million Americans. It is a significant part of a health care industry which represents approximately one-seventh of our gross domestic product. We decided that 18 months was the appropriate time to study the complex Medicare system, and yet it is going to take us 4 years, according to this amendment, to decide what should be the appropriate way for the State of North Carolina to levy taxes on Internet activities that affect the citizens of the State of North Carolina.

The almost absurdity of this 4-year period leads one to suspect—and we are not by nature a suspicious, certainly

not a cynical people, but to suspect—that there are motivations here other than allowing a sufficient amount of time, the amount of time that we normally anticipate would be required to get a undergraduate degree from one of our great colleges or universities, why it would take 4 years in order to study this issue.

Let me suggest what I think some of the motivations might be. One is that it is going to provide an extended period of freedom from taxation during which there will be new technological applications of the Internet which will have the effect of further widening the gap between Main Street and cyberspace and further exposing local and State government to an erosion of their tax base.

I spoke yesterday about the new technology of Internet telephony, using the Internet as the means of making long distance telephone calls rather than the traditional line system that we use today. The effect of that is going to be that that Internet telephony will now escape both Federal as well as State taxation for the period of this moratorium.

I read a statement yesterday by a research group which estimated that by early in the next century potentially 10 percent or more of long distance telephone calls would be made through Internet telephony.

A second reason for the 4 years might be to develop a political coalition. There are going to be a lot of folks who are going to find it is awfully nice and convenient to not collect this tax. It is awfully nice to have your sales explode, as it was stated that Amazon.com's book sales are exploding. They surely ought to explode. They have a 6- or 7-percent market advantage over that independent bookseller in Fayetteville, AR. They ought to beat the pants off the bookseller. And now we have the situation where the publishers, not going through any intermediary, are going to be selling directly on line. That is great for the American consumer. They are going to have access to a lot of literature and other books at a very attractive price, but the price that society is going to pay is imbalance in the commercial marketplace and a degradation of our police, fire and educational services.

We, also, as a consequence of this, are going to frustrate local choice. I said this morning that the morning newspaper was filled with articles which are relevant to this debate. This is one that might be of particular interest to our good friend from Arkansas, Senator BUMPERS, in which there is, apparently in Arkansas today, an effort being made—and, by the polls, a pretty effective effort—to repeal the property tax in Arkansas and to substitute for the property tax a significant increase in the sales tax. It appears on page A–3 of the Washington Post of October 7 under the headline, ''Grass-roots Group Takes Aim At Arkansas Property Tax.''

I don't know whether this is a good idea or bad idea, for Arkansas to be suggesting this. Apparently the Governor and a lot of other folks think it is a bad idea. But I think we might agree, whether the idea is good or bad, that it ought to be an Arkansas idea, as to how Arkansas wants to organize its State and local taxation. We are about to say in this bill that we are going to make it more difficult for States to have that range of choice. As we erode the base upon which the sales tax is applied, the opportunity for States to do what Arkansas is considering, substituting sales for property tax, is going to be much more difficult because there will be less to substitute with.

So we are embarked along a path which is not just a temporary one but has the potential of driving a permanent wedge between the Federal Government and States as we rather casually preempt their traditional political choices of how to organize their tax base.

But those consequences, I think, pale in terms of the final one to which I have already alluded. That is that this is the most important education bill of 1998.

Mr. President, 1998 started with a lot of enthusiasm for education. The President in his State of the Union talked about reducing class size, particularly in the primary grades, so that children would not have to go to excessively overcrowded classrooms. That was an issue that struck home directly to me.

My third daughter, Suzanne Gibson, was a wonderful kindergarten teacher. The last year she taught kindergarten at a new elementary school in Miami, Dade County, FL, there were 38 students in her class—38 students in a kindergarten class. My daughter is a wonderful teacher. She now is the mother of triplets, so she is getting to apply what she learned with those 38 students in her class, but I defy anyone to educate thirty-eight 5-year-olds. You may provide custodial services but you do not educate thirty-eight 5-year-olds.

So we started this year in Washington with a hope and some expectation that the Federal Government might reach out in a hand of friendship and partnership to States and school districts and millions of young boys and girls, and help them with their educational needs. We did not pass the bill that would have allocated an additional 100,000 teachers with Federal assistance in order to reduce class size at the primary grades. Although we had a good experience with a similar action with community police, where we are helping to finance 100,000 community police in a very positive contribution to enhance law enforcement, we did not do that as it relates to primary education.

Then the President had another proposal for the Congress to assist in helping school districts be able to build enough schools and maintain the old schools so that we could have the classrooms that would be required to significantly reduce class size, particularly in the primary grades. We did not pass that bill either.

So, now on the 7th of October, with some 2, 3, or 4 days left in this session, we are coming to the most important education bill we are going to pass. What is it going to do? Is it going to help States and local school districts carry out their most important responsibility? No. What it is going to do is to undercut their existing revenue and make it even more difficult to even keep class sizes down to the 38-to-1 level in the kindergarten of Miami, Dade County, FL.

So, I believe there is absolutely no justification for making this moratorium a day longer than is required to carry out what is a fairly straightforward task. This certainly is no reason to argue it is going to take 4 years, but I look forward to the argumentation that maybe will persuade me as to why 4 years are required for this task when God created Heaven and Earth in 7 days and we reformed the IRS in 15 months.

Mr. President, I want to vote for this bill because I believe that there is a persuasive argument that a brief moratorium, with the time used by an intelligent group of people who represent all the interests involved, and against a charter which allows them to look at all the relevant improvements, could play a useful purpose. But I could not support a 4-year moratorium, with all the pernicious effects it would have, without any contribution to a greater understanding of the issues involved in Internet taxation.

So, I urge defeat of this amendment. I urge adoption of the position taken, thoughtfully, by the Senate Finance Committee, which was for a 2-year study. If that is the provision, I will support this legislation. Otherwise, I fear for the consequences.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that there be remaining 10 minutes equally divided between the Senator from Florida and the Senator from Oregon, and that following that there be a vote on the MCCAIN amendment.

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

The Senator from Oregon.

Mr. WYDEN. Mr. President, the McCain-Wyden amendment is, of course, a compromise. The bill that came out of the Senate Commerce Committee was a 6-year bill. The bill that came out of the Finance Committee was a 2-year bill. So there was an effort to bring the parties together around 4 years. But that is not what is really important. What is really important is the timetable that is going to be essential to do this job right.

Mr. President, 18 months after the date of enactment, the commission is going to make its recommendations—May of 2000. The moratorium under the

finance bill ends in October of 2000. That means that there is less than 6 months to act on the recommendation before the timeout would end. Some States, a number, have legislatures that are not meeting in the year 2000. I am sure my friend and colleague, Senator GRAHAM, would be interested in knowing that Arkansas, Maine, Minnesota, Montana, Nevada, North Carolina, Oregon, Texas, North Dakota, and Vermont all have legislatures that do not meet every year. So we are going to have a situation, it seems to me, where there will be essentially no time in order for a legislature to thoughtfully look at these issues.

The Senator from Florida says that Chairman MCCAIN and I are ramming this bill through the U.S. Senate. We have worked on it, now, for 18 months. We have made more than 30 separate changes in an effort to try to address the concerns of the Senator from Florida. There has been discussion about how this would create a tax haven on the Internet. Let us be very clear about what happens during the moratorium. If a person walks into a store and purchases a sweater in a jurisdiction where there is a 5 percent sales tax, if they order that sweater over the Internet, they pay exactly the same tax, exactly the same fee—technological neutrality.

The Senator from Florida says that the apocalypse is at hand because there is going to be a huge reduction in revenue at the State level. When we began this bill with legislation that was much more encompassing than the one we are considering now, the Congressional Budget Office could not even initially score it. It then came back with a projection of less than $30 million.

Nothing is being preempted here. The States and localities are allowed to treat the Internet just as they would treat anything else.

At the end of the day, the kinds of people who will benefit from this are the senior citizens in Florida, for example, the home-based businesses in Oregon, people who are trying to use the Internet as a way to advance the chance to build a small business and particularly see the Internet as a great equalizer.

They are not going to be in a position, those home-based businesses, to compete with the corporate giants. But if we create across this country a crazy quilt of State and local taxes where each jurisdiction goes off and does its own thing, it is going to be very difficult for those entrepreneurs, senior citizens, handicapped and disabled people to go out and hire the accountants and lawyers that would be necessary to carry out the vision of the Senator from Florida of the Internet. What we need to do is come up with some sensible policies, and it is going to take some time.

If somebody from Florida, for example, orders Harry and David's fruit in Medford, OR, using America Online in Virginia, pays for it with a bank card in California, and ships it to their cousin in New York, we are talking about a completely different kind of commerce than we have seen in the past. Let us take the time to do it right. Without the amendment that the Senator from Arizona and I are offering—

Mr. GRAHAM addressed the Chair.

Mr. WYDEN. I believe I have the floor.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator has the floor and has approximately 35 seconds remaining.

Mr. WYDEN. Thank you, Mr. President.

Without the amendment that the Senator from Arizona and I are offering, all of those legislatures that I mentioned specifically, which we talked about initially more than an hour ago, are going to have to act immediately in order to carry out the spirit of this commission. I can't believe that is what the Senate wants, and I am very hopeful that the Senators will join groups like the National Retail Federation, the Information Industry Association, the Home Business Association, and scores of other small business groups supporting the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Florida.

Mr. GRAHAM. Will the Senator yield for a question?

Mr. WYDEN. I will be happy to.

Mr. GRAHAM. Mr. President, I ask unanimous consent for 2 minutes for the purpose of a colloquy.

The PRESIDING OFFICER. The Senator from Florida has 5 minutes allotted to him. Does he wish to have the additional 2 minutes allocated to the Senator from Oregon to be used for questions?

Mr. GRAHAM. I do.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator from Oregon has 2 minutes for the purpose of a question.

Mr. GRAHAM. Mr. President, I say to the Senator from Oregon, in the effort to describe the equality of treatment, he used the example that if a person went into a local bookstore and bought a book, they would pay and the bookstore seller would be responsible for collecting and remitting the appropriate State and local sales tax.

Mr. WYDEN. If the Senator will yield for an answer, if that is current policy in that State. I know that the Senator from Florida is very anxious to resolve mail-order and catalog sales tax questions. The bill does not resolve that.

Mr. GRAHAM. The answer to that question is yes, the merchant would be responsible for collecting and remitting the sales tax.

If the same sale were made on Amazon.com, would Amazon.com be responsible for collecting and remitting the sales tax?

Mr. WYDEN. Certainly that would be the case if it was done instate where you had a current policy with respect to sales tax. But if it applies to other States, if other States have a particular tax policy, if they do business involving the Internet, we apply exactly the same rule.

Mr. GRAHAM. If a person in Florida has a sales and use tax, could it require Amazon.com to collect from a Florida resident, who ordered a book in Seattle, the Florida sales tax?

Mr. WYDEN. I am not up on Florida's policy, but we do not do anything different with respect to the Internet than we do in any other area. The hearing record in the Commerce Committee—I will be glad to share it because I cited many of those examples—and the Finance Committee makes it very clear that the Internet gets no preference, the Internet suffers no discrimination, and that is the point of the bill.

Mr. GRAHAM. The answer is no, that the discrimination is the fact, that currently the local Main Street merchant is required to collect the tax, but the distant remote Internet seller is not, and we are about to make that a 4-year institutionalized—

Mr. WYDEN. Will the Senator yield?

The PRESIDING OFFICER. The 2 minutes have expired.

Mr. WYDEN. I ask unanimous consent that the Senator have 1 additional minute. I want to engage him in a question.

The PRESIDING OFFICER. The Senator from Florida has 5 minutes.

Mr. GRAHAM. I yield another minute for the question.

Mr. WYDEN. I say to my friend from Florida, what you described is your desire—and I know it is sincere—to overturn the Quill decision. What we are saying in this bill is that we are trying to deal with a different set of economic issues, and if we don't deal with these questions of Internet policy now, I and the Senator from Arizona submit that we will be dealing, just as we are now with the mail-order questions, with these issues with respect to the Internet. Let us try to get out in front of these issues facing the digital economy rather than duplicating the mistakes we made with respect to mail-order and catalog sales.

I thank the Senator for the time.

Mr. GRAHAM. In answer to the question, the Quill opinion gave to the Congress the responsibility to authorize the States to require the distant seller to collect and remit the tax. Thus far, as Senator BUMPERS' long, valiant, but thus far unsuccessful attempts illustrate, Congress has been unwilling to do so. I suggest that indicates what is the likely political result of this new issue of how we are going to tax the Internet.

The PRESIDING OFFICER. Under the previous order, the Senator from Florida has an additional 3 minutes 20 seconds if he wishes to use that at this time. Is the Senator prepared to yield back his time?

The Senator from Florida has 2 minutes remaining. Does he wish to yield back his time?

Mr. GRAHAM. Mr. President, I have no extended remarks. I still don't think we have heard the answer to the question of why does it take 4 years to do this study. The fact is that when this report is available, whatever time, the principal recipient of that report will not be the individual 50 State legislatures, it is going to be us, because in order to implement the recommendations that would allow States to hold the distant seller responsible for collection, we know it is going to require action by the U.S. Congress.

We are in session just about all the time. So whatever date we set for this report to be submitted, we will likely be here, or close to being here, to receive it and to commence the process to deal with it.

I still have not heard any rationale as to why we should continue beyond the minimal time necessary for the inequity of the Main Street merchant and the vulnerability of State and local governments' capacity to finance their police, fire, and schools that an extended moratorium implies.

Thank you.

The PRESIDING OFFICER. The Senator from Florida still has 1 minute 30 seconds.

Mr. GRAHAM. I yield back the remainder of my time.

The PRESIDING OFFICER. The remainder of time has been yielded back or used on both sides.

Mr. McCAIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the McCain amendment No. 3783. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—45

Abraham	Dodd	Mack
Akaka	Domenici	McCain
Allard	Faircloth	McConnell
Ashcroft	Grams	Murkowski
Baucus	Gregg	Murray
Bennett	Hagel	Nickles
Boxer	Hatch	Robb
Burns	Inouye	Santorum
Campbell	Kerry	Shelby
Coats	Kyl	Smith (NH)
Cochran	Lautenberg	Smith (OR)
Coverdell	Leahy	Stevens
Craig	Lieberman	Torricelli
D'Amato	Lott	Warner
DeWine	Lugar	Wyden

NAYS—52

Biden	Ford	Levin
Bingaman	Frist	Mikulski
Bond	Gorton	Moseley-Braun
Breaux	Graham	Moynihan
Brownback	Gramm	Reed
Bryan	Grassley	Reid
Bumpers	Harkin	Roberts
Byrd	Helms	Rockefeller
Chafee	Hutchinson	Roth
Cleland	Hutchison	Sarbanes
Collins	Inhofe	Sessions
Conrad	Jeffords	Snowe
Daschle	Johnson	Thomas
Dorgan	Kempthorne	Thompson
Durbin	Kennedy	Thurmond
Enzi	Kerrey	Wellstone
Feingold	Kohl	
Feinstein	Landrieu	

NOT VOTING—3

Glenn	Hollings	Specter

The amendment (No. 3783) was rejected.

Mr. FORD. Mr. President, I move to reconsider the vote.

Mr. DORGAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 3678, AS MODIFIED

Mr. McCAIN. Mr. President, I ask unanimous consent that amendment No. 3678, the Abraham amendment, be modified, and I send the modification to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be so modified.

The amendment (No. 3678), as modified, is as follows:

At the end of the bill add the following new title:

SEC. ___01. SHORT TITLE.

This title may be cited as the ''Government Paperwork Elimination Act''.

SEC. ___02. AUTHORITY OF OMB TO PROVIDE FOR ACQUISITION AND USE OF ALTERNATIVE INFORMATION TECHNOLOGIES BY EXECUTIVE AGENCIES.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.''.

SEC. ___03. PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES BY EXECUTIVE AGENCIES.

(a) IN GENERAL.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in consultation with the National Telecommunications and Information Administration and not later than 18 months after the date of enactment of this Act, develop procedures for the use and acceptance of electronic signatures by Executive agencies.

(b) REQUIREMENTS FOR PROCEDURES.—(1) The procedures developed under subsection (a)—

(A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;

(B) may not inappropriately favor one industry or technology;

(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

(2) The Director shall ensure the compatibility of the procedures under paragraph (1)(A) in consultation with appropriate private bodies and State government entities that set standards for the use and acceptance of electronic signatures.

SEC. ___04. DEADLINE FOR IMPLEMENTATION BY EXECUTIVE AGENCIES OF PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act, Executive agencies provide—

(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

(2) for the use and acceptance of electronic signatures, when practicable.

SEC. ___05. ELECTRONIC STORAGE AND FILING OF EMPLOYMENT FORMS.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

SEC. ___06. STUDY ON USE OF ELECTRONIC SIGNATURES.

(a) ONGOING STUDY REQUIRED.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in cooperation with the National Telecommunications and Information Administration, conduct an ongoing study of the use of electronic signatures under this title on—

(1) paperwork reduction and electronic commerce;

(2) individual privacy; and

(3) the security and authenticity of transactions.

(b) REPORTS.—The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

SEC. ___07. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

SEC. ___08. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this title, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. ___09. APPLICATION WITH INTERNAL REVENUE LAWS.

No provision of this title shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision—

(1) involves the administration of the internal revenue laws; or

(2) conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. ___10. DEFINITIONS.

For purposes of this title:

(1) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of the electronic message; and

(B) indicates such person's approval of the information contained in the electronic message.

(2) EXECUTIVE AGENCY.—The term ''Executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

AMENDMENT NO. 3721, AS MODIFIED

Mr. MCCAIN. Mr. President, I send to the desk a modification to amendment No. 3721.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 3721), as modified, is as follows:

On page 17, beginning with line 18, strike through line 21 on page 19 and insert the following:

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the ''Commission''). The Commission shall—

(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax and one representative shall be from a state that does not impose an income tax).

(C) 8 representatives of the electronic commerce industry (including small business), telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) 5 individuals appointed by the Majority Leader of the Senate;

(ii) 3 individuals appointed by the Minority Leader of the Senate;

(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

UNANIMOUS-CONSENT AGREEMENT—H.R. 10

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate resume consideration of H.R. 10 at 5 p.m., Thursday, October 8.

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

INTERNET TAX FREEDOM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3719, AS MODIFIED, AS AMENDED

Mr. MCCAIN. Mr. President, I ask unanimous consent that there be 15 minutes, with 10 minutes on this side, controlled by the Senator from Alaska, and 5 minutes controlled by the Senator from North Dakota, that no second-degree amendments be in order, and immediately following that, there be a vote on the Murkowski tabling motion.

The PRESIDING OFFICER. The question will first come on the first-degree amendment.

Mr. MCCAIN. Mr. President, I believe Senator MURKOWSKI will be seeking to table the underlying amendment.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MCCAIN. Mr. President, I repeat the request.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. President, I didn't hear the request. Can I hear it again?

Mr. MCCAIN. It is that there be 15 minutes on a Murkowski tabling motion, with 10 minutes under the control of the Senator from Alaska, 5 minutes under the control of the Senator from North Dakota, with no intervening second-degree amendments, immediately followed by a vote.

Mr. GRAMM. No objection.

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

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President I rise in opposition to the amendment being offered to grandfather existing taxes on Internet services.

This amendment undermines the fundamental integrity of the underlying bill because all state and local taxing jurisdictions would not be under the exact same moratorium. It rewards those states and municipalities that raced to set up discriminatory taxes on Internet services and places them in a better position to raise revenue than those states that have chosen not to act.

More importantly, it sets the precedent that some states, but not all states, can levy taxes that harm interstate commerce. This amendment makes the Internet Tax Moratorium a piece-meal moratorium, not a real moratorium.

I ask my colleagues to consider why we are considering this Internet tax moratorium. As all of us recognize, the Internet is a massive global network that spans not only every state in the Union, but international borders. As the Commerce committee found, Internet access services are inherently a matter of interstate and foreign commerce within the jurisdiction of the United States Congress. In fact, it has been estimated that if the Congress does not make a policy decision regarding taxation of Internet services, more than 30,000 separate taxing jurisdictions within the United States could establish their own taxes on Internet transactions.

Because of the chaos that would ensue, we have decided to place a halt on Internet taxes and allow a commission to study this issue and make recommendations to the Congress. Yet the amendment that the Senator from Oregon proposes would reward those jurisdictions that have already decided to tax Internet services. Why should we grandfather those jurisdictions?

If it is appropriate for states and localities to impose taxes on Internet services than all states should be permitted to adopt such taxes. Alaska should be given that opportunity just as much as North Dakota and South Dakota. But under the Internet Tax Moratorium legislation, my state does not have that option but the Dakotas can continue their taxes because they adopted those taxes prior to this moratorium.

And if it is not appropriate for states and localities to impose taxes on Internet services, than not states nor localities should be permitted to adopt these taxes.

I believe this amendment is not only discriminatory but undermines the fundamental idea underlying this bill. As I noted earlier, the Internet is inherently about Interstate Commerce and we in Congress are about to make a decision that no local taxes should be imposed on Internet services until Congress receives the Commission's recommendations. I believe we should make this moratorium uniform, not piece-meal as the Senator from Oregon proposes.

Otherwise, we are encouraging every state in the union to rush to the state legislature every time a new technology comes along and adopt a taxing scheme on the new technology, secure

in the knowledge that should Congress decide to impose a moratorium on such a new tax, that state's taxes will be grandfathered.

Moreover, there is no rational basis to grandfather these state and local taxes on what everyone agrees is interstate commerce. We have asked a Commission of experts to make recommendations regarding Internet taxes. Although I cannot pre-judge what the Commission will recommend, it is probable that the Commission will make three recommendations. It will make a decision that state and local taxation of Internet services are appropriate or inappropriate. It may decide that some taxes, such as taxes on ''pipeline'' services like Erols or value-added online services like America Online are appropriate but that taxes on interstate product sales on the Internet are inappropriate.

What is certain is that the Commission will not recommend that the only Internet taxes that are appropriate are those that are levied by the states that are proposed to be grandfathered. That would make no sense and would probably be unconstitutional. For that reason alone, we should not permit this grandfather.

Mr. President, one of the most important reasons I believe we should not grandfather any of the Internet taxes is because a decision we make on grandfathering will send a signal to our trading partners that if they adopt taxes on Internet commerce today, those taxes will likely be grandfathered if and when an international agreement on taxation of Internet commerce is reached in the future.

Why shouldn't Brazil or Germany or Canada establish taxes today on Internet commerce and then claim that since these taxes were adopted prior to an international agreement, they should be grandfathered just like the United States grandfathered similar taxes?

Mr. President, there is ample precedent for such a scenario. Many of the tariff and non-tariff barriers that the United States has confronted in the past 50 years have covered practices that were insulated by the original GATT grandfathering rules that were adopted more than 50 years ago. In fact, there have been a number of instances where our foreign trading partners have used the GATT grandfather clause to defend measures that would otherwise violate our GATT rights. A number of those involved foreign tax regimes.

For example, the European Union relied on the GATT grandfather clause to defend their system of territorial taxation and income shifting rules that clearly constituted an illegal export subsidy. Similarly, Brazil used the grandfather clause to defend internal taxes of general application (i.e., sales taxes) that discriminated against goods imported from other GATT members. And Canada relied on the grandfather clause to defend its interprovincial restrictions on the sale of beer and other malt beverages, which included discriminatory charges on imports of competing products from the United States.

Mr. President, the Internet as a means of communication and commerce is in its infancy. Commerce on the Internet is projected to grow by several thousand percent in the next five years. And who stands to benefit the most from that growth? Companies based in the United States will be the largest beneficiaries. I think there can be no doubt about that.

We in the United States invented the Internet. We have been the first country to begin to exploit its benefits. We are leading the world in Internet commerce and the world is watching everything we do and trying to figure out how to prevent American domination of this new medium.

One way to slow American domination of the Internet is for foreign countries to begin to establish taxing regimes on products and information generated from the United States. It is not hard to imagine our foreign trading partners developing taxing schemes designed to protect their domestic manufacturers from competition from more efficient American competitors selling in their country via the Internet. Nor is it difficult to imagine that some of the more repressive regimes in the world might want to come up with punitive access taxes that functionally prevent their citizens from reading American on-line newspapers and magazines. In the name of ''cultural sovereignty,'' I can imagine that some countries will adopt special taxing regimes to restrict access to Internet web pages that are in English.

Mr. President, the precedent we set by grandfathering Internet taxes currently in place will be closely watched by our trading partners. They will follow our model because the United States has established all of the standards and protocols for the Internet.

We should send a message to our trading partners that we will not grandfather any taxes on Internet commerce. Unless we do that, I fear that when our negotiators sit down and attempt to negotiate away discriminatory foreign taxes on Internet services, our foreign trading partners will use the grandfather model in this bill as a reason their taxing regime should be maintained in place. That is surely not the precedent we want to set.

Finally, Mr. President, if we table this amendment we will ultimately not be voting on whether the moratorium should be three years or four years. The Senate has already spoken on this issue and if the grandfathering amendment is tabled, the Chairman of the Committee will certainly offer another amendment that we can accept that will extend the moratorium for four years.

I move to table the amendment on grandfathering state Internet taxes.

Mr. MACK. Mr. President, I oppose this amendment which would allow some states to tax the Internet but not others. The moratorium on Internet taxation must be uniform, applying equally to all states and all local taxing jurisdictions without exception.

Congress is taking an extraordinary, though not unprecedented, step in preempting a taxing power of the states. The people of the United States, through the Constitution, charge Congress with the responsibility of ensuring that states do not interfere with interstate commerce. This power is rarely exercised in the context of taxation, and is a power that we take very seriously.

Use of this extraordinary power is required to prevent the heavy hands of government from stifling the economic growth potential of Internet commerce. We have now just a glimpse of the future of commerce, and a complete revolution in the way people transact business is within sight. We are on the threshold of exciting times, in which information about products will move quicker and farther than ever imagined, in which the elderly, the handicapped, and people living in remote rural areas can participate in world markets without ever leaving their homes. A moratorium is necessary to prevent the taxing authorities of 50 states, over 6,000 localities, and the federal government from taking near-sighted actions that jeopardize this future of commerce.

A threat to interstate commerce so severe as to require a national moratorium cannot be tolerated in any state. If Congress were to grandfather those states that have already imposed Internet taxes, we would be setting a terrible precedent. This ''Early Bird Special'' exception gives states the incentive to rush to impose new taxes on new technologies. This is not the kind of race we want to encourage.

And if Congress can impose a moratorium on some states but not others, will future Congresses attempt to disadvantage individual states in this manner? The defenders of a grandfather clause cast their argument as one of states' rights. But establishing the principle that a moratorium must apply equally to all states protect states from unwarranted infringements upon their power, by preventing the federal government from isolating a minority of states for adverse treatment. And I should also point out that states do not have the right to interfere with interstate commerce—the power to regulate interstate commerce was delegated to the national government, not retained by the states.

The United States should set a strong example and preempt all Internet taxes until a rational, national approach to Internet taxation is developed. If we fail to do so, we undermine attempts to persuade our trading partners that barriers to global electronic commerce should be removed. We have the opportunity to lead the world in the area of Internet commerce, and we should make our cause the cause of freedom.

Mr. President, I urge my colleagues to reject this amendment.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from North Dakota.

Mr. DORGAN. Mr. President, I rise in opposition to the efforts by the Senator from Alaska. My understanding is that he is seeking to table the underlying first-degree amendment, the McCain amendment. The McCain amendment includes the grandfather provision which preserves the existing Internet access taxes. In my judgment, this makes the moratorium a forward-looking moratorium, and will not preempt existing taxes.

It also deals with State and local taxing authorities by including a State and local tax savings provision, which makes it clear that no other State or local tax will be affected. In other words, it protects against the unintended consequences that may well occur unless we have that savings clause.

I really think that it is important that we not support the motion offered by the Senator from Alaska.

The third provision I want to mention in the first-degree amendment that he is attempting to table is a provision ensuring that this moratorium will not affect any pending or existing liabilities. Currently there are companies that may have failed to pay some taxes that would have a current liability under current valid existing laws, and we would not want this moratorium to have the unintended consequence of interrupting those liabilities either.

As I understand it, we have a first-degree amendment, and now a motion to table that. I hope that the motion to table will not prevail. I will vote against it. I will be, by that vote, supporting the underlying first-degree McCain amendment.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

Mr. MCCAIN. Mr. President, I suggest the absence of a quorum.

the PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MCCAIN. Has all time expired?

The PRESIDING OFFICER. It has not expired.

Mr. MURKOWSKI. Mr. President, I yield all time back that's remaining on our side. It would be my intention when all time is yielded to ask for the yeas and nays. Excuse me, Mr. President. It would be my intention to move to table the pending amendment when all time is expired.

The PRESIDING OFFICER. Does the Senator from North Dakota yield back his time?

Mr. DORGAN. Mr. President, I make a point of order that a quorum is not present.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

Mr. DORGAN. I object.

The PRESIDING OFFICER. Objection is heard.

The legislative clerk continued with the call of the roll.

Mr. MCCAIN. For the convenience of Senators who have plans this evening and were told that we would have a vote, I would ask unanimous consent that further proceedings under the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. I object.

The PRESIDING OFFICER. There is objection.

The legislative clerk continued with the call of the roll.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MCCAIN. Mr. President, I ask to be recognized.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, we obviously have a problem. The Senator from Florida is insisting on a point of order that will basically gut this legislation. I want to go ahead and vote on the Murkowski amendment. If the Senator from Florida wants to destroy this bill, which is supported by literally everyone except him, he is free to do that.

Mr. President, how much time remains?

The PRESIDING OFFICER. All time has expired.

Mr. GRAHAM addressed the Chair.

Mr. MCCAIN. All time has expired?

Mr. GRAHAM. Point of personal privilege.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I am sorry, my good friend from Arizona has on several previous occasions made statements that have become, I think, excessively personal and not factually correct.

I am prepared to vote on this bill right now, and I will vote for the bill in its current form. What the issue is, is offering an amendment that I question as to its germanity to this bill and that I might raise a point of order on that germanity. I don't consider that to be an inappropriate or even a particularly hostile act. That is a matter of the rules of the Senate. It either is or is not germane in this postcloture environment.

I do not accept the characterization that I am, in some malicious way, standing in the way of the bill. I am perfectly prepared to vote at this time.

The PRESIDING OFFICER. All time has expired.

Mr. MURKOWSKI. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table amendment No. 3719, as modified, as amended. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The result was announced—yeas 28, nays 69, as follows:

[Rollcall Vote No. 306 Leg.]

YEAS—28

Ashcroft	Gregg	Nickles
Campbell	Hagel	Roth
Cochran	Helms	Santorum
Collins	Hutchinson	Shelby
Coverdell	Hutchison	Smith (NH)
D'Amato	Jeffords	Stevens
Faircloth	Lott	Thomas
Gramm	Mack	Torricelli
Grams	McConnell	
Grassley	Murkowski	

NAYS—69

Abraham	Domenici	Leahy
Akaka	Dorgan	Levin
Allard	Durbin	Lieberman
Baucus	Enzi	Lugar
Bennett	Feingold	McCain
Biden	Feinstein	Mikulski
Bingaman	Ford	Moseley-Braun
Bond	Frist	Moynihan
Boxer	Gorton	Murray
Breaux	Graham	Reed
Brownback	Harkin	Reid
Bryan	Hatch	Robb
Bumpers	Inhofe	Roberts
Burns	Inouye	Rockefeller
Byrd	Johnson	Sarbanes
Chafee	Kempthorne	Sessions
Cleland	Kennedy	Smith (OR)
Coats	Kerrey	Snowe
Conrad	Kerry	Thompson
Craig	Kohl	Thurmond
Daschle	Kyl	Warner
DeWine	Landrieu	Wellstone
Dodd	Lautenberg	Wyden

NOT VOTING—3

Glenn	Hollings	Specter

The motion to lay on the table the amendment (No. 3719), as modified, as amended, was rejected.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Arizona.

Mr. McCAIN. Mr. President, first of all, let me say for my colleagues where we are on this bill.

We believe that we had an agreement that there would be this vote on the Murkowski amendment to table, and then we would proceed to adopt a previously agreed to amendment that had been agreed to by the Senator from North Dakota who has been managing the bill and others that have been involved in the legislation. Apparently, that was not agreed to by the Senator

from Florida who intends to at least at this time challenge on the issue of germaneness the amendment that the Senator from North Dakota, the Senator from Oregon, I, the Senator from Wyoming, and others had agreed to, which has to do with the definition of what are discriminatory taxes.

This, obviously, germane point of order would carry, or there is a likelihood that it would. That would reduce the effectiveness or the impact of this bill to the point where it would be nearly meaningless.

The Senator from Florida has told me that he will work overnight with us and with others to try to craft some agreement or relook at the entire issue. I hope that he will do so.

After the vote at 11 tomorrow on VA-HUD, I will then propose amendment No. 3711. At that time, if the Senator from Florida still wishes to, obviously he can challenge the amendment on point of order concerning whether the amendment is germane or not.

Mr. President, I think everybody realizes how important this legislation is. I would very much hate to see it derailed at this point in time.

But the amendment, 3711, is vital to this legislation. Some may ask why we didn't propose it earlier. That is because it was part of a package of negotiation that we were in with the Senator from North Dakota, and others.

I respect the right of the Senator from Florida to object on germaneness grounds. That is his right as a Senator. I do not challenge that.

Mr. WYDEN. Will the Senator yield?

Mr. MCCAIN. I ask unanimous consent to yield to the Senator from Oregon without losing my right to the floor.

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

Mr. WYDEN. I will be very brief, I say to the chairman and colleagues. The hour is late.

All we seek to do is to have technological neutrality. We are not going to tax catalogs. We also don't want to tax web sites. That is all this is about—preventing that kind of discriminatory tax.

I thank the chairman for yielding.

Mr. MCCAIN. Mr. President, these things happen as we consider legislation. There are very strongly held views on this issue, especially by the Senator from Florida who, as a former Governor, understands the impact of these issues on his State. I understand that and appreciate that. But I want to be clear that my interpretation and that of the Senator from Oregon and the proponents of this legislation are that if we do not allow the amendment 3711, then the legislation itself would be rendered largely meaningless.

MORNING BUSINESS

Mr. MCCAIN. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 5 minutes each.

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

GOVERNMENT PAPERWORK ELIMINATION ACT

Mr. ABRAHAM. Mr. President, I rise today to speak about S. 2107, the Government Paperwork Elimination Act, a bill I introduced in April along with Senators WYDEN, MCCAIN and REED. This bill has been added as an amendment to the Internet Tax Freedom Act and I want to thank Senators MCCAIN and HOLLINGS and Senator THOMPSON, for taking the time and effort to work with me in advancing this legislation. Without their active support and participation, this bill would not have progressed as far as it has.

This bill amends the Paperwork Reduction Act of 1980 to allow for the use of electronic submission of Federal forms to the Federal government with the use of an electronic signature within five years from the date of enactment. It is intended to bring the federal government into the electronic age, in the process saving American individuals and companies millions of dollars and hundreds of hours currently wasted on government paperwork.

The bill also includes provisions to protect the private sector and ensure a level playing field for companies competing in the development of electronic signature technologies. It mandates that regulations promulgated by the Office of Management and Budget and the National Telecommunications and Information Administration be compatible with standards and technologies used commercially. This will ensure that no one industry or technology receives favorable consideration.

The bill also requires Federal agencies to accept multiple methods of electronic submission if the agency expects to receive 50,000 or more electronic submittals of a particular form. This requirement will ensure that no single electronic signature technology is permitted to unfairly dominate the market.

This legislation also takes several steps to help the public feel more secure in the use of electronic signatures. If people are going to send money or share private information with the government, they must be secure in the knowledge that their information and finances are adequately protected. For this reason, my bill requires that electronic signatures be as reliable as necessary for any given transaction. If a person is requesting information of a public nature, a secure electronic signature will not be necessary. If, however, an individual is submitting forms which contain personal, medical or financial information, adequate security is imperative and will be available.

This is not the only provision providing for personal security, however. Senator LEAHY joined me to help establish a threshold for privacy protection in this bill. The language developed by Senator LEAHY and I will ensure that information submitted by an individual can only be used to facilitate the electronic transfer of information unless it has the prior consent of the individual.

Also included is a provision establishing legal standing for electronically submitted documents. Such legal authority is necessary to attach the same importance to electronically signed documents as is attached to physically signed documents. Without this provision, electronic submission of sensitive documents would be impossible.

Finally, Mr. President the Government Paperwork Elimination Act requires that Federal agencies send individuals an electronic acknowledgement of their submission when it is received. Such acknowledgements are standard when conducting commerce online. A similar acknowledgement by Federal agencies will provide piece-of-mind for individuals which conduct electronic business with the government.

As much as individuals will benefit from this legislation, so too will American businesses. By providing companies with the option of electronic filing and storage, this bill will reduce the paperwork burden imposed by government on commerce and the American economy. It will allow businesses to move from printed forms they must fill out using typewriters or handwriting to digitally-based forms that can be filled out using a word processor. The savings in time, storage and postage will be enormous. One company, computer maker Hewlett-Packard, estimates that the section of this bill permitting companies to download copies of regulatory forms to be filed and stored digitally rather than physically will, by itself, save that company $1–2 billion per year.

Efficiency in the federal government itself will also be enhanced by this legislation. By forcing Government bureaucracies to enter the digital information age we will force them to streamline their procedures and enhance their ability to maintain accurate, accessible records. This should result in significant cost savings for the federal government as well as increased efficiency and enhanced customer service.

Each and every year, Mr. President, Americans spend 6.6 billion hours simply filling out, documenting and handling government paperwork. This huge loss of time and money constitutes a significant drain on our economy and we must bring it under control. The easier and more convenient we make it for American businesses to comply with paperwork and reporting requirements, the better job they will do of meeting these requirements, and the better job they will do of creating jobs and wealth for our country. That is why we need this legislation.

The information age is no longer new, Mr. President. We are in the midst of a revolution in the way people do business and maintain records. This legislation will force Washington to catch up with these developments, and

release our businesses from the drag of an obsolete bureaucracy as they pursue further innovations. The result will be a nation and a people that is more prosperous, more free and more able to spend time on more rewarding pursuits.

I want to thank my colleagues in the Senate for their support and urge the House to support this important legislation.

COMMERCIAL SPACE ACT OF 1998

Mr. KYL. Mr. President, I would like to engage the Chairman in a colloquy regarding a provision of the Commercial Space Act of 1998. It is my understanding that Section 202(b)(6) of the Land Remote Sensing Policy Act of 1992, which requires any company receiving a license to operate a remote sensing system to ''notify the Secretary [of Commerce] of any agreement the licensee intends to enter with a foreign nation,'' is amended by the Commercial Space Act of 1998 by inserting the words ''significant or substantial'' after ''Secretary of any.'' This is intended to limit the agreements which are reported to the Department of Commerce. As you know, the Congress has acted in the past to limit imagery of Israel. I would like to clarify that any agreement or contract permitting any imaging of Israel using commercially available, satellite-based remote sensing technology would fall under the definition of ''significant or substantial.'' Is this the Chairman's understanding?

Mr. MCCAIN. I thank the Senator. It is certainly my intention that any agreement permitting the imaging of Israel using commercially available, satellite-based remote sensing technology will continue to be reported to the United States government for review. The Congress has indicated that it viewed imaging of Israel to be a significant matter, and the intent of this legislation is to make sure that any agreement that could lead to imaging Israel will be reported.

Mr. KYL. I thank the Senator.

ALLEVIATING INTERNATIONAL FAMINE WITH AMERICAN SURPLUS

Mr. BIDEN. Mr. President. Today I address an issue of extreme importance to both citizens of the United States, and people around the globe.

It is not often that we have the opportunity to help those in other countries and Americans at the same time. I believe that one of these occasions presents itself now.

In every area of the world, there are men, women and children in desperate need of food. Some of them are refugees from wars and other forms of political violence. Some of them are displaced because droughts or floods have interfered with their ability to grow food and destroyed their homes. Others are simply too poor to be able to afford the tools and seeds necessary to plant crops.

This year has been particularly difficult in a variety of places. Most recently, hurricane Georges has ravaged the Caribbean. Nations such as Haiti, where the population is barely able to feed itself, and the Dominican Republic have been heavily damaged by the storm's onslaught.

Countries in Eastern Europe are experiencing food shortages. Winter is coming to Kosovo, where the Serbian Special Police and Yugoslavian army continue a terrorist policy that has destroyed more that three hundred villages, and driven more than 300,000 ethnic Albanians from their homes, with an estimated 50,000 forced into forests and mountains. With good reason, these people are afraid to return to the villages which have been destroyed and vandalized by the Serbian army. They have left the only means they have of supporting themselves behind. As a result, if we in the international community do not help them, they will not be able to feed themselves.

Russia faces a sharp decrease in agricultural production, due to drought and other poor weather conditions. Approximately twenty-five percent of farmland was damaged. Consequently, this year's harvest will be Russia's worst in four decades. Collective farms have harvested only a little over half the amount of grain in this year's harvest as they did in 1997. The potato crop, one of Russia's staples, is down significantly due to potato blight.

The Asian economic crisis is having a significant impact on the ability of those states to feed themselves. Indonesia, with its current financial turmoil is in need of food. Asian countries which normally import American commodities are unable to do so this year, exacerbating our farmers' woes.

The situation in North Korea remains grave. Floods, droughts and other natural disasters in the past four years have left many without the ability to feed themselves. Malnutrition and related diseases are common throughout the land. One million people have died in North Korea over the past two years.

Due to climactic conditions and political unrest, there are many in need in Africa. In Sudan alone, experts have indicated that as many as 2.6 million people may go hungry. Mozambique is facing a food crisis which will affect 300,000 people until April of next year. In the northern portions of Sierra Leone, thousands of internally displaced people will face hunger, if not starvation, unless they are provided with aid.

Here in the United States we face a challenge of a different sort. Far from suffering from a lack of food, American farmers are producing an abundance. Unfortunately, U.S. agricultural exports are expected to decline 4.6 percent from projected 1998 levels, mainly because of the collapse of global markets.

One third of the family farmers in this country may go out of business in the next several years, with net farm income projected to decrease by $7.5 billion in 1998. We have the food. All we are lacking is strong markets to buy what we are producing.

Common sense tells us that it is time to bring together our oversupply of domestic agricultural products and the growing international need for food aid. One way to do that is to increase shipments of U.S. agricultural products to countries in need.

In July of this year, the President took steps to do just that, creating the Food Aid Initiative. This initiative directs the Department of Agriculture to purchase 80 million bushels of grain for distribution to poor countries overseas. The Secretary of Agriculture announced the first disbursement of wheat and wheat flour under the Initiative to the World Food Program on September 15th. I applaud the Administration's creation of this Initiative. The potential of this program in combination with other U.S. food assistance programs to provide relief to hungry people is great, and I support the President's efforts.

However, we can and should do more. To begin with, the list of countries that the administration has targeted through the Initiative should be expanded. Last week I wrote to Secretary of State Madeleine Albright, Secretary of Agriculture Dan Glickman and Brian Atwood, the Administrator of the Agency of International Development. In those letters, I indicated among other things, that threatened food shortages in Kosovo and Russia must not go unaddressed.

Not only must we be sure that more countries are being given much needed food, we must be assured that those who are hungry are actually receiving the food. Unfortunately, in some instances, access to food donations is prevented by people in needy nations who either want the food themselves, wish to profit from victims of famine or wish to control the needy population by denying them life's most basic necessities.

In addition to donating to more countries, we should donate more food. According to the United States Department of Agriculture, in the United States today there is a surplus of 6.3 million metric tons or 233 million bushels of wheat. There are several programs through which we can help solve both our domestic and our international problems.

The first is the Agricultural Trade Development and Assistance Act of 1954, commonly referred to as P.L. 480, Food for Peace. This legislation contains three food aid titles. Title One's objective is to make it easier for lesser developed countries to buy American commodities. To this end, commodities are sold to certain countries for US dollars on concessional credit terms.

Title Two is the Emergency and Private Assistance Programs. This is

where the bulk of our humanitarian donations in the form of food aid come from. This year Title Two was funded at the level that the president requested. Unfortunately, given the number of humanitarian disasters that we are currently facing, this may not be enough. It is my hope that the President will ask for more money for this program.

Title Three is the Food for Development Program, under which government to government grants are provided to support the long-term development efforts of those countries that are attempting improve their economic outlooks.

The second program through which we can help address the domestic and overseas challenges we are facing is Section 416(b) of the Agricultural Act of 1949. Through Section 416(b), commodities held by the Commodities Credit Corporation can be donated overseas. This is the program through which the President ordered the purchase of $250 million of wheat in July.

The Food for Progress Act of 1985 is the third program the United States can utilize to address both the American farm crises and dire international need. Food for Progress provides commodities either purchased with funds from the Commodity Credit Corporation, or through P.L. 480 or Section 416(b), as donations to countries that are committing to the increase of free enterprise practices in their agricultural sectors.

I strongly support an aggressive funding of these programs, and have urged the administration to be aggressive in its requests to the Congress as it evaluates the increasing needs overseas and the opportunity to assist our farmers here at home. If we diligently pursue all of our options through current law, I believe that we can help alleviate two very significant and pressing problems. The overabundance of agricultural commodities plaguing American farmers, and the lack of food for starving millions abroad.

I urge my colleagues in Congress consider the full range of resources and programs at our disposal to help end the dilemma facing the farmers of our nation. Implementing a solution to this problem will require that we use all of the creativity and energy that we have. Every day brings us closer to real crises not only in our farm economy, but also in countries important to our national interest.

Such aid is not only clearly in our interest. It would reflect our highest values by preventing the widespread hunger and suffering of men, women and children who had no hand in the tragedies that have befallen their countries.

Again, I urge my colleagues to give this issue prompt and serious attention. I thank the chair and yield the floor.

EDWARD PFEIFER

Mr. LEAHY. Mr. President, recently a publication from St. Michael's College in Winooski Park, Colchester, VT, profiled Professor Edward Pfeifer. Dr. Pfeifer is referred to as ''Historian Ed Pfeifer, '43.'' I have always thought of Ed Pfeifer as the special mentor I had in college and the man who did so much to shape my thinking and my life after college.

He was the kind of professor who not only helped you learn, but taught you to want to learn. He would find students he could mentor and introduce them to the joys of learning. Fortunately, I was one of those students and I have benefited from his help every day since.

Ed and his wife, Joan, are now retired in Vermont. One of the great pleasures Marcelle and I have is when we end up in the same place with them, ranging from events at St. Michael's, to meeting in the grocery store near our own home in Vermont.

Mr. President, I ask unanimous consent that the article from St. Michael's Founders Hall, September 1998, be printed in the RECORD.

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

[From St. Michael's Founders Hall, Sept., 1998]

HISTORIAN ED PFEIFER '43

(By Buff Lindau)

Nine-year old Eileen Gadue had to write an essay explaining why she needed a new trunk to take her sneakers, swim suit, tennis racket, and other belongings to summer camp. She didn't know it, but she had Ed Pfeifer to thank.

Eileen's parents, Mark and Marjorie Gadue '79, of Colchester, Vt., were both students of SMC Emeritus Professor of History Edward Pfeifer '43 in the 1970's. They have shaped their lives and their children's lives on Pfeifer's patient insistence on developing ideas, supporting those ideas, researching to back them, and working carefully with language to clarify and defend the ideas.

After the fifth draft of her essay and repeated discussions with Dad, Eileen got the new trunk.

''He taught us life skills and we teach our kids as we learned from him,'' said Marjorie. ''He was someone who made a real difference.'' All his students say that Dr. Pfeifer taught reading, thinking, debating, clear defending of ideas, and taught with a hard to define skill that included quiet patience, kindness, and intellectual rigor.

Mark Gadue graduated as a history major from Saint Michael's in 1979 and almost headed to get his Ph.D., but entered the family dry cleaning business instead.

Pfeifer students Gary Kulik '67, Joseph Constance '76, Francis MacDonnell '81, Gayle Brunelle '81, and Jonathan Bean '84 were inspired to aim for the professorial ranks as a result of their experience in Pfeifer's classroom. ''I took a number of years off after college, but he influenced me to go back to graduate school and I am ultimately following in his footsteps,'' said Bean, who was unanimously voted in May to receive early tenure as a history professor at Southern Illinois University. Bean, who took at least 10 courses with Pfeifer, models his teaching on Pfeifer's style of methodically eliciting student response. Bean is the author of Beyond the Broker State: Federal Policies Toward Small Business, 1936–1961.

Pfeifer says it was his goal to get a response from students about the historical material they were studying, ''something that was their own comment that reflected their own evaluation.'' But the magic of Pfeifer as a teacher resides in the method and manner he brought to the classroom to get the students engaged, to elicit their response.

To Fran MacDonnell, a teacher who earned his master's in history at Marquette and his Ph.D. at Harvard, ''Dr. Pfeifer is in the handful of teachers that you admire and like to imitate and that you owe a lot to. ''He had three, one-year appointments teaching history at Yale University, and now he and his wife live in Lexington, Va., where she teaches and he finishes his second book—a study of white southerners who fought in the Union Army during the Civil War. (His first book is titled Insidious Foes: The Axis Fifth Column and the American Home Front.) ''I can think of no greater legacy than the one Ed Pfeifer gave his students—I mean Professor Pfeifer taught my dad'' (Dr. Kenneth MacDonnell '57 a Boston physician), MacDonnell said. He gave his students the drive to think independently, and confidence in expressing their thoughts.

Pfeifer was a master Socratic teacher, which meant using the Q & A method to guide the student, leaving room for different opinions and approaches and calling for conclusions from the student. ''That is the hardest kind of teaching, yet the one with the most rewards for the student,'' MacDonnell said, who aspires to Pfeifer's method.

Joe Constance concurs, ''Dr. Pfeifer was probably the finest practitioner of the Socratic method that you'll ever find as a teacher—getting the student to arrive at the answer,'' and encouraging you as you progressed. Constance says Pfeifer also inspired him to pursue the intellectual life; he earned a master's in history at UVM and a library degree at SUNY Albany. Constance is now library director and political science professor at St. Anselm College, and is pursuing his Ph.D. in political science at Boston University.

''I asked Dr. Pfeifer a question in class one morning about a trade agreement between Peru and Bolivia and he didn't know the answer,'' Constance related. ''That afternoon I found a note in my mailbox from him with the answer to the question—I've never been so impressed with a teacher before or after.''

Pfeifer's students all describe him as extremely kind and concerned about them as individuals. They suggest that his influence creeps up on you quietly and takes strong hold, rather than hammering you. He was a model teacher and scholar, one student said; fairness, balance, objectivity characterized him. But there was humor—droll, quiet, dry—but a key element in his make-up that emerged unexpectedly.

In 1986 Edward Pfeifer retired with his wife Joan Sheehey Pfeifer to Cabot, Vt. He says he now has time to keep up with his four children, chase after his grandchildren and mow lots of grass. Because his teaching touched many who have gone on to become teachers, Dr. Pfeifer's legacy multiplies beyond his own classroom into the lives of students in university classrooms from New Hampshire to Illinois to California. Ed's son and daughter are graduates: John '85 and Justine '84 who is married to Frank Landry '82. His brother, Charles '43 is deceased.

EDWARD PFEIFER PROFILE

Pfeifer graduated from Saint Michael's in 1943 with a degree in English, and served in WWII in the U.S. Navy, 1943–46. He earned a master's in American civilization from Brown University in 1948 and then joined the SMC English department. He served in the Navy during the Korean War, 1951–53, and returned to Brown in 1954, where he earned a

Ph.D. in American Studies in 1957. Focusing on the history of science he wrote a dissertation titled. The Reception of Darwinism in the U.S.. 1859–1880. He rejoined the SMC history department in 1956, and created the interdisciplinary American studies major.

Pfeifer was vice president for academic affairs and dean of the College from 1969 to 1974, and was awarded the first SMC faculty appreciation award ever given, in 1966. He received the award again in 1967 and 1982. Pfeifer retired in 1986 and the SMC yearbook was dedicated in his name, yearbook editor, Linda Robitaille '86 said, ''He was kind to his students, he awed us, he was remarkably concerned with helping us learn.''

ROBERT LANCTOT

Mr. LEAHY. Mr. President, my very good friend, Robert Lanctot, died after a courageous bout with cancer. Bob, and his wife Betty, were two very special friends of my wife and I.

When I first ran for the Senate in 1974, Bob helped me in an area of the state where no Democrat could ever expect to get votes. Everybody told him I couldn't win, but he persevered and not only did I win, but went on in subsequent elections to carry the area significantly. I have always felt that a large part of that was do to Bob Lanctot.

Notwithstanding our close friendship, Bob never requested anything for himself or his family from me. He did, however, continuously speak out for those people who did not have a strong voice in Washington. He truly believed in helping working families and those who have always made our state and our country strong. We have lost a special Vermonter, and I ask unanimous consent that the obituary from the Caledonia' Record be printed in the RECORD.

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

[From the Caledonian-Record, Sept. 21, 1998]

LANCTOT: Robert ''Bob'' L. Sr., 77, formerly of Peacham and St. Johnsbury, died at his daughter and son-in-law's home in Waterford Sunday morning, Sept. 20, 1998.

He was born in St. Johnsbury Feb. 28, 1921, the last surviving child of Archie and Ann (Brunelle) Lanctot. He married Betty L. Farnham; together they raised six children. Betty predeceased him, Sept. 12, 1996, and the oldest son Robert predeceased his mother in January of 1996.

Bob was a great believer in the rights of the common worker. He was president of the Northeast Kingdom Labor Council for a number of years, served as vice president of the state labor council, and was a very active member of local 5518. He was the delegate to the state labor convention for the last 25 years and was recognized by the Vermont State labor council AFL–CIO for his significant contributions to that organization, the labor movement and Vermont working families. Bob was a working Vermonter, retiring from Vermont America in 1982.

Bob was a strong Democrat. He was an active and valuable member of the Caledonia County Democratic committee. He held many positions over the years with the Vermont State Democratic Party, including the platform committee, and most recently served on the state executive board.

He was a veteran of World War II and a member of Sheridan Council 421 Knights of Columbus. He also served on the board of directors of NEKCA and Vermont State Council on Alcoholism.

He is survived by five children, Patricia Ann Salomonson of Manchester, N.H., James Lanctot and wife Kathy of Lyndonville, Judith Syx of Hartland, Richard Lanctot of Burlington, and Elaine Robinson and husband Thomas of Waterford; 14 grandchildren and 10 great-grandchildren; a daughter-in-law, Judy Woods Lanctot of Jamaica Plain, Mass.; several nieces and nephews and a multitude of friends. He was predeceased by brothers Lester, Philip and William, and a sister Agnes.

A funeral Mass will be celebrated Wednesday at 11 a.m. at St. John's Church. Burial will be at the convenience of the family at Peacham Cemetery. Visiting hours will be held at the funeral home Tuesday from 6–8 p.m.

Memorial contributions, marked for hospice, may be directed to Caledonia Home Health & Hospice, P.O. Box 383, St. Johnsbury, VT 05819.

Arrangements are by Sayles Funeral Home, 68 Summer St., St. Johnsbury.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING OCTOBER 2

Mr. HELMS. Mr. President, the American Petroleum Institute reports that for the week ending October 2 the U.S. imported 7,925,000 barrels of oil each day, 1,567,000 barrels a day less than the 9,492,000 imported during the same week a year ago.

While this is one of the rare weeks when Americans imported slightly less foreign oil than the same week a year ago, Americans still relied on foreign oil for 55.7 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States imported about 45 percent of its oil supply from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America s oil supply.

All Americans should ponder the economic calamity certain to occur in the U.S. if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.: now 7,925,000 barrels a day at a cost of approximately $110,870,750 a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, October 6, 1998, the federal debt stood at $5,536,217,307,823.51 (Five trillion, five hundred thirty-six billion, two hundred seventeen million, three hundred seven thousand, eight hundred twenty-three dollars and fifty-one cents).

One year ago, October 6, 1997, the federal debt stood at $5,413,433,000,000 (Five trillion, four hundred thirteen billion, four hundred thirty-three million).

Five years ago, October 6, 1993, the federal debt stood at $4,404,063,000,000 (Four trillion, four hundred four billion, sixty-three million).

Ten years ago, October 6, 1988, the federal debt stood at $2,622,288,000,000 (Two trillion, six hundred twenty-two billion, two hundred eighty-eight million).

Fifteen years ago, October 6, 1983, the federal debt stood at $1,385,380,000,000 (One trillion, three hundred eighty-five billion, three hundred eighty million) which reflects a debt increase of more than $4 trillion—$4,150,837,307,823.51 (Four trillion, one hundred fifty billion, eight hundred thirty-seven million, three hundred seven thousand, eight hundred twenty-three dollars and fifty-one cents) during the past 15 years.

NRA'S ''REFUSE TO BE A VICTIM'' IS A VALUABLE, SENSIBLE PROGRAM

Mr. HELMS. Mr. President, the Department of Justice confirms that in the United States there was a rape for every 270 women, a robbery for every 240 women and an assault for every 29 women in 1994. (In the three year period from 1992–94, the number of violent crimes committed against our wives, sisters, mothers, and daughters totaled nearly 14 million.)

In response to statistics like these, the women of the National Rifle Association created the ''Refuse to be a Victim'' program five years ago. The basic premise of the program can be summed up by an old saying—an ounce of prevention is worth a pound of cure. The course teaches women not to live in fear of threats, but rather, to respect likely threats and prepare to avoid or effectively respond to them.

The centerpiece of the ''Refuse to be a Victim'' program is a three-hour public service safety seminar designed by, taught by, and presented to women in order to help them protect themselves. Since its inception, this common sense safety and self-defense program has been presented in 35 states and the District of Columbia. More than 600 instructors, including 9 in North Carolina, have trained and empowered thousands of women to protect themselves and their families.

Mr. President, the course equips women with the tools they need to design their own personal safety strategy. By increasing awareness of dangerous situations and providing knowledge of self-protection techniques and crime-fighting and personal safety resources, the program maximizes its participants ability to successfully avoid or, in the worst case, survive an attack.

The program features practical but frequently overlooked advice on home security such as the installation of effective lock and security systems, planting ''defensive'' shrubbery around windows, and keeping a cellular phone by the bedside in case an intruder disables your home phone. It also provides information on how to avoid being a victim of a car-jacker as well as the proper and safe use of personal safety

devices such as alarms, sprays, stun guns and firearms.

For those unable to attend a seminar personally, the program has distributed more than 200,000 of the informative ''42 Strategies for Personal Safety'' brochures nationwide.

Mr. President, the women of the NRA are to be commended for the development of this important program. The contributions of the ''Refuse to be a Victim'' program are indeed impressive. This program is a fine example of the type of pro-active safety and security training that the National Rifle Association has long provided to our citizens. I hope that women in every part of our great nation will consider participating in this outstanding program and, in so doing, join the more than ten thousand women who have already benefited from it.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 9:48 a.m., the message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagrees to the amendment to the Senate to the bill (H.R. 4276) making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1999, and for other purposes, and agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. ROGERS, Mr. KOLBE, Mr. TAYLOR of North Carolina, Mr. REGULA, Mr. LATHAM, Mr. LIVINGSTON, Mr. YOUNG of Florida, Mr. MOLLOHAN, Mr. SKAGGS, Mr. DIXON, and Mr. OBEY as the managers of the conference on the part of the House.

At 4:04 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate

H.R. 1794. An act for the relief of Mai Hoa ''Jasmin'' Salehi.

H.R. 1834. An act for the relief of Mercedes Del Carmen Quiroz Martinez Cruz.

H.R. 4259. An act to allow Haskell Indian Nations University and the Southwestern Indian Polytechnic Institute each to conduct a demonstration project to test the feasibility and desirability of new personnel management policies and procedures, and for other purposes.

The message also announced that the House agrees to the report of the committee of conference on the disagreeing votes of the two votes of the two Houses on the amendment of the Senate to the bill (H.R. 3694) to authorize appropriations for fiscal year 1999 for intelligence and intelligence-related activities of the United States Government, the Community Management Account, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

ENROLLED BILLS SIGNED

The House further announced that the Speaker has signed the following enrolled bills:

S. 314. An act to provide a process for identifying the functions of the Federal Government that are not inherently governmental functions, and for other purposes.

H.R. 449. An act to provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

H.R. 930. An act to require Federal employees to use Federal travel charge cards for all payments of expenses of official Government travel, to amend title 31, United States Code, to establish requirements for prepayment audits of Federal agency transportation expenses, to authorize reimbursement of Federal agency employees for taxes incurred on travel or transportation reimbursements, and to authorize test programs for the payment of Federal employee travel expenses and relocation expenses.

H.R. 1481. An act to amend the Great Lakes Fish and Wildlife Restoration Act of 1990 to provide for implementation of recommendations of the United States Fish and Wildlife Service contained in the Great Lakes Fishery Resources Restoration Study.

H.R. 1836. An act to amend chapter 89 of title 5, United States Code, to improve administrative sanctions against unfit health care providers under the Federal Employees Health Benefits Program, and for other purposes.

The enrolled bills were signed subsequently by the President pro tempore (Mr. THURMOND).

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–7297. A communication from the Chairman of the Board of Governors of the Federal Reserve System and the Chairman of the U.S. Securities and Exchange Commission, transmitting, pursuant to law, a report entitled ''Markets for Small Business and Commercial Mortgage Related Securities''; to the Committee on Banking, Housing, and Urban Affairs.

EC–7298. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled ''Medicare Program; Hospice Wage Index'' (RIN0938–AI87) received on October 2, 1998; to the Committee on Finance.

EC–7299. A communication from the Chief of the Regulations Unit, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled ''Classification of Certain Transactions Involving Computer Programs'' (RIN1545–AU70) received on October 2, 1998; to the Committee on Finance.

EC–7300. A communication from the Interim District of Columbia Auditor, transmitting, pursuant to law, a report entitled ''Statutory Audit of the District's Depository Activities for Fiscal Years 1996 and 1997''; to the Committee on Governmental Affairs.

EC–7301. A communication from the Chairman of the District of Columbia Financial Responsibility and Management Assistance Authority, transmitting, pursuant to law, a report entitled ''Fiscal Year 1999 Performance Accountability Plan for the District of Columbia''; to the Committee on Governmental Affairs.

EC–7302. A communication from the Deputy Associate Administrator for Acquisition Policy, General Services Administration, transmitting, pursuant to law, the report of a rule entitled ''Federal Acquisition Regulation; Reform of Affirmative Action in Federal Procurement'' (RIN9000–AH59) received on October 2, 1998; to the Committee on Governmental Affairs.

EC–7303. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Trawl Vessels Using Nonpelagic Trawl Gear in the Bering Sea and Aleutian Islands'' (I.D. 092898A) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7304. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pollock by Trawl Vessels Using Nonpelagic Trawl Gear in Bycatch Limitation Zone 1 of the Bering Sea and Aleutian Islands'' (I.D. 092898E) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7305. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod in the Western Regulatory Area of the Gulf of Alaska'' (I.D. 092298B) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7306. A communication from the Acting Deputy Director of the National Institutes of Standards and Technology, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Upgrading of the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB) Accreditation Manual'' (RIN0693–ZA21) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7307. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Transportation Equity Act for the 21st Century; Implementation for Participation in the Value Pricing Pilot Program'' (Docket 98–4300) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7308. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Occupant Protection Incentive Grants'' (Docket 98–4496) received

on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7309. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Regulated Navigation Area; Strait of Juan de Fuca and Adjacent Coastal Waters of Washington; Makah Whale Hunting'' (RIN2115–AE84) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7310. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Special Local Regulations; Columbus Day Regatta Sailboat Race, Miami, Florida'' (RIN2115–AE46) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7311. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Safety Zone; Gulf of Alaska; Southeast of Narrow Cape, Kodiak Island, Alaska'' (RIN2115–AE97) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7312. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Lifesaving Equipment'' (RIN2115–AB72) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7313. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Security for Passenger Vessels and Passenger Terminals'' (RIN2115–AD75) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7314. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rolls-Royce Limited, Aero Division—Bristol/S.N.E.C.M.A. Olympus 593 Series Turbojet Engines'' (Docket 98–ANE–07–AD) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7315. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Rain and Hail Ingestion Standards; Correction'' (Docket 28652) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7316. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule regarding airworthiness directives on various Twin Commander Aircraft Corporation model airplanes (Docket 97–CE–57–AD) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7317. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Maule Aerospace Technology Corp. M–4, M–5, M–6, M–7, MX–7, and MXT–7 Series Airplanes and Models MT–7–235 and M–8–235 Airplanes; Correction'' (Docket 98–CE–01–AD) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7318. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Israel Aircraft Industries (IAI), Ltd., Model 1121, 1121A, 1121B, 1123, 1124, and 1124A Series Airplanes'' (Docket 98–NM–108–AD) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7319. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Raytheon Aircraft Company 200 Series Airplanes'' (Docket 98–CE–17–AD) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7320. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Trenton, MO'' (Docket 98–ACE–38) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7321. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Wellington, KS'' (Docket 98–ACE–42) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7322. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Ulysses, KS'' (Docket 98–ACE–41) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7323. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Pittsburg, KS'' (Docket 98–ACE–40) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7324. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Great Bend, KS'' (Docket 98–ACE–39) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7325. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; West Plains, MO'' (Docket 98–ACE–37) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7326. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Amendment to Class E Airspace; Wichita Mid-Continent Airport, KS'' (Docket 98–ACE–36) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7327. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Establishment of Class E Airspace; Villa Rica, GA'' (Docket 98–ASO–9) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7328. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments—No. 1892'' (Docket 29344) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7329. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Standard Instrument Approach Procedures; Miscellaneous Amendments—No. 1891'' (Docket 29343) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7330. A communication from the General Counsel of the Department of Transportation, transmitting, pursuant to law, the report of a rule entitled ''Airworthiness Directives; Boeing Model 737–100, –200, –300, –400, and –500 Series Airplanes'' (Docket 98–NM–254–AD) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7331. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting; Temporary Approval of Tungsten-polymer Shot as Nontoxic for the 1998–99 Season'' (RIN1018–AE66) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7332. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Migratory Bird Hunting; Extension of Temporary Approval of Tungsten-Iron Shot as Nontoxic for the 1998–99 Season'' (RIN1018–AE35) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7333. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Determination of Endangered or Threatened Status for Four Southwestern California Plants from Vernal Wetlands and Clay Soils'' (RIN1018–AL88) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7334. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Determination of Endangered or Threatened Status for Five Desert Milk-vetch Taxa from California'' (RIN1018–AB75) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7335. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Endangered or Threatened Status for Three Plants from the Chaparral and Scrub of Southwestern California'' (RIN1018–AD60) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7336. A communication from the Director of the Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Endangered and Threatened Wildlife and Plants; Determination of Endangered or Threatened Status for Four Plants from Southwestern California and Baja California, Mexico'' (RIN1018–AD38) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7337. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a major rule regarding petroleum refining process wastes previously submitted as a minor rule (FRL6172–3) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7338. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Avermectin; Extension of Tolerance for Emergency Exemptions'' (FRL6033–7) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7339. A communication from the Director of the Office of Regulatory Management

and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Befenthrin; Extension of Tolerance for Emergency Exemptions'' (FRL6034–9) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7340. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Cyproconazole; Pesticide Tolerance'' (FRL6036–9) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7341. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Fludioxonil; Pesticide Tolerances'' (FRL6036–8) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7342. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Glyphosate; Pesticide Tolerance'' (FRL6036–1) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7343. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Imidacloprid; Extension of Tolerance for Emergency Exemptions'' (FRL6037–2) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7344. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Pyridate; Pesticide Tolerance'' (FRL6036–2) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7345. A communication from the Director of the Office of Regulatory Management and Information, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled ''Sethoxydim; Pesticide Tolerances'' (FRL6034–1) received on October 2, 1998; to the Committee on Environment and Public Works.

EC–7346. A communication from the Acting Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, a draft of proposed legislation entitled ''The Body Armor Penalty Enhancement Act''; to the Committee on the Judiciary.

EC–7347. A communication from the Chief of the Programs and Legislation Division, Office of Legislative Liaison, Department of the Air Force, transmitting, pursuant to law, notice of a cost comparison of the base operating support functions at Hill Air Force Base, Utah; to the Committee on Armed Services.

EC–7348. A communication from the Acting Comptroller General of the United States, transmitting, pursuant to law, a list of General Accounting Office reports issued or released in August 1998; to the Committee on Governmental Affairs.

EC–7349. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the Commission's combined annual reports entitled ''Caribbean Basin Economic Recovery Act (CBERA)—Impact on the United States'' and ''Andean Trade Preference Act (ATPA)—Impact on the United States'' for calendar year 1997; to the Committee on Finance.

EC–7350. A communication from the Deputy Secretary of the Securities and Exchange Commission, transmitting, pursuant to law, the report of a rule entitled ''Investment Adviser Year 2000 Reports'' (RIN3235–AH45) received on October 2, 1998; to the Committee on Banking, Housing, and Urban Affairs.

EC–7351. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, the Board's report entitled ''The Profitability of Credit Card Operations of Depository Institutions'' for calendar year 1997; to the Committee on Banking, Housing, and Urban Affairs.

EC–7352. A communication from the Acting Deputy Assistant Administrator for Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Fisheries of the Exclusive Economic Zone Off Alaska; License Limitation Program'' (I.D. 060997A3) received on October 2, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7353. A communication from the Acting Director of the Office of Sustainable Fisheries, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled ''Atlantic Tuna Fisheries; Atlantic Bluefin Tuna'' (I.D. 091198C) received on October 5, 1998; to the Committee on Commerce, Science, and Transportation.

EC–7354. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of M88A2 Tracked Armor Recovery Vehicles to Thailand (DTC 99–98); to the Committee on Foreign Relations.

EC–7355. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of MK 45 gun mounts to Australia (DTC 113–98); to the Committee on Foreign Relations.

EC–7356. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of TOW 2A, TOW 2B, and TOW Practice Missiles to Italy (DTC128–98); to the Committee on Foreign Relations.

EC–7357. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of defense articles and services relative to the manufacture of military vehicle wiring harnesses in Mexico (DTC 133–98) received on October 5, 1998; to the Committee on Foreign Relations.

EC–7358. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, notice of a proposed license for the export of CH–47D helicopters to Australia (DTC 140–98) received on October 5, 1998; to the Committee on Foreign Relations.

EC–7359. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Veterinary Diagnostic Services User Fees'' (Docket 94–115–2) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7360. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Importation of Horses'' (Docket 95–054–3) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7361. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Brucellosis in Cattle; State and Area Classifications; Mississippi'' (Docket 98–097–1) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–7362. A communication from the Congressional Review Coordinator, Animal and Plant Health Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Validated Brucellosis-Free States; South Carolina'' (Docket 98–101–1) received on October 5, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

REPORTS OF COMMITTEE

The following reports of committees were submitted:

By Mr. STEVENS, from the Committee on appropriations:

Special Report entitled ''Further Revised Allocation to Subcommittees of Budget Totals for Fiscal Year 1999'' (Rept. No. 105–373).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (S. 2041) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes (Rept. No. 105–374).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompanying the bill (S. 2140) to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design planning, and construction of the Denver Water Reuse project (Rept. No. 105–375).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (S. 2142) to authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior Bureau of Reclamation, and the Bureau of Indian Affairs, and for other purposes (Rept. No. 105–376).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (H.R. 2402) to make technical and clarifying amendments to improve management of water-related facilities in the Western United States (Rept. No. 105–377).

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Report to accompany the bill (H.R. 4079) to authorize the construction of temperature control devices at Folsom Dam in California (Rept. No. 105–378).

By Mr. CAMPBELL, from the Committee on Indian Affairs, with an amendment in the nature of a substitute:

S. 391: A bill to provide for the disposition of certain funds appropriated to pay judgment in favor of the Mississippi Sioux Indians, and for other purposes (Rept. No. 105–379).

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, without amendment:

H.R. 1023: A bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

By Mr. JEFFORDS, from the Committee on Labor and Human Resources, without amendment:

S. 2564: An original bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEE

The following executive reports of committee was submitted on October 6, 1998:

By Mr. MURKOWSKI, from the Committee on Energy and Natural Resources:

Eljay B. Bowron, of Michigan, to be Inspector General, Department of the Interior.

(The above nomination was reported with the recommendation that he be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. ROBERTS (for himself and Mr. MCCAIN):

S. 2563. A bill to amend title 10, United States Code, to restore military retirement benefits that were reduced by the Military Retirement Reform Act of 1986; to the Committee on Armed Services.

By Mr. JEFFORDS:

S. 2564. An original bill to provide for compassionate payments with regard to individuals with blood-clotting disorders, such as hemophilia, who contracted human immunodeficiency virus due to contaminated blood products, and for other purposes; from the Committee on Labor and Human Resources; placed on the calendar.

By Mr. DURBIN (for himself, Mr. WARNER, Ms. MIKULSKI, Mr. HUTCHINSON, Mr. ROBB, Mr. KENNEDY, and Mr. DEWINE):

S. 2565. A bill to amend the Federal Food, Drug, and Cosmetic Act to clarify the circumstances in which a substance is considered to be a pesticide chemical for purposes of such Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Ms. LANDRIEU (for herself, Mr. MURKOWSKI, Mr. LOTT, Mr. BREAUX, Mr. D'AMATO, Mr. CLELAND, Mr. JOHNSON, Mr. COCHRAN, Ms. MIKULSKI, and Mr. SESSIONS):

S. 2566. A bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WELLSTONE:

S. 2567. A bill to ensure that any entity owned, operated, or controlled by the people's Liberation Army or the People's Armed Police of the People's Republic of China does not conduct certain business with United States persons, and for other purposes; to the Committee on Finance.

By Mr. JEFFORDS (for himself and Mr. DODD):

S. 2568. A bill to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualifying placement agencies, and for other purposes; to the Committee on Finance.

By Mr. GORTON (for himself, Mr. SMITH of Oregon, and Mr. KEMPTHORNE):

S. 2569. A bill to amend the Pacific Northwest Electric Power Planning and Conservation Act to provide for expanding the scope of the Independent Scientific Review Panel; to the Committee on Energy and Natural Resources.

By Mr. KOHL (for himself, Mr. REID, and Mrs. FEINSTEIN):

S. 2570. A bill entitled the ''Long-Term Care Patient Protection Act of 1998''; to the Committee on Finance.

By Mr. LIEBERMAN:

S. 2571. A bill to reduce errors and increase accuracy and efficiency in the administration of Federal benefit programs, and for other purposes; to the Committee on Governmental Affairs.

By Mr. SARBANES:

S. 2572. A bill to amend the International Maritime Satellite Telecommunications Act to ensure the continuing provision of certain global satellite safety services after the privatization of the business operations of the International Mobile Satellite Organization, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG:

S. 2573. A bill to make spending reductions to save taxpayers money; to the Committee on Armed Services.

By Mr. JOHNSON (for himself and Mr. DASCHLE):

S. 2574. A bill for the relief of Frances Schochenmaier; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself and Mr. MOYNIHAN):

S. 2575. A bill to expand authority for programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles to include an option to pay cash for agency-provided parking spaces, and for other purposes; to the Committee on Governmental Affairs.

By Ms. SNOWE (for herself, Ms. MIKULSKI, Ms. COLLINS, Mrs. HUTCHISON, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mrs. BOXER, Mr. DODD, Mr. JEFFORDS, Mr. REID, Mr. D'AMATO, Mr. ROCKEFELLER, Mr. KERREY, Mr. LIEBERMAN, Mr. TORRICELLI, Mr. DURBIN, Mr. SARBANES, Mr. KERRY, Mr. LAUTENBERG, Mr. INOUYE, and Mr. LEAHY):

S. 2576. A bill to create a National Museum of Women's History Advisory Committee; to the Committee on Rules and Administration.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCONNELL:

S. Res. 289. A resolution authorizing the printing of the ''Testimony from the Hearings of the Task Force on Economic Sanctions''; considered and agreed to.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 290. A resolution to authorize representation by Senate Legal Counsel; considered and agreed to.

S. Res. 291. A resolution to authorize representation by Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBERTS (for himself and Mr. MCCAIN):

S. 2563. A bill to amend title 10, United States Code, to restore military retirement benefits that were reduced by the Military Retirement Reform Act of 1986; to the Committee on Armed Services.

MILITARY RETIREMENT READINESS ENHANCEMENT ACT OF 1998

Mr. ROBERTS. Mr. President, a few weeks ago I called the Senate's attention to several issues in the military that are contributing to problems in recruiting and retention of key, midcareer military personnel. Briefly, those issues were as follows:

We are asking the military, significantly smaller than it was during the cold war, to operate and deploy much more frequently.

We are asking the military to deploy on missions that may not be in the vital national interest of this Nation.

We are not paying servicemen and women a salary that is comparable to the pay they could get outside the military for the same skills.

We are not providing quality health care for the families of the military, and we have not provided the promised health care for the retired members of the military.

We are not providing quality housing to all military families.

And we are not providing a retirement program that is adequate to justify a career commitment to the arduous lifestyle and the difficult family separations that are necessary in military life.

Mr. President, I rise today to offer legislation to address military retirement. The bill that I am introducing repeals the Military Reform Retirement Act of 1986, also known as REDUX. This experiment in the military retirement system was introduced in 1986 with the intended purpose—and it was a good one—of encouraging members of the military to stay longer than the popular career of 20 years.

The service chiefs now say that retirement is one of the top reasons that our men and women are leaving the service. The Chairman of the Joint Chiefs of Staff, General Shelton, listed it among the most pressing problems facing the military in retaining key people. The Secretary of Defense has voiced very similar concerns.

Pay is being addressed slowly, including a 3.6 percent pay raise in this defense appropriations bill.

The Department of Defense is working on housing issues that may solve the problems. Problems with the health care programs are very complex and multilayered and requires detailed study to solve. The issue of the high rate of deployments and the quality of

missions rests at the feet of the administration and this Congress and are now the subject of policy debate.

Congress must address, however, the issue of retirement. We must show the men and women of our armed services that we are listening to their concerns and that we deeply care about them, their families and the commitment they make to the defense of this Nation.

While the purpose of this bill is to repeal the 1986 retirement program, I want to emphasize it is not the final solution to the military's retirement problem. I urge the Department of Defense to start a comprehensive study—I think they are—and to examine all creative options to solve the recruitment and retention problems that now face the military.

The repeal of REDUX is only but one option. There may be others. I know that private industry has many creative retirement programs that may serve as part of a final solution. The civilian sector of the Federal Government has long experience in retirement programs. Whatever course we end up taking, the bottom line must be a retirement program that is perceived as fair and adequate by our service men and women.

The fundamental job of the Federal Government is to provide for the security of the Nation. That security begins and ends with people. It is clear that they are sending a strong message that we are letting them down. We are not providing adequately for their welfare and their postmilitary life.

So providing better benefits for members of the military will pay dividends for national security. And, Mr. President, it is the right thing to do. We owe it to our military men and women who are making the personal and family sacrifices to do such an important job. They do an outstanding job under the most difficult of circumstances. It is not too much to ask that we provide adequate support for them and their families.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2563

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

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 10, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the ''Military Retirement Readiness Enhancement Act of 1998''.

(b) REFERENCES TO TITLE 10.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 10, United States Code.

SEC. 2. RETIRED PAY MULTIPLIER.

(a) REPEAL OF REDUCTION FOR LESS THAN 30 YEARS OF SERVICE.—Subsection (b) of section 1409 is amended by striking out paragraph (2).

(b) CONFORMING AMENDMENTS.—(1) Paragraph (1) of such subsection is amended by striking out ''paragraphs (2) and (3)'' and inserting in lieu thereof ''paragraph (2)''.

(2) Paragraph (3) of such subsection is redesignated as paragraph (2).

SEC. 3. ADJUSTMENTS OF RETIRED AND RETAINER PAY TO REFLECT CHANGES IN THE CONSUMER PRICE INDEX.

(a) REPEAL OF REDUCED COLA RATE.—Subsection (b) of section 1401a is amended—

(1) by striking out paragraphs (1), (2), (3), and (4), and inserting in lieu thereof the following:

''(1) GENERAL RULE.—Effective on December 1 of each year, the Secretary of Defense shall increase the retired pay of each member and former member of an armed force by the percent (adjusted to the nearest one-tenth of 1 percent) by which—

''(A) the price index for the base quarter of that year, exceeds

''(B) the base index.''; and

(2) by redesignating paragraph (5) as paragraph (2).

(b) FIRST COLA ADJUSTMENT.—Subsections (c)(3) and (d) of such section are amended by striking out ''who first became a member of a uniformed service before August 1, 1986, and''.

(c) REPEAL OF SPECIAL RULE ON PRO RATING INITIAL ADJUSTMENT FOR POST-1986 REFORM RETIREES.—Subsection (e) of such section is repealed.

(d) CONFORMING AMENDMENTS.—Subsections (f), (g), and (h) of such section are redesignated as subsections (e), (f), and (g), respectively.

SEC. 4. RESTORAL OF FULL RETIREMENT AMOUNT AT AGE 62.

(a) REPEAL.—Section 1410 is repealed.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 is amended by striking out the item relating to section 1410.

SEC. 5. CONFORMING AMENDMENTS FOR SURVIVOR BENEFIT PLAN.

(a) UNREDUCED RETIRED PAY AS BASIS FOR ANNUITY.—Section 1447(6)(A) is amended by striking out ''(determined without regard to any reduction under section 1409(b)(2) of this title)''.

(b) COST-OF-LIVING ADJUSTMENTS AND RECOMPUTATIONS.—Section 1451 is amended by striking out subsections (h) and (i) and inserting in lieu thereof the following:

''(h) ADJUSTMENTS TO BASE AMOUNT FOR COST-OF-LIVING.—

''(1) INCREASES IN BASE AMOUNT WHEN RETIRED PAY INCREASED.—Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the base amount applicable to each participant in the Plan shall be increased at the same time.

''(2) PERCENTAGE OF INCREASE.—The increase shall be by the same percent as the percent by which the retired pay of the participant is so increased.''.

(c) REDUCTION IN RETIRED PAY.—(1) Section 1452 is amended—

(A) in subsection (c), by striking out paragraph (4); and

(B) by striking out subsection (i).

(2) Section 1460(d) is amended by striking out ''or recomputed under section 1452(i) of this title'', or recomputed, as the case may be,'' and ''or recomputation''.

SEC. 6. EFFECTIVE DATE.

This Act and the amendments made by this Act shall take effect on October 1, 1999, and shall apply with respect to retired or retainer pay accruing for months beginning on or after that date.

Mr. MCCAIN. Mr. President, I rise to support and cosponsor the legislation that Senator ROBERTS introduced earlier today that reinstates the 50 percent retirement ''earned benefit'' plan for men and women in the military who retire with 20 years of military service. I also implore the Senate leadership to act quickly on this legislation and move for its swift passage before the 105th Congress adjourns for the year.

Times have changed since 1986. Our economy has prospered, producing historically high levels of employment and resulting in the emergence of a very difficult recruiting and retention environment for the armed services. Maintaining a top-quality force requires a military personnel system that has the flexibility to react quickly to the dynamics of the civilian market, and the leadership and confidence to follow through with critical personnel decisions rather than neglecting them out of fiscal opportunism. Regrettably, this year, first, second, and third-term enlisted retention, pilot and mid-grade officer retention, and recruiting are all short of the goal for each of the services.

Recruiting and retaining quality individuals requires pay scales that adjust to meet prevailing rates rather than fall 14 percent behind comparable civilian pay. It requires adequate funding for recruiting. It requires proper promotion rates—not promotion boards that take five months to process reports of promotion boards, as is the case with the Navy. It requires proper living conditions and morale, welfare and recreation services. It also requires reasonable tours of duty, a higher quality of civilian leadership, and ''role models'' within the leadership who are seen to take service members' quality-of-life concerns to heart.

Reinstatement of the 50 percent retirement plan for career military men and women would serve as an important signal of resolve to our service members that the United States Congress is aware of the shortfall in benefits for those who wear the uniform of their country and is acting to improve those benefits. Last week, the Senate Armed Services Committee heard directly from the Joint Chiefs that restoring retirement benefits is a requirement for recruiting and retaining the qualified individuals we rely on to defend this nation.

General Hugh Shelton, Chairman of the Joint Chiefs of Staff, stated clearly that fixing the military retirement system is a top recommendation for restoring the readiness of our armed forces. Army Chief of Staff General Reimer has written to me that

> . . .the retirement package we have offered our soldiers entering the Army since 1986 is inadequate. Having lost 25 percent of its lifetime value as a result of the 1980's reforms, military retirement is no longer our number one retention tool. Our soldiers and families deserve better. We need to send them a strong signal that we haven't forgotten them.

The military medical health care system, particularly the TRICARE program, has been described by Service

Chiefs as falling far short of what is warranted and needed. We cannot ignore the erosion of retirement and health care benefits, and the resultant impact on retention and readiness. General Reimer writes,

''The loss in medical benefits when a retiree turns 65 is particularly bothersome to our soldiers who are making career decisions.''

From the Service Chiefs' answers, it is highly questionable whether we are meeting any of these requirements. On the contrary, it is clear that there is much work to be done.

Finally, it is demoralizing to the men and women we send into harm's way, and is incomprehensible to the American people, who expect a well-trained and well-equipped force, to witness as many as 25,000 military personnel and their families on food stamps. One tax provision that I have tried to reverse this year excludes uniformed men and women in the military from beneficial tax treatment on the profits resulting from the sale of their homes. We order servicemembers to move from place to place, but we do not afford them the same tax treatment as other U.S. citizens. Should this issue have been permitted to exist for so many years?

Mr. President, we cannot afford to neglect this array of personnel concerns. Let us begin by acting immediately to restore the higher earned benefit plan for retired service members. Senator ROBERTS has offered critical legislation to help reverse the diminishing retention rates that cripple our Armed Services and ultimately diminish their ability to execute our National Military Strategy. On behalf of all men and women who have honorably dedicated their careers to serving this country in uniform, I urge my colleagues to join me in support of this legislation.

By Ms. LANDRIEU (for herself, Mr. MURKOWSKI, Mr. LOTT, Mr. BREAUX, Mr. D'AMATO, Mr. CLELAND, Mr. JOHNSON, Mr. COCHRAN, Ms. MIKULSKI, and Mr. SESSIONS):

S. 2566. A bill to provide Coastal Impact Assistance to State and local governments, to amend the Outer Continental Shelf Lands Act Amendments of 1978, the Land and Water Conservation Fund Act of 1965, the Urban Park and Recreation Recovery Act, and the Federal Aid in Wildlife Restoration Act (commonly referred to as the Pittman-Robertson Act) to establish a fund to meet the outdoor conservation and recreation needs of the American people, and for other purposes; to the Committee on Energy and Natural Resources.

REINVESTMENT AND ENVIRONMENTAL RESTORATION ACT OF 1998

Ms. LANDRIEU. Mr. President, I begin by thanking my colleague from Louisiana Senator BREAUX, a cosponsor on this measure, as well as Senator MURKOWSKI, Senator LOTT, Senator D'AMATO, Senator CLELAND, Senator JOHNSON, Senator COCHRAN, Senator SESSIONS and Senator MIKULSKI as cosponsors of this measure, and also thank the many leaders on the House side that are today introducing this bill on the House side.

Surely, with the time so short, we will not be considering this bill in this session, but we plan for a very lively debate as the 106th Congress meets in January on this very important piece of environmental legislation for our country.

I will take a few minutes to outline in a highlighted form what this bill will attempt to do, something that we have worked on, a group of us, earnestly and very excitedly for the last year. Then my colleague from Louisiana, Senator BREAUX, will say a few words about the bill.

This is the Reinvestment and Environmental Restoration Act of 1998. It is going to attempt to take 50 percent of the moneys that are now flowing into the Federal Treasury from offshore oil and gas revenues—which have been very significant; $120 billion since 1955—and redistribute those revenues in a smarter way, in a better way, and in a way that our country can be proud of.

We are going to ask that 27 percent of those revenues be distributed to coastal States for coastal conservation impact assistance, 16 percent to fund more fully the Land and Water Conservation Fund, and 7 percent to fund the Wildlife Conservation and Restoration Act. These are the major titles of this bill. Let me very briefly hit on each one.

I am from Louisiana, a State that has supported, proudly supported, oil and gas drilling and exploration. It has created many jobs in our State. We try to do it in a more environmentally sensitive way each and every year, and every decade we make tremendous progress. Other States like Texas, Mississippi, and to a certain degree, Alabama, although not as much, and Alaska, join in that effort.

There are many States that do not have drilling and many States that have a moratorium on drilling. This bill is not a pro-drilling bill or anti-drilling bill. The purpose is to say that the production of those resources off the shores of our States, although they are offshore, have tremendous impact—both positive and negative—on the States that host drilling.

Louisiana has contributed since the 1950s over 90 percent of these revenues that I spoke about, the $120 billion, and we have gotten less than 1 percent back. It is time to correct that inequity. That is what the first title of this bill does. It says to Louisiana, thank you for your commitment to our energy security and for the way that you have contributed to this oil and gas drilling. We believe that some of this money should go back to help your State and the coastal areas to shore up our wetlands and to reinvest in our environment. That is Title I of this bill. It will distribute funds to all coastal States, whether they have drilling or not.

As I said, there are no incentives; there are no disincentives. It is a revenue-sharing bill to all the coastal States. These revenues are collected from a nonrenewable resource. One day these oil and gas wells will be dried up. It might be 10 years from now or 20 years from now, but some day they will be dried up, and we want to make sure that a portion of this money is reinvested back into our States for environmental infrastructure and wetland conservation so that we have something to show for it.

The second part of this bill amends the Land and Water Conservation Act in an attempt to restore this fund, or to more fully fund it. I will ask unanimous consent to have printed in the RECORD an excerpt from an editorial from the New York Times on this subject.

I will read the first short paragraph of this editorial.

More than 30 years ago, Congress passed a quiet little environmental program that offered great promise to future generations of Americans. Conceived under Dwight Eisenhower, proposed by John F. Kennedy and signed into law by Lyndon Johnson, the Federal Land and Water Conservation Fund was designed to provide a steady revenue stream to preserve ''irreplaceable lands of natural beauty and unique recreational value.'' Royalties from offshore oil and gas leases would provide the money, giving the program an interesting symmetry. Dollars raised from depleting one natural resource would be used to protect another.

The problem is, this promise was never fulfilled. That is what the second title of this bill will do. It seeks to make this promise real for our families, for our children, and for the next generation. It will take, as I said, 16 percent of these revenues to almost fully fund the State side and the Federal side of the Land and Water Conservation Fund. It will provide a reliable and steady stream of revenue to do just that.

Let me share with you that on the Federal side in only 6 out of the last 33 years have we really lived up to the promise that we made to the land and water conservation side. On the State side, the funding record has been even more dismal. Only 1 year out of 33 years since this Land and Water Conservation Fund was enacted did we live up to that promise. So title II happens to fully restore funding so that we can plan and count on these moneys to help expand our parks and our recreation for our children and families in rural and urban areas around this great country.

Finally, title III is a new title, a new chapter, but an attempt to sort of weave together some of the attempts by my colleague, Senator BREAUX, and others to improve the Wildlife Conservation and Restoration Act. I believe it makes little sense to spend all of our money in this area on the back end, after species have become endangered. Then we have problems not only

with the species in question but with property rights. We have questions with economies that can be very negatively affected when industries have to move out or can't proceed because of this.

So we believe it is time to start investing some money on the front end. That is what this title does—helping species, helping States to give educational and technical assistance to stop these species from becoming endangered, and therefore saving the taxpayers a lot of money and local economies a lot of anguish, and to give some much-needed revenue to our State wildlife agencies around this country.

So those are generally the titles of the bill.

I just want to say that it is high time that we live up to the promise made 30 years ago, and we can do that by more wisely spending this money. It makes no sense to take 100 percent of these revenues and spend them on Federal operating expenses that have nothing to do with our environment, or with this promise that was made, or with our investments in future generations. It is time not just for Louisiana, Texas, Alaska, and Mississippi, who have contributed so much to this industry, but also it is high time for all of our States to benefit in a more direct way than they are currently. This is a wiser fiscal policy, it is a much wiser environmental policy, and it most certainly is an idea whose time has come.

To reiterate, the Reinvestment and Environmental Restoration Act of 1998 will go farther than any legislation to date to make good on promises that were made to the people of this country decades ago. In addition, it will begin to right a wrong endured by oil and gas producing states for over 50 years, particularly for the states along the Gulf of Mexico, and my state of Louisiana.

The Reinvestment and Environmental Restoration Act first provides a guaranteed source of funding equal to twenty-seven percent of all Outer Continental Shelf revenues for Coastal Impact Assistance to states to offset the impacts of offshore oil and gas activity, as well as to non-producing states for environmental purposes. This funding goes directly to States and local governments for improvements in air and water quality, fish and wildlife habitat, wetlands, or other coastal resources, including shoreline protection and coastal restoration. These revenues to coastal states will help offset a range of costs unique to maintaining a coastal zone. The formula is based on population, coastline and proximity to production.

Second, the bill provides a permanent stream of revenue for the State and Federal sides of the Land and Water Conservation Fund, as well as for the Urban Parks and Recreation Recovery Program. Under the bill, funding to the LWCF becomes automatic at sixteen percent of annual revenues. Receiving just under half this amount, the state side of LWCF will provide funds to state and local governments for land acquisition, urban conservation and recreation projects, all under the discretion of state and local authorities. Since its enactment in 1965, the LWCF state grant program has funded more than 37,000 park and recreation projects throughout the nation, including in Louisiana the Joe Brown Park Development in New Orleans, the Baton Rouge Animal Exhibit, the Veterans Memorial Park in Point Barre and the Northwestern State University Recreation Complex in Natchitoches. The Urban Parks program would enable cities and towns to focus on the needs of its populations within our more densely inhabited areas with fewer greenspaces, playgrounds and soccer fields for our youth. Stable funding, not subject to appropriations, will provide greater revenue certainty to state and local planning authorities.

A stable baseline will be established for Federal land acquisition through the LWCF at a level higher than the historical average over the past decade. Federal LWCF will receive just under half of the amount in this title of the bill. And, nothing in this bill will preclude additional Federal LWCF funds to be sought through the annual appropriations process. Some very worthy national projects that have received funding in the past include the Atchafalaya National Wildlife Refuge in Louisiana, the Mississippi Sandhill Crane Wildlife Refuge, the Cape Cod National Seashore, Voyageurs National Park in Minnesota and the Sterling Forest in New Jersey. Federal LWCF dollars will be used for land acquisition in areas which have been and will be authorized by Congress. The bill will restore Congressional intent with respect to the LWCF, the goal of which is to share a significant portion of revenues from offshore development with the states to provide for protection and public use of the natural environment.

Finally, the wildlife conservation and restoration provision includes guaranteed funding of seven percent of annual OCS revenues for wildlife habitat protection, conservation education and delisting of endangered species. Moreover, this funding may be used by states for habitat preservation and land acquisition of wintering habitat for important species, therefore preventing listings under the Endangered Species Act.

While we are proud of the accomplishment represented by the introduction of this bill, I feel compelled to mention other interests that are not included in the legislation, but for which I maintain a strong level of support and commitment. The National Historic Preservation Fund is an important authorized use for Outer Continental Shelf revenues. In fact, I introduced legislation earlier this year to reauthorize the fund for its continued viability and vitality. We see the Reinvestment and Environmental Restoration Act as a starting point for debate and consideration of additional issues. I would like to work with proponents of historic preservation over the course of the year to see their needs addressed in the future. This would include similar consideration for Historic Battlefield Preservation, which is important to other members in this body. I also wish to work with other groups to address their concerns about other provisions in the bill having to do with formulas. Indeed, this is a measure that should enjoy broad support, and I want to continue to work with groups to that end.

Mr. President, all three portions of the bill will effectively free up State resources which in turn may then be used for other pressing local needs. The Reinvestment and Environmental Restoration Act is a perfect opportunity to reinvest in our nation's renewable resources for the benefit of our children's future and our grandchildren's future. It is an idea whose time has come. I urge my colleagues to carefully consider this proposal.

Mr. President, I thank Chairman MURKOWSKI, and I thank the majority leader, Senator LOTT, for all of their help in making this legislation possible.

I ask unanimous consent that the bill and New York Times editorial be printed in the RECORD.

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

[The bill was not available for printing. It will appear in a future issue of the RECORD]

[From the New York Times, June 16, 1997]

REVIVE THE CONSERVATION FUND

More than 30 years ago, Congress passed a quiet little environmental program that offered great promise to future generations of Americans. Conceived under Dwight Eisenhower, proposed by John F. Kennedy and signed into law by Lyndon Johnson, the Federal Land and Water Conservation Fund was designed to provide a steady revenue stream to preserve ''irreplaceable lands of natural beauty and unique recreational value.'' Royalties from offshore oil and gas leases would provide the money, giving the program an interesting symmetry. Dollars raised from depleting one natural resource would be used to protect another.

Since its inception, the fund has helped acquire seven million acres of national and state parkland and develop 37,000 recreation projects. Its notable triumphs include the Cape Cod National Seashore, the New Jersey Pinelands National Reserve and Voyageurs National Park in Minnesota. But the program fell apart during the Reagan Administration and has yet to recover. Of the $900 million that has flowed to the fund from oil and gas royalties each year since 1980, Congress has seen fit to appropriate only a third, and in some years far less. The rest has simply disappeared into the Treasury, allocated for deficit reduction.

The biggest losers have been the states. Over time, appropriations have been split about evenly between Federal and state conservation projects. But for two years running, not a dime has gone to the states—again for budgetary reasons. This has been hard on New York, which needs Federal help to buy valuable open space threatened by development in the Adirondacks and elsewhere.

Now, quite suddenly, this legislative stepchild has acquired a bunch of new friends. As part of the recent budget deal, Republican leaders agreed to add $700 million to the $166 million that President Clinton has requested for the new fiscal year. The Republicans had been getting heat from governors back home and saw a chance to polish their environmental image. For his part, Mr. Clinton needed about $315 million to complete two important Federal purchases, both strongly supported by this page—$65 million to develop on his pledge to buy the New World Mine on the edge of Yellowstone National Park, the rest to acquire the Headwaters Redwood Grove in California from a private lumber company.

That would still leave several hundred million dollars for other Federal projects and for the states—but only if the House and Senate appropriations committees honor the outlines of the budget deal and commit to sizable share of the money to state projects. State officials have been descending upon Washington in recent days to plead their cased. Gov. George Pataki has written every member of Congress and, last week, the New York State Parks Commissioner, Bernadette Castro, testified at hearings convened by Senator Frank Murkowski of Alaska.

Mr. BREAUX. Mr. President, I thank the Senator from Louisiana and congratulate her for all the effort she has put forth in bringing this legislation to this point.

I have been in Congress for a long time—something like 26 years now, in the House and in this body—and I have never really seen a first-term Member who has been so dedicated to a major legislative effort as has the Senator from Louisiana, Ms. LANDRIEU, in bringing this legislation to the floor of the U.S. Senate. Many Members, on their first day, have come in and introduced a bill, issued a press release, and then forgotten about it. This has been an effort by the Senator from Louisiana, Senator LANDRIEU, of very carefully prodding and very carefully studying and working with Members on both sides of the aisle to put together a bipartisan coalition to bring this legislation to the floor of the Senate.

While this is brought to the floor of the Senate in the last days of this session, we all know that there will be another day. The groundwork that she has laid in putting this package and this coalition together is going to be here in the next Congress. So in the next Congress we will start not from scratch but from the groundwork that she has laid in bringing this legislation to the point it is today.

I congratulate her for the way she has done it. It is something that I have not seen by a new Member of the Congress in all of the years that I have been here. It is a major accomplishment on her part. I am very pleased to participate in it.

Just a brief word on the legislation. I think it is a fair thing to do. Many non-coastal States have Federal property, owned 100 percent by the Federal Government, within their borders. When minerals are extracted or oil and gas are found on those Federal lands, the State in which those lands are located gets as much as 50 percent of the revenue. Coastal States, however, get nothing. That is clearly not fair. Offshore mineral development operations have a major impact on coastal Louisiana. These operations impact our roads, bridges and other infrastructure, our freshwater supply, our housing and other vital public resources. It is only fair that there be a reasonable sharing of those revenues with states that bear these kinds of burdens. The impact coastal states suffer is a burden borne for the good of the whole country and, without it, the whole country would suffer.

Therefore, to share in a true partnership with the coastal States is certainly something that this Congress should favorably consider, and I think that we will because of what the Senator has been able to do in a bipartisan fashion. So while it is late this year, it is early for next year. The work that she has done this year will pay off next year.

Mr. MURKOWSKI. Mr. President, I rise today, along with Senators LANDRIEU and LOTT, to introduce the Reinvestment and Environmental Restoration Act of 1998.

This important piece of legislation remedies a tremendous inequity in the distribution of revenues generated by offshore oil and gas production by directing that a portion of those moneys be allocated to coastal States and communities who shoulder the responsibility for energy development activity off their coastlines. It also provides a secure funding source for state recreation and wildlife conservation programs.

The OCS Impact Assistance portion of this bill is similar to legislation I have introduced in prior Congresses and is an issue I have worked on for my entire Senate career.

Title 1 of the bill directs that a portion of the revenues generated from oil and natural gas production on the Outer Continental Shelf—or OCS—be returned to coastal States and communities that share the burdens of exploration and production off their coastlines.

Offshore oil and gas production generates $3 to $4 billion in revenues annually for the U.S. Treasury. Yet, unlike mineral receipts from onshore Federal lands, OCS oil and gas revenues are not directly returned to the States in which production occurs.

This legislation remedies this disparity. States and communities that bear the responsibilities for offshore oil and gas production will share in its benefits.

This legislation would, for the first time, share revenues generated by OCS oil and gas activities with counties, parishes and boroughs—the local governmental entities most directly affected—and State governments.

The bill also acknowledges that all coastal States, including those States bordering the Great Lakes, have unique needs and directs that a portion of OCS revenues be shared with these States, even if no OCS production occurs off their coasts.

Coastal States and communities can use OCS Impact Assistance funds on everything from environmental programs, to coastal and marine conservation efforts, to new infrastructure requirements.

In Alaska, local communities could use OCS funds to participate in the environmental planning process required by Federal laws before OCS development occurs.

Other rural coastal communities in Alaska will use the money for sanitation improvements. While still others, like Unalakleet, will use the money to construct sea walls and breakwaters or beach rehabilitation—efforts which will combat the impacts of coastal erosion.

This is money that will be used, day-in and day-out, to improve the quality of life on coastal State residents—money which comes from oil and gas production.

Further, as the Federal OCS program expands in Alaska, this legislation will mean even more revenues to the State, boroughs and local communities.

This is a true investment in the future.

As Chairman of the Energy and Natural Resources Committee, I know all too well that offshore oil and gas production is a lightning rod for environmental groups who will go to great lengths to disparage an activity that is vital to the long-term energy and economic security of this country.

These groups will likely say that this bill creates incentives for offshore oil and gas production because a factor in the distribution formula is a State's proximity to OCS production.

Let us remember, this is an impact assistance bill—revenue sharing, if you will.

States only will have impacts if they have production. The States with production, obviously, have greater needs and are most deserving of a larger share of OCS revenues.

Mr. President, let me also remind everyone, that OCS production only occurs off the coasts of 6 States—yet the bill shares OCS revenues with 34 States.

There are 28 coastal States that will get a share of OCS revenues which have no OCS production. In fact, in all areas except the Gulf of Mexico and Alaska there is a moratorium prohibiting any new OCS production.

It is in the long-term best interest of this country to support responsible and sustainable development of nonrenewable resources.

We now import more than 50 percent of our domestic petroleum requirements and the Department of Energy's Information Administration predicts, in ten years, America will be at least 64 percent dependent on foreign oil.

OCS development will play an important role in offsetting even greater dependence on foreign energy.

The OCS accounts for 24 percent of this Nation's natural gas production

and 14 percent of its oil production. We need to ensure that the OCS continues to meet our future domestic energy needs.

I firmly believe that the Federal Government needs to do all it can to pursue and encourage further technological advances in OCS exploration and production.

These technological achievements have and will continue to result in new OCS production having an unparalleled record of excellence on environmental and safety issues.

Additional technological advances with appropriate incentives will further improve new resource recovery and therefore increase revenues to the Treasury for the benefit of all Americans who enjoy programs funded by OCS money.

I will do all I can to ensure a healthy OCS program, including new OCS development in the Arctic.

A number of challenges face new developments in this area—I am confident that we can work through them all.

History has shown us that in the Arctic, and in other OCS areas, development and the environmental protection are compatible.

This bill also takes a portion of the revenues received by the Federal Government from OCS development and invests it in conservation and wildlife programs.

Thus, Titles II and III of the bill share OCS revenues with all States for such purposes.

Title II of this bill provides a secure source of funding for the Land and Water Conservation Fund. The LWCF was established over three decades ago to provide Federal money for State and Federal land acquisition and help meet Americans' recreation needs.

Over thirty years ago, Congress had the foresight to recognize the ever growing need of the American public for parks and recreation facilities with the passage of the Land and Water Conservation Fund Act.

That landmark piece of legislation was premised on the belief that revenues earned from the depletion of a nonrenewable resource need to be reinvested in a renewable resource for the benefit of future generations.

This rationale is as valid today as it was in the mid-1960's.

To accomplish this goal, the Land and Water Conservation Fund Act directs that revenues earned from offshore oil and gas production should be spent on the acquisition of Federal recreation lands by the land management agencies.

The act also creates a state-side matching grant program.

The state-side matching grant program provides 50–50 matching grants to States and local communities for the acquisition and construction of park and recreation facilities.

The state-side program has a truly unique legacy in the history of American conservation by providing the States with a leadership role in the provision of recreation opportunities.

Through the 1995 fiscal year, over 3.2 billion in Federal dollars have been leveraged to fund over 37,000 State and local park and recreation projects.

Yet, despite these successes, the President had not requested any money for the state-side program for the last 4 years.

This is a program supported by this Nation's mayors, Governors, and the recreation community.

The state-side matching grant should not have to justify annually its existence with congressional appropriators.

Title II makes this program self-sufficient and provides secure funding from OCS revenues.

Title III of this bill provides funding for State fish and wildlife conservation programs.

In Alaska, with its unparalleled natural beauty, fishing and hunting are two of the most popular forms of outdoor recreation.

The bill directs that a portion of OCS revenues should go to the States for wildlife purposes.

The money would be distributed through the Pittman-Robertson program administered by the United States Fish and Wildlife Services.

With the inclusion of OCS revenues, the amount of money available for State fish and game programs would nearly double.

This is a no-tax alternative to the Teaming with Wildlife proposal.

States will be able to use these monies to increase fish and wildlife populations and improve fish and wildlife habitat.

States also could use the money for wildlife education programs.

I am proud of this proposal which is a win-win for the oil and gas industry, the States, environmental and conservation groups, and all Americans.

This bill will ensure not only that Coastal States have money to address the effects of OCS-activities but that all States have funds necessary to provide outdoor recreation and conservation resources for all of us today to enjoy.

As we end the 105th Congress, I can pledge, as Chairman of the Energy and Natural Resources Committee, that the enactment of this bill will be one of my highest priorities next year.

Mr. LOTT. Mr. President, it is with great pleasure that I join my colleagues, Senators LANDRIEU and MURKOWSKI, in introducing the Reinvestment and Environmental Restoration Act.

Mr. President, since the inception of the oil and gas program on the Outer Continental Shelf (OCS), states and coastal communities have sought a greater share of the benefits from development. And why shouldn't they? These communities provide the infrastructure, public services, manpower and support industries necessary to sustain this development.

Currently, the majority of OCS revenues are funneled into the Federal Treasury where they are used to pay for various federal programs and to reduce the deficit. While funding programs and reducing the deficit are certainly important, I believe that some percentage of the revenues should be reinvested in that which makes them possible.

Our bill does that. The Reinvestment and Environmental Restoration Act diverts one-half of the OCS revenues from the Federal Treasury to coastal states and communities for a multitude of programs: air and water quality monitoring, wetlands protection, coastal restoration and shoreline protection, land acquisition, infrastructure, public service needs, state park and recreation programs and wildlife conservation.

This bill allows states and communities to use these funds in whatever manner they deem appropriate. In Pascagoula, for example, authorities might choose to restore and secure the shoreline where years of sea traffic have taken their toll. Further north in Vancleave, they may choose instead to refurbish the roads and bridges that carry the heavy machinery coming and going from the coast. This bill provides a framework within which these localities can make the right decisions for their citizens and environment.

Mr. President, I have been working on this issue for many, many years. As a coast dweller myself, I know the impact that the oil and gas industry can have on communities and the importance of reinvestment in these areas. This is not to say that the industry mistreats the states; on the contrary, they work very hard to comply with stringent environmental regulations and to take care of the community as best they can. The OCS Policy Committee said in 1993 that, despite the oil industry's best efforts, ''OCS development still can affect community infrastructure, social services and the environment in ways that cause concerns among residents of the coastal states and communities.''

I know that there is no way to totally eliminate this impact on coastal communities. I also know that, while the benefits of a healthy OCS program are felt nationally, the infrastructure, environmental and social costs are felt locally. Our bill would put money back into the communities that need it most.

It would also put money back into the environmental resources of the area. Exploration for non-renewable resources and stewardship of coastal resources are not mutually exclusive, but must be carefully balanced for both to be sustained. It is important that our wetlands, fisheries and water resources are taken into consideration and afforded adequate protection.

In addition to propping up the states and coastal communities, our bill also provides funding for the Land and Water Conservation Fund (LWCF). Over 30 years ago, Congress set up this fund to address the American public's

desire for more parks and recreational facilities. This bill makes the program self-sufficient, providing secure funding from the OCS revenues. This is an investment in our future—our land, our resources and our recreational enjoyment.

Mr. President, our bill makes yet another investment with these OCS revenues—an investment in fish and wildlife programs. With the inclusion of OCS revenues, the amount of money available for state programs would nearly double. This is money that can be used to increase populations and improve habitat for fish and wildlife. It could even be used for wildlife education programs.

Mr. President, this bill was carefully crafted to strike a balance between the needs and interests of the oil and gas industry, the states, and the environmental and conservation groups. It's a good package that will benefit all Americans, not just those who live and work in coastal areas. It will benefit hunters and anglers. It will benefit bird watchers and campers. It will benefit all Americans who take solace in the fact that the oil industry is taking care of the communities that support it.

I appreciate the hard work of my colleagues and look forward to advancing this important legislation in the 106th Congress.

By Mr. WELLSTONE:

S. 2567. A bill to ensure that any entity owned, operated, or controlled by the People's Liberation Army or the People's Armed Police of the People's Republic of China does not conduct certain business with United States persons, and for other purposes; to the Committee on Finance.

TRADING WITH THE PEOPLE'S REPUBLIC OF CHINA MILITARY ACT OF 1998

• Mr. WELLSTONE. Mr. President, today I'm introducing a bill that would bar firms owned by China's People's Liberation Army and People's Armed Police from operating in the United States and prohibit the import into the United States of products made by these firms or the export of products to these firms. It would also prohibit extension of credit to or ownership interest in Chinese military companies. The bill contains an exemption for humanitarian aid, waiving these prohibitions if the President determines that a transaction involves items intended to relieve human suffering such as food, medicine or emergency supplies.

My bill is based in part on H.R. 4433 introduced in the House on August 6, 1998 by Representatives GEPHARDT, BONIOR, and PELOSI, who I want to commend for taking this bold and important human rights initiative.

Before I get into the key question of why I'm introducing this bill, I would like to touch on the question of the extent of PLA and People's Armed Police commercial relations with the United States. To begin with, I should stress that there is uncertainty about the extent and nature of activities of companies linked to Chinese military and security forces in the United States. For example, a Rand study last year estimated that there are ''between 20–30 PLA-affiliated companies operating in the United States, although there are certainly more that have not yet been identified.'' It added that one of the major obstacles to identifying these companies is that they ''often consciously disguise their military background by using offshore holding companies and unfamiliar names.''

Nevertheless, while there is much we don't know, there is some hard data available on PLA and People's Armed Police business dealings with the United States. In June, 1997 the AFL–CIO's Food and Allied Services Trades Department issued a report providing a wealth of detailed information on these business dealings. The report, based on extensive research, found twelve companies incorporated in the United States owned by the People's Armed Police and various elements of the PLA, including the General Staff Department and the Navy. In addition, the report cited seven PLA companies that had been dissolved after their officials had been accused of smuggling AK–47's into the United States in 1996—an episode I will discuss later. For each company, the report provided addresses and dates of incorporation, and for some companies the names of registered agents, officers, and directors.

The AFL–CIO report also provided detailed data on the exports to the United States of twenty-five People's Armed Police and PLA companies during 1996. The companies included not only major PLA components such as the General Staff and General Logistics Departments, but also some owned by various PLA military regions. All told, these companies exported 34 million pounds of products to the United States, including furniture, chemicals, rain gear, toys, sport rifles, aircraft engines, and fish. According to an AFL–CIO official, PLA companies were the largest exporters of fish for U.S. fast-food restaurants. Finally, the report contained a listing of U.S. companies that had purchased these products. In testimony before the Senate Foreign Relations Committee last November, an AFL–CIO official pointed out that several well-known U.S. concerns had purchased products directly from PLA companies.

While it is not illegal for the People's Armed Police and PLA companies to operate in the United States, on at least one occasion a major PLA company participated in a clearly illegal activity. In May, 1996, federal law enforcement agencies carried out a sting operation connected with seizure of 2,000 fully automatic AK–47 weapons from China. Since 1994 Chinese gun exports to the United States have been illegal and this was the largest seizure of fully automatic weapons in U.S. history. One of the two Chinese companies involved, Poly Technologies, is the most successful PLA-controlled company. Poly is run by China's princelings, family members of top Chinese civilian and military leaders. Poly's president is the late Deng Xiaoping's son-in-law and a retired PLA Major General. The Chairman of Poly is the son of the late Wang Zhen, who was China's vice-president and a retired General. While China experts doubt there was high-level collusion in the smuggling of AK–47's, a federal law enforcement officer noted that those involved were ''in a position to deliver substantial arms and are not low-level flunkies.''

Mr. President, I now want to turn to the key question of why I decided to introduce this bill. Why is there a need for such legislation? Because companies owned by the PLA—the Chinese Government's main and indispensable instrument of repression—are permitted to operate in the United States. Because the American people are unwittingly purchasing products exported to the United States by companies owned by the PLA and the People's Armed Police. Because the American people would be outraged—as deeply outraged as I am—if they knew they were subsidizing those responsible for massacring students, workers, and other demonstrators for democracy in Tiananmen Square on June 4, 1989, those who have occupied Tibet for almost 50 years, brutally oppressing its people and seeking to erase their unique, cultural, linguistic, and religious heritage. And because they would be outraged—as deeply outraged as I am, that their government is not only doing nothing to stop this, but is opposing efforts to end PLA and People's Armed Police profit-making in the United States.

Mr. President, you may well ask what is the People's Armed Police. The People's Armed Police, who are under the operational control of the PLA, are an internal security force of over 1 million troops, one of whose main purposes is to suppress the legitimate protests of the Chinese people. For example, the People's Armed Police is often used to quash the peaceful protests of Chinese workers.

Last year the People's Armed Police was used to brutally break up protests by thousands of laid-off state enterprise workers in Sichuan province. Hundreds of these workers, who took to the streets because company officials embezzled their unemployment compensation, were reportedly beaten by the People's Armed Police and several ''instigators'' were arrested. Chinese officials were said to have ordered hospitals not to treat wounded demonstrators, comparing them to ''counterrevolutionary thugs'' who ''rioted'' at Tiananmen in June 1989. What were the laid-off workers seeking that provoked such a vicious crackdown by the People's Armed Police? Just that the government provide them with the subsistence they are entitled to and that corrupt company officials be punished.

How can we continue to subsidize the thugs who repress Chinese workers?

The People's Armed Police also man the guard towers of the Laogai, China's massive forced labor camp system—the largest in the world. The Laogai is China's version of the Soviet gulag. The Laogai is comprised of more than 1,100 forced labor camps, with an estimated population of 6 to 8 million prisoners. Prisoners are overworked, denied medical treatment and tortured.

How can we continue to subsidize those who guard slave laborers?

The People's Armed Police and the PLA are the key agents of repression in Tibet. The People's Armed Police have been filmed in Lhasa, the capital of Tibet, beating monks and nuns peacefully demonstrating for their rights. This past May, the People's Armed Police and PLA soldiers reportedly fired on 150 Tibetan political prisoners who staged a demonstration in Tibet's main prison and the police later stormed the prison and arrested the demonstrators. Chinese officials were apparently offended when the political prisoners flew a Tibetan national flag during the demonstration.

How can we continue to subsidize those who deny Tibetans fundamental freedoms, beat and torture them, and seek to destroy their unique culture and religion?

Mr. President, this is shameful and it must be stopped. Would we have allowed Stalin's NKVD or Hitler's SS to subsidize their heinous activities by running profit-making entities in the United States and exporting goods to us and buying goods from us? Of course not. Why then do we allow the likes of the PLA and the People's Armed Police to profit from commercial relations with us and why does the Administration oppose efforts to put an end to this?

Mr. President, the Administration in the past has justified the unjustifiable by arguing that imposing sanctions on PLA and People's Armed Police companies would be an ''impossible task'' for U.S. law enforcement agencies, risk retaliation against major U.S. exporters, and harm our efforts to develop a military-to-military dialog and relationship with China.

While I believe these arguments don't hold water, they have been overtaken by events. In July, President Jiang Zemin ordered the PLA and the People's Armed Police to end the ''commercial activities'' of their subordinate units. There are some questions about the extent to which Jiang's orders will be carried out and over what timeframe. Tai Ming Cheung, a noted expert on China's military, foresees some shrinkage of the military-business complex, but predicts that it will ''remain powerful and more focused.'' Some China experts estimate that as much as one-third of total defense spending derive from profits from PLA businesses and it would obviously be difficult for the government to compensate the military for loss of this funding stream.

Be this as it may, the fact remains that it is now Chinese government policy to end the commercial activities of the PLA and the People's Armed Police. I believe that the Senate should do all we can to help Beijing by passing my bill, which seeks to cut U.S. commercial ties with the PLA and the People's Armed Police and to end their business activities in the United States. Since we would be cooperating with Jiang's policies, the Administration can no longer point to alleged harmful effects on our military-to-military dialog or Chinese retaliation against U.S. exporters. Moreover, we would have reason to expect that the ability of U.S. law enforcement agencies to implement the sanctions contained in this bill would be enhanced since PLA and People's Armed Police business activities would be illegal both in China and the United States. Jiang Zemin presumably would have incentives to end or at least circumscribe Chinese military and police business dealings with and in the United States and, perhaps, even cooperate with U.S. law enforcement agencies.

While no one can predict how successful Jiang will be in eliminating or even in cutting back China's military-business complex, we must act to end U.S. subsidies to those who beat, torture, and imprison those who bravely fight for freedom and democracy. By contributing to PLA and People's Armed Police coffers we act in complicity with those who repress workers, run slave labor camps, crush religious freedom, quash Tibetans and other minorities seeking to preserve their identity culture and religion. We betray those who laid down their lives at Tiananmen Square, inspired by American principles of democracy and individual rights and we betray those brave dissidents who rot in Chinese jails or toil in forced labor camps, whose only crime was to fight for the ideals all Americans hold dear. It is time to end this complicity, end these betrayals of our friends.

I urge my colleagues to support this bill.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2567

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Trading With the People's Republic of China Military Act of 1998''.

SEC. 2. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) The People's Liberation Army is the principal instrument of repression within the People's Republic of China and is responsible for massacring an unknown number of students, workers, and other demonstrators for democracy in Tiananmen Square on June 4, 1989.

(2) The People's Liberation Army is responsible for occupying Tibet since 1950 and implementing the official policy of the People's Republic of China to eliminate the unique cultural, linguistic, and religious heritage of the Tibetan people.

(3) The People's Liberation Army has operational control of the People's Armed Police, an internal security force of over 1,000,000 troops, whose primary purpose is to suppress the legitimate protests of the Chinese people.

(4) The People's Liberation Army is engaged in a massive effort to modernize its military capabilities.

(5) The People's Liberation Army owns and operates hundreds of companies and thousands of factories the profits from which in some measure are used to support military activities.

(6) Companies owned by the People's Liberation Army and the People's Armed Police export to the United States such products as toys, clothing, frozen fish, lighting fixtures, garlic, glassware, yarn, footwear, chemicals, machinery, metal products, furniture, decorations, gloves, tents, and tools.

(7) Companies owned by the People's Liberation Army and the People's Armed Police regularly solicit investment in joint ventures with United States companies.

(8) The People's Liberation Army and the People's Armed Police have established at least 23 different companies in the United States over the past decade.

(9) The people of the United States are unaware that certain products they purchase in retail stores are produced by companies owned and operated by the People's Liberation Army or the People's Armed Police.

(10) The purchase of these products by United States consumers places them in the position of unwittingly subsidizing the operations of the People's Liberation Army and the People's Armed Police.

(11) The Government of the People's Republic of China, with the assistance of the People's Liberation Army and the People's Armed Police, continues to deny its citizens basic human rights enumerated in the Universal Declaration of Human Rights, persecutes those who seek to freely practice their religion, and denies workers the right to establish free and independent trade unions.

(b) POLICY.—It is the policy of the United States to prohibit any entity owned, operated, or controlled by the People's Liberation Army or the People's Armed Police from operating in the United States or from conducting certain business with persons subject to the jurisdiction of the United States.

SEC. 3. COMPILATION AND PUBLICATION OF LIST OF PEOPLE'S REPUBLIC OF CHINA MILITARY COMPANIES.

(a) COMPILATION AND PUBLICATION.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Secretary of Defense, in consultation with the Secretary of the Treasury, the Attorney General, the Director of Central Intelligence, and the Director of the Federal Bureau of Investigation, shall—

(A) compile a list of persons who are People's Republic of China military companies and who are operating directly or indirectly in the United States or any of its territories and possessions; and

(B) publish the list of such persons in the Federal Register.

(2) PERIODIC UPDATES.—Every 6 months after the date of the publication of the list under paragraph (1), the Secretary of Defense, in consultation with the officials referred to in that paragraph, shall make such additions to or deletions from the list as the

Secretary considers appropriate based on the latest information available.

(b) PEOPLE'S REPUBLIC OF CHINA MILITARY COMPANY.—For purposes of making the determination required by subsection (a), the term ''People's Republic of China military company''—

(1) means a person that is—

(A) engaged in providing commercial services, manufacturing, producing, or exporting; and

(B) owned, operated, or controlled by the People's Liberation Army or the People's Armed Police; and

(2) includes any person identified in Defense Intelligence Agency publication numbered VP–1920–271–90, dated September 1990, or PC–1921–57–95, dated October 1995, or any updates of such publications under subsection (c).

(c) UPDATING OF PUBLICATIONS.—Not later than 90 days after the date of enactment of this Act, and every 6 months thereafter, the Defense Intelligence Agency shall update the publications referred to in subsection (b)(2) for purposes of determining People's Republic of China military companies under this section.

SEC. 4. PROHIBITIONS.

(a) OFFICERS, DIRECTORS, ETC.—It shall be unlawful for any person to serve as an officer, director, or other manager of any office or business anywhere in the United States or its territories or possessions that is owned, operated, or controlled by a People's Republic of China military company.

(b) DIVESTITURE.—The President shall by regulation require the closing and divestiture of any office or business in the United States or its territories or possessions that is owned, operated, or controlled by a People's Republic of China military company.

(c) IMPORTATION.—No goods or services that are the growth, product, or manufacture of a People's Republic of China military company may enter the customs territory of the United States.

(d) CONTRACTS, LOANS, OWNERSHIP INTERESTS.—It shall be unlawful for any person subject to the jurisdiction of the United States—

(1) to make any loan or other extension of credit to any People's Republic of China military company; or

(2) to acquire an ownership interest in any People's Republic of China military company.

(e) EXPORTS.—It shall be unlawful for any person subject to the jurisdiction of the United States to export goods, technology, or services to, or for any person to export goods, technology, or services that are subject to the jurisdiction of the United States to, a People's Republic of China military company.

(f) EXCEPTION FOR HUMANITARIAN ITEMS.—Subsections (a) through (e) shall not apply with respect to a transaction if the President—

(1) determines that the transaction involves the transfer of food, clothing, medicine, or emergency supplies intended to relieve human suffering; and

(2) transmits notice of that determination to Congress.

SEC. 5. REGULATORY AUTHORITY.

The President shall prescribe such regulations as are necessary to carry out this Act.

SEC. 6. PENALTIES.

Any person who knowingly violates section 4 or any regulation issued thereunder—

(1) in the case of the first offense, shall be fined not more than $100,000, imprisoned not more than 1 year, or both; and

(2) in the case of any subsequent offense, shall be fined not more than $1,000,000, imprisoned not more than 4 years, or both.

SEC. 7. DEFINITIONS.

For purposes of this Act:

(1) PEOPLE'S ARMED POLICE.—The term ''People's Armed Police'' means the paramilitary service of the People's Republic of China, whether or not such service is subject to the control of the People's Liberation Army, the Public Security Bureau of that government, or any other governmental entity of the People's Republic of China.

(2) PEOPLE'S LIBERATION ARMY.—The term ''People's Liberation Army'' means the land, naval, and air military services and the military intelligence services of the People's Republic of China, and any member of any such service.●

By Mr. JEFFORDS (for himself and Mr. DODD):

S. 2568. A bill to amend the Internal Revenue Code of 1986 to provide that the exclusion from gross income for foster care payments shall also apply to payments by qualifying placement agencies, and for other purposes; to the Committee on Finance.

EXCLUSION FOR FOSTER CARE PAYMENTS TO APPLY PAYMENTS BY QUALIFYING PLACEMENTS AGENCIES

Mr. JEFFORDS. Mr. President, today I am introducing a bill that will eliminate unnecessary distinctions drawn by the Internal Revenue Code for the tax treatment of payments received by families and individuals who open their homes to care for foster children and adults. Currently, the law allows an exclusion from income for foster care payments received by some providers, while denying eligibility for the exclusion to other foster care providers.

My bill expands the law's exclusion of foster care payments. Under my bill, foster care payments to providers made by placement agencies that contract with, or are licensed by, State or local governments will be eligible for the exclusion, regardless of the age of the individual in foster care. This bill is a companion to H.R. 3991, introduced by Congressman JIM BUNNING of Kentucky. By simplifying the tax treatment of foster care payments, the bill will remove the inequities and uncertainties inherent in the current tax treatment of foster care payments.

Under current law, foster care providers are permitted to deduct expenditures made while caring for foster individuals. Providers must maintain detailed records to substantiate these deductions. In lieu of this detailed record keeping, section 131 of the Internal Revenue Code allows certain foster care providers to exclude from income the payments they receive to care for foster care. Eligibility for this exclusion depends upon a complicated analysis of three factors: the age of the person in foster care; the type of foster care placement agency; and the source of the foster care payments.

For children under age 19 in foster care, section 131 permits providers to exclude payments when a State (or one of its political subdivisions) or a charitable tax-exempt placement agency places the individual in foster care and makes the foster care payments. For persons age 19 and older, section 131 permits providers to exclude foster care payments only when a State (or one of its political subdivisions) places the individual and makes the payments.

This bill will simplify these anachronistic tax rules by expanding the tax code's exclusion to include foster care payments for all persons in foster care, regardless of age, even if the foster care placement is made by a foster care placement agency and even if foster care payments are received through a foster care placement agency, rather than directly from a State (or one of its political subdivisions). To ensure appropriate oversight, the bill requires that the placement agency be either licensed by, or under contract with, a State or a political subdivision thereof.

Increasingly, State and local governments are relying on private agencies to arrange for foster care services for children and adults. While foster care for children has been in existence for decades, foster care for adults is a more recent phenomenon. Sometimes referred to as ''host homes'' or ''developmental homes,'' adult foster care facilities have proven to be an effective alternative to institutional care for adults with disabilities. My home State of Vermont, at the forefront of efforts to develop individualized alternatives to institutional care, authorizes local developmental service providers to act as placement agencies and to contract with families willing to provide foster care in their homes. The tax law's disparate tax treatment of foster care payments, however, impedes alternative arrangements. Persons providing foster care for individuals placed in their homes by the government can exclude foster care payments from income. For providers receiving payments from private agencies, however, the exclusion is not available (unless the individual in foster care is under age 19 and the placement agency is a nonprofit organization). These rules discourage families willing to provide foster care in their homes to persons placed by private placement agencies, thus reducing the availability of care alternatives. Because of the complexity of the current law, providers often receive conflicting advice from tax professionals regarding the proper tax treatment of foster care payments they receive.

Mr. President, this bill will advance the development of family-based foster care services, a highly valued alternative to institutionalization. I urge my colleagues to support it.

Mr. DODD. Mr. President, I am very pleased to rise along with my colleague, Senator JEFFORDS, in introducing a critically important piece of legislation that will ensure fair treatment for individuals and families who provide invaluable care to foster children and adults.

Presently, foster care providers are permitted to deduct expenditures made while caring for foster individuals if detailed expense records are maintained to support such deductions.

However, section 131 of the Internal Revenue Code permits certain foster care providers to exclude, from taxable income, payments they receive to care for foster individuals. Who specifically is available for this exclusion depends upon a complicated analysis of three factors: the age of the individual receiving foster care services, the type of foster care placement agency, and the source of the foster care payments.

Section 131 presently permits foster care providers to exclude payments from taxable income only when a state, or one of its political divisions, or a charitable tax exempt placement agency places the individual and makes the foster care payments for children under 19 years of age. However, for adults over the age of 19, section 131 permits foster providers to exclude payments from taxable income only when a State, or one of its divisisions, places the individual and provides the foster care payments.

Mr. President, it is time that we remove the inequities and needless complexities of the current system. States and localities across the country are increasingly relying on private agencies to arrange for foster care services for both children and adults. However, some foster care providers are understandably reluctant to contract with private placement agencies because current law requires such providers to include foster care payments as taxable income. In contrast, current law permits providers who care for foster individuals placed in their homes by government agencies to exclude such payments from taxable income. Current law, therefore, discourages families from providing foster care on behalf of private placement agencies, thereby reducing badly-needed foster care opportunities for individuals requiring assistance.

The bill Senator JEFFORDS and I introduce today will greatly simplify the outdated tax rules applicable to foster care payments. Under our legislation, foster care providers would be able to avoid onerous record keeping by excluding from income any foster care payment received regardless of the age of the individual receiving foster care services, the type of agency that placed the individual, or the source of foster care payments. To ensure appropriate oversight, this bill will require the placement agency to be licensed either by, or under contract with, a state or one or its political divisions.

Mr. President, this legislation accomplishes what current law does not—consistent and fair treatment of families and individuals who open their homes and their hearts to foster children and adults.

By Mr. KOHL (for himself, Mr. REID, and Mrs. FEINSTEIN):

S. 2570. A bill entitled the ''Long-Term Care Patient Protection Act of 1998''; to the Committee on Finance.

LONG-TERM CARE PATIENT PROTECTION ACT OF 1998

Mr. KOHL. Mr. President, I rise today to introduce the Long-Term Care Patient Protection Act of 1998, along with Senators REID and FEINSTEIN. I am pleased to introduce this legislation on behalf of the Administration.

Recently, the Department of Health & Human Services Office of Inspector General issued a report describing how easy it is for people with abusive and criminal backgrounds to find work in nursing homes. On September 14th, the Senate Aging Committee held hearings on this disturbing problem, where we heard horrifying stories of elderly patients being abused by the very people who are charged with their care. While the vast majority of nursing home workers are dedicated and professional, even one instance of abuse is inexcusable. This should not be happening in a single nursing home in America.

Senator REID and I have already introduced legislation, the Patient Abuse Prevention Act, to require background checks for health care workers. Those with prior abusive and criminal backgrounds would be prohibited from working in patient care. I am pleased that the Administration has also recognized the importance of addressing this problem, and I have been glad to work with them in this effort. While the bill we introduce today on the Administration's behalf is not perfect, I believe it is another important step in our efforts to pass strong patient protections.

Mr. President, it is estimated that more than 43 percent of Americans over the age of 65 will likely spend time in a nursing home. The number of people needing long-term care services will continue to increase as the Baby Boom generation ages. The vast majority of nursing homes do an excellent job in caring for their patients, but it only takes a few abusive staff to cast a dark shadow over what should be a healing environment.

A disturbing number of cases have been reported where workers with criminal backgrounds have been cleared to work in direct patient care, and have subsequently abused patients in their care. Just last year, the Milwaukee Journal-Sentinel ran a series of articles describing this problem. This past March, The Wall Street Journal published an article describing the difficulties we face in tracking known abusers.

These news stories are only the tip of the iceberg. Unfortunately, it is just far too easy for a worker with a history of abuse to find employment and prey on the most vulnerable patients. The OIG report found that 5 percent of nursing home employees in Maryland and Illinois had prior criminal records. And it also found that between 15–20 percent of those convicted of patient abuse had prior criminal records. It is just too easy for known abusers to find work in health care and continue to prey on patients.

Why is this the case? Because current state and national safeguards are inadequate to screen out abusive workers. All States are required to maintain registries of abusive nurse aides. But nurse aides are not the only workers involved in abuse, and other workers are not tracked at all. Even worse, there is no system to coordinate information about abusive nurse aides between States. A known abuser in Iowa would have little trouble moving to Wisconsin and continuing to work with patients there.

In addition, there is no Federal requirement that nursing homes conduct a criminal background check on prospective employees. People with violent criminal backgrounds—people who have already been found guilty of murder, rape, and assault—could easily get a job in a nursing home or other health care setting without their past ever being discovered.

The Administration's bill that we introduce today builds upon the extensive work that Senator REID and I have done to address this issue, and incorporates some new ideas as well.

First, this legislation will create a National Registry of abusive nursing home employees. States will be required to submit information from their current State registries to the National Registry. Nursing homes will be required to check the National Registry before hiring a prospective worker. Any worker with a substantiated finding of abuse will be prohibited from working in nursing homes.

Second, the bill provides a second line of defense to prevent people with criminal backgrounds from working in nursing homes. If the National Registry does not include information about the prospective worker, the nursing home is then required to contact the state to initiate an FBI background check. Any conviction for patient abuse or a relevant violent crime would bar that applicant from working in nursing homes.

Let me be clear: I realize that this legislation is not perfect. I have significant concerns about several unresolved issues that I believe must be addressed. We must continue to work on minimizing costs and determine a fair and reasonable way to distribute those costs. We must ensure that the system is efficient and effective, with a quick turnaround time and accurate information for providers. And I believe that we must apply these requirements to other health care settings besides nursing homes. It would do little good to ban these people from working in nursing homes, and still permit them to work in home health care.

Senator REID and I have worked for a long time with patient advocates, the nursing home and home health industries, and law enforcement officials to address these issues. I have been very heartened by their enthusiasm and willingness to work with us in this effort. It is in all of our best interests to pass legislation that is strong, workable, and enforceable.

Despite the unresolved issues I have mentioned, I am introducing the Administration's legislation today because I believe it will provide a strong incentive for everyone to stay at the table and resolve these issues. All of us—the President, Congress, health care professionals and consumer advocates—we all share the common goal of protecting patients from abuse, neglect and maltreatment. We must keep working together to create a viable national system that will prevent abusive workers from working with patients.

Although the remaining days of this Congress are few, we all need to come together once again to reach consensus on the remaining issues and prepare to move this process forward. This legislation gives us an opportunity to act now. I look forward to continuing our work on this issue, and I welcome comments and suggestions for improving the bill.

Mr. President, I want to repeat that I strongly believe that most nursing homes and their staff provide the highest quality care. However, it is imperative that Congress act immediately to get rid of the few that don't. When a patient checks into a nursing home, they should not have to give up their right to be free from abuse, neglect, or mistreatment. They should not have to worry about dying from malnutrition and dehydration.

Our nation's seniors made our country what it is today. Before we cross that bridge to the next century that we have all heard so much about, we must make sure we treat the people that brought us this far with the dignity, care, and respect they deserve. I look forward to working with my colleagues and the administration in this effort to protect patients. Our Nation's seniors and disabled deserve nothing less than our full attention to this matter.

Mr. President, I ask that the text of the bill be printed in the RECORD.

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

Mr. REID. Mr. President, I rise today to join my colleague, Senator KOHL, in introducing the ''Long Term Care Patient Protection Act of 1998''. This legislation represents our latest step in a series of efforts to institute greater protections for nursing home residents.

Over the past year, Senator KOHL and I, along with our colleagues on the Senate Special Committee on Aging, have worked to ensure that seniors are not placed in the hands of criminals in nursing homes. The disturbing problem of nursing home abuse by workers with a violent or criminal history was brought to our attention just over a year ago. Shortly thereafter, Senator KOHL, GRASSLEY, and I introduced S. 1122, ''The Patient Abuse Prevention Act.'' This measure would require criminal background checks for potential long-term care facility workers and would create a national registry of abusive health care workers.

This past July, Senator KOHL and I sponsored an amendment that would authorize nursing homes and home health agencies to use the FBI criminal background check system. This amendment is an important step towards our goal of mandatory background checks, and I am proud to report that this language was included in the Commerce, Justice, State Appropriations Bill.

Upon our request, the Senate Special Committee and Aging dedicated a hearing to the issue of criminal background checks for long-term care workers. At this time, the Office of the Inspector General (OIG) at the Department of Health and Human Services released a report entitling, ''Safeguarding Long Term Care Residents''. The year-long investigation by the OIG spanning facilities across the country produced the very recommendations Senator KOHL and I have been advocating for over a year. Specifically, the OIG concurred with our proposal to develop criminal background checks, and to create a national registry for nursing facility employees. Their findings were consistent with our position that a criminal background check system could help weed out potential employees with a history of abuse and prevent them from working with patients.

Recently, President Clinton acknowledged the need for tough legislative and administrative actions to improve the quality of nursing homes. Using our original legislation as a guide, the Administration drafted a proposal to address the crucial issue of criminal background checks for nursing home workers. I am pleased that the Administration has recognized the need for criminal background checks and has modeled its initiative after our legislation. I am introducing the ''Long-Term Care Patient Protection Act of 1998'' on behalf of the Administration because it builds on our extensive work in this area and represents an important step in the right direction.

The ''Long-Term Care Patient Protection Act of 1998'' would create a national registry of abusive workers. Further, the bill would expand the existing State nurse aide registries to include substantiated findings of abuse by all nursing facility employees, not just nurse aides. States would be required to submit any existing or newly acquired information contained in the State registries to the national registry of abusive workers. This provision is crucial because it would ensure that once an employee is added to the national registry, the offender will not be able to simply cross state lines and find employment in another nursing home where he may continue to prey on vulnerable seniors.

Another important portion of the bill outlines the process by which nursing homes must screen prospective employees. According to this legislation, all nursing homes must first initiate a search of the national registry of abusive workers. In cases where the prospective employee is not listed on the registry, the nursing home would be required to conduct a State and national criminal background check on the individual through the Federal Bureau of Investigations.

Finally, nursing homes would be required to report to the State any instance in which the facility determines that an employee has committee an act of resident neglect, abuse, or theft of a resident's property during the course of employment. The OIG at the Department of Health and Human Services reported that 46 percent of facilities believe that incidents of abuse are underreported. This provision would ensure that offenders are reported and added to the national registry before they have the opportunity to strike again.

One of the most difficult times for any individual or family is when they must make the decision to rely upon the support and services of a long-term care facility. Families should not have to live with the fear that their loved one is being left in the hands of an individual with a criminal record. No one should have to endure the pain and outrage of learning that their loved one has fallen prey to a nursing home employee with a violent or criminal record. At last month's Aging Committee hearing, we heard the real life nightmare of Richard Meyer, whose 92 year-old mother was sexually assaulted by a male certified nursing assistant who had previously been charged and convicted for sexually assaulting a young girl. We can and we must work to prevent tragedies like this one from occurring again in the future.

Americans over the age of 85 are the fastest growing segment of our elderly population. There are 31.6 million Americans over the age of sixty-five, and as the baby boom generation ages, that number will skyrocket. Over 43 percent of Americans will likely spend time in a nursing home. As our nation seeks ways to care for an aging population, we must establish greater protections to ensure that our seniors will receive the best care possible.

I have visited countless nursing homes in my home state of Nevada. During these visits, I have always been impressed by the compassion and dedication of the staff. Most nurse aides and health care workers are professional, honest, and dedicated. Unfortunately, it only takes one abusive staff member to terrorize the lives of the residents. That is why we must work to wed our the ''bad apples'' who do not have the best interest of the patient in mind. I urge you join Senator KOHL and me in our efforts to provide greater protections for all nursing home residents.

By Mr. LIEBERMAN:

S. 2571. A bill to reduce errors and increase accuracy and efficiency in the administration of Federal benefit programs, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL BENEFIT VERIFICATION AND INTEGRITY ACT

Mr. LIEBERMAN. Mr. President, today I introduce the Federal Benefit

Verification and Integrity Act. This legislation takes a government-wide approach to improving eligibility verification and debt collection in Federal benefit and assistance programs by identifying, testing, evaluating, and, in some cases, implementing ''data sharing'' information technologies. Federal agencies would be encouraged to make use of federal, state, and private databases such as the National Directory of New Hires and credit bureau data to help ensure that the government delivers benefits to the right person, at the right time, for the right amount. This bill mirrors Title VI of H.R. 4243, a bill introduced in the House by Representatives STEVE HORN and CAROLYN MALONEY.

The President's Council on Integrity and Efficiency has found that the federal government loses billions of dollars each year by not adequately verifying information in applications for federal benefit programs. For example, an audit by the Department of Education's Office of Inspector General disclosed that approximately $109 million in Pell grants had been over-awarded in 1996 because students failed to report or under-reported their income. The Department of Housing and Urban Development projected that during the same year it had paid out at least $600 million in excess rental subsidies because of tenants' under-reporting of income.

News reports confirm the pervasiveness of this type of fraud against the government. One story in the Wall Street Journal described how ''student-aid consultants'' charged clients $350 each for phony tax returns, which would under-report the student's family income. Because the government does not compare the tax return accompanying the student loan application with the tax forms that had been submitted to the IRS, the student can fraudulently apply to the government for financial aid and receive thousands of dollars in Pell grants. In another example, the Washington Post reported that an owner of a California trade school was indicted on allegations that he stole $1 million in federal Pell grants by creating imaginary students. Since the government never compared the names of these students with information it already had, the school was able to hide its crimes for years.

The report of the President's Council on Integrity and Efficiency concluded that federal agencies need eligibility verification to deter and detect the growing fraud in federal benefit and assistance programs. Several federal agencies do have procedures to try to verify information submitted by applicants by comparing it with information contained in various federal and state government databases. Unfortunately the legislative authority for gaining access to this verifying data often does not encompass many of the most useful government sources: there is no comprehensive authority to share data among agencies. Private industry has made great strides in improving eligibility information accuracy, and the federal government could clearly learn from the best business practices of companies like American Express, Visa, Citicorp and Nationsbank. This bill contains provisions to encourage the government to test and incorporate best commercial business practices for eligibility verification.

Similarly, information contained in the National Directory of New Hires and other databases could be a vital aid to the Department of Education's efforts to locate debtors under its student loan programs, and to other agencies trying to locate and collect from debtors. The Department of Education devotes 70% of its debt collection efforts to locating debtors. The National Directory of New Hires, a comprehensive database that lists where virtually all Americans are employed, was recently established as part of the legislation to find and crack down on ''deadbeat dads''. The Directory is maintained by the Department of Health and Human Services, and the data contained in the database cannot be shared with other agencies without explicit legislative authorization. As with child support collection, the Department of Education could use the New Hires directory as an enormously helpful tool to locate where a debtor lives and works. Once a debtor is found, the Department could then use its existing authority to notify the debtor, and then as a last resort and after meeting all due process requirements, the Department could garnish the debtor's wages.

To improve government-wide data-sharing coordination, this legislation creates a ''Federal Benefit Verification and Payment Integrity Board'' which would provide oversight and foster agency interest in pursuing data sharing ideas and technologies. Once an agency tests an idea and obtains a positive result, the Board can recommend to the Congress that permanent authorizing legislation be enacted. Federally funded benefit programs that could use data-sharing technologies include: the Pell Grant program, federal student loan programs, Medicaid, the Food Stamp program, USDA and HUD housing programs, veterans compensation programs, Social Security programs, the Railroad Retirement Survivor program, the Civil Service Retirement Program, Small Business Administration programs, and USDA business programs. While this list is not exhaustive, the legislation would promote data-sharing between agencies that have the current statutory authority to do so.

In addition, this legislation balances the need for data in verifying eligibility with the paperwork burden and privacy intrusion that data sharing imposes. In fact, this legislation contains a number of increased privacy protections, including requiring that agency proposals contain administrative, technical, and physical safeguards to ensure the security and confidentiality of records; prohibiting nonessential duplication and re-disclosure of records within or outside an agency receiving information for a test; expanding encryption and electronic signature technology to protect the confidentiality and integrity of information; and doubling the penalty for willfully violating the privacy act to $10,000. Existing computer matching and privacy act laws will not be changed.

The act also expands on the present full due process rights of beneficiaries, including all rights under the Fair Debt Collection Practices Act. The bill ensures that agencies administering federally funded benefit programs adequately inform applicants applying for benefits that their data can be shared to verify their eligibility for those benefits. The agency will be required to maintain a record of each applicant's acknowledgment. In this way, agencies can encourage individuals to provide accurate information when applying for benefits. Moreover, applicants will be given the opportunity to explain inconsistencies.

Finally, the Committee recognizes the importance of keeping the National Directory of New Hires data secure and private. Consequently, this legislation intends that any agency requesting access to the National Directory of New Hires have the statutory authorization to access the same kind of data from other data sources. Also, all data matches with the New Hires database must occur under the Department of Health and Human Services, the agency who owns this information. This way, the government would be able to centralize all data matches at one location—where the data resides.

By using data-sharing technologies, agencies can deter and prevent fraud while becoming more accurate and efficient. This bill promotes data-sharing tools which can save taxpayers substantial resources and at the same time encourage beneficiaries of government programs to deal honestly with their government. Accordingly, I urge my colleagues to support this legislation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2571

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Federal Benefit Verification and Integrity Act''.

SEC. 2. PURPOSES.

The purposes of this Act are the following:

(1) To reduce errors in Federal benefit programs that lead to waste, fraud, or abuse and encourage agencies to work together to identify common sources of errors.

(2) To identify solutions to common problems that will save money for the taxpayer and demonstrate the Government's ability to deliver Federal benefits to the right person, at the right time, for the right amount.

(3) To focus on increasing accuracy and efficiency for Federal benefit program eligibility, financial and program management, and debt collection.

(4) To improve the coordination of Government information resources across Government agencies to strengthen the delivery of Federal benefits.

(5) To balance the need for data in verifying eligibility with the paperwork burden and privacy intrusion that data sharing imposes.

(6) To emphasize deterring and preventing fraud in the provision of Federal benefits, rather than seeking to detect fraud after Federal benefits have been provided.

(7) To ensure that agencies administering federally funded benefit programs inform applicants applying for benefits under those programs that their data can be shared to verify their eligibility for those benefits.

(8) To encourage individuals to provide accurate information when applying for benefits under federally funded benefit programs.

SEC. 3. DEFINITIONS.

In this Act:

(1) BOARD.—The term ''Board'' means the Federal Benefit Verification and Payment Integrity Board established under this Act.

(2) FEDERAL BENEFIT PROGRAM.—The term ''Federal benefit program'' means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash assistance or in-kind assistance in the form of payments, grants, loans, or loan guarantees to or for the benefit of any person.

TITLE I—NOTIFICATION OF FEDERAL BENEFIT RECIPIENTS REGARDING DATA VERIFICATION

SEC. 101. PROGRAM AGENCY RESPONSIBILITY TO PROVIDE CORRECT INFORMATION.

(a) IN GENERAL.—An agency that administers a Federal benefit payment program shall provide notice informing applicants under the program, in information material and instructions accompanying program application forms, that applicants' data may be verified to the extent permitted by law.

(b) AGENCY COMPLIANCE.—An agency may comply with subsection (a) by modifying program materials and applications to include such notice as part of their normal reissuance cycle for reprinting forms, but in no case later than December 31, 2000.

(c) RECORD OF ACKNOWLEDGMENTS.—The head of each agency that administers a Federal benefit program shall maintain a record of each applicant's acknowledgment that the applicant has received notice of the uses and disclosures to be made of the applicant's information, for as long as the applicant receives benefits from or owes a debt to the Government under the program.

TITLE II—FEDERAL BENEFIT PROGRAM MANAGEMENT IMPROVEMENT TESTS

SEC. 201. TESTS OF PRACTICES AND TECHNIQUES FOR IMPROVING FEDERAL BENEFIT PROGRAM MANAGEMENT.

(a) AUTHORITY TO CONDUCT TESTS.—

(1) IN GENERAL.—A Federal agency that administers a Federal benefit program may conduct a test of information technology practices or techniques to improve income verification, debt collection, data privacy and integrity protection, and identification authentication in the administration of the program, in accordance with a proposal approved by the Federal Benefit Verification and Payment Integrity Board established by this title.

(2) WAIVER OF REGULATIONS.—Upon the request of the Board, the head of an agency may waive the enforcement of any regulation of the agency for the purposes of carrying out a test under this section.

(3) IDENTIFICATION OF TEST AREAS.—The Director of the Office of Management and Budget and the Chief Information Officers' Council shall each recommend to the Board, within 120 days after the date of enactment of this Act, various information technology practices and techniques that should be tested under this title.

(b) APPROVAL OF AGENCY PROPOSALS.—

(1) IN GENERAL.—The head of a Federal agency may develop and submit to the Board a proposal for carrying out a test under this section for a specific Federal benefit program administered by the agency. The proposal shall contain specific goals, including a schedule, for improving customer service and error reduction in the program and other information requested by the Board.

(2) CONTENTS.—The proposal shall provide for the testing of information sharing in an integrated manner where feasible of electronic practices and techniques for improving Federal benefit program management, including the following:

(A) Use of encryption and electronic signature technology consistent with techniques acceptable to the National Institute of Standards and Technology, to protect the confidentiality and integrity of information.

(B) Use of other security controls and monitoring tools.

(C) Use of risk profiles and risk alert technologies, including use of Federal, State, and private databases such as the National Directory of New Hires, Federal and State tax data, and credit bureau data.

(D) Establishment of a management framework for exploring and reducing the information security risks associated with Federal agency operations and technologies, including risk assessments and disaster recovery planning.

(3) CONSULTATION.—Any agency whose proposals would require access to another agency's database shall consult with that agency prior to submission of the proposal to the Board, including consultation with the appropriate data integrity board.

(4) PRIVACY SAFEGUARDS.—A proposal submitted to the Board must contain a description of appropriate administrative, technical, and physical safeguards to ensure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual with respect to whom information is maintained. The proposal shall include, in particular, prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient entity, except where required by law or essential to the conduct of the test.

(5) AGENCY REIMBURSEMENT.—The proposal shall include an estimate for reimbursement that may be charged by a Federal agency to another agency in conducting tests under the proposal.

(6) REVIEW OF PROPOSALS.—Not later than 60 days after the date of receipt of a proposal under this subsection, the Board shall review and recommend disposition of the proposal to the heads of the data sharing agencies under the proposal. The head of the agency shall respond to the Board within 90 days. Such a response shall include findings as appropriate by the data integrity board.

(c) COOPERATIVE AGREEMENTS AND CONTRACTS.—The head of an agency participating in a test under this section, in consultation with the Board, may enter into a cooperative agreement with a State or contract with a private entity under which the State or private entity, respectively, may provide services on behalf of the Federal agency in carrying out the test.

(d) GENERAL IMPLEMENTATION PLAN.—The Board shall prepare a plan for the implementation of this section, including for the coordination of the conduct of tests under this title and the procedures for submission of proposals for those tests.

(e) REPORTS ON RESULTS OF TESTS.—

(1) ANNUAL REPORT.—Beginning not later than 1 year after the date of enactment of this Act, the Board shall submit annually to the Congress a report on the tests conducted under this section.

(2) CONTENT.—The report shall include—

(A) an estimate of potential cost savings and other impacts demonstrated by the tests;

(B) an analysis of the feasibility of applying the practices and techniques demonstrated in each test within the Federal Government, including analysis of what was the least amount of information that was necessary to verify eligibility of applicants under each Federal benefit program that participated in the tests;

(C) an assessment of the value of State data in those tests. and

(D) such recommendations as the Board considers appropriate.

(f) RECOMMENDATIONS ON IMPLEMENTATION OF ACT.—The Chairperson of the Board shall make recommendations annually to the Director of the Office of Management and Budget regarding how savings resulting from the implementation of the Federal Benefit Verification and Integrity Act may be used to enhance program integrity in high-risk programs such as Medicare and to reduce the potential of waste, fraud, and erroneous payments.

(g) AUTHORITY TO REQUEST TEST.—The Board may request the head of a Federal agency that administers a Federal benefit program to conduct a test under this section, including the preparation and submission of a proposal for such a test in accordance with this section. The head of an agency shall respond within 30 days by approving or disapproving such a request of the Board.

(h) USE OF TEST INFORMATION.—Information on any individual obtained in the course of a test under this section shall not be used as the exclusive basis of a decision concerning the rights, benefits, or privileges of any individual.

SEC. 202. SHARING OF INFORMATION IN NATIONAL DIRECTORY OF NEW HIRES.

(a) AVAILABILITY OF INFORMATION.—Notwithstanding section 453(l) of the Social Security Act (42 U.S.C. 653(l)), the Secretary of Health and Human Services may disclose information to another Federal agency from the National Directory of New Hires established pursuant to section 453(i) of that Act (42 U.S.C. 653(i)) based on matches conducted by the Department of Health and Human Services for purposes of conducting a test under this title. In determining whether to disclose such information to a Federal agency for such a test, the Secretary shall take into consideration the potential negative impact of the disclosure or use of such information on the effective operation of the Federal Parent Locator Service under section 453 of such Act, and of other Federal and State child support enforcement activities under part D of title IV of such Act.

(b) FEE.—The head of an agency to which information is disclosed pursuant to subsection (a) shall reimburse the Secretary of Health and Human Services in accordance with section 453(k)(3) of the Social Security Act.

(c) AUTHORITY TO DISCLOSE INFORMATION.—The head of an agency to whom information is disclosed under this section may disclose the information to another Federal agency for use by the agency only as specified under a test proposal under this title. The head of

a Federal agency to whom information is disclosed under this subsection may disclose such information to a State agency administering a federally funded benefit program, a public housing authority, or a guaranty agency (as that term is defined in section 435(j) of the Higher Education Act of 1965) only for the purpose of conducting the test.

(d) REDISCLOSURE LIMITATION.—An entity that receives information for use in a test under this title that it was not otherwise authorized by law to obtain may not redisclose the information or use it for any other purpose.

(e) SHARING OF STATE INFORMATION.—The provision of information pursuant to subsection (a) shall not affect any determination of whether a State meets the requirements of section 303(h)(1)(C) of the Social Security Act.

SEC. 203. INCREASED PENALTIES AND PUNITIVE DAMAGES UNDER PRIVACY ACT.

(a) INCREASED PENALTIES.—Section 552a(i) of title 5, United States Code, is amended in each of paragraphs (1) and (3) by striking ''shall be guilty'' and all that follows through the period and inserting ''shall be fined not more than $10,000, imprisoned for not more than one year, or both.''.

(b) PUNITIVE DAMAGES.—Section 552a(g)(4) of title 5, United States Code, is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively;

(2) by inserting ''(A)'' after ''(4)''; and

(3) by adding at the end the following:

''(B) In any such suit in which the court determines that the agency acted in a manner that was willful and intentional, the court may award punitive damages in addition to damages and costs referred to in subparagraph (A).''.

SEC. 204. ESTABLISHMENT OF THE FEDERAL BENEFIT VERIFICATION AND PAYMENT INTEGRITY BOARD.

(a) ESTABLISHMENT.—There is established the Federal Benefit Verification and Payment Integrity Board.

(b) MEMBERSHIP.—The Board shall be composed of 10 members appointed from among Federal or State employees, as follows:

(1) 3 members, of whom one shall be appointed by the head of each of 3 Federal agencies designated by the Director of the Office of Management and Budget. The Director shall designate agencies under this paragraph from among the Federal agencies responsible for administering Federal benefit programs.

(2) 2 members appointed by the Director of the Office of Management and Budget, of whom at least one shall be a State employee appointed to represent federally funded State administered benefits programs.

(3) 1 member appointed by the Secretary of Health and Human Services.

(4) 1 member appointed by the Secretary of the Treasury.

(5) 1 member appointed by the Commissioner of Social Security.

(6) 1 member appointed by the Secretary of Labor.

(7) 1 member appointed by the Director of the Office of Management and Budget to address privacy concerns.

(c) CHAIRPERSON.—The Director of the Office of Management and Budget shall designate one of the members of the Board as the chairperson of the Board.

(d) ADMINISTRATIVE SUPPORT.—The heads of Federal agencies having a member on the Board may provide to the Board such administrative and other support services and facilities as the Board may require to perform its functions under this title.

(e) TRAVEL EXPENSES.—Members of the Board shall receive travel expenses, including per diem in lieu of subsistence, in accordance with sections 5702 and 5703 of title 5, United States Code.

(f) REPORTS.—The Board shall periodically report to the Director of the Office of Management and Budget regarding its activities.

SEC. 205. RECIPIENT BENEFIT ACCESS; IMPLEMENTATION OF TESTED INFORMATION TECHNOLOGY PRACTICES OR TECHNIQUES.

(a) COMMERCIAL SERVICES FOR ELECTRONIC SUBMISSIONS.—

(1) IN GENERAL.—The Administrator of General Services may acquire on behalf of Federal agencies commercial services for accepting electronic payments for grants or loans and electronic claims submissions from the public. Such services shall be based on accepted commercial practices for electronic identification, authentication, and income verification.

(2) AGENCY REGULATIONS.—The head of each Federal agency shall promulgate regulations providing for the use of the services described in paragraph (1) by program recipients.

(3) FUNDING.—The Administrator may expend such funds as may be required for the design, testing, and pilot of a standard method by which the public may be provided consistent, secure, and convenient electronic access in applying to Federal agencies for loans and grants and in submitting claims. Beginning in fiscal year 2002, the Administrator may finance the acquisition and management of the commercial services described in paragraph (1).

(4) DEFINITION OF ELECTRONIC.—For purposes of this subsection, the term ''electronic'' means through the Internet or telephonically.

(b) RECOMMENDATIONS.—If the Board determines that any information technology practice, technique, or information sharing initiative tested under this title was successfully demonstrated in the test and should be implemented in the administration of a Federal benefit program, the Board shall—

(1) recommend regulations or legislation to implement that practice, technique, or initiative, if the Board determines that implementation is not otherwise prohibited under another law; or

(2) include in its annual report to the Congress under section 201 recommendations for such legislation as may be necessary to authorize that implementation.

(c) REQUIREMENTS REGARDING DATA PROCESSING SYSTEMS.—The Board shall include in any recommendation of regulations under subsection (a)—

(1) provisions that ensure use of generally accepted data processing system development methodology; and

(2) provisions that will result in system architecture that will facilitate information exchange, increase data sharing, and reduce costs, by elimination of redundancy in development and acquisition of data processing systems.

By Mr. SARBANES:

S. 2572. A bill to amend the International Maritime Satellite Telecommunications Act to ensure the continuing provision of certain global satellite safety services after the privatization of the business operations of the International Mobile Satellite Organization, and for other purposes; to the Committee on Commerce, Science, and Transportation.

INTERNATIONAL MOBILE SATELLITE ORGANIZATION

• Mr. SARBANES. Mr. President, today I am introducing legislation to authorize continued U.S. participation in the International Mobile Satellite Organization, currently known as ''Inmarsat'', during and after its restructuring, scheduled to take place April 1. The United States is currently a member of this organization, but its structure and functions are slated for significant reform. Rather than actually owning and operating mobile satellite telecommunications facilities, the intergovernmental institution will retain the much more limited role of overseeing the provision of global maritime distress and safety services, ensuring that this important function is carried out properly and effectively under contract. U.S. participation in the organization—which will keep the same name but change its acronym to ''IMSO''—will not require a U.S. financial contribution and will not impose any new legal obligations upon the U.S. government. Privatization of Inmarsat's commercial satellite business is an objective broadly shared by the legislative and executive branches, American businesses, COMSAT, which is the U.S. signatory entity, and the international community.

To give some brief background, Inmarsat was established in 1979 to serve the global maritime industry by developing satellite communications for ship management and distress and safety applications. Over the past 19 years, Inmarsat has expanded both in terms of membership and mission. The intergovernmental organization now counts 84 member countries and has expanded into land-mobile and aeronautical communications.

Inmarsat's governing bodies, the Inmarsat Council and the Assembly of Parties, recently reached an agreement to restructure the organization, a move that has been strongly supported and encouraged by the United States. This restructuring will shift Inmarsat's commercial activities out of the intergovernmental organization and into a broadly-owned public corporation by next spring. The new corporation will acquire all of Inmarsat's operational assets, including its satellites, and will assume all of Inmarsat's operational functions. All that will remain of the intergovernmental institution is a scaled-down secretariat with a small staff to ensure that the new corporation continues to meet certain public service obligations, such as the Global Maritime Distress and Safety System (GMDSS). It is important to U.S. interests that we participate in the oversight of this function, as well as that we be fully represented in the organization throughout the process of privatization.

The legislation I am introducing will enable a smooth transition to the new structure. It contains two major provisions. First, it authorizes the President to maintain U.S. membership in IMSO after restructuring to ensure the continued provision of global maritime distress and safety satellite communications services. Second, it repeals those provisions of the International

Maritime Satellite Telecommunications Act that will be rendered obsolete by the restructuring of Inmarsat, including all those relating to COMSAT's role as the United States' signatory. The bill's provisions will take effect on the date that Inmarsat transfers its commercial operations to the new corporation.

Mr. President, I urge my colleagues to join me in support of this measure and ask unanimous consent that a copy of this legislation be included in the RECORD.

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

S. 2572

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

SECTION 1. CONTINUING PROVISION OF GLOBAL SATELLITE SAFETY SERVICES AFTER PRIVATIZATION OF BUSINESS OPERATIONS OF INTERNATIONAL MOBILE SATELLITE ORGANIZATION.

(a) AUTHORITY.—The International Maritime Satellite Telecommunications Act (47 U.S.C. 751 et seq.) is amended by adding at the end the following:

''GLOBAL SATELLITE SAFETY SERVICES AFTER PRIVATIZATION OF BUSINESS OPERATIONS OF INMARSAT

''SEC. 506. In order to ensure the continued provision of global maritime distress and safety satellite telecommunications services after the privatization of the business operations of INMARSAT, the President may maintain on behalf of the United States membership in the International Mobile Satellite Organization.''.

(b) REPEAL OF SUPERSEDED AUTHORITY.—

(1) REPEAL.—That Act is further amended by striking sections 502, 503, 504, and 505 (47 U.S.C. 751, 752, 753, and 757).

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on the date on which the International Mobile Satellite Organization ceases to operate directly a global mobile satellite system.●

By Mr. LAUTENBERG:

S. 2573. A bill to make spending reductions to save taxpayers money; to the Committee on Armed Services.

SAVING TAXPAYERS FROM OBSOLETE PROGRAMS AND SPENDING ACT OF 1998

● Mr. LAUTENBERG. Mr. President, today I introduce the Saving Taxpayers from Obsolete Programs and Spending Act of 1998 also known as the STOP Spending Act of 1998. This legislation cuts or eliminates over 25 unnecessary federal programs and would save approximately $80 billion over the next five years.

This legislation targets programs throughout the government—from the Pentagon, to the Departments of Agriculture, Interior and Energy, to NASA. If this legislation were to be enacted, we would have a leaner, better, smarter government. Many of these programs, like the peanut quota program, are outdated relics of a different era. Others, like the cancellation of an unnecessary tactical aircraft program, just represent new thinking that more properly reflects a changing international security environment.

Mr. President, the federal government spends about $1.7 trillion each year. Much of this is for important programs that provide health care to American families, Social Security and Medicare to senior citizens, education for our kids, roads for our cars, security for our nation, housing for families with modest incomes, protection for the environment, and research to advance our civilization. However, there also is too much waste in government. And we must constantly reassess our spending priorities.

Many of the programs targeted in this legislation represent bad policy and bad economics. The benefits go primarily to a narrow group of beneficiaries, while the costs are borne by consumers, taxpayers, and in some cases, the environment. The U.S. Department of Agriculture's sugar program is one example of a program which interferes with the proper functioning of the marketplace at the expense of consumers and the general public. This program guarantees U.S. sugar growers a price that is well above the world price of sugar and results in American consumers paying over $1 billion extra for sugar products each year. In addition, since the artificially high sugar prices that result from the sugar program encourages cultivation of marginal agricultural lands near the Florida Everglades, much environmental damage has been done as a result of increased pollution and runoff from these lands. Unfortunately, the benefits from this program primarily go to very few large and politically powerful corporations, not small farmers.

This is but one example of the many wasteful and outdated programs cut or eliminated as part of this legislation. There are many more examples which I will not detail at this time. However, the bottom line is that we can make our government more effective and save money at the same time if we make the commitment to do so.

Mr. President, I understand that with the limited time remaining in the 105th Congress, this legislation is not likely to be approved before the end of this session. And I realize that many of these proposals would face strong opposition. But I hope my colleagues will review this legislation and support my efforts to reduce government spending in the future by cutting these outdated and wasteful programs.

I ask unanimous consent that a table showing the spending cuts included in this legislation be included in the RECORD.

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

THE STOP SPENDING ACT OF 1998

Program cut	Five-year total savings (In Billions)
Terminate Agricultural subsidies in 2003	$4.00
Eliminate the Market Access Program	0.45
Phase out the sugar program	0.00
Phase out the peanut program	0.00
Elimnate Wildlife Services Predator Control Program	0.05
Extend deficit reduction assessment on tobacco farmers	0.15
Eliminate Rural Utilities Service electricity loan subsidies	0.18
Means-test irrigation subsidies	0.05
Update domestic livestock grazing fees	0.25
Update hardrock mining royalties	1.00
Sell Power Marketing Administrations	6.60
Terminate funding for DOE's Plutonium Pyroprocessing program	0.23
Terminate DOE's Petroleum R&D Program	0.24
Cut funding for construction of new forest roads	0.25
Adjust price of timber sold by Forest Service	1.00
Abolish the Forest Service Salvage Fund	0.18
Cancel tactical aircraft program & procure current generation plan (e.g., F–22)	13.70
Close Uniformed Services University of the Health Services	0.30
Return inflation windfall in DoD funds to the Treasury	23.00
Delay next stage funding of THAAD	1.10
Reform troop transport to deployed ships	7.00
Accelerate Start II implementation	5.10
Discontinue D5 missile	3.00
Reduce excess DoD inventory	0.50
Eliminate Navy's ELF Communications System	0.07
Consolidate pilot training programs	0.60
Terminate Space Station	10.65
Total savings	$79.65●

By Ms. SNOWE (for herself, Ms. MIKULSKI, Ms. COLLINS, Mrs. HUTCHISON, Ms. MOSELEY-BRAUN, Mrs. MURRAY, Mrs. BOXER, Mr. DODD, Mr. JEFFORDS, Mr. REID, Mr. D'AMATO, Mr. ROCKEFELLER, Mr. KERREY, Mr. LIEBERMAN, Mr. TORRICELLI, Mr. DURBIN, Mr. SARBANES, Mr. KERRY, Mr. LAUTENBERG, Mr. INOUYE, and Mr. LEAHY):

S. 2576. A bill to create a National Museum of Women's History Advisory Committee; to the Committee on Rules and Administration.

ADVISORY COMMISSION FOR THE NATIONAL MUSEUM OF WOMEN'S HISTORY

● Ms. SNOWE. Mr. President, today I am introducing legislation to create an Advisory Committee for the National Museum of Women's History. And I am pleased to be joined by 20 of my colleagues: Senators MIKULSKI, COLLINS, DODD, JEFFORDS, ROCKEFELLER, D'AMATO, HUTCHISON, KERREY (NB), LIEBERMAN, MOSELEY-BRAUN, MURRAY, REID, TORRICELLI, DURBIN, SARBANES, KERRY (MA), LAUTENBERG, BOXER, INOUYE, and LEAHY.

For far too long, women have contributed to history, but seem to have largely been forgotten in our history books, as well as our monuments and museums. It is long past time that the roles women have played be removed from the shadows of indifference and given a place where they can shine.

The bill we are introducing today will create a 26 member Advisory Committee will look at the following three issues and report back to Congress on (1) identifying a site for the museum in the District of Columbia; (2) developing a business plan to allow the creation and maintenance of the museum to be done solely with private contributions and (3) assistance with the collection and program of the museum.

It is important to note that this bill does not commit Congress to spending any money for this museum. The Committee's report will tell us the feasibility of funding the museum privately. And I believe that the Museum's Board

has shown that they have the ability to do just that.

The concept for the National Museum of Women's History (NMWH) was created back in 1996. Since that time, the Board of Directors, lead by President Karen Staser, has worked tirelessly to build support and interest for this project. And judging by the fact that they have raised close to $10 million for the project, lent their support to the moving of the Suffragette statute from the crypt to the Rotunda, and raised $85,000 for that effort, I'd say they are well on their way to success.

In fact, just this summer they donated a bust of Sojourner Truth that was unveiled during the 150th anniversary of the Suffragette movement. And on September 28 they opened their ''cyber museum'' to the computer-going public (www.nmwh.org), which will serve as the Museum's ''home'' until there is a building. To steal a line from a song, these sisters are truly ''doing it for themselves''!

They have also spent a lot of time answering the question ''why do we need a women's museum when we have the Smithsonian.'' The first answer to that comes from Edith Mayo, Curator Emeritus of the Smithsonian National Museum of American History, who notes that since 1963 only two exhibits—two—were dedicated to the role of women in history.

Is it any wonder, then, that Congress got in the habit of designating March as National Women's History Month? The fact is, in the story of America's success, the chapter on women's contributions has largely been left on the editing room floor.

Here's what I mean: We all know that JOHN GLENN, the distinguished Senator from the State of Ohio, was the first American to orbit the earth on board Friendship 7 in 1962—and we wish him godspeed as he embarks on his second journey into space at the end of this month. But how many people know that Margaret Reha Seddon was the first U.S. woman to achieve the full rank of astronaut, and flew her first space mission aboard the Space Shuttle ''Discovery'' in 1985, twenty three years after Senator GLENN's historic flight?

And I can guarantee you more people know the last person to hit over .400 in baseball—Ted Williams—than can name the first woman elected to Congress—Jeannette Rankin of Montana, who was elected in 1916, four years before ratification of the 19th Amendment gave women the right to vote. And how many people can tell you that, in 1924 Nellie Ross of Wyoming was the first woman elected governor of a state? Or that it wasn't until 1974—50 years later—that the first woman governor was elected in her own right: Connecticut's Ella Grasso?

History is filled with such little known but important milestones: like the first woman elected to the United States Senate was Hattie Wyatt Caraway from Louisiana in 1932. That Maine's own Margaret Chase Smith was the first woman elected to the U.S. Senate in her own right in 1948, and in 1962 became the first woman to run for the U.S. Presidency in the primaries of a major political party. Or that the first female cabinet member was Frances Perkins, who was Secretary of Labor for FDR.

Hardly household names. But they should be. And with a place to showcase their accomplishments, perhaps one day they will take their rightful place beside America's greatest minds, visionary leaders, and groundbreaking figures.

But until then, we have a long way to go. Many of us know that women fought and got the vote in 1920, with the ratification of the 19th Amendment to the Constitution. But how many know that Wyoming gave women the right to vote in 1869, 51 years earlier, and that by 1900 Utah, Colorado and Idaho had granted women the right to vote? Or that the suffragette movement took 72 years to meet its goal? And few know that the women of Utah sewed dresses made from silk for the Suffragettes on their cross country tour.

Rosie the Riverter was the name given to the hundreds of thousands of women who entered the workforce to help the war effort during World War II on the home front. But our history books don't discuss Jacquline Cochran and Nancy Harkness Love.

Jackie was a pilot who went to Great Britain with 21 other women and ferried planes. In fact, she created quite a stir when she ferried a new bomber from Canada to England on the trip overseas.

Nancy created a ferrying program in Connecticut, known as the Women's Auxiliary Ferrying Squadron, which also ferried planes in the states. They made an important contribution to our war effort, yet both of them have ''flown under the radar screen'' of history for far too many years.

We now have two women on the Supreme Court; Sandra Day O'Conner appointed in 1981, and Ruth Bader Ginsberg who joined her in 1993. But what we never learned is that in 1870, Iowa became the first state to admit a woman to the bar: Arabella Mansfield. Or that the first woman was allowed to practice before the U.S. Supreme Court in 1879, and her name was Belva Lockwood.

Whatever period of history you chose—women played a role. Sybil Ludington, a 16 year old, rode through parts of New York and Connecticut in April of 1777 to warn that the Redcoats were coming. Sacajawea, the Shoshone Indian guide, helped escort Lewis and Clark on their 8000 mile expedition. Rosa Parks, Jo Ann Robinson and Myrlie Evers played important roles in the civil rights movement in the 50's and 60's. And as we move into the 21st century, the role of women—who now make up 52 percent of the population—will continue to be integral to the future success of this country.

In fact the real question about the building of a women's museum is not so much where it will be built—although that remains to be explored. And it's not even who will pay for it—as I've said, it will be done entirely with private funds. The real question when it comes to a museum dedicated to women's history is, where will they put it all!

I would argue that we have a solemn responsibility to teach our children, and ourselves, about our rich past—and that includes the myriad contributions of women, in all fields and every endeavor. These women can serve as role models and inspire our youth. They can teach us about our past and guide us into our future. They can even prompt young women to consider a career in public service—as Senator Smith of Maine did for me.

Instead, today in America, more young women probably know the names of the latest super models then the names of the female members of this Administration's Cabinet. That is why we need a National Museum of Women's History, that is why I am proud to sponsor this legislation, and that is why I hope that my colleagues will join us in supporting the creation of this Advisory Committee as a first step toward writing the forgotten chapters of the history of our nation.●

By Mr. CHAFEE (for himself and Mr. MOYNIHAN):

S. 2575. A bill to expand authority for programs to encourage Federal employees to commute by means other than single-occupancy motor vehicles to include an option to pay cash for agency-provided parking spaces, and for other purposes; to the Committee on Governmental Affairs.

THE ''FEDERAL EMPLOYEE FLEXIBILITY ACT OF 1998''

Mr. CHAFEE. Mr. President, I rise today to introduce, with Senator MOYNIHAN, the ''Federal Employee Flexibility Act of 1998,'' a bill that would provide flexibility and choices for Federal employees. This flexibility was provided to private sector employees in the Taxpayer Relief Act of 1997 and the Transportation Equity Act for the 21st Century, so-called TEA 21. We believe that these provisions provide to employers and employees important new flexibility which should reduce single occupant vehicle trips from our highways and therefore contribute to reduced congestion, a cleaner environment, and increased energy conservation.

The Taxpayer Relief Act of 1997 and the Transportation Equity Act for the 21st Century include significant changes to the way the Internal Revenue Code treats employer-provided transportation fringe benefits. Unfortunately, we have become aware that personnel compensation law for Federal employees restricts implementation of this new flexibility.

Prior to enactment of these two bills, the Federal tax code provided that employer-provided parking is not subject

to Federal taxation, up to $170 per month. However, this tax exemption was lost for all employees if the parking was offered in lieu of compensation for just one employee. In other words, if an employer gave just one employee a choice between parking and some other benefit (such as a transit pass, or increased salary), the parking of all other employees in the company became taxable. It goes without saying that no employers jeopardized a tax benefit for the overwhelming majority of their employees to provide flexibility to others. In effect, the tax code prohibited employers from offering their employees a choice. Parking was a take-it or leave-it benefit.

The changes in these two laws make it possible for employers to offer their employees more choices by eliminating the take-it or leave-it restriction in the Federal tax code. Employees whose only transportation benefit is parking can now instead accept a salary enhancement, and find other means to get to work such as car pooling, van pooling, biking, walking, or taking transit.

Unfortunately, Federal employees will not be able to benefit from the increased flexibility available to private sector employees, unless Federal compensation law is modified. Current Federal law provides that a Federal employee may not receive additional pay unless specifically authorized by law. Therefore, a Federal employee could not ''cash out'' a parking space at work, and instead receive cash or other benefits.

To address this limitation for transit passes and similar benefits, the ''Federal Employees Clean Air Incentives Act'' allows the Federal government to provide transit benefits, bicycle services, and non-monetary incentives to employees. However, when this legislation was enacted, the Federal tax code prohibited the so-called ''cash out'' option discussed above, and therefore was not included in the list of transportation-related exemptions in that statute.

The short and simple bill we introduce today would add ''taxable cash reimbursement for the value of an employer-provided parking space'' to the list of benefits that can be received by Federal employees.

Let me assure my colleagues and Federal employees that this bill would not require that Federal employees lose their parking spaces, as may be feared when there is discussion of Federal employee parking spaces. The bill simply provides Federal employees the same flexibility that is available to private sector employees. Employees who want to retain their tax-free parking space would be free to do so.

We think it is vital that the Federal government show leadership on the application of new and innovative ways to solve our transportation and environmental problems. I hope that my colleagues will join me in supporting this bill and that we can act swiftly on it in the next session of Congress.

Mr. President, I ask that the text of the bill be printed in the RECORD.

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

S. 2575

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

SECTION 1. CASH PAYMENT TO FEDERAL EMPLOYEES FOR PARKING SPACES.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Employee Flexibility Act of 1998''.

(b) IN GENERAL.—Section 7905(b)(2) of title 5, United States Code, is amended—

(1) in subparagraph (B) by striking ''and'' after the semicolon;

(2) in subparagraph (C) by striking the period and inserting a semicolon and ''and''; and

(3) by adding at the end the following:

''(D) taxable cash payment to an employee in lieu of an agency-provided parking space.''.

Mr. MOYNIHAN. Mr. President, I rise today with my friend and colleague Senator CHAFEE to introduce the ''Federal Employee Flexibility Act of 1998,'' a bill to provide Federal employees with the commuting benefits that were created in the Transportation Equity Act for the 21st Century, known as TEA–21, and are now available for private sector employees.

This Act is part of an ongoing effort that we started over seven years ago in the Intermodal Surface Transportation Efficiency Act to introduce pricing and economic incentives into our national transportation policy. Traditionally, U.S. transportation policy has favored new highway construction over repair and maintenance and auto travel over transit and other modes. Our tax code also reflected this bias by providing large incentives to employers to offer their employees tax-free parking spaces, while making it less attractive to provide transit or cash benefits in lieu of parking.

The Finance Committee first set out to tackle this problem in the National Energy Policy Act of 1992. That Act capped non-taxable monthly parking benefits at $155, increased monthly transit benefits from $21 to $60, and added an annual COLA adjustment for both. However, because of the ''constructive receipt'' principle in the tax code, under the 1992 Act, an employer could not offer his employees the tax-free commuting benefits in lieu of taxable salary.

In other words, if an employer offered to provide his employees non-taxable $65 monthly transit passes but lower their salaries by $65 a month, and any employee chose to keep the salary—maybe they walk to work—under the ''constructive receipt'' principle, the transit passes for the other employees would lose their tax-free status. This made the transit benefit program of only limited attractiveness to employers since they could only offer it as part of a negotiated increase in salary, not as a benefit in lieu of existing salary.

Likewise, Federal tax code allowed an employer to offer tax-free parking up to a value of 4170 per month per employee. However, if an employer gave just one employee a choice between parking and some other taxable benefit—such as increased salary—the parking of all other employees in the company became taxable. The result—employers have had no incentive to offer employees the opportunity to ''cash out'' their parking, perhaps taking an increase in salary and using mass transit or carpooling. That hidden pro-parking bias in the tax code has likely resulted in far too many employees choosing to drive to work over riding transit and other modes.

The tax title of TEA–21 now contains the proper language and offsets in place to eliminate this ''constructive receipt'' requirement—and increase the transit benefit from its current $65 to $100 in 2002. It means that employers who provide the transit benefit in lieu of salary will pay less in payroll taxes, while employees will receive a benefit worth a full $65, instead of taxable income of $65. Likewise employers can now offer employee cash instead of a tax-free parking parking space, and we hope reduce the number of employees who drive to work. The measure is ''paid for,'' in Budget Act parlance, by a one-year freeze in the COLA adjustments for parking benefits, currently at $175 per month, and transit benefits.

But, unfortunately, the job is not quite done. Federal employees will not be able to benefit from the increased flexibility available to private sector employees, unless Federal compensation law is modified. Current Federal law provides that a Federal employee may not receive additional pay unless specifically authorized by law. Therefore, a Federal employee could not ''cash out'' a parking space at work, and instead receive cash or other benefits. This has particularly unfortunate consequences here in Washington, one of the most congested cities in the country, with an enormous Federal workforce, the great majority of whom drive single-occupancy vehicles to work every day.

The simple bill that Senator CHAFEE and I introduce today would add ''taxable cash reimbursement for the value of an employer-provided parking space'' to the list of benefits Federal employees can receive. I hope my colleagues will join us in supporting this bill and that we can act swiftly on this bill in the next session of Congress.

ADDITIONAL COSPONSORS

S. 1286

At the request of Mr. JEFFORDS, the name of the Senator from Utah [Mr. BENNETT] was added as a cosponsor of S. 1286, a bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain amounts received as scholarships by an individual under the National Health Corps Scholarship Program.

S. 1466

At the request of Mr. ABRAHAM, the name of the Senator from Georgia [Mr. COVERDELL] was added as a cosponsor of S. 1466, a bill to amend the Public Health Service Act to permit faith-based substance abuse treatment centers to receive Federal assistance, to permit individuals receiving Federal drug treatment assistance to select private and religiously oriented treatment, and to protect the rights of individuals from being required to receive religiously oriented treatment.

S. 1720

At the request of Mr. LEAHY, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 1720, a bill to amend title 17, United States Code, to reform the copyright law with respect to satellite retransmissions of broadcast signals, and for other purposes.

S. 1970

At the request of Mr. ABRAHAM, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1970, a bill to require the Secretary of the Interior to establish a program to provide assistance in the conservation of neotropical migratory birds.

S. 2080

At the request of Mr. HELMS, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Kentucky [Mr. FORD], and the Senator from Montana [Mr. BURNS] were added as cosponsors of S. 2080, a bill to provide for the President to increase support to the democratic opposition in Cuba, to authorize support under the Cuban Liberty and Democratic Solidarity (LIBERTAD) Act of 1996 for the provision and transport of increased humanitarian assistance directly to the oppressed people of Cuba to help them regain their freedom, and for other purposes.

S. 2180

At the request of Mr. LOTT, the names of the Senator from Louisiana [Ms. LANDRIEU], the Senator from Texas [Mrs. HUTCHISON], and the Senator from West Virginia [Mr. ROCKEFELLER] were added as cosponsors of S. 2180, a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to clarify liability under that Act for certain recycling transactions.

S. 2263

At the request of Mr. GORTON, the names of the Senator from California [Mrs. FEINSTEIN] and the Senator from Hawaii [Mr. INOUYE] were added as cosponsors of S. 2263, a bill to amend the Public Health Service Act to provide for the expansion, intensification, and coordination of the activities of the National Institutes of Health with respect to research on autism.

S. 2268

At the request of Mr. BINGAMAN, the name of the Senator from Connecticut [Mr. LIEBERMAN] was added as a cosponsor of S. 2268, a bill to amend the Internal Revenue Code of 1986 to improve the research and experimentation tax credit, and for other purposes.

S. 2283

At the request of Mr. DEWINE, the name of the Senator from Illinois [Mr. DURBIN] was added as a cosponsor of S. 2283, a bill to support sustainable and broad-based agricultural and rural development in sub-Saharan Africa, and for other purposes.

S. 2356

At the request of Mr. ROBERTS, the names of the Senator from Arkansas [Mr. HUTCHINSON] and the Senator from Idaho [Mr. KEMPTHORNE] were added as cosponsors of S. 2356, a bill to amend the Federal Food, Drug, and Cosmetic Act to provide for uniform food safety warning notification requirements, and for other purposes.

S. 2358

At the request of Mr. ROCKEFELLER, the name of the Senator from New Mexico [Mr. BINGAMAN] was added as a cosponsor of S. 2358, a bill to provide for the establishment of a service-connection for illnesses associated with service in the Persian Gulf War, to extend and enhance certain health care authorities relating to such service, and for other purposes.

S. 2364

At the request of Mr. CHAFEE, the names of the Senator from Wisconsin [Mr. FEINGOLD], the Senator from Louisiana [Mr. BREAUX], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of S. 2364, a bill to reauthorize and make reforms to programs authorized by the Public Works and Economic Development Act of 1965.

S. 2415

At the request of Mr. SANTORUM, the name of the Senator from North Carolina [Mr. HELMS] was added as a cosponsor of S. 2415, a bill to amend the Internal Revenue Code of 1986 to reduce the tax on beer to its pre-1991 level.

S. 2418

At the request of Mr. JEFFORDS, the name of the Senator from New York [Mr. D'AMATO] was added as a cosponsor of S. 2418, a bill to establish rural opportunity communities, and for other purposes.

S. 2514

At the request of Mr. LEAHY, the name of the Senator from New Hampshire [Mr. SMITH] was added as a cosponsor of S. 2514, a bill to amend the Communications Act of 1934 to clarify State and local authority to regulate the placement, construction, and modification of broadcast transmission and telecommunications facilities, and for other purposes.

S. 2525

At the request of Mr. LOTT, the name of the Senator from Missouri [Mr. ASHCROFT] was added as a cosponsor of S. 2525, a bill to establish a program to support a transition to democracy in Iraq.

SENATE CONCURRENT RESOLUTION 94

At the request of Mr. ABRAHAM, the name of the Senator from Ohio [Mr. DEWINE] was added as a cosponsor of Senate Concurrent Resolution 94, a concurrent resolution supporting the religious tolerance toward Muslims.

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. SPECTER, the names of the Senator from Minnesota [Mr. WELLSTONE], the Senator from Montana [Mr. BAUCUS], and the Senator from Illinois [Ms. MOSELEY-BRAUN] were added as cosponsors of Senate Concurrent Resolution 121, a concurrent resolution expressing the sense of Congress that the President should take all necessary measures to respond to the increase in steel imports resulting from the financial crises in Asia, the independent States of the former Soviet Union, Russia, and other areas of the world, and for other purposes.

SENATE RESOLUTION 56

At the request of Mr. GRASSLEY, the names of the Senator from Indiana [Mr. LUGAR] and the Senator from Colorado [Mr. ALLARD] were added as cosponsors of Senate Resolution 56, a resolution designating March 25, 1997 as ''Greek Independence Day: A National Day of Celebration of Greek and American Democracy.''

SENATE RESOLUTION 257

At the request of Mr. MURKOWSKI, the name of the Senator from West Virginia [Mr. BYRD] was added as a cosponsor of Senate Resolution 257, a resolution expressing the sense of the Senate that October 15, 1998, should be designated as ''National Inhalant Abuse Awareness Day.''

SENATE RESOLUTION 289—AUTHORIZING THE PRINTING OF THE ''TESTIMONY FROM THE HEARINGS OF THE TASK FORCE ON ECONOMIC SANCTIONS''

Mr. MCCONNELL submitted the following resolution; which was considered and agreed to:

S. RES. 289

Resolved, That the ''Testimony from the Hearings of the Task Force on Economic Sanctions'', be printed as a Senate document, and that there be printed 300 additional copies of such document for the use of the Task Force on Economic Sanctions at a cost not to exceed $16,311.

SENATE RESOLUTION 290—TO AUTHORIZE REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 290

Whereas, Senator John F. Kerry has received a subpoena for documents in the case of *Tyree* v. *Central Intelligence Agency, et al.*, Case No. 98–CV–11829, now pending in the United States District Court for the District of Massachusetts;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. 288b(a) and 288c(a)(1), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for documents relating to their official responsibilities; and

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Kerry in connection with the subpoena served upon him in the case of *Tyree* v. *Central Intelligence Agency, et al.*

SENATE RESOLUTION 291—TO AUTHORIZE REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 291

Whereas, the Secretary of the Senate, Gary Sisco, and the Sergeant at Arms and Doorkeeper of the Senate, Gregory S. Casey, have been named as defendants in the case of *Clifford Alexander, et al.* v. *William M. Daley, et al.*, Case No. 1:98CV02187, now pending in the United States District Court for the District of Columbia; and

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1987, 2 U.S.C. 288b(a) and 288c(a)(1), the Senate may direct its counsel to represent officers of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the Secretary of the Senate and the Sergeant at Arms and Doorkeeper of the Senate in the case of *Alexander, et al.* v. *Daley, et al.*

AMENDMENTS SUBMITTED

INTERNET TAX FREEDOM ACT

GRAHAM AMENDMENTS NOS. 3750–3751

(Ordered to lie on the table.)

Mr. GRAHAM submitted two amendments intended to be proposed by him to amendment No. 3722 submitted by Mr. MCCAIN to the bill (S. 442) to establish a national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes; as follows:

AMENDMENT NO. 3750

On page 2, line 4, strike ''and'' and insert the following:

''(E) an examination of the effects of taxation including the absence of taxation, on all interstate sales transactions, including transactions using the Internet, on local retail businesses and on State and local governments, which examination may include a review of the efforts of State and local governments to collect sales and use taxes owned on in-State purchases from out-of-State sellers; and''.

AMENDMENT NO. 3751

On page 2, line 4, strike ''and'' and insert the following:

''(E) with respect to electronic commerce, an examination of the efforts of State and local governments to collect sales and use taxes owned on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, the likely impact of such collections on local retail sales, and the level of contacts sufficient to permit a State or local government to impose an obligation to collect such taxes on such interstate sellers; and''.

GRAHAM AMENDMENT NO. 3752

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to amendment No. 3720 submitted by Mr. MCCAIN to the bill, S. 442, supra; as follows:

On page 1, line 8, strike '', assessed or'' and insert ''and''.

GRAHAM AMENDMENT NO. 3753

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to amendment No. 3716 submitted by Mr. MCCAIN to the bill, S. 442, supra; as follows:

On page 1, line 1, strike ''4'' and insert ''3''.

GRAHAM AMENDMENT NO. 3754

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to amendment No. 3715 submitted by Mr. MCCAIN to the bill, S. 442, supra; as follows:

On page 1, line 1, strike ''6'' and insert ''3''.

GRHAM AMENDMENT NO. 3755

(Ordered to lie on the table.)

Mr. GRAHAM submitted an amendment intended to be proposed by him to amendment No. 3714 submitted by Mr. MCCAIN to the bill, S. 442, supra; as follows:

On Page 1, line 1, strike ''5'' and insert ''3''.

GRAHAM AMENDMENTS NOS. 3756–3758

(Ordered to lie on the table.)

Mr. GRAHAM submitted three amendments intended to be proposed by him to amendment No. 3711 submitted by Mr. MCCAIN to the bill, S. 442, supra; as follows:

AMENDMENT NO. 3756

On page 3, line 4, strike ''; or'' and all that follows through line 23, and insert a period.

AMENDMENT NO. 3758

On page 2, strike lines 16 through 22.

Amendment No. 3757

On page 2, line 19, insert ''billing,'' after ''business,''.

BENNETT (AND OTHERS) AMENDMENT NO. 3759

(Ordered to lie on the table.)

Mr. BENNETT (for himself, Mr. KERREY, Ms. LANDRIEU, and Mr. MCCAIN) submitted an amendment intended to be proposed by them to the bill, S. 442, supra; as follows:

Beginning on page ___, line ___, strike all through page ___, line ___, and insert:

SEC. 101. MORATORIUM.

(a) MORATORIUM.—No State or political subdivision thereof shall impose any of the following taxes on transactions occurring during the period beginning on July 29, 1998, and ending 3 years after the date of the enactment of this Act:

(1) Taxes on Internet access.

(2) Bit taxes.

(3) Multiple or discriminatory taxes on electronic commerce.

(b) APPLICATION OF MORATORIUM.—Subsection (a) shall not apply with respect to the provision of Internet access that is offered for sale as part of a package of services that includes services other than Internet access, unless the service provider separately states that portion of the billing that applies to such services on the user's bill.

SEC. 102. ADVISORY COMMISSION ON ELECTRONIC COMMERCE.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the ''Commission''). The Commission shall—

(1) be composed of 16 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) Four representatives from the Federal Government comprised of the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the United States Trade Representative, or their respective representatives.

(B) Six representatives from State and local governments comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(C) Six representatives of the electronic industry and consumer groups comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 2 years after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 2 years after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

HUTCHINSON (AND OTHERS) AMENDMENT NO. 3760

Mr. HUTCHINSON (for himself, Mr. ENZI, and Mr. GRAHAM) proposed an amendment to the bill, S. 442, supra; as follows:

At the end of the McCain amendment, add the following:

(F) an examination of the effects of taxation, including the absence of taxation, on all interstate sales transactions, including transactions using the Internet, on local retail businesses and on State and local governments, which examination may include a review of the efforts of State and local governments to collect sales and use taxes owed on in-State purchases from out-of-State sellers.

GRAMM AMENDMENTS NOS. 3761–3770

(Ordered to lie on the table.)

Mr. GRAMM submitted 10 amendments intended to be proposed by him to the bill, S. 442, supra; as follows:

AMENDMENT NO. 3761

Strike ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless

agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an

agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the

Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or
(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.''.

AMENDMENT NO. 3762

Strike ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or

information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the

Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and

organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.''.

AMENDMENT NO. 3763

Strike ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property,

goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security

and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.'', and insert in lieu thereof: ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 17 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed''.

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Strike ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection

use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of

the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.'', and insert in lieu thereof: ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 18 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for

taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or

online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.''

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Strike ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to

State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of

the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;
(2) administer oaths or affirmations; or
(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or
(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.'',

and insert in lieu thereof: ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Ten members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission

shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an

agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the

Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or
(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.''

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Strike ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or

information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the

Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(a) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and

organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.'', and insert in lieu thereof: ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 21 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.—It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—The term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) a commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(a) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the

Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.''

AMENDMENT NO. 3767

Strike ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State

or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator

uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement

imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.'', and insert in lieu thereof:

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 20 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Ten members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations

initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.''

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Strike ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C.

153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of

or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website

or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.'', and insert in lieu thereof: ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 19 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Ten members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under

section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.''

AMENDMENT NO. 3769

Strike ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

AMENDMENT NO. 3678

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;
(iv) a message board; or
(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon

making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.'', and insert in lieu thereof: ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Twelve members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14

days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements

to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.''

AMENDMENT NO. 3770

Strike ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection

use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of

the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.'', and insert in lieu thereof: ''days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Eleven members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for

taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or

online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.''

McCAIN AMENDMENTS NOS. 3771–3772

(Ordered to lie on the table.)

Mr. McCAIN submitted two amendments intended to be proposed by him to amendment No. 3722 submitted by him to the bill, S. 442, supra; as follows:

AMENDMENT NO. 3771

Strike all and insert the following substitute:

On page 17, beginning with line 18, strike through line 21 on page 19 and insert the following:

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the ''Commission''). The Commission shall—

(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax).

(C) 8 representatives of the electronic commerce industry (including small business), telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) 5 individuals appointed by the Majority Leader of the Senate;

(ii) 3 individuals appointed by the Minority Leader of the Senate;

(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

AMENDMENT NO. 3772

On page 3, strike lines 7 through 23 and insert the following:

(i) the ability to access a site on a remote seller's computer server is considered a factor in determining a remote seller's tax collection obligation; or

(ii) a provider of Internet access service or online services is deemed to be the agent of a remote seller for determining tax collection obligations as a result of—

(I) the display of a remote seller's information or content on the computer server of a provider of Internet access service or online services; or

(II) the processing of orders through the computer server of a provider of Internet access service or on-line services.

McCAIN AMENDMENT NO. 3773

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to amendment No. 3719 submitted by him to the bill, S. 442, supra; as follows:

On page 3, after line 23, insert the following:

(2A) TAX THAT WAS GENERALLY IMPOSED AND ACTUALLY ENFORCED.—The term ''tax that was generally imposed and actually enforced'' means a tax—

(A) that was authorized by statute price to October 1, 1998; and

(B) with respect to which the appropriate state administrative agency provided clear notice that the tax was being interpreted to apply to Internet access services and which provided the taxable entity with a reasonable opportunity to be aware that such tax would apply to them, such as a rule or a public proclamation by such State administrative agency or a public disclosure by such

agency of the fact that the State in question had previously assessed such a tax or was applying its tax to charges for Internet access.

WYDEN AMENDMENT NO. 3774

(Ordered to lie on the table.)

Mr. WYDEN submitted an amendment intended to be proposed by him to amendment No. 3719 submitted by Mr. MCCAIN to the bill, S. 442, supra; as follows:

On page 2, after line 14, add the following:

(d) DEFINITIONS.—For the purposes of this section, a tax has been ''generally imposed and actually enforced'' if, prior to October 1, 1998—

(1) the tax was authorized by statute; and

(2) a provider of Internet access service had been given a reasonable opportunity to know by virtue of a rule or other public proclamation made by the appropriate administrative agency of the state that the tax—

(A) had been interpreted to apply to Internet access services;

(B) had been applied to Internet access services; and

(C) had been assessed to charges for Internet access.

SHELBY AMENDMENT NO. 3775

(Ordered to lie on the table.)

Mr. SHELBY submitted an amendment intended to be proposed by him to amendment No. 3686 submitted by Mr. SHELBY to the bill, S. 442, supra; as follows:

In lieu of the language to be inserted, insert the following,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet Tax Freedom Act''.

TITLE I—MORATORIUM ON CERTAIN TAXES

SEC. 101. MORATORIUM.

(a) MORATORIUM.—No State or political subdivision thereof shall impose any of the following taxes on transactions occurring during the period beginning on July 29, 1998, and ending 4 years after the date of the enactment of this Act:

(1) Taxes on Internet access.

(2) Bit taxes.

(3) Multiple or discriminatory taxes on electronic commerce.

(b) APPLICATION OF MORATORIUM.—Subsection (a) shall not apply with respect to the provision of Internet access that is offered for sale as part of a package of services that includes services other than Internet access, unless the service provider separately states that portion of the billing that applies to such services on the user's bill.

SEC. 102. ADVISORY COMMISSION ON ELECTRONIC COMMERCE.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the ''Commission''). The Commission shall—

(1) be composed of 16 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) Four representatives from the Federal Government comprised of the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the United States Trade Representative, or their respective representatives.

(B) Six representatives from State and local governments comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(C) Six representatives of the electronic industry and consumer groups comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or

such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and

the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation, trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online

collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.

SHELBY AMENDMENT NO. 3776

(Ordered to lie on the table.)

Mr. SHELBY submitted an amendment intended to be proposed by him to amendment No. 3685 submitted by Mr. SHELBY to the bill, S. 442, supra; as follows:

In lieu of the language to be inserted, insert the following,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet Tax Freedom Act''.

TITLE I—MORATORIUM ON CERTAIN TAXES

SEC. 101. MORATORIUM.

(a) MORATORIUM.—No State or political subdivision thereof shall impose any of the following taxes on transactions occurring during the period beginning on July 29, 1998, and ending 3 years after the date of the enactment of this Act:

(1) Taxes on Internet access.

(2) Bit taxes.

(3) Multiple or discriminatory taxes on electronic commerce.

(b) APPLICATION OF MORATORIUM.—Subsection (a) shall not apply with respect to the provision of Internet access that is offered for sale as part of a package of services that includes services other than Internet access, unless the service provider separately states that portion of the billing that applies to such services on the user's bill.

SEC. 102. ADVISORY COMMISSION ON ELECTRONIC COMMERCE.

(a) ESTABLISHMENT OF COMMISSION.—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the ''Commission''). The Commission shall—

(1) be composed of 16 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) Four representatives from the Federal Government comprised of the Secretary of Commerce, the Secretary of State, the Secretary of the Treasury, and the United States Trade Representative, or their respective representatives.

(B) Six representatives from State and local governments comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(C) Six representatives of the electronic industry and consumer groups comprised of—

(i) two representatives appointed by the Majority Leader of the Senate;

(ii) one representative appointed by the Minority Leader of the Senate;

(iii) two representatives appointed by the Speaker of the House of Representatives; and

(iv) one representative appointed by the Minority Leader of the House of Representatives.

(2) APPOINTMENTS.—Appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act. The chairperson shall be selected not later than 60 days after the date of the enactment of this Act.

(3) VACANCIES.—Any vacancy in the Commission shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) ACCEPTANCE OF GIFTS AND GRANTS.—The Commission may accept, use, and dispose of gifts or grants of services or property, both real and personal, for purposes of aiding or facilitating the work of the Commission. Gifts or grants not used at the expiration of the Commission shall be returned to the donor or grantor.

(d) OTHER RESOURCES.—The Commission shall have reasonable access to materials, resources, data, and other information from the Department of Justice, the Department of Commerce, the Department of State, the Department of the Treasury, and the Office of the United States Trade Representative. The Commission shall also have reasonable access to use the facilities of any such Department or Office for purposes of conducting meetings.

(e) SUNSET.—The Commission shall terminate 18 months after the date of the enactment of this Act.

(f) RULES OF THE COMMISSION.—

(1) QUORUM.—Nine members of the Commission shall constitute a quorum for conducting the business of the Commission.

(2) MEETINGS.—Any meetings held by the Commission shall be duly noticed at least 14 days in advance and shall be open to the public.

(3) OPPORTUNITIES TO TESTIFY.—The Commission shall provide opportunities for representatives of the general public, taxpayer groups, consumer groups, and State and local government officials to testify.

(4) ADDITIONAL RULES.—The Commission may adopt other rules as needed.

(g) DUTIES OF THE COMMISSION.—

(1) IN GENERAL.—The Commission shall conduct a thorough study of Federal, State and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable interstate or international sales activities.

(2) ISSUES TO BE STUDIED.—The Commission may include in the study under subsection (a)—

(A) an examination of—

(i) barriers imposed in foreign markets on United States providers of property, goods, services, or information engaged in electronic commerce and on United States providers of telecommunications services; and

(ii) how the imposition of such barriers will affect United States consumers, the competitiveness of United States citizens providing property, goods, services, or information in foreign markets, and the growth and maturing of the Internet;

(B) an examination of the collection and administration of consumption taxes on interstate commerce in other countries and the United States, and the impact of such collection on the global economy, including an examination of the relationship between the collection and administration of such taxes when the transaction uses the Internet and when it does not;

(C) an examination of the impact of the Internet and Internet access (particularly voice transmission) on the revenue base for taxes imposed under section 4251 of the Internal Revenue Code of 1986;

(D) an examination of—

(i) the efforts of State and local governments to collect sales and use taxes owed on purchases from interstate sellers, the advantages and disadvantages of authorizing State and local governments to require such sellers to collect and remit such taxes, particularly with respect to electronic commerce, and the level of contacts sufficient to permit a State or local government to impose such taxes on such interstate commerce;

(ii) model State legislation relating to taxation of transactions using the Internet and Internet access, including uniform terminology, definitions of the transactions, services, and other activities that may be subject to State and local taxation, procedural structures and mechanisms applicable to such taxation, and a mechanism for the resolution of disputes between States regarding matters of multiple taxation; and

(iii) ways to simplify the interstate administration of sales and use taxes on interstate commerce, including a review of the need for a single or uniform tax registration, single or uniform tax returns, simplified remittance requirements, simplified administrative procedures, or the need for an independent third party collection system; and

(E) the examination of ways to simplify Federal and State and local taxes imposed on the provision of telecommunications services.

SEC. 103. REPORT.

Not later than 18 months after the date of the enactment of this Act, the Commission shall transmit to Congress a report reflecting the results of the Commission's study under this title. No finding or recommendation shall be included in the report unless agreed to by at least two-thirds of the members of the Commission serving at the time the finding or recommendation is made.

SEC. 104. DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term ''bit tax'' means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means any tax imposed by a State or political subdivision thereof on electronic commerce that—

(A) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means;

(B) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving the same or similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period; or

(C) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving the same or similar property, goods, services, or information accomplished through other means.

(3) ELECTRONIC COMMERCE.—The term ''electronic commerce'' means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term ''Internet'' means the combination of computer facilities and electromagnetic transmission media, and related equipment and software, comprising the interconnected worldwide network of computer networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocol, to transmit information.

(5) INTERNET ACCESS.—The term ''Internet access'' means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services.

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term ''multiple tax'' means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis), without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions.

(B) EXCEPTION.—Such term shall not include a sales or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term ''sales or use tax'' means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term ''State'' means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term ''tax'' means—

(i) any levy, fee, or charge imposed under governmental authority by any governmental entity; or

(ii) the imposition of or obligation to collect and to remit to a governmental entity any such levy, fee, or charge imposed by a governmental entity.

(B) EXCEPTION.—Such term shall not include any franchise fees or similar fees imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573).

(9) TELECOMMUNICATIONS SERVICES.—The term ''telecommunications services'' has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986).

TITLE II—OTHER PROVISIONS

SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE OF NEW FEDERAL TAXES.

It is the sense of Congress that no new Federal taxes similar to the taxes described in section 101(a) should be enacted with respect to the Internet and Internet access during the moratorium provided in such section.

SEC. 202. NATIONAL TRADE ESTIMATE.

Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) in subsection (a)(1)—

(A) in subparagraph (A)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii); and

(iii) by inserting after clause (ii) the following new clause:

''(iii) United States electronic commerce,''; and

(B) in subparagraph (C)—

(i) by striking ''and'' at the end of clause (i);

(ii) by inserting ''and'' at the end of clause (ii);

(iii) by inserting after clause (ii) the following new clause:

''(iii) the value of additional United States electronic commerce,''; and

(iv) by inserting ''or transacted with,'' after ''or invested in'';

(2) in subsection (a)(2)(E)—

(A) by striking ''and'' at the end of clause (i);

(B) by inserting ''and'' at the end of clause (ii); and

(C) by inserting after clause (ii) the following new clause:

''(iii) the value of electronic commerce transacted with,''; and

(3) by adding at the end the following new subsection:

''(d) ELECTRONIC COMMERCE.—For purposes of this section, the term 'electronic commerce' has the meaning given that term in section 104(3) of the Internet Tax Freedom Act.''.

SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE FREE OF FOREIGN TARIFFS, TRADE BARRIERS, AND OTHER RESTRICTIONS.

(a) IN GENERAL.— It is the sense of Congress that the President should seek bilateral, regional, and multilateral agreements to remove barriers to global electronic commerce through the World Trade Organization, the Organization for Economic Cooperation and Development, the Trans-Atlantic Economic Partnership, the Asia Pacific Economic Cooperation forum, the Free Trade Area of the America, the North American Free Trade Agreement, and other appropriate venues.

(b) NEGOTIATING OBJECTIVES.—The negotiating objectives of the United States shall be—

(1) to assure that electronic commerce is free from—

(A) tariff and nontariff barriers;

(B) burdensome and discriminatory regulation and standards; and

(C) discriminatory taxation; and

(2) to accelerate the growth of electronic commerce by expanding market access opportunities for—

(A) the development of telecommunications infrastructure;

(B) the procurement of telecommunications equipment;

(C) the provision of Internet access and telecommunications services; and

(D) the exchange of goods, services, and digitalized information.

(c) ELECTRONIC COMMERCE.—For purposes of this section, the term ''electronic commerce'' has the meaning given that term in section 104(3).

SEC. 204. NO EXPANSION OF TAX AUTHORITY.

Nothing in this Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed immediately before the date of the enactment of this Act.

SEC. 205. PRESERVATION OF AUTHORITY.

Nothing in this Act shall limit or otherwise affect the implementation of the Telecommunications Act of 1996 (Public Law 104–104) or the amendments made by such Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act.''

SEC. 2. DIRECTION AND OVERSIGHT OF INFORMATION TECHNOLOGY.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

''(vi) the acquisition and use of information technology, including the use of alternative information technologies (such as the use of electronic submission, maintenance, or disclosure of information) to substitute for paper, and the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES.

(a) Within 18 months after enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) An electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it expects to receive electronically 50,000 or more submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 4. AUTHORITY AND FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, within five years of the date of enactment of this Act, executive agencies provide for the optional use of electronic maintenance, submission, or disclosure of information where practicable, as an alternative information technology to substitute for paper, and the use and acceptance of electronic signatures where practicable.

SEC. 5. ELECTRONIC STORAGE OF FORMS.

Within 18 months of enactment of this Act, in order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget shall develop procedures and guidelines for executive agency use to permit employer electronic storage and filing of forms containing information pertaining to employees.

SEC. 6. STUDY.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the Clinger-Cohen Act of 1996 (P.L. 104–106), and the provisions of this Act, the Director of the Office of Management and Budget, shall conduct an ongoing study of paperwork reduction and electronic commerce, the impact on individual privacy, and the security and authenticity of transactions due to the use of electronic signatures pursuant to this Act, and shall report the findings to Congress.

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH OTHER LAWS.

Nothing in this title shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

(2) it conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) EXECUTIVE AGENCY.—The term ''executive agency'' has the meaning given that term in section 105 of title 5, United States Code.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of such electronic message; and

(B) indicates such person's approval of the information contained in such electronic message.

(3) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

TITLE II—CHILDREN'S ONLINE PRIVACY PROTECTION

SEC. 201. SHORT TITLE.

This title may be cited as the ''Children's Online Privacy Protection Act of 1999''.

SEC. 202. DEFINITIONS.

In this title:

(1) CHILD.—the term ''child'' means an individual under the age of 13.

(2) OPERATOR.—The term ''operator''—

(A) means any person who operates a website located on the Internet or an online service and who collects or maintains personal information from or about the users of or visitors to such website or online service, or on whose behalf such information is collected or maintained, where such website or online service is operated for commercial purposes, including any person offering products or services for sale through that website or online service, involving commerce—

(i) among the several States or with 1 or more foreign nations;

(ii) in any territory of the United States or in the District of Columbia, or between any such territory and—

(I) another such territory; or

(II) any State or foreign nation; or

(iii) between the District of Columbia and any State, territory, or foreign nation; but

(B) does not include any non-profit entity that would otherwise be exempt from coverage under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) COMMISSION.—The term ''Commission'' means the Federal Trade Commission.

(4) DISCLOSURE.—The term ''disclosure'' means, with respect to personal information—

(A) the release of personal information collected from a child in identifiable form by an operator for any purpose, except where such information is provided to a person other than the operator who provides support for the internal operations of the website and does not disclose or use that information for any other purpose; and

(B) making personal information collected from a child by a website or online service directed to children or with actual knowledge that such information was collected from a child, publicly available in identifiable form, by any means including by a public posting, through the Internet, or through—

(i) a home page of a website;

(ii) a pen pal service;

(iii) an electronic mail service;

(iv) a message board; or

(v) a chat room.

(5) FEDERAL AGENCY.—The term ''Federal agency'' means an agency, as that term is defined in section 551(1) of title 5, United States Code.

(6) INTERNET.—The term ''Internet'' means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(7) PARENT.—The term ''parent'' includes a legal guardian.

(8) PERSONAL INFORMATION.—The term ''personal information'' means individually identifiable information about an individual collected online, including—

(A) a first and last name;

(B) a home or other physical address including street name and name of a city or town;

(C) an e-mail address;

(D) a telephone number;

(E) a Social Security number;

(F) any other identifier that the Commission determines permits the physical or online contracting of a specific individual; or

(G) information concerning the child or the parents of that child that the website collects online from the child and combines with an identifier described in this paragraph.

(9) VERIFIABLE PARENTAL CONSENT.—The term ''verifiable parental consent'' means any reasonable effort (taking into consideration available technology), including a request for authorization for future collection use, and disclosure described in the notice, to ensure that a parent of a child receives notice of the operator's personal information collection, use, and disclosure practices, and authorizes the collection, use, and disclosure, as applicable, of personal information and the subsequent use of that information before that information is collected from that child.

(10) WEBSITE OR ONLINE SERVICE DIRECTED TO CHILDREN.—

(A) IN GENERAL.—The term ''website or online service directed to children'' means—

(i) A commercial website or online service that is targeted to children; or

(ii) that portion of a commercial website or online service that is targeted to children.

(B) LIMITATION.—A commercial website or online service, or a portion of a commercial website or online service, shall not be deemed directed to children solely for referring or linking to a commercial website or online service directed to children by using information location tools, including a directory, index, reference, pointer, or hypertext link.

(11) PERSON.—The term ''person'' means any individual, partnership, corporation,

trust, estate, cooperative, association, or other entity.

(12) ONLINE CONTACT INFORMATION.—The term ''online contact information'' means an e-mail address or another substantially similar identifier that permits direct contact with a person online.

SEC. 203. REGULATION OF UNFAIR AND DECEPTIVE ACTS AND PRACTICES IN CONNECTION WITH THE COLLECTION AND USE OF PERSONAL INFORMATION FROM AND ABOUT CHILDREN ON THE INTERNET.

(A) ACTS PROHIBITED.—

(1) IN GENERAL.—It is unlawful for an operator of a website or online service directed to children, or any operator that has actual knowledge that it is collecting personal information from a child, to collect personal information from a child in a manner that violates the regulations prescribed under subsection (b).

(2) DISCLOSURE TO PARENT PROTECTED.—Notwithstanding paragraph (1), neither an operator of such a website or online service nor the operator's agent shall be held to be liable under any Federal or State law for any disclosure made in good faith and following reasonable procedures in responding to a request for disclosure of personal information under subsection (b)(1)(B)(iii) to the parent of a child.

(b) REGULATIONS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Commission shall promulgate under section 553 of title 5, United States Code, regulations that—

(A) require the operator of any website or online service directed to children that collects personal information from children or the operator of a website or online service that has actual knowledge that it is collecting personal information from a child—

(i) to provide notice on the website of what information is collected from children by the operator, how the operator uses such information, and the operator's disclosure practices for such information; and

(ii) to obtain verifiable parental consent for the collection, use, or disclosure of personal information from children;

(B) require the operator to provide, upon request of a parent under this subparagraph whose child has provided personal information to that website or online service, upon proper identification of that parent, to such parent—

(i) a description of the specific types of personal information collected from the child by that operator;

(ii) the opportunity at any time to refuse to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child; and

(iii) notwithstanding any other provision of law, a means that is reasonable under the circumstances for the parent to obtain any personal information collected from that child;

(C) prohibit conditioning a child's participation in a game, the offering of a prize, or another activity on the child disclosing more personal information than is reasonably necessary to participate in such activity; and

(D) require the operator of such a website or online service to establish and maintain reasonable procedures to protect the confidentiality, security, and integrity of personal information collected from children.

(2) WHEN CONSENT NOT REQUIRED.—The regulations shall provide that verifiable parental consent under paragraph (1)(A)(ii) is not required in the case of—

(A) online contact information collected from a child that is used only to respond directly on a one-time basis to a specific request from the child and is not used to recontact the child and is not maintained in retrievable form by the operator;

(B) a request for the name or online contact information of a parent or child that is used for the sole purpose of obtaining parental consent or providing notice under this section and where such information is not maintained in retrievable form by the operator if parental consent is not obtained after a reasonable time;

(C) online contact information collected from a child that is used only to respond more than once directly to a specific request from the child and is not used to recontact the child beyond the scope of that request—

(i) if, before any additional response after the initial response to the child, the operator uses reasonable efforts to provide a parent notice of the online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(ii) without notice to the parent in such circumstances as the Commission may determine are appropriate, taking into consideration the benefits to the child of access to information and services, and risks to the security and privacy of the child, in regulations promulgated under this subsection;

(D) the name of the child and online contact information (to the extent reasonably necessary to protect the safety of a child participant on the site)—

(i) used only for the purpose of protecting such safety;

(ii) not used to recontact the child or for any other purpose; and

(iii) not disclosed on the site,

if the operator uses reasonable efforts to provide a parent notice of the name and online contact information collected from the child, the purposes for which it is to be used, and an opportunity for the parent to request that the operator make no further use of the information and that it not be maintained in retrievable form; or

(E) the collection, use, or dissemination of such information by the operator of such a website or online service necessary—

(i) to protect the security or integrity of its website;

(ii) to take precautions against liability;

(iii) to respond to judicial process; or

(iv) to the extent permitted under other provisions of law, to provide information to law enforcement agencies or for an investigation on a matter related to public safety.

(3) TERMINATION OF SERVICE.—The regulations shall permit the operator of a website or an online service to terminate service provided to a child whose parent has refused, under the regulations prescribed under paragraph (1)(B)(ii), to permit the operator's further use or maintenance in retrievable form, or future online collection, of personal information from that child.

(c) ENFORCEMENT.—Subject to sections 204 and 206, a violation of a regulation prescribed under subsection (a) shall be treated as a violation of a rule defining an unfair or deceptive act or practice prescribed under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

(d) INCONSISTENT STATE LAW.—No State or local government may impose any liability for commercial activities or actions by operators in interstate or foreign commerce in connection with an activity or action described in this title that is inconsistent with the treatment of those activities or actions under this section.

SEC. 204. SAFE HARBORS.

(a) GUIDELINES.—An operator may satisfy the requirements of regulations issued under section 203(b) by following a set of self-regulatory guidelines, issued by representatives of the marketing or online industries, or by other persons, approved under subsection (b).

(b) INCENTIVES.—

(1) SELF-REGULATORY INCENTIVES.—In prescribing regulations under section 203, the Commission shall provide incentives for self-regulation by operators to implement the protections afforded children under the regulatory requirements described in subsection (b) of that section.

(2) DEEMED COMPLIANCE.—Such incentives shall include provisions for ensuring that a person will be deemed to be in compliance with the requirements of the regulations under section 203 if that person complies with guidelines that, after notice and comment, are approved by the Commission upon making a determination that the guidelines meet the requirements of the regulations issued under section 203.

(3) EXPEDITED RESPONSE TO REQUESTS.—The Commission shall act upon requests for safe harbor treatment within 180 days of the filing of the request, and shall set forth in writing its conclusions with regard to such requests.

(c) APPEALS.—Final action by the Commission on a request for approval of guidelines, or the failure to act within 180 days on a request for approval of guidelines, submitted under subsection (b) may be appealed to a district court of the United States of appropriate jurisdiction as provided for in section 706 of title 5, United States Code.

SEC. 205. ACTIONS BY STATES.

(a) IN GENERAL.—

(1) CIVIL ACTIONS.—In any case in which the attorney general of a State has reason to believe that an interest of the residents of that State has been or is threatened or adversely affected by the engagement of any person in a practice that violates any regulation of the Commission prescribed under section 203(b), the State, as parens patriae, may bring a civil action on behalf of the residents of the State in a district court of the United States of appropriate jurisdiction to—

(A) enjoin that practice;

(B) enforce compliance with the regulation;

(C) obtain damage, restitution, or other compensation on behalf of residents of the State; or

(D) obtain such other relief as the court may consider to be appropriate.

(2) NOTICE.—

(A) IN GENERAL.—Before filing an action under paragraph (1), the attorney general of the State involved shall provide to the Commission—

(i) written notice of that action; and

(ii) a copy of the complaint for that action.

(B) EXEMPTION.—

(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to the filing of an action by an attorney general of a State under this subsection, if the attorney general determines that it is not feasible to provide the notice described in that subparagraph before the filing of the action.

(ii) NOTIFICATION.—In an action described in clause (i), the attorney general of a State shall provide notice and a copy of the complaint to the Commission at the same time as the attorney general files the action.

(b) INTERVENTION.—

(1) IN GENERAL.—On receiving notice under subsection (a)(2), the Commission shall have the right to intervene in the action that is the subject of the notice.

(2) EFFECT OF INTERVENTION.—If the Commission intervenes in an action under subsection (a), it shall have the right—

(A) to be heard with respect to any matter that arises in that action; and

(B) to file a petition for appeal.

(3) AMICUS CURIAE.—Upon application to the court, a person whose self-regulatory guidelines have been approved by the Commission and are relied upon as a defense by any defendant to a proceeding under this section may file amicus curiae in that proceeding.

(c) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this title shall be construed to prevent an attorney general of a State from exercising the powers conferred on the attorney general by the laws of that State to—

(1) conduct investigations;

(2) administer oaths or affirmations; or

(3) compel the attendance of witnesses or the production of documentary and other evidence.

(d) ACTIONS BY THE COMMISSION.—In any case in which an action is instituted by or on behalf of the Commission for violation of any regulation prescribed under section 293, no State may, during the pendency of that action, institute an action under subsection (a) against any defendant named in the complaint in that action for violation of that regulation.

(e) VENUE; SERVICE OF PROCESS.—

(1) VENUE.—Any action brought under subsection (a) may be brought in the district court of the United States that meets applicable requirements relating to venue under section 1391 of title 28, United States Code.

(2) SERVICE OF PROCESS.—In an action brought under subsection (a), process may be served in any district in which the defendant—

(A) is an inhabitant; or

(B) may be found.

SEC. 206. ADMINISTRATION AND APPLICABILITY OF ACT.

(a) IN GENERAL.—Except as otherwise provided, this title shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) PROVISIONS.—Compliance with the requirements imposed under this title shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), in the case of—

(A) national banks, and Federal branches and Federal agencies of foreign banks, by the Office of the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25(a) of the Federal Reserve Act (12 U.S.C. 601 et seq. and 611 et. seq.), by the Board; and

(C) banks insured by the Federal Deposit Insurance Corporation (other than members of the Federal Reserve System) and insured State branches of foreign banks, by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 8 of the Federal Deposit Insurance Act (12 U.S.C. 1818), by the Director of the Office of Thrift Supervision, in the case of a savings association the deposits of which are insured by the Federal Deposit Insurance Corporation;

(3) the Federal Credit Union Act (12 U.S.C. 1751 et seq.) by the National Credit Union Administration Board with respect to any Federal credit union;

(4) part A of subtitle VII of title 49, United States Code, by the Secretary of Transportation with respect to any air carrier or foreign air carrier subject to that part;

(5) the Packers and Stockyards Act, 1921 (7 U.S.C. 181 et. seq.) (except as provided in section 406 of that Act (7 U.S.C. 226, 227)), by the Secretary of Agriculture with respect to any activities subject to that Act; and

(6) the Farm Credit Act of 1971 (12 U.S.C. (2001 et seq.) by the Farm Credit Administration with respect to any Federal land bank, Federal land bank association, Federal intermediate credit bank, or production credit association.

(c) EXERCISE OF CERTAIN POWERS.—For the purpose of the exercise by any agency referred to in subsection (a) of its powers under any Act referred to in that subsection, a violation of any requirement imposed under this title shall be deemed to be a violation of a requirement imposed under that Act. In addition to its powers under any provision of law specifically referred to in subsection (a), each of the agencies referred to in that subsection may exercise, for the purpose of enforcing compliance with any requirement imposed under this title, any other authority conferred on it by law.

(d) ACTIONS BY THE COMMISSION.—The Commission shall prevent any person from violating a rule of the Commission under section 203 in the same manner, by the same means, and with the same jurisdiction, powers, and duties as though all applicable terms and provisions of the Federal Trade Commission Act (15 U.S.C. 41 et seq.) were incorporated into and made a part of this title. Any entity that violates such rule shall be subject to the penalties and entitled to the privileges and immunities provided in the Federal Trade Commission Act in the same manner, by the same means, and with the same jurisdiction, power, and duties as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this title.

(e) EFFECT ON OTHER LAWS.—Nothing contained in the Act shall be construed to limit the authority of the Commission under any other provisions of law.

SEC. 207. REVIEW.

(a) IN GENERAL.—Not later than 5 years after the effective date of the regulations initially issued under section 203, the Commission shall—

(1) review the implementation of this title, including the effect of the implementation of this title on practices relating to the collection and disclosure of information relating to children, children's ability to obtain access to information of their choice online, and on the availability of websites directed to children; and

(2) prepare and submit to Congress a report on the results of the review under paragraph (1).

SEC. 208. EFFECTIVE DATE.

Sections 203(a), 205, and 206 of this title take effect on the later of—

(1) the date that is 18 months after the date of enactment of this Act; or

(2) the date on which the Commission rules on the first application for safe harbor treatment under section 204 if the Commission does not rule on the first such application within one year after the date of enactment of this Act, but in no case later than the date that is 30 months after the date of enactment of this Act.

ENZI AMENDMENTS NOS. 3777–3778

(Ordered to lie on the table.)

Mr. ENZI submitted two amendments intended to be proposed by him to the bill, S. 442, supra; as follows:

AMENDMENT NO. 3777

On page _____, line _____ of the amendment strike "_____" and insert the following: "including at least one who represents a State that does not impose an income tax".

On page _____, line _____, of the amendment, strike "_____" and insert the following:

"( ) PRESERVATION OF STATE AND LOCAL TAXING AUTHORITY.—Except as provided in this section, nothing in this Act shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or superseding of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States or other Federal law and in effect on the date of enactment of this Act.

( ) LIABILITIES AND PENDING CASES.—Nothing in this Act affects liability for taxes accrued and enforced before the date of enactment of this Act, nor does this Act affect ongoing litigation relating to such taxes."

DORGAN AMENDMENT NO. 3779

(Ordered to lie on the table.)

Mr. DORGAN submitted an amendment intended to be proposed by him to amendment No. 3719 submitted by Mr. SHELBY to the bill, S. 442, supra; as follows:

On page 2, after line 14, add the following:

(d) DEFINITIONS.—For the purposes of this section, a tax has been "generally imposed and actually enforced" if—

(1) a tax was authorized by statute prior to October 1, 1998; and

(2) provider of Internet access services had a reasonable opportunity to know by virtue of a rule or other public proclamation made by the appropriate administration agency of the state or political subdivision thereof, that such agency had, prior to October 1, 1998—

(A) interpreted such tax to apply to Internet access services:

(B) applied such tax to Internet access services; or

(C) assessed such tax to charges for Internet access.

DODD AMENDMENT NO. 3780

Mr. DODD proposed an amendment to the bill, S. 442, supra; as follows:

At the end of the amendment, add:

(d) ADDITIONAL EXCEPTION TO MORATORIUM.—

(1) IN GENERAL.—Subsection (a) shall also not apply with respect to an Internet access provider, unless, at the time of entering into an agreement with a customer for the provision of Internet access services, such provider offers such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

(2) DEFINITIONS.—In this subsection:

(A) INTERNET ACCESS PROVIDER.—The term 'Internet access provider' means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

(B) INTERNET ACCESS SERVICES.—The term 'Internet access services' means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.

(C) SCREENING SOFTWARE.—The term "screening software" means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.

(3) APPLICABILITY.—Paragraph (1) shall apply to agreements for the provision of Internet access services entered into on or

after the date that is 6 months after the date of enactment of this Act.

DODD AMENDMENT NO. 3781

(Ordered to lie on the table.)

Mr. DODD submitted an amendment intended to be proposed to the bill, S. 442, supra; as follows:

At the end of the amendment, add:

SEC. ___. EXCEPTION TO MORATORIUM.

(a) IN GENERAL.—Section 101(a) shall not apply with respect to an Internet access provider, unless, at the time of entering into an agreement with a customer for the provision of Internet access services, such provider offers such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

(b) DEFINITIONS.—In this section:

(1) INTERNET ACCESS PROVIDER.—The term ''Internet access provider'' means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

(2) INTERNET ACCESS SERVICES.—The term ''Internet access services'' means the provision of computer and communications services through which a customer using a computer and a modem or other communications device may obtain access to the Internet, but does not include telecommunications services provided by a common carrier.

(3) SCREENING SOFTWARE.—The term ''screening software'' means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.

(c) APPLICABILITY.—Subsection (a) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act.

COPYRIGHT TERM EXTENSION ACT OF 1998

HATCH AMENDMENT NO. 3782

Mr. LOTT (for Mr. HATCH) proposed an amendment to the bill (S. 505) to amend the provisions of title 17, United States Code, with respect to the duration of copyright, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

TITLE I—COPYRIGHT TERM EXTENSION

SEC. 101. SHORT TITLE.

This title may be referred to as the ''Sonny Bono Copyright Term Extension Act''.

SEC. 102. DURATION OF COPYRIGHT PROVISIONS.

(a) PREEMPTION WITH RESPECT TO OTHER LAWS.—Section 301(c) of title 17, United States Code, is amended by striking ''February 15, 2047'' each place it appears and inserting ''February 15, 2067''.

(b) DURATION OF COPYRIGHT: WORKS CREATED ON OR AFTER JANUARY 1, 1978.—Section 302 of title 17, United States Code, is amended—

(1) in subsection (a) by striking ''fifty'' and inserting ''70'';

(2) in subsection (b) by striking ''fifty'' and inserting ''70'';

(3) in subsection (c) in the first sentence—

(A) by striking ''seventy-five'' and inserting ''95''; and

(B) by striking ''one hundred'' and inserting ''120''; and

(4) in subsection (e) in the first sentence—

(A) by striking ''seventy-five'' and inserting ''95'';

(B) by striking ''one hundred'' and inserting ''120''; and

(C) by striking ''fifty'' each place it appears and inserting ''70''.

(c) DURATION OF COPYRIGHT: WORKS CREATED BUT NOT PUBLISHED OR COPYRIGHTED BEFORE JANUARY 1, 1978.—Section 303 of title 17, United States Code, is amended in the second sentence by striking ''December 31, 2027'' and inserting ''December 31, 2047''.

(d) DURATION OF COPYRIGHT: SUBSISTING COPYRIGHTS.—

(1) IN GENERAL.—Section 304 of title 17, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (1)—

(I) in subparagraph (B) by striking ''47'' and inserting ''67''; and

(II) in subparagraph (C) by striking ''47'' and inserting ''67'';

(ii) in paragraph (2)—

(I) in subparagraph (A) by striking ''47'' and inserting ''67''; and

(II) in subparagraph (B) by striking ''47'' and inserting ''67''; and

(iii) in paragraph (3)—

(I) in subparagraph (A)(i) by striking ''47'' and inserting ''67''; and

(II) in subparagraph (B) by striking ''47'' and inserting ''67'';

(B) by amending subsection (b) to read as follows:

''(b) COPYRIGHTS IN THEIR RENEWAL TERM AT THE TIME OF THE EFFECTIVE DATE OF THE SONNY BONO COPYRIGHT TERM EXTENSION ACT.—Any copyright still in its renewal term at the time that the Sonny Bono Copyright Term Extension Act becomes effective shall have a copyright term of 95 years from the date copyright was originally secured.'';

(C) in subsection (c)(4)(A) in the first sentence by inserting ''or, in the case of a termination under subsection (d), within the five-year period specified by subsection (d)(2),'' after ''specified by clause (3) of this subsection,''; and

(D) by adding at the end the following new subsection:

''(d) TERMINATION RIGHTS PROVIDED IN SUBSECTION (c) WHICH HAVE EXPIRED ON OR BEFORE THE EFFECTIVE DATE OF THE SONNY BONO COPYRIGHT TERM EXTENSION ACT.—In the case of any copyright other than a work made for hire, subsisting in its renewal term on the effective date of the Sonny Bono Copyright Term Extension Act for which the termination right provided in subsection (c) has expired by such date, where the author or owner of the termination right has not previously exercised such termination right, the exclusive or nonexclusive grant of a transfer or license of the renewal copyright or any right under it, executed before January 1, 1978, by any of the persons designated in subsection (a)(1)(C) of this section, other than by will, is subject to termination under the following conditions:

''(1) The conditions specified in subsection (c)(1), (2), (4), (5), and (6) of this section apply to terminations of the last 20 years of copyright term as provided by the amendments made by the Sonny Bono Copyright Term Extension Act.

''(2) Termination of the grant may be effected at any time during a period of 5 years beginning at the end of 75 years from the date copyright was originally secured.''.

(2) COPYRIGHT AMENDMENTS ACT OF 1992.—Section 102 of the Copyright Amendments Act of 1992 (Public Law 102–307; 106 Stat. 266; 17 U.S.C. 304 note) is amended—

(A) in subsection (c)—

(i) by striking ''47'' and inserting ''67'';

(ii) by striking ''(as amended by subsection (a) of this section)''; and

(iii) by striking ''effective date of this section'' each place it appears and inserting ''effective date of the Sonny Bono Copyright Term Extension Act''; and

(B) in subsection (g)(2) in the second sentence by inserting before the period the following: '', except each reference to forty-seven years in such provisions shall be deemed to be 67 years''.

SEC. 103. TERMINATION OF TRANSFERS AND LICENSES COVERING EXTENDED RENEWAL TERM.

Sections 203(a)(2) and 304(c)(2) of title 17, United States Code, are each amended—

(1) by striking ''by his widow or her widower and his or her children or grandchildren''; and

(2) by inserting after subparagraph (C) the following:

''(D) In the event that the author's widow or widower, children, and grandchildren are not living, the author's executor, administrator, personal representative, or trustee shall own the author's entire termination interest.''.

SEC. 104. REPRODUCTION BY LIBRARIES AND ARCHIVES.

Section 108 of title 17, United States Code, is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following:

''(h)(1) For purposes of this section, during the last 20 years of any term of copyright of a published work, a library or archives, including a nonprofit educational institution that functions as such, may reproduce, distribute, display, or perform in facsimile or digital form a copy or phonorecord of such work, or portions thereof, for purposes of preservation, scholarship, or research, if such library or archives has first determined, on the basis of a reasonable investigation, that none of the conditions set forth in subparagraphs (A), (B), and (C) of paragraph (2) apply.

''(2) No reproduction, distribution, display, or performance is authorized under this subsection if—

''(A) the work is subject to normal commercial exploitation;

''(B) a copy or phonorecord of the work can be obtained at a reasonable price; or

''(C) the copyright owner or its agent provides notice pursuant to regulations promulgated by the Register of Copyrights that either of the conditions set forth in subparagraphs (A) and (B) applies.

''(3) The exemption provided in this subsection does not apply to any subsequent uses by users other than such library or archives.''.

SEC. 105. VOLUNTARY NEGOTIATION REGARDING DIVISION OF ROYALTIES.

It is the sense of the Congress that copyright owners of audiovisual works for which the term of copyright protection is extended by the amendments made by this title, and the screenwriters, directors, and performers of those audiovisual works, should negotiate in good faith in an effort to reach a voluntary agreement or voluntary agreements with respect to the establishment of a fund or other mechanism for the amount of remuneration to be divided among the parties for the exploitation of those audiovisual works.

SEC. 106. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

TITLE II—MUSIC LICENSING EXEMPTION FOR FOOD SERVICE OR DRINKING ESTABLISHMENTS

SEC. 201. SHORT TITLE.

This title may be cited as the ''Fairness In Music Licensing Act of 1998.''

SEC. 202. EXEMPTIONS.

(a) EXEMPTIONS FOR CERTAIN ESTABLISHMENTS.—Section 110 of title 17, United States Code is amended—

(1) in paragraph (5)—

(A) by striking ''(5)'' and inserting ''(5)(A) except as provided in subparagraph (B),''; and

(B) by adding at the end the following:

''(B) communication by an establishment of a transmission or retransmission embodying a performance or display of a nondramatic musical work intended to be received by the general public, originated by a radio or television broadcast station licensed as such by the Federal Communications Commission, or, if an audiovisual transmission, by a cable system or satellite carrier, if—

''(i) in the case of an establishment other than a food service or drinking establishment, either the establishment in which the communication occurs has less than 2000 gross square feet of space (excluding space used for customer parking and for no other purpose), or the establishment in which the communication occurs has 2000 or more gross square feet of space (excluding space used for customer parking and for no other purpose) and—

''(I) if the performance is by audio means only, the performance is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space; or

''(II) if the performance or display is by audiovisual means, any visual portion of the performance or display is communicated by means of a total of not more than 4 audiovisual devices, of which not more than one audiovisual device is located in any 1 room, and no such audiovisual device has a diagonal screen size greater than 55 inches, and any audio portion of the performance or display is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space;

''(ii) in the case of a food service or drinking establishment, either the establishment in which the communication occurs has less than 3750 gross square feet of space (excluding space used for customer parking and for no other purpose), or the establishment in which the communication occurs has 3750 gross square feet of space or more (excluding space used for customer parking and for no other purpose) and—

''(I) if the performance is by audio means only, the performance is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space; or

''(II) if the performance or display is by audiovisual means, any visual portion of the performance or display is communicated by means of a total of not more than 4 audiovisual devices, of which not more than one audiovisual device is located in any 1 room, and no such audiovisual device has a diagonal screen size greater than 55 inches, and any audio portion of the performance or display is communicated by means of a total of not more than 6 loudspeakers, of which not more than 4 loudspeakers are located in any 1 room or adjoining outdoor space;

''(iii) no direct charge is made to see or hear the transmission or retransmission;

''(iv) the transmission or retransmission is not further transmitted beyond the establishment where it is received; and

''(v) the transmission or retransmission is licensed by the copyright owner of the work so publicly performed or displayed;''; and

(2) by adding after paragraph (10) the following:

''The exemptions provided under paragraph (5) shall not be taken into account in any administrative, judicial, or other governmental proceeding to set or adjust the royalties payable to copyright owners for the public performance or display of their works. Royalties payable to copyright owners for any public performance or display of their works other than such performances or displays as are exempted under paragraph (5) shall not be diminished in any respect as a result of such exemption''.

(b) EXEMPTION RELATING TO PROMOTION.—Section 110(7) of title 17, United States Code, is amended by inserting ''or of the audiovisual or other devices utilized in such performance,'' after ''phonorecords of the work,''.

SEC. 203. LICENSING BY PERFORMING RIGHTS SOCIETIES.

(a) IN GENERAL.—Chapter 5 of title 17, United States Code, is amended by adding at the end the following:

''§ 512. Determination of reasonable license fees for individual proprietors

''In the case of any performing rights society subject to a consent decree which provides for the determination of reasonable license rates or fees to be charged by the performing rights society, notwithstanding the provisions of that consent decree, an individual proprietor who owns or operates fewer than 7 non-publicly traded establishments in which nondramatic musical works are performed publicly and who claims that any license agreement offered by that performing rights society is unreasonable in its license rate or fee as to that individual proprietor, shall be entitled to determination of a reasonable license rate or fee as follows:

''(1) The individual proprietor may commence such proceeding for determination of a reasonable license rate or fee by filing an application in the applicable district court under paragraph (2) that a rate disagreement exists and by serving a copy of the application on the performing rights society. Such proceeding shall commence in the applicable district court within 90 days after the service of such copy, except that such 90-day requirement shall be subject to the administrative requirements of the court.

''(2) The proceeding under paragraph (1) shall be held, at the individual proprietor's election, in the judicial district of the district court with jurisdiction over the applicable consent decree or in that place of holding court of a district court that is the seat of the Federal circuit (other than the Court of Appeals for the Federal Circuit) in which the proprietor's establishment is located.

''(3) Such proceeding shall be held before the judge of the court with jurisdiction over the consent decree governing the performing rights society. At the discretion of the court, the proceeding shall be held before a special master or magistrate judge appointed by such judge. Should that consent decree provide for the appointment of an advisor or advisors to the court for any purpose, any such advisor shall be the special master so named by the court.

''(4) In any such proceeding, the industry rate shall be presumed to have been reasonable at the time it was agreed to or determined by the court. Such presumption shall in no way affect a determination of whether the rate is being correctly applied to the individual proprietor.

''(5) Pending the completion of such proceeding, the individual proprietor shall have the right to perform publicly the copyrighted musical compositions in the repertoire of the performing rights society by paying an interim license rate or fee into an interest bearing escrow account with the clerk of the court, subject to retroactive adjustment when a final rate or fee has been determined, in an amount equal to the industry rate, or, in the absence of an industry rate, the amount of the most recent license rate or fee agreed to by the parties.

''(6) Any decision rendered in such proceeding by a special master or magistrate judge named under paragraph (3) shall be reviewed by the judge of the court with jurisdiction over the consent decree governing the performing rights society. Such proceeding, including such review, shall be concluded within 6 months after its commencement.

''(7) Any such final determination shall be binding only as to the individual proprietor commencing the proceeding, and shall not be applicable to any other proprietor or any other performing rights society, and the performing rights society shall be relieved of any obligation of nondiscrimination among similarly situated music users that may be imposed by the consent decree governing its operations.

''(8) An individual proprietor may not bring more than one proceeding provided for in this section for the determination of a reasonable license rate or fee under any license agreement with respect to any one performing rights society.

''(9) For purposes of this section, the term 'industry rate' means the license fee a performing rights society has agreed to with, or which has been determined by the court for, a significant segment of the music user industry to which the individual proprietor belongs.''.

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 5 of title 17, United States Code, is amended by adding after the item relating to section 511 the following:

''512.Determination of reasonable license fees for individual proprietors.''.

SEC. 204. PENALTIES.

Section 504 of title 17, United States Code, is amended by adding at the end the following:

''(d) ADDITIONAL DAMAGES IN CERTAIN CASES.—In any case in which the court finds that a defendant proprietor of an establishment who claims as a defense that its activities were exempt under section 110(5) did not have reasonable grounds to believe that its use of a copyrighted work was exempt under such section, the plaintiff shall be entitled to, in addition to any award of damages under this section, an additional award of two times the amount of the license fee that the proprietor of the establishment concerned should have paid the plaintiff for such use during the preceding period of up to 3 years.''.

SEC. 205. DEFINITIONS.

Section 101 of title 17, United States Code, is amended—

(1) by inserting after the definition of ''display'' the following:

''An 'establishment' is a store, shop, or any similar place of business open to the general public for the primary purpose of selling goods or services in which the majority of the gross square feet of space that is nonresidential is used for that purpose, and in which nondramatic musical works are performed publicly.

''A 'food service or drinking establishment' is a restaurant, inn, bar, tavern, or any other similar place of business in which the public or patrons assemble for the primary purpose of being served food or drink, in which the majority of the gross square feet of space

that is nonresidential is used for that purpose, and in which nondramatic musical works are performed publicly.'';

(2) by inserting after the definition of ''fixed'' the following:

''The 'gross square feet of space' of an establishment means the entire interior space of that establishment, and any adjoining outdoor space used to serve patrons, whether on a seasonal basis or otherwise.'';

(3) by inserting after the definition of ''perform'' the following:

''A 'performing rights society' is an association, corporation, or other entity that licenses the public performance of nondramatic musical works on behalf of copyright owners of such works, such as the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), and SESAC, Inc.''; and

(4) by inserting after the definition of ''pictorial, graphic and sculptural works'' the following:

''A 'proprietor' is an individual, corporation, partnership, or other entity, as the case may be, that owns an establishment, or a food service or drinking establishment, except that no owner or operator of a radio or television station licensed by the Federal Communications Commission, cable system or satellite carrier, cable or satellite carrier service or programmer, provider of online services or network access or the operator of facilities therefor, telecommunications company, or any other such audio or audiovisual service or programmer now known or as may be developed in the future, commercial subscription music service, or owner or operator of any other transmission service, shall under any circumstances be deemed to be a proprietor.''.

SEC. 206. CONSTRUCTION OF TITLE.

Except as otherwise provided in this title, nothing in this title shall be construed to relieve any performing rights society of any obligation under any State or local statute, ordinance, or law, or consent decree or other court order governing its operation, as such statute, ordinance, law, decree, or order is in effect on the date of the enactment of this Act, as it may be amended after such date, or as it may be issued or agreed to after such date.

SEC. 207. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 90 days after the date of the enactment of this Act.

INTERNET TAX FREEDOM ACT

MCCAIN (AND WYDEN) AMENDMENT NO. 3783

Mr. MCCAIN (for himself and Mr. WYDEN) proposed an amendment to the bill, S. 442, supra; as follows:

On line 5, strike ''3'' and insert ''4''.

ALTERNATIVE DISPUTE RESOLUTION ACT OF 1998

GRASSLEY (AND DURBIN) AMENDMENT NO. 3784

Mr. MCCAIN (for Mr. GRASSLEY for himself and Mr. DURBIN) proposed an amendment to the bill (H.R. 3528) to amend title 28, United States Code, with respect to the use of alternative dispute resolution processes in United States district courts, and for other purposes; as follows:

Page 6, line 17, strike ''2071(b)'' and substitute ''2071(a)''.

Page 8, line 1, strike ''SEC. 5'' and substitute ''**SEC. 6**''.

Page 9, line 12, strike ''action'' and substitute ''program.''

Page 9, line 13, strike ''section 906'' and substitute ''Title IX.''

Page 9, lines 14 and 15, strike ''100–102'' and substitute ''100–702.''

Page 9, line 15, strike ''as in effect prior to the date of its repeal'' and substitute ''as amended by Section 1 of Public Law 105–53.''

Page 13, line 10, after ''arbitrators'' insert ''and other neutral.''

CHEYENNE RIVER SIOUX TRIBE EQUITABLE COMPENSATION ACT

CAMPBELL AMENDMENT NO. 3785

(Ordered to lie on the table.)

Mr. CAMPBELL submitted an amendment intended to be proposed to the bill (S. 1905) to provide for equitable compensation for the Cheyenne River Sioux Tribe, and for other purposes; as follows:

On page 23, strike all of subsection 5(b) on lines 1 through 3, and redesignate subsection (c) on line 4 as subsection (b).

FALL RIVER WATER USERS DISTRICT RURAL WATER SYSTEM ACT OF 1998

DASCHLE (AND JOHNSON) AMENDMENT NO. 3786

Mr. MCCAIN (for Mr. DASCHLE for himself and Mr. JOHNSON) proposed an amendment to the bill (S. 744) to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a non-profit corporation, in the planning and construction of the water supply system, and for other purposes, as follows:

On page 2, line 3, strike ''1997'' and insert ''1998.''

On page 6, line 3, strike ''has'' and insert ''and plan for a water conservation program here.''

On page 9, line 2, strike ''80'' and insert ''70.''

On page 9, line 11, strike ''20'' and insert ''30.''

PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1998

DASCHLE (AND JOHNSON) AMENDMENT NO. 3787

Mr. MCCAIN (for Mr. DASCHLE for himself and Mr. JOHNSON) proposed an amendment to the bill (S. 2117) to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes; as follows:

On page 2, line 3, strike ''1997'' and insert ''1998.''

On page 6, line 1, strike ''has'' and insert ''and a plan for a water conservation program have.''

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, October 7, 1998, to conduct a hearing of the following nominee: Ira G. Peppercorn, of Indiana, to be Director of the Office of Multifamily Housing Assistance Restructuring.

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

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. MCCAIN. Mr. PRESIDENT. I ask unanimous consent that the full Committee on Environment and Public Works be granted permission to conduct a hearing to receive testimony from Isadore Rosenthal, nominated by the President to be a Member of the Chemical Safety and Hazard Investigation Board; and William Clifford Smith, nominated by the President to be a Member of the Mississippi River Commission, Wednesday, October 7, 9:30 a.m., Hearing Room (SD–406).

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

COMMITTEE ON FOREIGN RELATIONS

Mr. MCCAIN. Mr. President, I ask unanimous consent tha the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 7, 1998 at 10:00 a. to hold a hearing.

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

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. MCCAIN. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Committee to meet on Wednesday, October 7, 1998, at 10:00 a.m. for a hearing on the nominations of Dana Covington to be Commissioner, Postal Rate Commission, and Ed Gleiman to be Commissioner, Postal Rate Commission.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet during the session of the Senate on Wednesday, October 7, 1998 at 9:30 a.m. to conduct a hearing on H.R. 1833, to amend the Indian Self-Determination and Education Assistance Act to provide for further Self-Governance for Indian tribes. The hearing will be held in room 485 of the Russell Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to

meet during the session of the Senate on Wednesday, October 7, 1998 at 2:00 p.m. in room 226 of the Senate Dirksen Office Building to hold a hearing on: ''Judicial Nominations.''

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

COMMITTEE ON THE JUDICIARY

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on Wednesday, October 7, 1998 immediately following the 2:00 Hearing in room 226 of the Senate Hart Office Building to hold a hearing on: ''A Review of the Radiation Exposure Compensation Act.''

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

SPECIAL COMMITTEE ON THE YEAR 2000 TECHNOLOGY PROBLEM

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Special Committee on the Year 2000 Technology Problem be permitted to meet on October 7, 1998, at 9:30 a.m. for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, RESTRUCTURING AND THE DISTRICT OF COLUMBIA

Mr. MCCAIN. Mr. President, I ask unanimous consent on behalf of the Governmental Affairs Subcommittee on Oversight of Government Management, Restructuring and the District of Columbia to meet on Wednesday, October 7, 1998, at 2:00 p.m. for a hearing on ''Are Military Adultery Standards Changing: What Are the Implications?''

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

ADDITIONAL STATEMENTS

TRIBUTE TO KIMBEL E. OELKE

• Mr. SARBANES. Mr. President, I rise today to honor the memory of Kimbel E. Oelke, publisher of the Dundalk Eagle—a homespun and pioneering publication committed to covering the local news stories that directly affect the daily lives of the citizens of the greater Dundalk area. Once sold for 10 cents to 500 subscribers and written entirely by Mr. Oelke at its founding in 1969, the Dundalk Eagle is now circulated to 24,000 people by a staff of twenty.

Oelke's commitment to the community extended beyond his distribution of the newspaper to include his participation in the creation of the Dundalk Library, the Dundalk Chamber of Commerce, the Dundalk Association of Businesses and the Greater Dundalk Sports Hall of Fame.

From the age of seven when he first moved to Baltimore, Oelke had journalistic ambitions. I think all would agree that the realization of his dream has not only enriched the lives of thousands of his readers, but conveyed a sense of community too often missing in our modern era. Kimbel Oelke's commitment to community journalism will leave a legacy of service for future generations both in and out of Dundalk.

I extend my most sincere sympathies to his wife Mary, their three sons and seven daughters, and to all the family and friends of Kimbel Oelke. Mr. President, I ask that two articles celebrating Kimbel Oelke's life be printed in the RECORD.

The articles follow:

[From the Sun, Aug. 4, 1998]

KIMBEL E. OELKE, 80, LONGTIME PUBLISHER OF DUNDALK EAGLE AND COMMUNITY BOOSTER

(By Fred Rasmussen)

Kimbel E. Oelke, publisher of the Dundalk Eagle, died Sunday of a heart attack while attending Mass at St. Rita Roman Catholic Church in Dundalk. He was 80.

Mr. Oelke, a well-known figure in eastern Baltimore County, was a seasoned newspaper reporter and editor when the unthinkable happened one day.

He woke up one morning and noticed his name missing from the mastheads of Dundalk's Community Press and the Eastern Beacon, where he had worked for 31 years.

He had complained when the newspapers began expanding and turning away from local news coverage, and the owner, Stromberg Publications, demoted him to advertising manager of the Essex Times, another of the chain's newspapers.

Disgruntled, he quit. He was in his early 50s and had a wife and 11 children to support.

He and his wife took a gamble. They took their savings and started their own newspaper.

The Dundalk Eagle, a tabloid, arrived on May 15, 1969. Its slogan was ''Of The People, By The People, For The People.''

In a front-page editorial, Mr. Oelke wrote, ''I am firmly convinced that there is a need for a paper in the greater Dundalk area continually cognizant of the needs and desires of the people and the local businesses.''

The paper sold for 10 cents a copy and subscriptions were $1 a year. It has grown from 500 subscribers to a paid circulation of 24,000 and a staff of 20.

For many years, Mr. Oelke wrote most of the newspaper copy and was a familiar figure in courtrooms, police stations and firehouses. Tipsters kept his phones ringing.

The paper was homespun and covered Dundalk and its environs in great detail. Mr. Oelke's appetite for Dundalk minutiae was insatiable.

One of the Mr. Oelke's space-saving tricks, which gave his newspaper a particularly distinguishing if not unusual look, was his use of ampersands—''&''—instead of the word ''and'' in copy.

''The Eagle is more family-like than at most places,'' said Wayne Laufert, who was hired as a reporter in 1986 and was named editor in 1996.

''That's due to the personalities of Mr. and Mrs. O. Most of us think of them as grandparents. They treated a group of 20 or more people to Christmas dinner every year and hosted summer parties where we ate crabs and played softball.''

Mr. Laufert described Mr. Oelke as ''a very warm person'' who had ''difficulty saying 'no' to people. He was very accommodating and it was one of his most endearing qualities.''

Deborah I. Cornely of Dundalk, a daughter and the paper's managing editor, said, ''He was the kind of man who was very humble. He never bragged about his accomplishments, but most of all tried to give everyone an even break.''

Deeply involved in the community, Mr. Oelke led the efforts to establish the Dundalk Library, the Dundalk Chamber of Commerce, the Dundalk Association of Businesses and the Greater Dundalk Sports Hall of Fame.

Mr. Oelke, a soft-spoken man who had a penchant for green eyeshades and big King Edward cigars, was born in Louisville, Ky. When he was seven, his family moved to Dundalk, when his father was transferred there by American Standard, the maker of plumbing fixtures.

The 1935 graduate of Sparrows Point High School once dreamed of becoming a major-league baseball player, but his hitting failed him. In 1938, he became sports editor of the Community Press.

''When I was in high school, I had two ambitions: To be a baseball player and to be a newsman,'' he told the Dundalk Eagle on the newspaper's 25th anniversary.

After serving with the Navy in the Pacific during World War II, he returned to the Press and was promoted to editor.

Studying at night, he earned a law degree from the University of Baltimore Law School.

Services will be held at 8:30 p.m. today at the Duda-Ruck Funeral Home of Dundalk, 7922 Wise Ave.

He is survived by his wife, the former Mary Georgina Jarboe, whom he married in 1946; three sons, Timothy Oelke of New Freedom, Pa., James A. Oelke of Corpus Christi and Andrew P. Oelke of Seattle; seven other daughters, Kim E. Boone of Dundalk, Barbara E. Oelke of Monkton, Elizabeth A. Oelke of Fawn Grove, Pa., Mary Jane Oelke of White Marsh, Suzanne C. Oelke of Seattle, Amy K. Christensen of Upperco and Kerry A. Raszewski of Monkton; a sister, Virginia Becker of Dundalk; 16 grandchildren; and four great-grandchildren.

[From the Dundalk Eagle, Aug. 13, 1998]

FAMILY, FRIENDS BID LAST GOODBYE TO KIMBEL OELKE

(By Terri Narrell Mause)

The St. Rita Catholic Church parish priest explained that God has a purpose for each person's life, and praised Kimbel Oelke for fulfilling what he was ''called to do.''

But it was three of Oelke's daughters who painted the most vivid picture of the newspaper publisher during the Mass of Christian burial for their father Aug. 5. The Mass was led by the Rev. William Remmel of St. Rita's, assisted by the Rev. Joseph Cornely, who works with Trinity Missions in California, and Deacon Albert Chesnavage.

Oelke, the founder and publisher of The Dundalk Eagle, died Aug. 2 while attending St. Rita's with his wife. He was 80 years old.

In emotional and eloquent testimonials, the three women recalled their father as a man devoted to his family and dedicated to bringing out the best in others.

Deborah Cornely, Oelke's second daughter and managing editor of The Eagle, told the story of how her father taught her to ride a bike.

Oelke transformed the bicycle into a simulated airplane, complete with painted wings and a tail, finishing it the evening before the then-4-year-old was to ride it in Dundalk's 4th of July parade.

''The only problem was that I'd never ridden a two-wheeler before,'' Cornely said in her eulogy.

So on that evening, her father removed the training wheels from the bike, steadied it as she climbed aboard and assured her she could do it.

After she had ridden some distance, confident her father was still holding on, she looked back to see him, ''standing all smiles & applause, way back at my point of departure.''

''He'd sent me off alone, and through his encouragement, his insistence that I was up to the task, I'd accomplished something on my own that I didn't think I could do,'' Cornely said. ''That was one of the first of many cherished memories I have of my father helping me overcome my fears & succeed in life.''

The next day, the newly trained bicyclist collected a blue ribbon for the bicycle division from then-Gov. Theodore McKeldin.

Elizabeth Oelke, her parents' fifth child, next recited the publisher's favorite poem, William Henley's Invictus, as she remembered her father as a journalistic poet, an ''adman'' who appreciated the power and beauty of language.

The poem was one Oelke knew by heart and recited with ''precision, gusto and conviction,'' applying it to his own life and encouraging his family to do the same, Elizabeth Oelke told the mourners at St. Rita's.

''I am the master of my fate, I am the captain of my soul,'' she said, reciting the final lines of the poem. ''And if that was the only think my father had given me, that would have been enough. But he gave us so much more.''

In a final family tribute, Amy Oelke, the ninth of her parents' 11 children, remembered how her father fostered independence and self-confidence in his children with encouragement and praise. She specifically recalled his use of the word ''best.''

''Every Thanksgiving, we had the best turkey we'd ever had,'' she said. ''Mom was the best woman in the world. And he always made us all feel like the best. But he never acted like he or his family was better than anyone else.

''I was blessed—and we all were—with the best father.''

FINAL FAREWELLS

After the service, family members and friends joined a procession down Merritt Boulevard to Sacred Heart of Jesus Cemetery of German Hill Road.

Under a sunny, clear sky with a soft breeze accompanying the priest's brief words of comfort, several of Oelke's friends took one last opportunity to remember the man.

Some remembered his love of golf.

''He'll be playing that big golf course in heaven,'' said former Baltimore County councilman Don Mason of Eastwood.

Oelke's son-in-law Donald Cornely (a nephew of the priest who assisted in the service) pulled from his pocket a handful of orange golf tees imprinted with ''The Dundalk Eagle, Published Weekly, Read Daily,'' and told about golfing with the publisher.

''The first time he took me golfing—he was a very patient man, because I'm not very good at the game—he handed me a couple of these,'' Cornely recalled. ''After teeing off the first time, I started to pick up the tee, but he wouldn't let me. He told me to leave it there, and he took some more from his pocket, leaving them across the course as we walked.

''He knew other golfers would pick up the tees to use themselves, and The Eagle would get publicity. He did that wherever we played—New York, Pennsylvania and other states—no matter how far away we were from Dundalk.''

Oelke was buried in his golf shoes with his favorite putter lying along-side him.

Others attending the graveside service recalled his contributions to the community and his passion for community news.

Kenneth C. Coldwell Sr., publisher of the Avenue newspapers, said Oelke encouraged and helped him when he first entered the newspaper business 25 years ago.

''He was a great guy and a great friend,'' Coldwell said at the graveside service Aug. 5. ''Community newspapers throughout the world should take a chapter from him, because he knew how to run a community newspaper.

''He would look you in the eye, shake your hand with a firm handshake and say, 'Good luck.' That's how I want to remember him.''

Mason first met Oelke when he organized a group that tried to pinpoint and expose excessive government spending. Oelke, Mason says, always supported the group by printing its findings in The Eagle.

''I recognize—and I'm sure a lot of people will recognize—that an institution has passed on,'' Mason said. ''I'm sure when St. Peter meets and interviews Mr. Oelke, he'll appoint him editor-in-chief of heaven's weekly.''

WORKING FOR OELKE MEANT COVERING POLICE BEAT, PAINTING OFFICE

The following was written by Gaitherburg resident Stuart Gorin, who got his start in newspapers as a 14-year-old hired by Kilmel Oelke, the Eagle founder who died Aug. 2.

As a writer with the U.S. Information Agency focusing on aspects of U.S. foreign policy, I am a long way from Dundalk, Md., where many years ago Kimbel Oelke gave me my start in journalism.

He was a customer in my late father's store, the old Stansbury Food Center, where I was a 14-year-old reluctantly helping out while dreaming of becoming a newspaper reporter. Scoop—he was always Scoop to me, never Mr. Oelke—nearly bowled me over when, after murmured conversations with my parents, he offered me a summer job as a cub reporter for The Community Press and Baltimore Countian in 1953 for the princely sum of $6 a week.

Scoop took me under his wing and taught me how to be a reporter: how to write in newspaper style, how to ask questions, how to be fair. When a citizen has a complaint against the city council, write it, he said, but be sure to get the council's side in the story, too.

It wasn't always easy, but it sure was exciting. When he gave me my first byline, on a story about the family of a little boy in a coma, I felt on top of the world.

Part of my job, Scoop said, was to cover the police beat. We went to the police station, where he introduced me to the desk sergeant. Every day I would gather material from the police blotter for stories, and I thought I was becoming a seasoned professional. But the next week, a new officer was on the desk, and when I explained my mission he brushed me aside and told me to go home to my mother. Crushed, I trudged back to the office and informed Scoop, who roared with laughter and then took me back to the station and smilingly declared that yes, I really was his reporter and needed to see the blotter.

But that embarrassment was nothing compared to what Scoop put me through for an interview with the winner of a local beauty pageant. Get all of the details, and don't forget her measurements, he admonished. Back in the 1950s, this was considered routine, but not for a red-faced 14-year-old who had to approach a ''grownup'' 18-year-old. What I finally decided to do was type out a list of questions for her, asking her the vital statistics in the middle of the list. I rang her doorbell, identified myself as a reporter for the Community Press, handed her the list, and asked her to please fill it out. When I admitted to Scoop how I obtained the information, he again roared with laughter.

One time he didn't laugh. He needed the newspaper office painted, and I said I could do it on a Saturday morning. Of course I knew how, I said. I had completed half of the ceiling in blotchy streaks with drops on the floor and the desks when he came in, shook his head, took the paintbrush out of my hand and sat me down in front of a typewriter instead, saying this was where I belonged. A professional painter finished the job right, and I haven't held a paintbrush in my hand since.

Early on, Scoop showed me one of the benefits of being a reporter. It was the first year that the Baltimore Orioles were in the major leagues, and we went to a couple of games using our press passes.

During my high school year between the two summers I worked for Scoop, I attended Saturday matinees at the old Hilltop Theater in Baltimore, where big-name stars came weekly for live productions. Each week I would interview the star and write a column on the theater's activities that Scoop ran in The Community Press.

Then, after I finished college and was drafted, the Army sent me back to Dundalk to Fort Holabird in 1962. When I stopped in to say hello, Scoop told me that his night court reporter had just left, and if I wanted the job for old time's sake it was mine. So while I was a soldier, every Monday night I would cover the court session and leave my stories in the office for him to pick up the next day.

There were occasional phone calls after that assignment, but years passed before I saw Scoop again. Helen Delich Bentley was still in Congress and running for re-election in 1986, and I came to Dundalk during one of her campaign stops to write an article. I got together with Scoop for lunch and we had a wonderful afternoon reminiscing. Regrettably, that was the last time I saw him.

Besides writing for USIA, I've worked for newspapers and wire services not only in the United States but also in Europe and Asia. It's been a satisfying career that all started with the Dundalk Community Press. Thanks, Scoop. I'm going to miss you.

LETTER WRITERS RECALL FOUNDER OF ''EAGLE''

Condolences sent to The Eagle upon the death of the paper's founder, Kimbel Oelke, included the following letters:

Kimbel Oelke contributed more to our community than most of us know. His tenacity and vision gave Dundalk a weekly reminder of who we are as individuals and as a community. His paper is our family album. His legacy is our deep sense of community. His life is our measure of what it means to be a good man.

Kimbel, I am certain you are reading this from heaven. You left an undeniable and meaningful mark on Dundalk and on so many of us who had the fortune of knowing you.—Michael Galiazzo, Rainflower Path, Sparks, Md.

We at Sparrows Point send our deepest sympathy to all of you upon the death of Mr. Oelke. He was a universal citizen, a true friend of businesses and the community.

We recall his unconditional support of Bethlehem Steel and his wholehearted, selfless help in a grassroots campaign against steel imports. His help was crucially needed at a critical time in our history, and he came through with flying colors.

There were many other times when his advice, counsel and friendship were sought, and he was there for us, as he was for everyone in the community. He will be missed by all whose lives he touched.—The letter was signed by Sparrows Point Division president Duane R. Dunham and 15 other company officials.

As always, Baltimore Sun reporter Fred Rasmussen had outdone himself in his magnificent obituary of a truly great man, the late Kimbel E. Oelke of Dundalk, founder and publisher of The Eagle.

That having been said, nevertheless, Mr. Rasmussen overlooked or did not know some

remarkable events about this man's epic saga of life which I was present to witness by virtue of my relation to both him and his community.

I first me him in 1974 while handling public relations for Patrick T. Welsh's House of Delegates campaign and later, in 1978, for the same man's state Senate campaign. Today, Mr. Welsh is President of The Eastern Baltimore Area Chamber of Commerce. None of his successes would have happened without the fair coverage of Mr. Oelke and The Eagle—and the same is true of every other candidate for public office from that time to this.

In 1984, when I worked at Dundalk Community College and the entire collegiate community harnessed its abilities and energies to re-employ area residents, Mr. Oelke was there as well, and when I had occasion to run for the office of Congress of the United States in 1982, 1984 and 1988, I got a fair hearing from him each and every time.

Thus, he was, is and remains my ideal of what a newspaper publisher should be: fair, faithful and true. I am not surprised that he died in church in the arms of the Lord and the family that loved him. I, too, shall miss him.—Blaine Taylor, Joppa Road, Towson.

Please accept our most sincere wishes regarding Mr. Oelke's death. Hopefully his family, friends, and the staff at The Eagle are doing well.

I am new to the Baltimore area, so I obviously have no previous knowledge of Mr. Oelke and the paper. However, your staff should know that his story and the related story of the newspaper is a great one. He sounds like he was a good person with his head and heart in the right place. It is great when the good guys win!

Anyway, just know that I was personally moved by learning about Mr. Oelke's life. I will look to learn more in upcoming issues of your paper. Keep up the (his) great work over there at The Eagle.—Paul Kin, The writer is a community relations director representing Bradley-Ashton-Dabrowski-Matthews Funeral Homes.

THANKING LIEUTENANT GENERAL MICHAEL D. MCGINTY FOR HIS LIFE LONG CAREER IN THE AIR FORCE

● Mr. KEMPTHORNE. Mr. President, over the last 33 years, Lt Gen Michael D. McGinty has served as an exemplary Air Force officer. His career-long efforts to provide quality support to all the members of the Air Force and their families serve as a benchmark for other military services and leave a lasting and positive legacy of Air Force personnel policy and practice.

Lt Gen Mike McGinty entered the Air Force as a distinguished graduate of the University of Minnesota Reserve Officer Training Corps program. In his early days as an Air Force pilot, Lt Gen McGinty flew the F–4 and logged over 115 combat missions in Southeast Asia, including 100 missions over North Vietnam.

As his Air Force career progressed, Lt Gen McGinty gained vast experience both as an pilot and as a personnel expert. He earned the rating of Command Pilot with more than 3,500 flight hours in a variety of aircraft, including the F–4, A–10, C–21 and T–39. He also invested 19 years of his career working a broad range of Air Force personnel issues.

In March 1988, Mike McGinty assumed command of the 10th Tactical Fighter Wing at the Royal Air Force Station in Alconbury, England. During a time of great change in world affairs, Lt Gen McGinty worked diligently to maintain and solidify local host nation relations while simultaneously enhancing quality of life support for service members assigned to his command. As a result of Lt Gen McGinty's vision and dedication to his troops he established Alconbury's first-ever Family Support Center.

As commander of the Air Force Military Personnel Center, and more recently as the Air Force's Deputy Chief of Staff for Personnel, Lt Gen McGinty led the Air Force through a period of great challenge and change. During his tenure, Mike moved Air Force personnel systems into the ''electronic era.'' He expertly managed significant drawdowns of both military and civilian personnel while simultaneously meeting the expanded personnel requirements resulting from increased deployments. A constant advocate for Air Force people, he led the way in working difficult issues in the rated force management, recruiting, retention, and transition assistance arenas. Lt Gen McGinty worked to meet changing Air Force needs by expanding the role of Department of the Air Force civilians in Air Force personnel management. He increased career broadening opportunities for Air Force civilians through developmental positions at the Air Staff, the Air Force Personnel Center, and major command headquarters. He established the first-ever Air Force Civilian Executive Matters Office, introducing policies and operations that ensure training and development of senior civilians that parallels their military counterparts. His efforts in this arena clearly enhance force stability.

Most importantly, Lt Gen McGinty's career has been based on his unfaltering support of Air Force people. His philosophy has been that ''the strength of the Air Force lies in it's members.'' He remains a strong advocate for ongoing quality of life initiatives, enhanced family support services, career mentoring, and leadership by example.

I have personally known Mike McGinty for several years as both a colleague and a friend. We have worked together to improve our nation's Air Force by addressing the critical people issues we face: retaining our key qualified and experienced Air Force professionals, improving the quality of life for our families, enhancing our recruiting efforts, and placing our pay and benefits programs where they should be to take care of those who guard and defend our nation. Mike has led the way in this effort, a performance characteristic of his entire career. The men and women of the Air Force, as well as our entire nation, owe him a debt of gratitude. I recall his candor and wisdom during testimony as a shining example of how well our military leaders represent the best interests of our men and women in uniform.

Also a dedicated family man, Mike and his wife, Karen, are the proud parents of a daughter, Shannon, and a son, Tim. In addition to flying, their interests include bird watching and photography.

During his distinguished career, the general has earned some of our nation's highest honors: the Distinguished Service Medal twice, the Legion of Merit twice, the Distinguished Flying Cross with device, the Meritorious Service Medal four times, and the Air Medal ten times, along with the Air Force Commendation Medal and numerous campaign and service medals.

Lt Gen Mike McGinty's vision, leadership and dedication will have a lasting positive impact on the Air Force and the nation. As he embarks upon his retirement, I wish him continued success in all that he and Karen pursue. Those of us in Congress, and the men and women of our Air Force, will greatly miss him.●

REMOVING HOLD ON H.R. 2610, A BILL TO REAUTHORIZE THE OFFICE OF NATIONAL DRUG CONTROL POLICY

● Mr. WYDEN. Mr. President, as you know, I believe that the Senate custom of placing holds on legislation should be practiced in public. In that spirit, I rise today to remove the hold I placed on H.R. 2610, a bill to reauthorize the Office of National Drug Control Policy. I do not object to Senate consideration of this legislation.●

RECOGNITION OF THE 50TH UNITED WAY TORCH DRIVE

● Mr. LEVIN. Mr. President, I rise today to call my colleagues' attention to a remarkable example of community commitment taking place in my home state of Michigan this fall, the United Way Torch Drive. This year will mark the 50th United Way Torch Drive in metropolitan Detroit.

The Torch Drive was officially kicked off in 1949 by General Mark Clark with a goal of raising $8,550,000. Many people doubted that this goal could be reached. During that period of time, similar fundraising campaigns in other cities were falling short of their goals. However, the people of the Detroit area proved the skeptics wrong, contributing almost $9.3 million to the Torch Drive in three weeks. The metropolitan Detroit Torch Drive was the first such drive in the country, and its success has been a model for cities throughout the country.

The Detroit Torch Drive has been helped by local and nationally recognized Americans from every walk of life. Business leaders like Max Fisher and Lee Iacocca have lent their time and talents to the Drive. Entertainers like Jackie Gleason, Audrey Hepburn and the Supremes have donated time as

well. National and local media stars, from Walter Cronkite to J.P. McCarthy have made themselves available to help. And sports stars, from Hockey Hall of Fame player Gordie Howe to current Detroit Pistons star Grant Hill, pitch in as needed. But as impressive as this list of famous people is, United Way representatives will tell you that it is the dedication and heart of the people of metropolitan Detroit which make the Torch Drive a success year after year. Thanks to them, the United Way is able to support more than 130 agencies in metropolitan Detroit, providing assistance to people in need and solutions to long term problems like homelessness, substance abuse, hunger and mental illness.

Mr. President, I have many reasons to be proud to be a Detroiter. One of the strongest reasons for my pride is the generosity and warm-heartedness of my neighbors. I hope my colleagues will join me in thanking the tens of thousands of people who have made the annual United Way Torch Drive such an overwhelming success over the past 50 years, and in looking forward to the next 50 years of giving help and hope to people in need in metropolitan Detroit.●

IN MEMORY OF MEG DONOVAN

● Mr. KERRY. Mr. President, last Thursday, Meg Donovan, Deputy Assistant Secretary of State for Legislative Affairs, passed away after a painful struggle with cancer. Her death, far too early at age 47, has dimmed the light for all those who loved and knew her: her husband, Stephen Duffy, her three children Colin, Liam and Emma, her father, Daniel Donovan, her sisters, Paula and Mary Ellen, her brother, Patrick, and her many friends and colleagues in Washington.

Meg was a Washington veteran, having worked in the nongovernmental affair community for the National Conference on Soviet Jewry, in the Congress for nearly twenty years, and most recently in the Department of State. Through all those years she has consistently been an advocate for the downtrodden, for those who live in countries where the basic human rights and freedoms which we take for granted are denied. They could have had no better champion than Meg Donovan.

Meg was invaluable to me and my staff during the years that I served as Chairman of the International Operations Subcommittee, which had jurisdiction over the authorization bill for the State Department, USIA and the international broadcasting agencies. When we needed information, she ensured that we got it. She was an articulate advocate for the Administration's positions and an effective deal maker when the time was right. And as Secretary of State Albright, former Secretary of State Christopher, and all those who have been confirmed as Ambassadors during the Clinton Administration's tenure will tell you, Meg Donovan knew better than anyone how to help a nominee navigate the shoals of the confirmation process in the Senate.

On Saturday, Secretary Albright delivered the eulogy at Meg's funeral. Her heartfelt words aptly captured the many sides of Meg Donovan—a devoted wife and mother, a dedicated and passionate government servant, and a woman whose zest for life was boundless.

Mr. President, I would like to take this opportunity to extend my sincere sympathies to Meg's family. I also ask that Secretary Albright's eulogy for Meg be printed in the RECORD.

EULOGY FOR MEG DONOVAN

By Secretary of State Madeleine Albright

Father D'Silva; Duffy, Colin, Emma, Liam, Mr. Daniel Donovan, Patrick, Paula, Mary Ellen, and other members of Meg Donovan's family; colleagues, friends and acquaintances of Meg:

There are times when it seems more fitting just to stammer with emotion than to speak with finely turned phrases.

It does not seem fair; it is not fair that Heaven, which already has so much, now has so much more. And that we here on Earth, who need so much, have lost someone who is irreplaceable in our hearts.

This we know. Meg could not pass from one world to the other without changing both.

We are crushed with grief. But the scriptures say that those who mourn are blessed for they shall be comforted; and we are comforted by the knowledge that, somewhere up above, God is getting an earful on human rights.

I did not become acquainted with Meg Donovan until I went to the State Department in 1993. Like her, I was a mother of three, including twins. I felt I understood better than some others might the choices and challenges she faced. But many of you knew her longer and more intimately than I. I cannot capture her personality or her career in full.

To me, if there is one word that sums up Meg, it is ''completeness.''

There are others in this town who are smart and good at their jobs; others with a commitment to causes that are right and just; others who bargain shrewdly and hard; others with a warm and wonderful sense of humor; others who understand the obligations of friendship; others who are devoted and loving to their families; others who have the discipline to live their faith.

There may even be others with Christmas sweaters that light up and play jingle bells. But rarely have the elements of true character been so artfully mixed as they were in Meg Donovan. Van Gogh is arriving in Washington; but a human masterpiece is gone.

When I was designated by President Clinton to serve as Secretary of State, I did what my predecessor, Warren Christopher, did. I turned to the person with the best instincts in Washington on how to deal with our friends on Capitol Hill. That was Meg. We began preparing in December.

Now, naturally, I thought the President had made a brilliant choice for the job, but I had to wonder, as we went along in practice, and Meg corrected and improved upon my every answer on every subject, whether there was anyone more qualified to be Secretary of State than she.

Of course, that being December, the birthday of the twins came along. And naturally, Liam and Emma didn't understand why their mother couldn't promise to attend the party. Their proposal, passed on and advocated by Meg, was that we adjourn our practice session and re-convene at Chuck E. Cheese. It is typical that, when the hour of the party drew near, Meg excused herself, and did not ask but told her new boss, that she was heading for Chuck E. Cheese.

When he was Secretary of State, George Marshall used to tell his staff ''don't fight the problem, decide it, then take action.'' I suspect he would have liked Meg a lot because, all her life, Meg was a doer.

Like quite a few others, she came to Washington committed to the fight for tolerance and respect for basic human rights for all people. What set her apart is that she could still make that claim after having worked here 25 years.

Whether at the Helsinki Commission, or the House Committee on International Relations, or the Department of State, Meg was one of the good guys. She could out-talk anyone, but talk isn't what she was after. She wanted change.

She wanted Soviet Jews to be able to exercise their right to emigrate. She wanted Tibetans to be able to preserve their heritage. She wanted prisoners of conscience to breathe the air of freedom. She wanted women to have the power to make choices that would determine the course of their lives.

Above all, she wanted to draw on and draw out the best in America: the America that would use its resources and power to help others achieve the blessings we all too often take for granted.

These were her ideals, but Meg was more than a dreamer. No one was more effective than she at creating the coalitions, marshaling the arguments and devising the strategies that would yield concrete results.

One of Meg's big problems was that she knew the system better and played it better than anyone else. So, whenever we found ourselves in a real legislative mess, which was not more than three or four times a week, we turned to Meg to help get us out.

Around the Department and earlier in her years on Capitol Hill, Meg's energy and wisdom added sparkle to every meeting. When she spoke, people listened. When she listened, people chose their words with care. She was thoughtful and patient with those who, by virtue of experience or ability, needed her help. She brought out the best in others; just as she demanded the best from herself.

In our collective mind's eye, we can still see her striding purposefully down a hall with her arms full of folders, trailed by some hapless Ambassadorial nominee whose future had been entrusted to Meg's capable hands.

We see her, hugely pregnant, maneuvering around swivel chairs and outthrust elbows on the cramped dais of the House International Relations Committee.

We see her serious and firm, forearms chopping the air for emphasis, persuading us with eloquence and passion that doing the right thing is also the smart thing.

We see her relaxing at an office party, gold bracelets flashing, surrounded by flowers from her garden, a cherub's face aglow with health and life, and her 100 megawatt smile turned on full.

We see her where she most belonged, with Duffy, her partner of 24 years, and with their children.

And as we see her, we also hear that inimitable laugh, which was not exactly musical, but which conveyed a love and enjoyment of living that somehow makes what happened even harder to believe and accept.

Meg knew the impermanence of life. She lost her mother to cancer and a sister to cystic fibrosis. So she made the most of every single day.

The poet, William Blake, wrote that:

He who binds himself to a joy
Does the winged life destroy
But he who kisses the joy as it flies
Lives in eternity's sunrise.

No force, not even life itself, could bind Meg Donovan or ground her flight. She was only 47. But, in that time, her gifts to those of us who are gathered here and to those from around the world who have benefited directly or indirectly from her commitment, were full and rich.

This morning, as she looks down upon us, I know that she would expect us to cry and that, if she could, she would herself hand us the tissues. But she would also want us to be thankful for our time together, and to dedicate ourselves to improving our own lives by helping others.

We are sad today, but our sorrow is accompanied by the abundance of joy in the memories we share, the life we celebrate and the love that surrounds us.

May that joy melt, over time, the clouds of our grief. May Meg's family, especially, draw comfort from our affection and from the deep respect we held for her.

And may Meg Donovan rest in peace, for we will never, never forget her.●

UNIVERSITY OF SOUTH CAROLINA INTERNS

● Mr. HOLLINGS. Mr. President, the South Carolina Semester in Washington Program, hosted by the Institute of Public Affairs at the University of South Carolina, provides outstanding Honors College students at the state's public universities an invaluable opportunity to work as fellows in Congress, the Administration and in the private sector while pursuing an academically rigorous program of study and examination in Washington, D.C.

This program joins a number of other prestigious offerings sponsored by many of the finest colleges and universities from across the Nation. Not only do these fellows assist in taking care of the business of the Nation, providing a tremendous service to Congress, the Agencies and the entities supporting them, by doing so these exemplary young people represent the best for the future of government at the local, city, county, state, regional, national and international levels.

As the South Carolina Semester in Washington completes its seventh year, the program continues to demonstrate that these students and the campuses they represent are some of the finest in the country. To date students have participated from USC Columbia, Clemson University, the College of Charleston, the Citadel, South Carolina State University, University South Carolina Aiken, Winthrop University, Lander University and the University of South Carolina Lancaster. For the Fall of 1998, the program will add its first student from Coastal Carolina University. Certainly few states can demonstrate a more comprehensive involvement from its higher education community.

The offices which participate are essential to the quality of the program. The time spent by professional staff in the office setting mentoring these students is a contribution to success; not only in this program but to these young people for a lifetime. Over the years the following offices have been gracious host learning sites for the South Carolina Semester in Washington fellows: Senator STROM THURMOND, Senator FRITZ HOLLINGS, Congressman FLOYD SPENCE, Congressman JOHN SPRATT, Congressman JIM CLYBURN, Congressman BOB INGLIS, Congressman LINDSEY GRAHAM, Congressman SANFORD, Congressman ED WHITFIELD, Congressman CLIFF STEARNS, former Congressman Butler Derrick, former Congressman Robin Tallon, former Congresswoman Liz Patterson, former Congressman Arthur Ravenel, the Senate Commerce Committee, the White House, the Department of Education, the Department of Veterans Affairs, the Corporation for National and Community Service, the Office of the United States Trade Representative, the South Carolina State Washington Office, Barron Birrell and the American Council of Life Insurance.

The participants during the 1997–1998 academic year further enhanced the reputation of the program for reliable, diligent and intelligent contributions to their workplace. These students, their university, hometown and placement include for the Fall 1997 semester: Mary Borowiec, USC Columbia, Columbia, S.C., Congressman LINDSEY GRAHAM; Cara Carter, USC Columbia, Spartanburg, S.C., Congressman MARK SANFORD; Katherine Graham, USC Columbia, Charleston, S.C., Office of the United States Trade Representative; Scott Harris, Lander University, Batesburg, S.C., Congressman JOHN SPRATT, Kim Hartwell, USC Columbia, Lexington, Kentucky, the White House; Charlene Miller, USC Columbia, Lancaster, Pennsylvania, Senator HOLLINGS; John Sallee, USC Columbia, Lexington, Kentucky, U.S. Department of Education; Beth Sims, Winthrop University, Darlington, S.C., Congressman BOB INGLIS; Amber Stamegna, USC Columbia, Mount Pleasant, S.C., Barron Birrell.

For the Spring 1998 semester, the participants include: Heather Brooks, USC Columbia, Charlotte, North Carolina, Congressman JOHN SPRATT; Derham Cole, USC Columbia, Spartanburg, S.C., Congressman BOB INGLIS; Ryan Lindsay, USC Columbia, Clemson, S.C., American Council of Life Insurance; Anne Knight, USC Columbia, Columbia, S.C., Congressman JIM CLYBURN; Amy Milligan, College of Charleston, Mount Pleasant, S.C., Congressman FLOYD SPENCE; Becky Sibilia, Clemson University, Bridgewater, New Jersey, Senator STROM THURMOND; Josh Staveley-O'Carroll, Clemson University, Charleston, S.C., Senate Commerce Committee.

Mr. President, I wish to commend the Institute of Public Affairs at the University of South Carolina for implementing and coordinating such a fine program. Dr. Doug Dobson and Dr. William Mould have been instrumental in the successful tenure of this offering. I also wish to salute the other campuses and offices which make the effort to give quality to this endeavor. Finally to say well done to these outstanding students in hopes we will enjoy their contributions to society from positions of leadership in the years to come.●

RECOGNITION OF EVELYN DUKES

● Mr. LEVIN. Mr. President, I rise today to recognize a true urban innovator, a woman who has devoted her ''retirement'' years to solving the many challenges that confront urban communities across the nation, Ms. Evelyn Dukes.

The urban community of northeastern Detroit has greatly benefitted from the work of Ms. Evelyn Dukes. Her involvement with urban and neighborhood renewal began with the ''Adopt-A-Park'' program. In her neighborhood, Ms. Dukes daily observed gangs, drug users, and loiterers frequenting a parcel of land that was formerly a small community park, but had become a symbol of fear and apathy. Fortunately, Ms. Dukes did not view Brookins Park in the same manner. As an organizer for numerous Block Clubs and Neighborhood Watch Groups, Ms. Dukes saw the area as an opportunity to bring the community together and reclaim a vital recreational park. By calling on organizations from the city's Park and Recreation Department to the Detroit Piston Basketball Organization, Ms. Dukes' vision for Brookins Park became a reality. Today the land is used by community residents for picnics, reunions, and birthday parties, and Ms. Dukes is on to her next project, Skinner Park.

Ms. Dukes is also involved in her neighborhood organization and is an active member in the Citizen Band Radio Patrol organization. While on patrol, she documents dangerous situations and possible criminal actions. Evelyn is President of the Ninth Precinct Community Relations Board and is very involved in the City Wide Roundtable, an organization of Detroit leaders who meet on a regular basis to discuss issues and solutions involving public service, safety, and awareness.

At 73, Evelyn Dukes' personal commitment to her neighborhood and city are an inspiration to everyone. She is truly a model for community involvement, and her efforts and achievements clearly set Ms. Dukes apart as an exemplary citizen. She has been honored by being selected as only one of seven people in the country to receive the National Crime Prevention Council's Ameritech Award of Excellence in Crime Prevention.

I know my colleagues join me in congratulating Ms. Evelyn Dukes on receiving this award and thanking her for the stalwart dedication she has shown to improving her community.●

ANTI-NEPOTISM BILL

● Mr. KYL. Mr. President, I rise in support of S. 1892, the judicial anti-nepotism bill.

Section 458 of 28 U.S.C. reads: ''No person shall be appointed to or employed in any office or duty in any court who is related by affinity or consanguinity within the degree of first cousin to any justice or judge of such court.'' There is some debate about the interpretation of section 458. Some hold the view that the statute means what it says—no person related to a judge of a court may be appointed to that same court. But some hold a contrary view. Indeed, in a 1995 memo by Richard Shiffrin of the Office of Legal Counsel, although the OLC conceded that the statutory language appears to restrict presidential appointments to offices or duties In federal courts, the OLC argued that the statute only applies to judges hiring or appointing persons to the courts. Many scholars disagree with this view and with the other memoranda issued by the Administration. Finally, there is also disagreement as to whether section 458 applies to appointments where a judge has taken senior status is a ''judge of such court.''

For future judicial nominees, the Administration and the Senate must understand the criteria required for Article III judicial appointments. S. 1892 maintains the current prohibition on relatives of judges being appointed to or employed in any job of the court, such as for example, positions as clerks and bailiffs.

S. 1892 amends 28 U.S.C. 458 to clarify that no person may be appointed to be a judge of a court if that person is related within the degree of first cousin to any judge, including a judge retired in senior status of that ''same court.'' Under the bill, ''same court'' means, in the case of a district court, any court of the same single judicial district; and, in the case of a court of appeals, the court of appeals of a single judicial district.

For example, a person may not be a member of the Federal District Court in Arizona if a related person is already a member of the Federal District Court in Arizona, but related persons may serve simultaneously on federal district courts in Arizona and New Mexico. Additionally, related persons may serve simultaneously on the Northern and Eastern Federal District Courts in California. A person may not be a member of the 2nd Circuit if a related person is a member of that circuit, but related persons may serve on the 2nd and the 7th Circuits simultaneously.

It is important to Note that this act does not apply to the Supreme Court.

The act takes effect on the date of enactment and applies only to an individual whose nomination is submitted to the Senate on or after such date. Thus, the bill would not affect the nomination of William Fletcher.

A thorough study of the constitutional provisions at issue, of the relevant case law, and of prominent legal treatises makes it clear that the bill is constitutional. Indeed, a March 31, 1998 report on the bill by the American Law Division of the Congressional Research Service has concluded that ''[a]fter consideration of the text of the Constitution, the precedents, and the historical practice, we believe it to be established that Congress has the authority to fix this and other qualifications for the office of judges of Article III courts. . . .'' The Constitution is, in fact, silent on what lower courts there were to be, their composition and jurisdiction, and their powers. Inasmuch as the Constitution ''delineated only the great outlines of the judicial power . . ., leaving the details to Congress, . . . ''[t]he distribution and appropriate exercise of the judicial power must . . . be made by laws passed by Congress. . . .'' Rhode Island v. Massachusetts, 12 Pet. (37 U.S.) 657, 721 (1838).

The public policy behind Section 458 and S. 1892 is clear: For the public to maintain a sufficient level of confidence in the integrity and impartiality of its public institutions, those institutions must strive not only to avoid circumstances in which actual impropriety could arise among public servants, but to avoid all circumstances that create even the remote appearance of impropriety. Having close family members serve on the same court would create an appearance of impropriety. Of all the relationships that one judge could have to another—for example, former law partners or members of the same bench for 20 years—a familial relationship is one that is certain to automatically cause a litigant to question the impartiality of a judge.

Litigants must have complete confidence that federal judges will be objective and impartial while on the bench. The institutional integrity of Federal courts requires scrupulous protection of public confidence in the judicial process. Preventing close family members from serving on the same court is a small price to pay to avoid a potential diminution of credibility and impartiality of the Judiciary, one of the Nation's most hallowed institutions.●

TRIBUTE TO MICHAEL J. WILLIAMS

● Mr. CLELAND. Mr. President, I rise today to pay tribute to an invaluable member of my staff, Mike Williams, who has served as my Military Legislative Assistant since I arrived in the Senate in January 1997. Mike joined my staff after serving a great American and one of Georgia's most honored and beloved Senators, Senator Sam Nunn, where he began as an intern while attending Georgia Tech and after graduation quickly became involved in legislative matters, including military issues. After more than five years of public service, Mike will be leaving my staff after the 105th Congress adjourns to pursue other career opportunities. He will be sorely missed and not easily replaced.

Mike's excellent assistance and invaluable experience made my transition from being Georgia's Secretary of State to a United States Senator and a member of the Senate's Armed Services Committee smooth and successful. He serves as a positive example to us all—a good person who is committed to his family and to continually improving himself. While working full-time for Senator Nunn and then myself, Mike has attended law school in the evening while still finding quality time to devote to his lovely wife Allyson and their beautiful daughter Catherine. Now in his final year of law school at Georgetown, Mike has decided to leave Capitol Hill to pursue a career in the law profession. I wish him well in all of his future endeavors and I know that he will have a lifetime of many more accomplishments and shining moments. Although Mike's invaluable contribution to my staff will be greatly missed, his daily presence in our lives will be missed even more. Mike, thank you for your years of service to me and the people of the great State of Georgia—I am very proud of all you do. You truly are a great American!●

NOTICE OF INTENTION TO MOVE TO SUSPEND THE RULES

● Mr. MCCAIN. Mr. President, I hereby give notice in writing of my intention to move to suspend the provisions of Rule 22 requiring that the following amendment be germane:

AMENDMENT NO. 3711

(Purpose: To define what is meant by the term ''discriminatory tax'' as used in the bill)

On page 26, beginning with line 3, strike through line 5 on page 27 and insert the following:

(2) DISCRIMINATORY TAX.—The term ''discriminatory tax'' means—

(A) any tax imposed by a State or political subdivision thereof on electronic commerce that—

(i) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means;

(ii) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period;

(iii) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving similar property, goods, services, or information accomplished through other means;

(v) establishes a classification of Internet access service providers or online service providers for purposes of establishing a higher tax rate to be imposed on such providers than the tax rate generally applied to providers of similar information services delivered through other means; or

(B) any tax imposed by a State or political subdivision thereof, if—

(i) the ability to access a site on a remote seller's out-of-State computer server is considered a factor in determining a remote seller's tax collection obligation; or

(ii) a provider of Internet access service or online services is deemed to be the agent of a remote seller for determining tax collection obligations as a result of—

(I) the display of a remote seller's information or content on the out-of-State computer server of a provider of Internet access service or online services; or

(II) the processing of orders through the out-of-State computer server of a provider of Internet access service or online services.●

RECOGNITION OF BRUNO NOWICKI

● Mr. LEVIN. Mr. President, I rise today to pay tribute to a good friend of mine and a great leader in my home state of Michigan, Bruno Nowicki. On October 11, 1998, Bruno's friends and family will help him celebrate his 90th birthday at a celebration at the Polish Century Club.

Bruno Nowicki is well known in Michigan and in his native Poland for his efforts to commemorate and celebrate the contributions of Polish people to the United States and to the world. He has designed monuments to Polish-American heroes of World War II and Vietnam and to Revolutionary War Generals Pulaski and Kosciuszko. Bruno Nowicki has also been a strong supporter of public libraries, and served on the Board of Governors of the Detroit Public Library from 1971 until 1994. He melded his interests in promoting Polish culture and supporting public libraries by arranging for statues, mosaics and busts of prominent figures in Poland's history to be displayed in the Detroit Main Library and the Hamtramck Public Library. Bruno worked with artist Zygmunt Dousa of the University of Krakow to design the Polish Room of the Ethnic Conference and Study Center at the Wayne State University in Detroit. He is a co-founder of the Polish Riverfront Festival, which provides assistance to children's hospitals in Poland.

I was proud to work with Bruno Nowicki in 1993–1994 on an issue especially close to his heart, promoting chess to students in schools. An avid chess player who participates in (and has won) tournaments in the U.S., Bermuda and Cuba, he believes that the skills children develop by learning to play chess can be applied to everyday life. A four-year study of school chess players confirmed Bruno Nowicki's belief. The study found that chess helps children build self-confidence and self-worth, dramatically improves children's ability to think rationally, and results in higher grades, especially in English and Math. Bruno provided me with important information which I used in drafting an amendment to the 1994 Goals 2000: Educate America Act, which allows State educational agencies to use certain Title III funds to promote instruction in chess as a tool for teachers to use to motivate students to develop critical thinking skills, self-discipline and creative resolution methods.

Mr. President, Bruno Nowicki has demonstrated time and again his commitment to his community. He is truly a person who has touched the lives of thousands of people. I know my colleagues join me in wishing Bruno a happy 90th birthday and in commending him for his remarkable dedication to community service.●

ONE GUN A MONTH FORUM

● Mr. LAUTENBERG. Mr. President, last month I convened a forum to investigate the problem of gun-trafficking. At the forum, we heard from a number of compelling witnesses and I have been submitting their testimony into the RECORD so that my colleagues and the public can benefit from their insights. Taken together, this testimony makes a compelling case for the Anti-Gun Trafficking Act, S. 466, which I introduced earlier this Congress.

Today, I would like to submit the final testimony from this forum, that of Captain Thomas Bowers, Director of the Office of Crime Gun Enforcement for the Maryland State Police. Two years ago, the Maryland Legislature passed the Gun Violence Act of 1996, which restricted the purchase of handguns to one in a thirty day period. The results have already been dramatic. In fact, Maryland saw a 78 percent decrease in the number of handguns sold as a result of multiple purchases in the first year after the enactment of this law. This means fewer lethal weapons supplied to criminals in cities nationwide.

I hope that my colleagues will work with me to pass this important piece of legislation. Keeping handguns out of the hands of criminals, and reducing the gun violence across our nation should be of paramount importance to all.

Mr. President, I ask that the testimony of Captain Thomas Bowers be printed in the RECORD.

The testimony follows:

TESTIMONY OF CAPT. THOMAS BOWERS

Senator LAUTENBERG, I am Captain Thomas Bowers, Director of the Office of Crime Gun Enforcement for the Maryland State Police.

On behalf of Colonel David B. Mitchell, our superintendent, thank you for the opportunity to address you today.

The troopers seated behind me represent the subject matter experts in the area of firearms enforcement.

The Maryland State Police is the point of contact for regulatory and criminal oversight of all regulated firearm purchases in Maryland. In 1966, Maryland initiated an application process to purchase handguns. This process included a 7-day waiting period and a background check.

In 1995, Governor Parris N. Glendening, Lieutenant Governor Kathleen Kennedy Townsend, and Colonel Mitchell initiated a comprehensive program entitled Operation Cease-Fire, one element of the cease-fire initiative was the Maryland State Police Firearms Investigation Unit. This unit provides the ''front line'' response to the problem of firearms related violence throughout the State of Maryland.

The Firearms Investigation Unit was initially tasked with the responsibility of enforcing Maryland's existing firearms laws and, more importantly, identifying the source or sources of firearms used in the commission of violent crimes.

Through the work of the Firearms Investigation Unit and information provided by the Bureau of Alcohol, Tobacco and Firearms the straw purchase was identified as the major source of crime guns in Maryland, even more significant, based upon crime gun trace data from the city of Baltimore. The straw purchase of firearms through multiple sales was determined to be the source of the majority of regulated firearms used in the commission of violent crime. Let me repeat that the straw purchase of firearms through multiple sales was determined to be the source of the majority of regulated firearms used in the commission of violent crime.

Each multiple straw purchase tells a dramatic story. I'd like to give you two examples.

1. The first is that of a 32-year old male who was recruited by a drug organization to purchase 9 9mm semi-automatic handguns from a Maryland regulated firearms dealer. Upon receipt of the handguns from the dealer, the young man immediately provided them to a member of the hierarchy of the drug organization who then distributed the handguns to drug traffickers whom he controlled. Within a few weeks, two of the 9mm handguns were used in two separate homicides.

2. A second example is that of a young man who purchased 11 9mm and 45 caliber semi-automatic handguns from a Maryland regulated firearms dealer. A short time later, the same resident returned to the same regulated firearms dealer and purchased 30 more semi-automatic handguns. An investigation was initiated which revealed that all 41 semi-automatic handguns were smuggled out of the United States and into the country of Nigeria in violation of both United States and Nigerian law.

In 1996, through the efforts of Governor Glendening, the Maryland legislature passed a comprehensive violence reduction initiative entitled, The Gun Violence Act of 1996. This act limited the purchase of a regulated firearm to one in a 30-day period and also required a background check and 7-day waiting period for secondary sales of regulated firearms between individuals. (Three charts; regulated firearm definition, secondary sale definition, and secondary sale regs.)

Maryland's one gun a month law limits the number of handguns an individual can purchase to only one during a 30-day period not per calendar month. There are codified provisions for specific exceptions to the law. They are enumerated on the chart displayed before you. (Two charts; exceptions to one/month and Maryland State Police From 77M (multiple purchase).

(1) Residents may apply to the Maryland State Police to be designated as private collectors.

(2) Residents may purchase two handguns during a single visit to a licensed gun dealer if the dealer has offered a second handgun at a discount when purchased with the first. Under this exception the resident cannot purchase another handgun for 60 days.

(3) Law enforcement agencies and licensed private security organizations are exempt from the multiple purchase law when purchasing handguns for use by their employees.

(4) Residents may purchase more than one handgun if they are part of a set or sequential serial numbers as in an accepted collector series.

(5) To facilitate the replacement of a firearm that was lost or stolen with documentation from a law enforcement agency.

(6) To facilitate the replacement of a defective firearm by the same regulated firearms dealer with 30 days of purchase.

(7) Lastly the one gun in 30 days provision does not apply to estate sales.

As a result of this legislation, the number of firearms acquired through multiple purchases have reduced significantly.

In addition, and perhaps most telling effect, is the drastic decrease in the number of guns initially purchased in Maryland that have been recovered as a result of crimes in other States.

By comparing the one year period prior to the enactment of Maryland's multiple purchase legislation, which became effective on October 1, 1996, with the year following its enactment, you can clearly see the dramatic results (two charts; multiple sales bar chart comparison, and multiple sales graph)

From October, 1, 1995, to September 30, 1996, 7,569 handguns were sold in Maryland, as a result of multiple purchases.

From October 1, 1996, to September 30, 1997, that number was reduced to 1,618 handguns which were sold as a result of multiple purchases, a seventy eight percent (78%) (59% difference) reduction in firearms acquired through multiple purchases.

In 1991 Maryland was nationally ranked second in terms of suppliers of crime guns to the city of New York. By 1997, one year after the passage of Maryland's one gun a month law, Maryland moved out of the top ten suppliers of crime guns to New York City.

Maryland is proud of it's proactive firearms legislation. Our efforts to limit the supply of guns to the illegal market without adversely impacting upon law abiding citizens are strong and sincere. The multiple purchase allows for the quick acquisition of large numbers of regulated firearms by proscribed individuals. The one gun a month law in Maryland has shown that it is an effective means of disrupting the illegal diversion of firearms which are acquired through multiple purchases and will ultimately reduce the supply of firearms readily available to criminals.

Thank you again for the opportunity to appear before you today.●

TRIBUTE TO MICHAEL S. DALEY

●Mr. JEFFORDS. Mr. President, I rise today to pay tribute to Michael S. Daley who is retiring from over 30 years as an orderly at Fletcher Allen Hospital in Burlington, Vermont. Michael joined the hospital in the late 1960's and began his career as a health care worker. After a few years, he thought he would try his luck in California. He soon realized that Vermont was where he wanted to be. He rejoined the workers at the hospital in October 1970 and continued to be a care giver in every sense of the word. Michael is my wife, Liz's, bother. I can not count the number of times Vermonters' have come up to me to tell me how kind Michael had been to them when they were ill or injured.

Being an orderly was more than a job to Michael. It was a vocation. He was ever mindful of the importance of medical care, however, he never neglected the soul. Every one of his co-workers would tell you that Michael brought a sense of humor to everything he did. He would often bring his lunch to a patient's room and visit during this lunch break. Doctors, new to the O.R. or leaving for other assignments, were regularly treated to lunches prepared by Michael in their honor. ''Michael knows everyone'', a co-worker stated. I think that Michael made it his business to get to know everyone. He would note when someone from our hometown of Shrewsbury, Vermont was hospitalized and he would pay them a visit. If a person wanted to talk, Michael would be there.

Michael is a religious man who lives his faith. His work in the Episcopal church in Milton, Vermont kept that small community alive for years. Along with his wife, Alice, and their three children, Michael is and has been very active in Saint Andrews Church in Colchester, Vermont. His faith has helped Michael go the extra mile in the care and comfort of his fellow Vermonters. His sense of humor has added sunshine to the lives of those he meets. Michael represents the millions of unsung heros who care for and comfort our neighbors, family and friends. I wish to honor him and his life's work.●

COMMENDING THE WORK OF THE NATIONAL COMMEMORATIVE COMMITTEE FOR THE CENTENNIAL OF THE SUBMARINE FORCE

● Mr. WARNER. Mr. President, I rise today to pay tribute to the U.S. Navy Submarine Force as it approaches its 100 year anniversary and to commend to the work of the National Commemorative Committee for the Centennial of the Submarine Force.

The submarine force traces its beginnings to the spring morning of April 11, 1900. Following demonstration trials off Mount Vernon on the Potomac River, the Navy agreed to purchase the submarine boat USS *Holland* (SS–1). The USS *Holland* was named for its inventor John Holland. Inventors such as John Holland and Simon Lake had been experimenting in submarine design during the last decades of the nineteenth century. However, Mr. Holland was the first to give the submarine true mobility by using a gasoline engine on the surface and a battery supplying electric motors when submerged. It was due to the success of the USS *Holland* that the Navy pursued the submarine program. For this reason, the Submarine Force traditionally recognized April 11th as the anniversary of its establishment.

Dramatic improvements to the submarine have been made since the USS *Holland*. The diesel engine replaced the gasoline engine in 1912. All welded hulls, allowing submarines to submerge to much greater depths, were introduced in the 1930s. Radar and sonar were incorporated during World War II. It is with the introduction of nuclear power, however, that the submarine became a true submersible—limited in endurance only by the needs of its human crew.

Earlier this year the Naval Nuclear Propulsion Program celebrated its 50th anniversary. It was in 1948 that the legendary Admiral Hyman Rickover, then a Captain, assigned himself the task of building a nuclear submarine. At that time, the technology that enabled the release of nuclear power was in its infancy. Just seven years later, the USS *Nautilus* put to sea under nuclear power. Today the Navy's nuclear submarine force is a crown jewel of our Nation's Defense arsenal.

In the year 2000, the Navy's Submarine Force will celebrate its 100th anniversary. The Secretary of the Navy has designated the period from January 2000 through December 2000 for the commemoration of the Centennial of the U.S. Submarine Force. The Director of Submarine Warfare, Rear Admiral Malcolm Fages, and the Submarine Warfare Division have the responsibility for overall coordination of commemorative activities with assistance of the National Commemorative Committee for the Centennial of the Submarine Force.

Mr. President, it is the work of the National Commemorative Committee and its chairman, Admiral Hank Chiles, that I wish to recognize today. Plans are already underway to observe the anniversary at appropriate occasions throughout the calendar year 2000. The National Commemorative Committee is planning events and ceremonies that will provide the opportunity for people to observe and experience the special world of the U.S. Navy Submarine Force and to become more acquainted with its rich and colorful history. Proposed events for 2000 include the opening of a Smithsonian exhibit, a birthday ball and the unveiling of a submarine stamp in Washington, DC, and participation in fleet week celebrations throughout the year.

I commend the dedicated effort of the National Commemorative Committee for the Centennial of the Submarine Force and urge my colleagues to support the Committee as they continue their work planning the centennial events.●

CELEBRATION OF THE REPUBLIC OF CHINA'S 87TH ANNIVERSARY NATIONAL DAY

● Mr. CLELAND. Mr. President, I rise today to celebrate the Republic of China's 87th Anniversary National Day on October 10, 1998. Taiwan has prospered beyond most people's wildest dreams despite its limited resources and vast population. The people of the United States have a special bond with the people of Taiwan, who have unfalteringly demonstrated to the world their commitment to democracy and democratic ideals. Taiwan is a vibrant, thriving country for the present and a model for the future—a model characterized by strong economic growth and respect for basic human rights and democratic freedoms.

Taiwan has been and will continue to be an important partner of the United States, economically, culturally, strategically, and politically. May God

bless our friends in Taiwan, including President Lee Teng-hui, Vice President Lien Chan and Taipei's Foreign Minister, Dr. Jason Hu, who have done an excellent job in leading Taiwan down the road of democracy and prosperity. Mr. President, I ask that you join me and our colleagues in congratulating the Republic of China's freedom on its 87th Anniversary National Day. I look forward to celebrating this historic event annually for many, many years to come.●

NATIONAL SALVAGE MOTOR VEHICLE PROTECTION ACT

● Mr. GORTON. Mr. President, I rise today in support of the substitute amendment to S. 852, the National Salvage Motor Vehicle Protection Act of 1998.

The substitute makes a number of changes to the Committee-passed bill. While not as far reaching as some would like, I believe that the changes improve a measure that has always had a very laudable intent, but which was criticized nevertheless by attorneys general and consumer groups for preempting, in some instances, more favorable state law and not providing consumers with enough information about a vehicles' history.

As a former Attorney General, I was particularly sensitive to these criticisms, and last Fall I placed a hold on the measure with the expectation of facilitating a consensus between the bill's supporters, the attorneys general, and various consumer advocate groups. Regrettably, a consensus of legislation was not to be had. While the changes in the amendment are generally intended to address concerns raised by the attorneys general and, to some extent, consumer advocates, neither of these groups has endorsed this measure. I removed my hold on the amendment despite this, however, because there is a consensus, of which I am a part, on the need for federal legislation regarding salvage and rebuilt vehicles. The bill, as amended, is not perfect. But as my months of trying to broker an agreement revealed, ''perfect,'' even if defined to mean the best interest of consumers, is a subjective term. S. 852, as amended, is, in my view, and in that of over 50 co-sponsors, better than the status quo.

I remain troubled that the attorneys general and some consumer advocate groups do not agree. I am also somewhat baffled by the seemingly studied misconstruction of the bill, and my amendment to it by some who continue to oppose it.

Let me explain the changes in the amendment to S. 852. In response to complaints that S. 852 set too high a damage threshold for designating a vehicle as ''salvage,'' the amendment lowers the threshold from 80% to the lower of 75% or the percentage threshold in a state as of the date of enactment. Seventy-five percent is the threshold recommended by the task force created by the Anti-Car Theft Act of 1992, on whose work this legislation is based. Industry defenders of the higher threshold argued that lowering it would hurt, not help, consumers because it would devalue vehicles even when there is no legitimate safety-related reason for mandating the disclosure of prior damage. I understand their point, but don't agree. Yes, there is some threshold at which mandatory labeling, and the bureaucratic burden that attends it, is more costly than beneficial for both buyers and sellers, but I do not believe we have come close to that turning point.

The attorneys general's concern that S. 852 did not provide for sufficient disclosure applied not only to the percent of damage threshold, but also to limited scope of the vehicles covered by the bill. S. 852 proposed to permit the ''salvage vehicle'' label to attach only to vehicles less than seven years old or with more than $7500. While states were free to use any other label they chose for all vehicles, including older vehicles, state attorneys general wanted to be able to use the term ''salvage'' to describe older vehicles because it is the term most commonly used today to advise of prior damage. The amendment to S. 852 permits states to do this, and explicitly provides that states can use the term ''older model salvage vehicle'' to label older vehicles.

Complaints about the mandatory nature of S. 852 ran the gamut. Some critics of S. 852, including the Department of Transportation, objected to the fact that states were not obligated to comply with the Act, arguing that states could opt out and become regional title washing capitals. Others complained that the bill was too prescriptive, and did not allow states (the majority of which, until now, do not appear to have adopted very consumer-friendly laws) to set the standards for labeling and disclosure. Rather than refight the battle that led the House to conclude that a mandate would be unconstitutional, and because I was unable to persuade anyone to agree that we should use a big stick as opposed to a carrot approach, the amendment to S. 852 does not make the labeling system mandatory, but incorporates a provision to address concerns that opt-out states will become title-washing capitals. The amendment to S. 852 makes it a violation of the Act to move vehicles, or vehicle titles, across state lines for the purpose of avoiding the requirements in the Act.

Another minor modification to S. 852 corrects what I believe was an oversight in S. 852, and makes it a violation of the Act not to comply with the labeling and disclosure requirements for ''flood vehicles.''

Another modification made to S. 852 clarifies that states that choose to abide by the provisions of the Act must carry over not only the ''salvage vehicle,'' ''nonrepairable vehicle,'' and ''flood vehicle'' labels on titles, but also any other disclosure that states prescribe. This concept was contained in S. 852, but the language was unclear. The legislation does not restrict states from labeling a car with any term, and prescribing treatment of a car so labeled with any term, other than the very limited list of terms used in the bill. In other words, a state that accepts federal funds for the national motor vehicle identification number database, and that does not specifically state on its titles that it is not complying with the federal titling standards, must use the definition of ''salvage vehicle'' and ''nonrepairable vehicle'' prescribed in the bill. However, S. 852 permits that state to label the same vehicle with any other term it chooses and imposes any restrictions attendant to the other label. The amendment clarifies that states that chose to use the national labels, including those for ''salvage vehicle'' and ''nonrepairable vehicle,'' must not only carry over these labels from other states, but must also carry over any other labels another state chooses to affix, and specify the state that so labeled the vehicle.

Other modifications specifically permit state attorneys general to bring actions on behalf of individuals for violations of the Act, and clarify that the Act in no way affects individuals' ability to bring private rights of action. In response to concerns that S. 852 preempted state causes of action and created a sole remedy for violations relating to title labeling and disclosure, the amendment specifically provides that the Act does not preclude any private right of action available under state law. This provision was intended to provide assurances that nothing in the Act restricts individuals, or attorneys general, from pursuing any claims under state law, such as claims based on violations of consumer protection laws, unfair trade practices, or failures to disclose the material terms of a contract. Curiously, the inclusion of this provision, designed to allay concerns about preemption, appears to have unreasonable stirred them. Some appear to have drawn the illogical and legally unsupported conclusion that any claim not specifically preserved is implicity barred. Let met again try to clarify. There is absolutely nothing in the bill that suggests that the remedies it provides (action by attorneys general) are exclusive. Simply because the legislation states that private actions are specifically preserved does not mean that all other actions are barred or restricted in any way.

The modification that has drawn criticism even from those consumer groups whose interests I was attempting to advance in my amendment, is the striking of the criminal penalty provisions. This modification was not requested by anyone seeking to avoid accountability. Rather, I sought to strike the criminal penalties because I believe that the criminal sanctions in S. 852 were inappropriate in most instances, and unnecessary in others. As

a general matter, I believe that Congress creates too many federal criminal offenses, when it should leave this task to state law. A violation of this bill, such as a failures to make disclosures about a vehicle's history, generally is not the type of violation for which people should be sent to jail. If the conduct is so egregious that criminal sanctions are warranted, then existing state laws against fraud, theft, and the like are available based on which to prosecute violators.

The change I have just described to S. 852 are not extensive. They are, nevertheless, important and, in my opinion, improve a bill that is needed at this time.●

NORTH AMERICAN WETLANDS CONSERVATION ACT, S. 1677

● Mr. DEWINE. Mr. President, I rise today to offer my strong support for this bill offered by our distinguished colleague from Rhode Island. I want to thank Senator CHAFEE for all the work he has done, and especially his effort to addressing some of the concerns I had about the bill.

The North American Wetlands Conservation Act, or NAWCA, is a blueprint for successful environmental protection—through voluntary cooperation among government agencies, private conservation organizations, and landowners. It is a matching fund which involves state, federal, and private partners in protecting and restoring wetlands across the country.

Mr. President, this is very important for the environment. Wetlands serve a multitude of purposes. Obviously, they provide critical habitat and breeding grounds for migratory birds, fish and aquatic plants. But their benefit goes far beyond wildlife habitat. Wetlands are nature's sponges—absorbing heavy rains and minimizing the damaging effects of floods and erosion. Wetlands are also natural filters, trapping and isolating potentially damaging pollution and improving the quality of our lakes and rivers.

Since 1990, there have been 9 NAWCA projects in Ohio which have protected almost 9,000 acres of critical wetlands. NAWCA has contributed $3.3 million towards these projects—and those funds were matched by $6.9 million from groups such as Ducks Unlimited and Ohio's Division of Wildlife.

Last summer, I was able to visit one of these projects, Metzger Marsh in northwest Ohio. I was impressed, not only with the beauty and diversity of the wildlife at this marsh, but also with the cooperation among government, private agencies, and landowners that protected this area.

While there are several partners working together on this effort, I would like to mention one organization in particular. Ducks Unlimited is a national nonprofit conservation organization with over 18,000 members in Ohio alone. It has contributed over $80 million in matching funds to support NAWCA projects across the country. This is over three times the amount contributed by any other conservation organization. In light of the longstanding commitment of Ducks Unlimited to this project, I believe they should continue to serve on the NAWCA Council—and I would like to thank Senators CHAFEE, KEMPTHORNE, INHOFE and HUTCHISON for insuring that the organization's membership on this council will continue.

Mr. President, this is a very important piece of environmental legislation, and I urge its adoption.●

CONSUMER REPORTING EMPLOYMENT CLARIFICATION ACT OF 1998

(The text of (S. 2561), the Consumer Reporting Employment Clarification Act of 1998, as passed by the Senate on October 6, 1998, is as follows:)

S. 2561

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Consumer Reporting Employment Clarification Act of 1998''.

SEC. 2. USE OF CONSUMER REPORTS FOR EMPLOYMENT PURPOSES.

(a) DISCLOSURE TO CONSUMER.—Section 604(b)(2) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(2)) is amended to read as follows:

''(2) DISCLOSURE TO CONSUMER.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), a person may not procure a consumer report, or cause a consumer report to be procured, for employment purposes with respect to any consumer, unless—

''(i) a clear and conspicuous disclosure has been made in writing to the consumer at any time before the report is procured or caused to be procured, in a document that consists solely of the disclosure, that a consumer report may be obtained for employment purposes; and

''(ii) the consumer has authorized in writing (which authorization may be made on the document referred to in clause (i)) the procurement of the report by that person.

''(B) APPLICATION BY MAIL, TELEPHONE, COMPUTER, OR OTHER SIMILAR MEANS.—If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, at any time before a consumer report is procured or caused to be procured in connection with that application—

''(i) the person who procures the consumer report on the consumer for employment purposes shall provide to the consumer, by oral, written, or electronic means, notice that a consumer report may be obtained for employment purposes, and a summary of the consumer's rights under section 615(a)(3); and

''(ii) the consumer shall have consented, orally, in writing, or electronically to the procurement of the report by that person.

''(C) SCOPE.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

''(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

''(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by mail, telephone, computer, or other similar means.''.

(b) CONDITIONS ON USE FOR ADVERSE ACTIONS.—Section 604(b)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(3)) is amended to read as follows:

''(3) CONDITIONS ON USE FOR ADVERSE ACTIONS.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), in using a consumer report for employment purposes, before taking any adverse action based in whole or in part on the report, the person intending to take such adverse action shall provide to the consumer to whom the report relates—

''(i) a copy of the report; and

''(ii) a description in writing of the rights of the consumer under this title, as prescribed by the Federal Trade Commission under section 609(c)(3).

''(B) APPLICATION BY MAIL, TELEPHONE, COMPUTER, OR OTHER SIMILAR MEANS.—

''(i) If a consumer described in subparagraph (C) applies for employment by mail, telephone, computer, or other similar means, and if a person who has procured a consumer report on the consumer for employment purposes takes adverse action on the employment application based in whole or in part on the report, then the person must provide to the consumer to whom the report relates, in lieu of the notices required under subparagraph (A) of this section and under section 615(a), within 3 business days of taking such action, an oral, written or electronic notification—

''(I) that adverse action has been taken based in whole or in part on a consumer report received from a consumer reporting agency;

''(II) of the name, address and telephone number of the consumer reporting agency that furnished the consumer report (including a toll-free telephone number established by the agency if the agency compiles and maintains files on consumers on a nationwide basis);

''(III) that the consumer reporting agency did not make the decision to take the adverse action and is unable to provide to the consumer the specific reasons why the adverse action was taken; and

''(IV) that the consumer may, upon providing proper identification, request a free copy of a report and may dispute with the consumer reporting agency the accuracy or completeness of any information in a report.

''(ii) If, under clause (B)(i)(IV), the consumer requests a copy of a consumer report from the person who procured the report, then, within 3 business days of receiving the consumer's request, together with proper identification, the person must send or provide to the consumer a copy of a report and a copy of the consumer's rights as prescribed by the Federal Trade Commission under section 609(c)(3).

''(C) SCOPE.—Subparagraph (B) shall apply to a person procuring a consumer report on a consumer in connection with the consumer's application for employment only if—

''(i) the consumer is applying for a position over which the Secretary of Transportation has the power to establish qualifications and maximum hours of service pursuant to the provisions of section 31502 of title 49, or a position subject to safety regulation by a State transportation agency; and

''(ii) as of the time at which the person procures the report or causes the report to be procured the only interaction between the consumer and the person in connection with that employment application has been by

mail, telephone, computer, or other similar means.''.

SEC. 3. PROVISION OF SUMMARY OF RIGHTS.

Section 604(b)(1)(B) of the Fair Credit Reporting Act (15 U.S.C. 1681b(b)(1)(B)) is amended by inserting '', or has previously provided,'' before ''a summary''.

SEC. 4. NATIONAL SECURITY INVESTIGATION CONFORMING AMENDMENTS.

(a) GOVERNMENT AS END USER.—Section 609(a)(3) of the Fair Credit Reporting Act (15 U.S.C. 1681g(a)(3)) is amended by adding at the end the following:

''(C) Subparagraph (A) does not apply if—

''(i) the end user is an agency or department of the United States Government that procures the report from the person for purposes of determining the eligibility of the consumer to whom the report relates to receive access or continued access to classified information (as defined in section 604(b)(4)(E)(i)); and

''(ii) the head of the agency or department makes a written finding as prescribed under section 604(b)(4)(A).''.

(b) NATIONAL SECURITY INVESTIGATIONS.—Section 613 of the Fair Credit Reporting Act (15 U.S.C. 1681k) is amended—

(1) by inserting ''(a) IN GENERAL.—'' before ''A consumer''; and

(2) by adding at the end the following:

''(b) EXEMPTION FOR NATIONAL SECURITY INVESTIGATIONS.—Subsection (a) does not apply in the case of an agency or department of the United States Government that seeks to obtain and use a consumer report for employment purposes, if the head of the agency or department makes a written finding as prescribed under section 604(b)(4)(A).''.

SEC. 5. CIVIL SUITS AND JUDGMENTS.

Section 605(a) of the Fair Credit Reporting Act (15 U.S.C. 1681c(a)) is amended—

(1) in paragraph (2), by striking ''Suits and Judgments which'' and inserting ''Civil suits, civil judgments, and records of arrest that'';

(2) by striking paragraph (5);

(3) in paragraph (6), by inserting '', other than records of convictions of crimes'' after ''of information''; and

(4) by redesignating paragraph (6) as paragraph (5).

SEC. 6. TECHNICAL AMENDMENTS.

The Fair Credit Reporting Act (15 U.S.C. 1601 et seq.) is amended—

(1) in section 603(d)(2)(A)(iii), by striking ''any communication'' and inserting ''communication'';

(2) in section 603(o)(1), by striking ''(d)(2)(E)'' and inserting ''(d)(2)(D)'';

(3) in section 603(o)(4), by striking ''or'' at the end and inserting ''and'';

(4) in section 604(g), by striking ''or a direct marketing transaction'';

(5) in section 611(a)(7), by striking ''(6)(B)(iv)'' and inserting ''(6)(B)(iii)''; and

(6) in section 621(b), by striking ''or (e)''.

SEC. 7. EFFECTIVE DATE.

The amendments made by this Act shall be deemed to have the same effective date as the amendments made by section 2403 of the Consumer Credit Reporting Reform Act of 1996 (Public Law 104–208; 110 Stat. 3009–1257).

UNANIMOUS CONSENT REQUEST—H.R. 2431

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 456, H.R. 2431, the religious freedom bill.

Mr. WYDEN. Mr. President, I object on behalf of Senators on this side of the aisle.

The PRESIDING OFFICER. Objection is heard.

FREEDOM FROM RELIGIOUS PERSECUTION ACT OF 1998—MOTION TO PROCEED

CLOTURE MOTION

Mr. MCCAIN. I now move to proceed to H.R. 2431, and send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion, having been presented under rule XXII, the Chair directs the clerk to read the motion.

The assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of Standing Rules of the Senate, hereby move to bring to a close debate on the motion to proceed to Calendar No. 456, H.R. 2431, the religious freedom legislation:

Senators Trent Lott, Don Nickles, Conrad Burns, Robert Bennett, Charles Grassley, Michael Enzi, Bill Frist, John Ashcroft, Dan Coats Tim Hutchinson Ben Campbell Craig Thomas, James Inhofe, Thad Cochran Jeff Sessions, and Strom Thurmond

Mr. MCCAIN. Mr. President, I ask unanimous consent the mandatory quorum under rule XXII be waived.

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

Mr. MCCAIN. For the information of all Senators, this cloture vote will occur on Friday. All Senators will be notified as to the exact time when this becomes available.

I now withdraw the motion.

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

WILLIAM F. GOODLING CHILD NUTRITION REAUTHORIZATION ACT OF 1998—CONFERENCE REPORT

Mr. MCCAIN. Mr. President, I now ask unanimous consent the Senate proceed to the conference report to accompany H.R. 3874, the Child Nutrition Act reauthorization.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3874) have agreed to recommend and do recommend to their respective Houses this report, signed by all of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 6, 1998.)

Mr. MCCAIN. I ask unanimous consent the conference report be agreed to, the motion to reconsider be laid on the table, and any statements relating to the conference report be printed in the RECORD.

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

The conference report was agreed to.

MINTING OF COINS IN COMMEMORATION OF THOMAS ALVA EDISON

Mr. MCCAIN. I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 678, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows.

A bill (H.R. 678) to require the Secretary of the Treasury to mint coins in commemoration of THOMAS Alva Edison and the 125th anniversary of Edison's invention of the light, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LAUTENBERG. Mr. President, I rise in support of H.R. 678, the ''Thomas Edison Commemorative Coin Act'', a bill that directs the Secretary of the Treasury to mint and issue coins commemorating Thomas Edison and the 125th anniversary of the invention of the lightbulb. I am the author of the Senate version of this bill. In 1928, Congress saw fit to award to Mr. Edison a Congressional gold medal ''for the development and application of inventions that have revolutionized civilization in the last century.'' Mr. President, by passing this legislation today, we have the opportunity to once again honor the memory of one of the world's greatest inventors by issuing commemorative coins bearing Mr. Edison's likeness.

Thomas Edison produced more than 1,300 inventions during the course of his lifetime, 1,093 of which were patented. These included the incandescent lightbulb, the alkaline battery, the phonograph, the microphone, motion picture cameras, and stock tickers. He was one of America's greatest inventors, and truly a genius. Formerly known as ''The Wizard of Menlo Park'', he would spend countless hours in his labs in New Jersey coming up with ideas that ultimately made all our lives much easier.

In 1887, Thomas Edison built his lab in West Orange, New Jersey. It was known as the world's first ''invention factory'', where he and his partners invented, built and shipped out numerous products stemming from Edison's work. He saw every failure as a success. One story is that Thomas Edison failed 10,000 times in his storage battery experiments. Instead of being dejected, he said ''Why, I haven't failed. I've just found 10,000 ways that it won't work.'' Conversely, in response to remarks about his success, he would say, ''Genius is 1% inspiration and 99% perspiration.'' It is now proper to honor this man who left such a lasting legacy with these commemorative coins.

Mr. President, not only would these coins honor the memory of Thomas Edison, they would also raise revenue to support organizations that preserve his legacy. The two New Jersey sites,

the ''invention factory'' in West Orange, New Jersey and the Edison Memorial Tower in Edison, New Jersey, are in need of funding for maintenance and repair. Each year, nine thousand young students visit the West Orange site alone to learn about the great inventor. The proceeds from the sale of these coins will help to preserve irreplaceable records containing Edison's thoughts as well as priceless memorabilia. This bill, at no cost to the government, would provide the funds necessary to protect these and six other historical sites so that generations of school children can continue to visit them.

Mr. President, I introduced similar legislation in the 104th Congress as well as at the beginning of this Congress. I now urge the passage of H.R. 678 so that we may honor the memory of Thomas Alva Edison and celebrate the 125th anniversary of the lightbulb while, at no cost to the government, providing needed funds to important historical sites.

I urge my colleagues to support this legislation.

Mr. MCCAIN. I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (H.R. 678) was considered read a third time and passed.

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT ACCOMPANYING S. 2206

Mr. MCCAIN. Mr. President, I ask unanimous consent that when the Senate considers the conference report accompanying S. 2206, that the reading be waived and that there be 30 minutes for debate on the conference report with the time equally divided and controlled between Senators JEFFORDS and KENNEDY or their designees, that upon the use or yielding back of time the conference report be adopted, and the motion to reconsider be laid upon the table, without intervening action.

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

OMNIBUS CRIME CONTROL AND SAFE STREETS ACT AMENDMENTS

Mr. MCCAIN. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 606, S. 2235.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2235) a bill to amend part Q of the Omnibus Crime Control and Safe Streets Act of 1968 to encourage the use of school resource officers.

The Senate proceeded to consider the bill.

Mr. MCCAIN. Mr. President, I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The bill (S. 2235) was considered read the third time and passed, as follows:

S. 2235

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

SECTION 1. SCHOOL RESOURCE OFFICERS.

Part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.) is amended—

(1) in section 1701(d)—

(A) by redesignating paragraphs (8) through (10) as paragraphs (9) through (11), respectively; and

(B) by inserting after paragraph (7) the following:

''(8) establish school-based partnerships between local law enforcement agencies and local school systems by using school resource officers who operate in and around elementary and secondary schools to combat school-related crime and disorder problems, gangs, and drug activities;''; and

(2) in section 1709—

(A) by redesignating the first 3 undesignated paragraphs as paragraphs (1) through (3), respectively; and

(B) by adding at the end the following:

''(4) 'school resource officer' means a career law enforcement officer, with sworn authority, deployed in community-oriented policing, and assigned by the employing police department or agency to work in collaboration with schools and community-based organizations—

''(A) to address crime and disorder problems, gangs, and drug activities affecting or occurring in or around an elementary or secondary school;

''(B) to develop or expand crime prevention efforts for students;

''(C) to educate likely school-age victims in crime prevention and safety;

''(D) to develop or expand community justice initiatives for students;

''(E) to train students in conflict resolution, restorative justice, and crime awareness;

''(F) to assist in the identification of physical changes in the environment that may reduce crime in or around the school; and

''(G) to assist in developing school policy that addresses crime and to recommend procedural changes.''.

ALTERNATE DISPUTE RESOLUTION ACT OF 1998

Mr. McCAIN. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of Calendar No. 514, H.R. 3528.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 3528) to amend title 28 of the United States Code, with respect to the use of alternative dispute resolution processes in the United States district courts, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with amendments; as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.

H.R. 3528

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Alternative Dispute Resolution Act of 1998''.

SEC. 2. FINDINGS AND DECLARATION OF POLICY.

Congress finds that—

(1) alternative dispute resolution, when supported by the bench and bar, and utilizing properly trained neutrals in a program adequately administered by the court, has the potential to provide a variety of benefits, including greater satisfaction of the parties, innovative methods of resolving disputes, and greater efficiency in achieving settlements;

(2) certain forms of alternative dispute resolution, including mediation, early neutral evaluation, minitrials, and voluntary arbitration, may have potential to reduce the large backlog of cases now pending in some federal courts throughout the United States, thereby allowing the courts to process their remaining cases more efficiently; and

(3) the continued growth of Federal appellate court-annexed mediation programs suggests that this form of alternative dispute resolution can be equally effective in resolving disputes in the federal trial courts; therefore, the district courts should consider including mediation in their local alternative dispute resolution programs.

[SEC. 2.] SEC. 3. ALTERNATIVE DISPUTE RESOLUTION PROCESSES TO BE AUTHORIZED IN ALL DISTRICT COURTS.

Section 651 of title 28, United States Code, is amended to read as follows:

''§ 651. Authorization of alternative dispute resolution

''(a) DEFINITION.—For purposes of this chapter, an alternative dispute resolution process includes any process or procedure, other than an adjudication by a presiding judge, in which a neutral third party participates to assist in the resolution of issues in controversy, through processes such as early neutral evaluation, mediation, minitrial, and arbitration as provided in sections 654 through 658.

''(b) AUTHORITY.—Each United States district court shall authorize, by local rule adopted under section **[2071(b)]** *2071(a),* the use of alternative dispute resolution processes in all civil actions, including adversary proceedings in bankruptcy, in accordance with this chapter, except that the use of arbitration may be authorized only as provided in section 654. Each United States district court shall devise and implement its own alternative dispute resolution program, by local rule adopted under section **[2071(b)]** *2071(a),* to encourage and promote the use of alternative dispute resolution in its district.

''(c) EXISTING ALTERNATIVE DISPUTE RESOLUTION PROGRAMS.—In those courts where an alternative dispute resolution program is in place on the date of the enactment of the Alternative Dispute Resolution Act of 1998, the court shall examine the effectiveness of that program and adopt such improvements to the program as are consistent with the provisions and purposes of this chapter.

''(d) ADMINISTRATION OF ALTERNATIVE DISPUTE RESOLUTION PROGRAMS.—Each United States district court shall designate an employee, or a judicial officer, who is knowledgeable in alternative dispute resolution practices and processes to implement, administer, oversee, and evaluate the court's

alternative dispute resolution program. Such person may also be responsible for recruiting, screening, and training attorneys to serve as neutrals and arbitrators in the court's alternative dispute resolution program.

''(e) TITLE 9 NOT AFFECTED.—This chapter shall not affect title 9, United States Code.

''(f) PROGRAM SUPPORT.—The Federal Judicial Center and the Administrative Office of the United States Courts are authorized to assist the district courts in the establishment and improvement of alternative dispute resolution programs by identifying particular practices employed in successful programs and providing additional assistance as needed and appropriate.''.

[SEC. 3.] **SEC. 4. JURISDICTION.**

Section 652 of title 28, United States Code, is amended to read as follows:

''§ 652. Jurisdiction

''(a) CONSIDERATION OF ALTERNATIVE DISPUTE RESOLUTION IN APPROPRIATE CASES.—Notwithstanding any provision of law to the contrary and except as provided in subsections (b) and (c), each district court shall, by local rule adopted under section [2071(b)] *2071(a)*, require that litigants in all civil cases consider the use of an alternative dispute resolution process at an appropriate stage in the litigation. Each district court shall provide litigants in all civil cases with at least one alternative dispute resolution process, including, but not limited to, mediation, early neutral evaluation, minitrial, and arbitration as authorized in sections 654 through 658. Any district court that elects to require the use of alternative dispute resolution in certain cases may do so only with respect to mediation, early neutral evaluation, and, if the parties consent, arbitration.

''(b) ACTIONS EXEMPTED FROM CONSIDERATION OF ALTERNATIVE DISPUTE RESOLUTION.—Each district court may exempt from the requirements of this section specific cases or categories of cases in which use of alternative dispute resolution would not be appropriate. In defining these exemptions, each district court shall consult with members of the bar, including the United States Attorney for that district.

''(c) AUTHORITY OF THE ATTORNEY GENERAL.—Nothing in this section shall alter or conflict with the authority of the Attorney General to conduct litigation on behalf of the United States, with the authority of any Federal agency authorized to conduct litigation in the United States courts, or with any delegation of litigation authority by the Attorney General.

''(d) CONFIDENTIALITY PROVISIONS.—Until such time as rules are adopted under chapter 131 of this title providing for the confidentiality of alternative dispute resolution processes under this chapter, each district court shall, by local rule adopted under section 2071(b), provide for the confidentiality of the alternative dispute resolution processes and to prohibit disclosure of confidential dispute resolution communications.''.

[SEC. 4.] **SEC. 5. MEDIATORS AND NEUTRAL EVALUATORS.**

Section 653 of title 28, United States Code, is amended to read as follows:

''§ 653. Neutrals

''(a) PANEL OF NEUTRALS.—Each district court that authorizes the use of alternative dispute resolution processes shall adopt appropriate processes for making neutrals available for use by the parties for each category of process offered. Each district court shall promulgate its own procedures and criteria for the selection of neutrals on its panels.

''(b) QUALIFICATIONS AND TRAINING.—Each person serving as a neutral in an alternative dispute resolution process should be qualified and trained to serve as a neutral in the appropriate alternative dispute resolution process. For this purpose, the district court may use, among others, magistrate judges who have been trained to serve as neutrals in alternative dispute resolution processes, professional neutrals from the private sector, and persons who have been trained to serve as neutrals in alternative dispute resolution processes. Until such time as rules are adopted under chapter 131 of this title relating to the disqualification of neutrals, each district court shall issue rules under section [2071(b)] *2071(a)* relating to the disqualification of neutrals (including, where appropriate, disqualification under section 455 of this title, other applicable law, and professional responsibility standards).''.

SEC. 5. ACTIONS REFERRED TO ARBITRATION.

Section 654 of title 28, United States Code, is amended to read as follows:

''§ 654. Arbitration

''(a) REFERRAL OF ACTIONS TO ARBITRATION.—Notwithstanding any provision of law to the contrary and except as provided in [subsections (b) and (c)] *subsections (a), (b), and (c)* of section 652 and subsection (d) of this section, a district court may allow the referral to arbitration of any civil action (including any adversary proceeding in bankruptcy) pending before it *when the parties consent*, except that referral to arbitration may not be made where—

''(1) the action is based on an alleged violation of a right secured by the Constitution of the United States;

''(2) jurisdiction is based in whole or in part on section 1343 of this title; or

''(3) the relief sought consists of money damages in an amount greater than $150,000.

''(b) SAFEGUARDS IN CONSENT CASES.—Until such time as rules are adopted under chapter 131 of this title relating to procedures described in this subsection, the district court shall, by local rule adopted under section [2071(b)] *2071(a)*, establish procedures to ensure that any civil action in which arbitration by consent is allowed under subsection (a)—

''(1) consent to arbitration is freely and knowingly obtained; and

''(2) no party or attorney is prejudiced for refusing to participate in arbitration.

''(c) PRESUMPTIONS.—For purposes of subsection (a)(3), a district court may presume damages are not in excess of $150,000 unless counsel certifies that damages exceed such amount.

''(d) EXISTING PROGRAMS.—Nothing in this [section] *chapter* is deemed to affect any action in which arbitration is conducted pursuant to section 906 of the Judicial Improvements and Access to Justice Act (Public Law 100–102), as in effect prior to the date of its repeal.''.

[SEC. 6.] **SEC. 7. ARBITRATORS.**

Section 655 of title 28, United States Code, is amended to read as follows:

''§ 655. Arbitrators

''(a) POWERS OF ARBITRATORS.—An arbitrator to whom an action is referred under section 654 shall have the power, within the judicial district of the district court which referred the action to arbitration—

''(1) to conduct arbitration hearings;

''(2) to administer oaths and affirmations; and

''(3) to make awards.

''(b) STANDARDS FOR CERTIFICATION.—Each district court that authorizes arbitration shall establish standards for the certification of arbitrators and shall certify arbitrators to perform services in accordance with such standards and this chapter. The standards shall include provisions requiring that any arbitrator—

''(1) shall take the oath or affirmation described in section 453; and

''(2) shall be subject to the disqualification rules under section 455.

''(c) IMMUNITY.—All individuals serving as arbitrators in an alternative dispute resolution program under this chapter are performing quasi-judicial functions and are entitled to the immunities and protections that the law accords to persons serving in such capacity.''.

[SEC. 7.] **SEC. 8. SUBPOENAS.**

Section 656 of title 28, United States Code, is amended to read as follows:

''§ 656. Subpoenas

''Rule 45 of the Federal Rules of Civil Procedure (relating to subpoenas) applies to subpoenas for the attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter.''.

[SEC. 8.] **SEC. 9. ARBITRATION AWARD AND JUDGMENT.**

Section 657 of title 28, United States Code, is amended to read as follows:

''§ 657. Arbitration award and judgment

''(a) FILING AND EFFECT OF ARBITRATION AWARD.—An arbitration award made by an arbitrator under this chapter, along with proof of service of such award on the other party by the prevailing party or by the plaintiff, shall be filed promptly after the arbitration hearing is concluded with the clerk of the district court that referred the case to arbitration. Such award shall be entered as the judgment of the court after the time has expired for requesting a trial de novo. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that the judgment shall not be subject to review in any other court by appeal or otherwise.

''(b) SEALING OF ARBITRATION AWARD.—The district court shall provide, by local rule adopted under section [2071(b)] *2071(a)*, that the contents of any arbitration award made under this chapter shall not be made known to any judge who might be assigned to the case until the district court has entered final judgment in the action or the action has otherwise terminated.

''(c) TRIAL DE NOVO OF ARBITRATION AWARDS.—

''(1) TIME FOR FILING DEMAND.—Within 30 days after the filing of an arbitration award with a district court under subsection (a), any party may file a written demand for a trial de novo in the district court.

''(2) ACTION RESTORED TO COURT DOCKET.—Upon a demand for a trial de novo, the action shall be restored to the docket of the court and treated for all purposes as if it had not been referred to arbitration.

''(3) EXCLUSION OF EVIDENCE OF ARBITRATION.—The court shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, unless—

''(A) the evidence would otherwise be admissible in the court under the Federal Rules of Evidence; or

''(B) the parties have otherwise stipulated.''.

[SEC. 9.] **SEC. 10. COMPENSATION OF ARBITRATORS AND NEUTRALS.**

Section 658 of title 28, United States Code, is amended to read as follows:

''§ 658. Compensation of arbitrators and neutrals

''(a) COMPENSATION.—The district court shall, subject to regulations approved by the Judicial Conference of the United States, establish the amount of compensation, if any, that each arbitrator or neutral shall receive

for services rendered in each case under this chapter.

''(b) TRANSPORTATION ALLOWANCES.—Under regulations prescribed by the Director of the Administrative Office of the United States Courts, a district court may reimburse arbitrators for actual transportation expenses necessarily incurred in the performance of duties under this chapter.''.

[SEC. 10.] SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out chapter 44 of title 28, United States Code, as amended by this Act.

[SEC. 11.] SEC. 12. CONFORMING AMENDMENTS.

(a) LIMITATION ON MONEY DAMAGES.—Section 901 of the Judicial Improvements and Access to Justice Act (28 U.S.C. 652 note), is amended by striking subsection (c).

(b) OTHER CONFORMING AMENDMENTS.—(1) The chapter heading for chapter 44 of title 28, United States Code, is amended to read as follows:

''CHAPTER 44—ALTERNATIVE DISPUTE RESOLUTION''.

(2) The table of contents for chapter 44 of title 28, United States Code, is amended to read as follows:

''Sec.
''651. Authorization of alternative dispute resolution.
''652. Jurisdiction.
''653. Neutrals.
''654. Arbitration.
''655. Arbitrators.
''656. Subpoenas.
''657. Arbitration award and judgment.
''658. Compensation of arbitrators and neutrals.''.

(3) The item relating to chapter 44 in the table of chapters for Part III of title 28, United States Code, is amended to read as follows:

''44. Alternative Dispute Resolution ... 651''.

AMENDMENT NO. 3784

(Purpose: To make technical modifications regarding the use of alternative dispute resolution processes in United States district courts, and for other purposes)

Mr. MCCAIN. Mr. President, Senators GRASSLEY and DURBIN have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for Mr. GRASSLEY, for himself, and Mr. DURBIN, proposes an amendment numbered 3784.

The amendment follows:

Page 6, line 17, strike ''2071(b)'' and substitute ''2071(a)''.

Page 8, line 1, strike ''SEC. 5'' and substitute ''SEC. 6''.

Page 9, line 12, strike ''action'' and substitute ''program''.

Page 9, line 13, strike ''section 906'' and substitute ''Title IX''.

Page 9, lines 14 and 15, strike ''100–102'' and substitute ''100–702''.

Page 9, line 15, strike ''as in effect prior to the date of its repeal'' and substitute ''as amended by Section 1 of Public Law 105–53''.

Page 13, line 10, after ''arbitrators'' insert ''and other neutrals''.

Mr. MCCAIN. I ask unanimous consent the amendment be agreed to, the committee amendments be agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements appear in the RECORD.

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

The amendment (No. 3784) was agreed to.

The committee amendments were agreed to.

The bill (H.R. 3528) was considered read the third time and passed.

AUTHORIZING THE PRINTING OF THE ''TESTIMONY FROM THE HEARINGS OF THE TASK FORCE ON ECONOMIC SANCTIONS''

Mr. MCCAIN. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 289 submitted earlier by Senator MCCONNELL.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 289) authorizing the printing of the ''testimony from the hearings of the task force on economic sanctions.''

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. MCCAIN. I ask unanimous consent the resolution be agreed to and the motion to reconsider be laid upon the table.

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

The resolution (S. Res. 289) was agreed to, as follows:

S. RES. 289

Resolved, that the ''Testimony from the Hearings of the Task Force on Economic Sanctions'', be printed as a Senate document, and that there be printed 300 additional copies of such document for the use of the Task Force on Economic Sanctions at a cost not to exceed $16,311.

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. MCCAIN. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 290, submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 290) to authorize representation by Senate Legal Counsel.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, this resolution concerns a pro se civil case brought against the CIA and other defendants by a state prisoner. Last month, the plaintiff served a subpoena for documents upon Senator JOHN F. KERRY, apparently because of the Senator's former role as Chairman of the Subcommittee on Terrorism, Narcotics and International Operations of the Foreign Relations Committee. After Senator KERRY objected to the subpoena and advised the plaintiff that the documents he sought were privileged by the Speech or Debate Clause, the plaintiff filed a motion asking the court to compel Senator KERRY to produce the documents. Accordingly, this resolution would authorize the Senate Legal Counsel to represent Senator KERRY in connection with this subpoena and to respond to the motion to compel.

Mr. MCCAIN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear in the RECORD.

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

The resolution (S. Res. 290) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 290

Whereas, Senator John F. Kerry has received a subpoena for documents in the case of *Tyree* v. *Central Intelligence Agency, et al.,* Case No. 98–CV–11829, now pending in the United States District Court for the District of Massachusetts;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent Members of the Senate with respect to any subpoena, order, or request for documents relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial process, be taken from such control or possession but by permission of the Senate: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent Senator Kerry in connection with the subpoena served upon him in the case of *Tyree* v. *Central Intelligence Agency, et al.*

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. MCCAIN. I ask unanimous consent the Senate proceed to the immediate consideration of S. Res. 291, submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 291) to authorize representation by Senate Legal Counsel.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. LOTT. Mr. President, this resolution concerns a civil action commenced in the United States District Court for the District of Columbia on September 14, 1998, by the District of Columbia and a group of approximately fifty residents of the District. The action seeks a declaratory judgment that residents of the District of Columbia have a constitutional right to vote in elections

for Members of the Senate and the House of Representatives, and also asks the court to ensure that Congress fashion a remedy for this alleged deprivation of voting rights. The lead defendants are the Secretary of Commerce and the United States, who are being represented by the Department of Justice.

The complaint also names as defendants the Secretary of the Senate, Gary Sisco, and the Sergeant at Arms and Doorkeeper of the Senate, Greg Casey, as well as the Clerk and the Sergeant at Arms of the House of Representatives, because of their roles in paying and certifying the election of Members and in controlling access to the two Chambers.

This resolution authorizes the Senate Legal Counsel to represent the Secretary of the Senate and the Senate Sergeant at Arms in this matter to seek dismissal of the case against them. The Legal Counsel will argue that the Senate officers are not proper defendants in this matter.

Mr. MCCAIN. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the resolution appear in the RECORD.

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

The resolution (S. Res. 291) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 291

Whereas, the Secretary of the Senate, Gary Sisco, and the Sergeant at Arms and Doorkeeper of the Senate, Gregory S. Casey, have been named as defendants in the case of *Clifford Alexander, et al.* v. *William M. Daley, et al.*, Case No. 1:98CV02187, now pending in the United States District Court for the District of Columbia;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent officers of the Senate in civil actions with respect to their official responsibilities: Now, therefore, be it

Resolved, That the Senate Legal Counsel is authorized to represent the Secretary of the Senate and the Sergeant at Arms and Doorkeeper of the Senate in the case of *Alexander, et al.* v. *Daley, et al.*

ESTABLISHING A PROGRAM TO SUPPORT A TRANSITION TO DEMOCRACY IN IRAQ

Mr. MCCAIN. I ask unanimous consent that the Senate now proceed to the consideration of H.R. 4655, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 4655) to establish a program to support a transition to democracy in Iraq.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. LOTT. Mr. President, I am pleased the Senate is about to act on H.R. 4655, the Iraq Liberation Act of 1998. I introduced companion legislation, S. 2525, last week with 7 co-sponsors. Last Friday, the House International Relations Committee marked up the legislation and made only minor, technical changes. On October 5, the House passed H.R. 4655 by an overwhelmingly bipartisan vote of 360 to 38. That vote, and our vote in several moments, is a strong demonstration of Congressional support for a new policy toward Iraq—a policy that overtly seeks the replacement of Saddam Hussein's regime through military and political support for the Iraq opposition.

The United States has many means at its disposal to support the liberation of Iraq. At the height of the Cold War, we support freedom fighters in Asia, Africa and Latin America willing to fight and die for a democratic future. We can and should do the same now in Iraq.

The Clinton Administration regularly calls for bipartisanship in foreign policy. I support them when I can. Today, we see a clear example of a policy that has the broadest possible bipartisan support. I know the Administration understands the depth of our feeling on this issue. I think they are beginning to understand the strategic argument in favor of moving beyond containment to a policy of ''rollback.'' Containment is not sustainable. Pressure to lift sanctions on Iraq is increasing—despite Iraq's seven years of refusal to comply with the terms of the Gulf War cease-fire. Our interests in the Middle East cannot be protected with Saddam Hussien in power. Our legislation provides a roadmap to achieve our objective.

This year, Congress has already provided $5 million to support the Iraqi political opposition. We provided $5 million to establish Radio Free Iraq. We will provide additional resources for political support in the FY 1999 Foreign Operations Appropriations Act, including $3 million for the Iraqi National Congress.

Enactment of this bill will go farther. It requires the President to designate at least one Iraqi opposition group to receive U.S. military assistance. It defines eligibility criteria such a group or groups must meet. Many of us have ideas on how the designation process should work. I have repeatedly stated that the Iraqi National Congress has been effective in the past and can be effective in the future. They represent the broadest possible base of the opposition. There are other groups that are currently active inside Iraq: the Patriotic Union of Kurdistan, the Kurdish Democratic Party and the Supreme Council for the Islamic Revolution in Iraq. The State Department seems to believe there are more than 70 opposition groups, many of which do not meet the criteria in H.R. 4655. Many barely even exist or have no political base. They should not be considered for support. We should also be very careful about considering designation of groups which do not share our values or which are simply creations of external forces or exile politics, such as the Iraqi Communist Party or the Iraqi National Accord.

I appreciate the work we have been able to do with the Administration on this legislation. But we should be very clear about the designation process. We intend to exercise our oversight responsibility and authority as provided in section 4(d) and section 5(d). I do not think the Members of Congress, notified pursuant to law, will agree to any designation that we believe does not meet the criteria in section 5 of the Iraq Liberation Act of 1998.

This is an important step. Observers should not misunderstand the Senate's action. Even though this legislation will pass without controversy on an unanimous voice vote, it is a major step forward in the final conclusion of the Persian Gulf war. In 1991, we and our allies shed blood to liberate Kuwait. Today, we are empowering Iraqis to liberate their own country.

Mr. HELMS. Mr. President, I am an original co-sponsor of H.R. 4655, the Iraq Liberation Act, for one simple reason: Saddam Hussein is a threat to the United States and a threat to our friends in the Middle East.

This lunatic is bent on building an arsenal of weapons of mass destruction with a demonstrable willingness to use them. For nearly eight years the United States has stood by and allowed the U.N. weapons inspections process to proceed in defanging Saddam. That process is now in the final stages of collapse, warning that the U.S. cannot stand idly by hoping against hope that everything will work itself out.

We have been told by Scott Ritter and others that Saddam can reconstitute his weapons of mass destruction within months. The Washington Post reported only last week that Iraq still has three nuclear ''implosion devices''—in other words, nuclear bombs minus the necessary plutonium or uranium to set them off. The time has come to recognize that Saddam Hussein the man is inextricable from Iraq's drive for weapons of mass destruction. For as long as he and his regime are in power, Iraq will remain a mortal threat.

This bill will begin the long-overdue process of ousting Saddam. It will not send in U.S. troops or commit American forces in any way. Rather, it harkens back to the successes of the Reagan doctrine, enlisting the very people who are suffering most under Saddam's yoke to fight the battle against him.

The bill requires the President to designate an Iraqi opposition group or groups to receive military drawdown assistance. The President need not look far; the Iraqi National Congress once flourished as an umbrella organization for Kurds, Shi'ites and Sunni

Muslims. It should flourish again, but it needs our help.

Mr. President, the people of Iraq, through representative organizations such as the INC, the Patriotic Union of Kurdistan, the Kurdish Democratic Party and the Shi'ite SCIRI, have begged for our help. The day may yet come when we are dragged back to Baghdad; I believe that day can be put off, perhaps even averted, by helping the people of Iraq help themselves.

Opponents of this initiative—I shouldn't call them friends of Saddam—have said that the Iraqi opposition exists in name only, that they are too parochial to come together. They are not entirely wrong—which is why Senator LOTT and Chairman GILMAN (the lead House sponsor) have carefully crafted the designation requirement in H.R. 4655 to insist that only broad-based, pro-democracy groups be selected by the President to receive drawdown assistance. I would go further, and suggest to the President that he designate just one group, the Iraqi National Congress, in which the Kurds, the Shi'ites and the Sunnis of Iraq hold membership. The opposition must be unified, but it may just take the leadership of the United States to bring them together.

Finally, this bill gives the Congress oversight over the designation and drawdown authorities. As Chairman of the Foreign Relations Committee, I intend to exercise vigorously that authority. The White House and the State Department have indicated that they support this bill. We have a unique opportunity, and I intend to do everything in my power to ensure that opportunity is not frittered away. The price of failure is far too high.

Mr. KERREY. Mr. President, I rise to urge the passage of H.R. 4655, the Iraq Liberation Act. Thanks to strong leadership in both Houses of Congress and thanks to the commitment of the Administration toward the goals we all share for Iraq and the region, this legislation is moving quickly. This is the point to state what this legislation is not, and what it is, from my understanding, and why I support it so strongly.

First, this bill is not, in my view, and instrument to direct U.S. funds and supplies to any particular Iraqi revolutionary movement. There are Iraqi movements now in existence which could qualify for designation in accordance with this bill. Other Iraqis not now associated with each other could also band together and qualify for designation. It is for Iraqis, not Americans to organize themselves to put Saddam Hussein out of power, just as it will be for Iraqis to choose their leaders in a democratic Iraq. This bill will help the Administration encourage and support Iraqis to make their revolution.

Second, this bill is not a device to involve the U.S. military in operations in or near Iraq. The Iraqi revolution is for Iraqis, not Americans, to make. The bill provides the Administration a potent new tool to help Iraqis toward this goal, and at the same time advance America's interest in a peaceful and secure Middle East.

This bill, when passed and signed into law, is a clear commitment to a U.S. policy replacing the Saddam Hussein regime and replacing it with a transition to democracy. This bill is a statement that America refuses to coexist with a regime which has used chemical weapons on its own citizens and on neighboring countries, which has invaded its neighbors twice without provocation, which has still not accounted for its atrocities committed in Kuwait, which has fired ballistic missiles into the cities of three of its neighbors, which is attempting to develop nuclear and biological weapons, and which has brutalized and terrorized its own citizens for thirty years. I don't see how any democratic country could accept the existence of such a regime, but this bill says America will not. I will be an even prouder American when the refusal, and commitment to materially help the Iraqi resistance, are U.S. policy.

Mr. MCCAIN. Mr. President, I ask unanimous consent the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill appear at this point in the RECORD.

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

The bill (H.R. 4655) was considered read the third time, and passed.

BOUNTY HUNTER ACCOUNTABILITY AND QUALITY ASSISTANCE ACT OF 1998

Mr. MCCAIN. I ask unanimous consent that the Senate now proceed to consideration of Calendar No. 582, S. 1637.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1637) to expedite State review of criminal records of applicants for bail enforcement officer employment, and for other purposes.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Bounty Hunter Accountability and Quality Assistance Act of 1998''.

SEC. 2. FINDINGS.

Congress finds that—

(1) bounty hunters, also known as bail enforcement officers or recovery agents, provide law enforcement officers and the courts with valuable assistance in recovering fugitives from justice;

(2) regardless of the differences in their duties, skills, and responsibilities, the public has had difficulty in discerning the difference between law enforcement officers and bounty hunters;

(3) the availability of bail as an alternative to the pretrial detention or unsecured release of criminal defendants is important to the effective functioning of the criminal justice system;

(4) the safe and timely return to custody of fugitives who violate bail contracts is an important matter of public safety, as is the return of any other fugitive from justice;

(5) bail bond agents are widely regulated by the States, whereas bounty hunters are largely unregulated;

(6) the public safety requires the employment of qualified, well-trained bounty hunters; and

(7) in the course of their duties, bounty hunters often move in and affect interstate commerce.

SEC. 3. DEFINITIONS.

In this Act—

(1) the term ''bail bond agent'' means any retail seller of a bond to secure the release of a criminal defendant pending judicial proceedings, unless such person also is self-employed to obtain the recovery of any fugitive from justice who has been released on bail;

(2) the term ''bounty hunter''—

(A) means any person whose services are engaged, either as an independent contractor or as an employee of a bounty hunter employer, to obtain the recovery of any fugitive from justice who has been released on bail; and

(B) does not include any—

(i) law enforcement officer acting under color of law;

(ii) attorney, accountant, or other professional licensed under applicable State law;

(iii) employee whose duties are primarily internal audit or credit functions;

(iv) person while engaged in the performance of official duties as a member of the Armed Forces on active duty (as defined in section 101(d)(1) of title 10, United States Code); or

(v) bail bond agent;

(3) the term ''bounty hunter employer''—

(A) means any person that—

(i) employs 1 or more bounty hunters; or

(ii) provides, as an independent contractor, for consideration, the services of 1 or more bounty hunters (which may include the services of that person); and

(B) does not include any bail bond agent; and

(4) the term ''law enforcement officer'' means a public officer or employee authorized under applicable Federal or State law to conduct or engage in the prevention, investigation, prosecution, or adjudication of criminal offenses, including any public officer or employee engaged in corrections, parole, or probation functions, or the recovery of any fugitive from justice.

SEC. 4. MODEL GUIDELINES.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall develop model guidelines for the State control and regulation of persons employed or applying for employment as bounty hunters. In developing such guidelines, the Attorney General shall consult with organizations representing—

(1) State and local law enforcement officers;

(2) State and local prosecutors;

(3) the criminal defense bar;

(4) bail bond agents;

(5) bounty hunters; and

(6) corporate sureties.

(b) RECOMMENDATIONS.—The guidelines developed under subsection (a) shall include recommendations of the Attorney General regarding whether—

(1) a person seeking employment as a bounty hunter should—

(A) be required to submit to a fingerprint-based criminal background check prior to entering into the performance of duties pursuant to employment as a bounty hunter; or

(B) not be allowed to obtain such employment if that person has been convicted of a felony offense under Federal or State law;

(2) bounty hunters and bounty hunter employers should be required to obtain adequate liability insurance for actions taken in the course of performing duties pursuant to employment as a bounty hunter; and

(3) State laws should provide—

(A) for the prohibition on bounty hunters entering any private dwelling, unless the bounty hunter first knocks on the front door and announces the presence of 1 or more bounty hunters; and

(B) the official recognition of bounty hunters from other States.

(c) EFFECT ON BAIL.—The guidelines published under subsection (a) shall include an analysis of the estimated effect, if any, of the adoption of the guidelines by the States on—

(1) the cost and availability of bail; and

(2) the bail bond agent industry.

(d) BYRNE GRANT PREFERENCE FOR CERTAIN STATES.—

(1) IN GENERAL.—Section 505 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3755) is amended by adding at the end the following:

''(e) PREFERENCE FOR CERTAIN STATES.—Notwithstanding any other provision of this part, in making grants to States under this subpart, the Director shall give priority to States that have adopted the model guidelines developed under section 4(a) of the Bounty Hunter Accountability and Quality Assistance Act of 1998.''.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 2 years after the date of enactment of this Act.

(e) NO REGULATORY AUTHORITY.—Nothing in this section may be construed to authorize the promulgation of any Federal regulation relating to bounty hunters, bounty hunter employers, or bail bond agents.

(f) PUBLICATION OF GUIDELINES.—The Attorney General shall publish model guidelines developed pursuant to subsection (a) in the Federal Register.

Mr. MCCAIN. I ask unanimous consent that the substitute amendment be agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The Committee substitute amendment was agreed to.

The bill (S. 1637), as amended, was considered read the third time, and passed.

UNANIMOUS CONSENT AGREEMENT—H.R. 3694

Mr. MCCAIN. I ask unanimous consent that when the Senate proceeds to the consideration of the conference report to accompany H.R. 3694, the Intelligence authorization bill, that there be 30 minutes for debate divided as follows: 15 minutes for Senator MOYNIHAN, 15 minutes equally divided between the managers. I further ask unanimous consent that following that debate time, the conference report be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the conference report be printed in the RECORD.

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

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. MCCAIN. I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the Executive Calendar: No. 816 and No. 817.

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

Mr. MCCAIN. I further ask unanimous consent the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

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

The nominations considered and confirmed en bloc are as follows:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Joy Harjo, of New Mexico, to be a Member of the National Council on the Arts for a term expiring September 3, 2002.

Joan Specter, of Pennsylvania, to be a Member of the National Council on the Arts for a term expiring September 3, 2002.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

THE CALENDAR

Mr. MCCAIN. Mr. President, I ask unanimous consent the Senate now proceed to the consideration of the following bills, en bloc: Calendar No. 578, H.R. 2795; Calendar No. 600, H.R. 1659; Calendar No. 601, H.R. 2000; Calendar No. 612, S. 736; Calendar No. 614, S. 777; Calendar No. 616, S. 1175; Calendar No. 617, S. 1641; Calendar No. 619, S. 2041; Calendar No. 620, S. 2086; Calendar No. 624, S. 2140; Calendar No. 625, S. 2142; Calendar No. 626, S. 2239; Calendar No. 627, S. 2240; Calendar No. 628, S. 2241; Calendar No. 629, S. 2246; Calendar No. 630, S. 2247; Calendar No. 631, S. 2248; Calendar No. 632, S. 2257; Calendar No. 633, S. 2284; Calendar No. 634, S. 2285; Calendar No. 636, S. 2309; Calendar No. 638, S. 2468; Calendar No. 641, H.R. 2411; Calendar No. 643, H.R. 4079; Calendar No. 644, H.R. 4166.

I ask unanimous consent that any committee amendments be agreed to; that the bills be read a third time and passed, as amended, if amended; that the motions to reconsider be laid upon the table; that any amendments to titles be agreed to, as may be necessary; and that any statements relating to the bills appear at the appropriate place in the RECORD, with the above occurring en bloc.

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

IRRIGATION PROJECT CONTRACT EXTENSION ACT OF 1998

The bill (H.R. 2795) to extend contracts between the Bureau of Reclamation and irrigation water contractors in Wyoming and Nebraska that receive water from Glendo Reservoir, was considered, ordered to a third reading, read the third time, and passed.

MOUNT ST. HELENS NATIONAL VOLCANIC MONUMENT COMPLETION ACT

The bill (H.R. 1659) to provide for the expeditious completion of the acquisition of private mineral interests within the Mount St. Helens National Volcanic Monument mandated by the 1982 Act that established the Monument and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

ANCSA LAND BANK PROTECTION ACT OF 1998

The bill (H.R. 2000) to amend the Alaska Native Claims Settlement Act to make certain clarifications to the land bank protection provisions, and for other purposes, was considered, ordered to a third reading, read the third time, and passed.

CARLSBAD IRRIGATION PROJECT ACQUIRED LAND TRANSFER ACT

The Senate proceeded to consider the bill (S. 736) to convey certain real property within the Carlsbad Project in New Mexico to the Carlsbad Irrigation District, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

S. 736

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Carlsbad Irrigation Project Acquired Land Transfer Act''.

SEC. 2. CONVEYANCE.

(a) LANDS AND FACILITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), and subject to subsection (c), the Secretary of the Interior (in this Act referred to as the ''Secretary'') may convey to the Carlsbad Irrigation District (a quasi-municipal corporation formed under the laws of the State of New Mexico and in this Act referred to as the ''District''), all right, title, and interest of the United States in and to the lands described in subsection (b) (in this Act referred to as the ''acquired lands'') and all interests the United States holds in the irrigation and drainage system of the Carlsbad Project and all related lands including ditch rider houses, maintenance shop and buildings, and Pecos River Flume.

(2) LIMITATION.—

(A) RETAINED SURFACE RIGHTS.—The Secretary shall retain title to the surface estate (but not the mineral estate) of such acquired lands which are located under the footprint of Brantley and Avalon dams or any other project dam or reservoir division structure.

(B) STORAGE AND FLOW EASEMENT.—The Secretary shall retain storage and flow easements for any tracts located under the maximum spillway elevations of Avalon and Brantley Reservoirs.

(b) ACQUIRED LANDS DESCRIBED.—The lands referred to in subsection (a) are those lands (including the surface and mineral estate) in Eddy

County, New Mexico, described as the acquired lands and in section (7) of the ''Status of Lands and Title Report: Carlsbad Project'' as reported by the Bureau of Reclamation in 1978.

(c) TERMS AND CONDITIONS OF CONVEYANCE.—Any conveyance of the acquired lands under this Act shall be subject to the following terms and conditions:

(1) MANAGEMENT AND USE, GENERALLY.—The conveyed lands shall continue to be managed and used by the District for the purposes for which the Carlsbad Project was authorized, based on historic operations and consistent with the management of other adjacent project lands.

(2) ASSUMED RIGHTS AND OBLIGATIONS.—Except as provided in paragraph (3), the District shall assume all rights and obligations of the United States under—

(A) the agreement dated July 28, 1994, between the United States and the Director, New Mexico Department of Game and Fish (Document No. 2–LM–40–00640), relating to management of certain lands near Brantley Reservoir for fish and wildlife purposes; and

(B) the agreement dated March 9, 1977, between the United States and the New Mexico Department of Energy, Minerals, and Natural Resources (Contract No. 7–07–57–X0888) for the management and operation of Brantley Lake State Park.

(3) EXCEPTIONS.—In relation to agreements referred to in paragraph (2)—

(A) the District shall not be obligated for any financial support agreed to by the Secretary, or the Secretary's designee, in either agreement; and

(B) the District shall not be entitled to any receipts for revenues generated as a result of either agreement.

(d) COMPLETION OF CONVEYANCE.—If the Secretary does not complete the conveyance within 180 days from the date of enactment of this Act, the Secretary shall submit a report to the Congress within 30 days after that period that includes a detailed explanation of problems that have been encountered in completing the conveyance, and specific steps that the Secretary has taken or will take to complete the conveyance.

SEC. 3. LEASE MANAGEMENT AND PAST REVENUES COLLECTED FROM THE ACQUIRED LANDS.

(a) IDENTIFICATION AND NOTIFICATION OF LEASEHOLDERS.—Within 120 days after the date of enactment of this Act, the Secretary of the Interior shall—

(1) provide to the District a written identification of all mineral and grazing leases in effect on the acquired lands on the date of enactment of this Act; and

(2) notify all leaseholders of the conveyance authorized by this Act.

(b) MANAGEMENT OF MINERAL AND GRAZING LEASES, LICENSES, AND PERMITS.—The District shall assume all rights and obligations of the United States for all mineral and grazing leases, licenses, and permits existing on the acquired lands conveyed under section 2, and shall be entitled to any receipts from such leases, licenses, and permits accruing after the date of conveyance. All such receipts shall be used for purposes for which the Project was authorized and for financing the portion of operations, maintenance, and replacement of the Summer Dam which, prior to conveyance, was the responsibility of the Bureau of Reclamation, with the exception of major maintenance programs in progress prior to conveyance which shall be funded through the cost share formulas in place at the time of conveyance. The District shall continue to adhere to the current Bureau of Reclamation mineral leasing stipulations for the Carlsbad Project.

(c) AVAILABILITY OF AMOUNTS PAID INTO RECLAMATION FUND.—

(1) EXISTING RECEIPTS.—Receipts in the reclamation fund on the date of enactment of this Act which exist as construction credits to the Carlsbad Project under the terms of the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359) shall be deposited in the General Treasury and credited to deficit reduction or retirement of the Federal debt.

(2) RECEIPTS AFTER ENACTMENT.—Of the receipts from mineral and grazing leases, licenses, and permits on acquired lands to be conveyed under section 2, that are received by the United States after the date of enactment and before the date of conveyance—

(A) not to exceed $200,000 shall be available to the Secretary for the actual costs of implementing this Act with any additional costs shared equally between the Secretary and the District; and

(B) the remainder shall be deposited into the General Treasury of the United States and credited to deficit reduction or retirement of the Federal debt.

SEC. 4. VOLUNTARY WATER CONSERVATION PRACTICES.

Nothing in this Act shall be construed to limit the ability of the District to voluntarily implement water conservation practices.

SEC. 5. LIABILITY.

Effective on the date of conveyance of any lands and facilities authorized by this Act, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to the conveyed property, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors, prior to conveyance. Nothing in this section shall be considered to increase the liability of the United States beyond that provided under chapter 171 of title 28, United States Code, popularly known as the Federal Tort Claims Act.

SEC. 6. FUTURE BENEFITS.

Effective upon transfer, the lands and facilities transferred pursuant to this Act shall not be entitled to receive any further Reclamation benefits pursuant to the Reclamation Act of June 17, 1902, and Acts supplementary thereof or amendatory thereto attributable to their status as part of a Reclamation Project.

The committee amendment was agreed to.

The bill (S. 736), as amended, was considered read the third time and passed.

Mr. DOMENICI. Mr. President, I am very pleased that the Senate has passed S. 736—the Carlsbad Irrigation Project Acquired Land Transfer Act. I, along with Congressman SKEEN, have been working to convey tracts of land—paid for by Carlsbad Irrigation District and referred to as ''acquired lands''—back to the district, during the past several congresses.

I introduced this bill in May of 1997 in order to transfer lands back to the rightful owners. This legislation will not affect operations at the New Mexico State park at Brantley Dam, or the operations and ownership of the dam itself. Furthermore, the bill will not affect recreation activities in the area.

This legislation is specific to the Carlsbad project in New Mexico, and directs the Carlsbad Irrigation District to continue to manage the lands as they have been in the past, for the purposes for which the project was constructed. I believe this is a fair and equitable bill that has been developed over years of negotiations. The Carlsbad Irrigation District has had operations and maintenance responsibilities for the past 66 years. It met all the repayment obligations to the Government in 1991, and it's about time we let CID have what is rightfully theirs.

This legislation accomplishes three things: Conveys title of acquired lands and facilities to Carlsbad Irrigation District; allows the District to assume management of leases and the benefits of the receipts from these acquired lands; and sets a 180-day deadline for the transfer, establishing a 50–50 cost-sharing standard for carrying out the transfer.

The Carlsbad Irrigation Project is a single-purpose project created in 1905 by the Bureau of Reclamation, acquiring all facilities, lands and water rights of the privately-owned Pecos Irrigation Company. The CID has had operations and maintenance responsibilities for the irrigation and drainage system since 1932.

During the 104th Congress, the Carlsbad Irrigation District presented testimony before the Committee on Energy and Natural Resources on one occasion, and before the House Committee on Resources on two occasions. Additionally, the administration expressed on several occasions before these two committees that they want to move forward with acquired land transfers where they make sense. The Commissioner of the Bureau of Reclamation, Eluid Martinez, has informed the district and me that he believes that the Carlsbad project is one of several projects where the Bureau would like to pursue transfer opportunities. It is about time that we pass this legislation to provide the Bureau with the ability to accomplish their stated goal in a fair and equitable manner.

This transfer shifts responsibility from the Federal Government back to a local entity, and creates opportunity for the district to improve and enhance the management of these lands. After a long wait, we have gotten administration support for this transfer in language substituted by the Senate Energy Committee, and have gained support from the Democratic side of the aisle. I hope that the House of Representatives will act quickly on this legislation so that the Carlsbad Irrigation District will promptly begin getting the benefits for that which they have paid.

LEWIS AND CLARK RURAL WATER SYSTEM ACT OF 1998

The Senate proceeded to consider the bill (S. 777) to authorize the construction of the Lewis and Clark Water System and to authorize assistance to Lewis and Clark Rural Water System, Inc., a nonprofit corporation, for the planning and construction of the water supply system, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 777

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Lewis and Clark Rural Water System Act of 1997''.

SEC. 2. DEFINITIONS.

In this Act:

(1) ENVIRONMENTAL ENHANCEMENT.—The term ''environmental enhancement'' means the wetland and wildlife enhancement activities that are carried out substantially in accordance with the environmental enhancement component of the feasibility study.

(2) ENVIRONMENTAL ENHANCEMENT COMPONENT.—The term ''environmental enhancement component'' means the component described in the report entitled ''Wetlands and Wildlife Enhancement for the Lewis and Clark Rural Water System'', dated April 1991, that is included in the feasibility study.

(3) FEASIBILITY STUDY.—The term ''feasibility study'' means the study entitled ''Feasibility Level Evaluation of a Missouri River Regional Water Supply for South Dakota, Iowa and Minnesota'', dated September 1993, that includes a water conservation plan, environmental report, and environmental enhancement component.

(4) MEMBER ENTITY.—The term ''member entity'' means a rural water system or municipality that signed a Letter of Commitment to participate in the water supply system.

(5) PROJECT CONSTRUCTION BUDGET.—The term ''project construction budget'' means the description of the total amount of funds needed for the construction of the water supply system, as contained in the feasibility study.

(6) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term ''pumping and incidental operational requirements'' means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, reservoirs, and pipelines up to the point of delivery of water by the water supply system to each member entity that distributes water at retail to individual users.

[(7) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.]

(7) SYSTEM FUNDING AGENCIES.—The term ''System Funding Agencies'' means the Environmental Protection Agency and the Department of Agriculture.

(8) WATER SUPPLY SYSTEM.—The term ''water supply system'' means the Lewis and Clark Rural Water System, Inc., a nonprofit corporation established and operated substantially in accordance with the feasibility study.

SEC. 3. FEDERAL ASSISTANCE FOR THE WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The [Secretary] *System Funding Agencies* shall make grants to the water supply system for the planning and construction of the water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, environmental enhancement, mitigation of wetland areas, and water conservation in—

(1) Lake County, McCook County, Minnehaha County, Turner County, Lincoln County, Clay County, and Union County, in southeastern South Dakota;

(2) Rock County and Nobles County, in southwestern Minnesota; and

(3) Lyon County, Sioux County, Osceola County, O'Brien County, Dickinson County, and Clay County, in northwestern Iowa.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the amount of funds authorized under section 10.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The [Secretary] *System Funding Agencies* shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met;

(2) a final engineering report is prepared and submitted to Congress not less than 90 days before the commencement of construction of the water supply system; and

(3) a water conservation program is developed and implemented.

SEC. 4. FEDERAL ASSISTANCE FOR THE ENVIRONMENTAL ENHANCEMENT COMPONENT.

(a) INITIAL DEVELOPMENT.—The [Secretary] *System Funding Agencies* shall make grants and other funds available to the water supply system and other private, State, and Federal entities, for the initial development of the environmental enhancement component.

(b) NONREIMBURSEMENT.—Funds provided under subsection (a) shall be nonreimbursable and nonreturnable.

SEC. 5. WATER CONSERVATION PROGRAM.

(a) IN GENERAL.—The water supply system shall establish a water conservation program that ensures that users of water from the water supply system use the best practicable technology and management techniques to conserve water use.

(b) REQUIREMENTS.—The water conservation programs shall include—

(1) low consumption performance standards for all newly installed plumbing fixtures;

(2) leak detection and repair programs;

(3) rate schedules that do not include declining block rate schedules for municipal households and special water users (as defined in the feasibility study);

(4) public education programs and technical assistance to member entities; and

(5) coordinated operation among each rural water system, and each water supply facility in existence on the date of enactment of this Act, in the service area of the system.

(c) REVIEW AND REVISION.—The programs described in subsection (b) shall contain provisions for periodic review and revision, in cooperation with the [Secretary.] *Secretary of the Interior.*

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 7. USE OF PICK–SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri Basin program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning on May 1 and ending on October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase the entire electric service requirements of the system, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It is agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the water supply system;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 8. NO LIMITATION ON WATER PROJECTS IN STATES.

This Act does not limit the authorization for water projects in the States of South Dakota, Iowa, and Minnesota under law in effect on or after the date of enactment of this Act.

SEC. 9. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, governing water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 10. COST SHARING.

(a) FEDERAL COST SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the [Secretary] *System Funding Agencies* shall provide funds equal to 80 percent of—

(A) the amount allocated in the total project construction budget for planning and construction of the water supply system under section 3;

(B) such amounts as are necessary to defray increases in the budget for planning and construction of the water supply system under section 3; and

(C) such amounts as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after September 1, 1993.

(2) SIOUX FALLS.—The [Secretary] *System Funding Agencies* shall provide funds for the city of Sioux Falls, South Dakota, in an amount equal to 50 percent of the incremental cost to the city of participation in the project.

(b) NON-FEDERAL COST SHARE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the non-Federal share of the costs allocated to the water supply system shall be 20 percent of the amounts described in subsection (a)(1).

(2) SIOUX FALLS.—The non-Federal cost-share for the city of Sioux Falls, South Dakota, shall be 50 percent of the incremental cost to the city of participation in the project.

SEC. 11. BUREAU OF RECLAMATION.

(a) AUTHORIZATION.—The Secretary *of the Interior* may allow the Director of the Bureau of Reclamation to provide project construction oversight to the water supply system

and environmental enhancement component for the service area of the water supply system described in section 3(b).

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Director of the Bureau of Reclamation for [planning and construction] *oversight and other technical assistance* of the water supply system shall not exceed the amount that is equal to 1 percent of the amount provided in the total project construction budget for the entire project construction period.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated to carry out this Act $226,320,000, of which not less than $8,487,000 shall be used for the initial development of the environmental enhancement component under section 4, to remain available until expended.

The committee amendments were agreed to.

The bill (S. 777), as amended, was considered read the third time and passed, as follows:

[The bill was not available for printing. It will appear in a future issue of the RECORD.]

DELAWARE WATER GAP NATIONAL RECREATION AREA CITIZEN ADVISORY COMMISSION

The bill (S. 1175) to reauthorize the Delaware Water Gap National Recreation Area Citizen Advisory Commission for 10 additional years, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1175

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

SECTION 1. REAUTHORIZATION OF THE DELAWARE WATER GAP NATIONAL RECREATION AREA CITIZEN ADVISORY COMMISSION.

Section 5 of Public Law 101–573 (16 U.S.C. 460o note) is amended by striking ''10'' and inserting ''20''.

WOMEN'S RIGHTS NATIONAL HISTORIC TRAIL ACT OF 1998

The Senate proceeded to consider the bill (S. 1641) to direct the Secretary of the Interior to study alternatives for establishing a national historic trail to commemorate and interpret the history of women's rights in the United States, which had been reported from the Committee on Energy and Natural Resources with an amendment, as follows:

(The part of the bill intended to be stricken is shown in boldface brackets.)

S. 1641

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Women's Rights National Historic Trail Act of 1998''.

SEC. 2. STUDY OF ALTERNATIVES FOR NATIONAL HISTORIC TRAIL TO COMMEMORATE AND INTERPRET HISTORY OF WOMEN'S RIGHTS IN THE UNITED STATES.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service (referred to in this section as the ''Secretary''), shall conduct a study of alternatives for [establishing a national historic trail] commemorating and interpreting the history of women's rights in the United States.

(b) MATTERS TO BE CONSIDERED.—The study under subsection (a) shall include—

(1) consideration of the establishment of a new unit of the National Park System;

(2) consideration of the establishment of various appropriate designations for routes and sites relating to the history of women's rights in the United States, and alternative means to link those sites, including a corridor between Buffalo, New York, and Boston, Massachusetts;

(3) recommendations for cooperative arrangements with State and local governments, local historical organizations, and other entities; and

(4) cost estimates for the alternatives.

(c) STUDY PROCESS.—The Secretary shall—

(1) conduct the study with public involvement and in consultation with State and local officials, scholarly and other interested organizations, and individuals;

(2) complete the study as expeditiously as practicable after the date on which funds are made available for the study; and

(3) on completion of the study, submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings and recommendations of the study.

The committee amendment was agreed to.

The bill (S. 1641), as amended, was considered read the third time and passed, as follows:

S. 1641

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Women's Rights National Historic Trail Act of 1998''.

SEC. 2. STUDY OF ALTERNATIVES FOR NATIONAL HISTORIC TRAIL TO COMMEMORATE AND INTERPRET HISTORY OF WOMEN'S RIGHTS IN THE UNITED STATES.

(a) IN GENERAL.—The Secretary of the Interior, acting through the Director of the National Park Service (referred to in this section as the ''Secretary''), shall conduct a study of alternatives for establishing a national historic trail to commemorate and interpret the history of women's rights in the United States.

(b) MATTERS TO BE CONSIDERED.—The study under subsection (a) shall include—

(1) consideration of the establishment of a new unit of the National Park System;

(2) consideration of the establishment of various appropriate designations for routes and sites relating to the history of women's rights in the United States, and alternative means to link those sites, including a corridor between Buffalo, New York, and Boston, Massachusetts;

(3) recommendations for cooperative arrangements with State and local governments, local historical organizations, and other entities; and

(4) cost estimates for the alternatives.

(c) STUDY PROCESS.—The Secretary shall—

(1) conduct the study with public involvement and in consultation with State and local officials, scholarly and other interested organizations, and individuals;

(2) complete the study as expeditiously as practicable after the date on which funds are made available for the study; and

(3) on completion of the study, submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings and recommendations of the study.

WILLOW LAKE NATURAL TREATMENT SYSTEM PROJECT

The bill (S. 2041) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project for the reclamation and reuse of water, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2041

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

SECTION 1. WILLOW LAKE NATURAL TREATMENT SYSTEM PROJECT.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating sections 1631, 1632, and 1633 as sections 1632, 1633, and 1634, respectively; and

(2) by inserting after section 1630 the following new section 1631:

''SEC. 1631. WILLOW LAKE NATURAL TREATMENT SYSTEM PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the City of Salem, Oregon, is authorized to participate in the design, planning, and construction of the Willow Lake Natural Treatment System Project to reclaim and reuse wastewater within and without the service area of the City of Salem.

''(b) COST SHARE.—The Federal share of the cost of a project described in subsection (a) shall not exceed 25 percent of the total cost.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation and maintenance of a project described in subsection (a).''.

(b) CONFORMING AMENDMENTS.—That Act is further amended—

(1) in section 1632 (43 U.S.C. 390h–13) (as redesignated by subsection (a)(1)), by striking ''section 1630'' and inserting ''section 1631'';

(2) in section 1633(c) (43 U.S.C. 390h–14) (as so redesignated), by striking ''section 1633'' and inserting ''section 1634''; and

(3) in section 1634 (43 U.S.C. 390h–15) (as so redesignated), by striking ''section 1632'' and inserting ''section 1633''.

(c) CLERICAL AMENDMENT.—The table of contents in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 is amended by striking the items relating to sections 1631 through 1633 and inserting the following:

''Sec. 1631. Willow Lake Natural Treatment System Project.
''Sec. 1632. Authorization of appropriations.
''Sec. 1633. Groundwater study.
''Sec. 1634. Authorization of appropriations.''.

GEORGE WASHINGTON BIRTHPLACE NATIONAL MONUMENT

The Senate proceeded to consider the bill (S. 2086) to revise the boundaries of the George Washington Birthplace National Monument, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting

clause and inserting in lieu thereof the following:

SECTION 1. ADDITION TO NATIONAL MONUMENT.

(a) ADDITION.—The boundaries of the George Washington Birthplace National Monument are modified to include the property generally know as George Washington's Boyhood Home, Ferry Farm, located in Stafford County, Virginia, across the Rappahannock River from Fredericksburg, Virginia, comprising approximately 8 acres. The boundary modification is generally depicted on the map entitled ''George Washington Birthplace National Monument Boundary Map'', numbered 322/80, 020 and dated April 1998. The Secretary of the Interior shall keep the map on file and available for public inspection in appropriate offices of the National Park Service.

(b) ACQUISITION OF EASEMENT.—After the enactment of this Act, the Secretary of the Interior may acquire a conservation easement for the property described in subsection (a) to ensure the preservation of this important cultural and natural resources associated with Ferry Farm.

SEC. 2. RESOURCE STUDY.

(a) IN GENERAL.—Not later than 18 months after the date on which funds are made available to carry out this section, the Secretary of the Interior shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a resource study of the property described in section 1(a).

(b) CONTENTS.—The study under subsection (a) shall—

(1) identify the full range of resources and historic themes associated with Ferry Farm, including those associated with George Washington's tenure at the property described in section 1(a) and those associated with the Civil War period;

(2) identify alternatives for further National Park Service involvement at the property described in section 1(a) beyond those that may be provided for in the acquisition authorized under section 1(b); and

(3) include cost estimates for any necessary acquisition, development, interpretation, operation, and maintenance associated with the alternatives identified.

SEC. 3. AGREEMENTS.

Upon completion of the resource study under section 2, the Secretary of the Interior may enter into agreements with the owner of the property described in section 1(a) or other entities for the purpose of providing programs, services, facilities, or technical assistance that further the preservation and public use of the property.

The committee amendment was agreed to.

The bill (S. 2086), as amended, was considered read the third time and passed.

DENVER WATER REUSE PROJECT

The bill (S. 2140) to amend the Reclamation Projects Authorization and Adjustment Act of 1992 to authorize the Secretary of the Interior to participate in the design, planning, and construction of the Denver Water Reuse project, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2140

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

SECTION 1. DENVER WATER REUSE PROJECT.

(a) IN GENERAL.—The Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. 390h et seq.) is amended—

(1) by redesignating sections 1631, 1632, and 1633 (42 U.S.C. 390h–13, 390h–14, 390h–15) as sections 1632, 1633, and 1634, respectively; and

(2) by inserting after section 1630 (43 U.S.C. 390h–12p) the following:

''SEC. 1631. DENVER WATER REUSE PROJECT.

''(a) AUTHORIZATION.—The Secretary, in cooperation with the appropriate State and local authorities, may participate in the design, planning, and construction of the Denver Water Reuse project to reclaim and reuse water in the service area of the Denver Water Department of the city and county of Denver, Colorado.

''(b) COST SHARE.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost.

''(c) LIMITATION.—The Secretary shall not provide funds for the operation or maintenance of the project described in subsection (a).''.

(b) CONFORMING AMENDMENTS.—

(1) The table of contents in section 2 of the Reclamation Projects Authorization and Adjustment Act of 1992 (43 U.S.C. prec. 371) is amended—

(A) by redesignating the items relating to sections 1631, 1632, and 1633 as items relating to sections 1632, 1633, and 1634, respectively, and

(B) by inserting after the item relating to section 1630 the following:

''Sec. 1631. Denver Water Reuse Project.''.

(2) Section 1632(a) of the Reclamation Projects Authorization and Adjustment Act of 1992 (as redesignated by subsection (a)(1)) is amended by striking ''1630'' and inserting ''1631''.

(3) Section 1633(c) of the Reclamation Projects Authorization and Adjustment Act of 1992 (as redesignated by subsection (a)(1)) is amended by striking ''section 1633'' and inserting ''section 1634''.

(4) Section 1634 of the Reclamation Projects Authorization and Adjustment Act of 1992 (as redesignated by subsection (a)(1)) is amended by striking ''section 1632'' and inserting ''section 1633''.

PINE RIVER PROJECT CONVEYANCE ACT

The Senate proceeded to consider the bill (S. 2142) to authorize the Secretary of the Interior to convey the facilities of the Pine River Project, to allow jurisdictional transfer of lands between the Department of Agriculture, Forest Service, and the Department of the Interior, Bureau of Reclamation, and the Bureau of Indian Affairs, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Pine River Project Conveyance Act''.

SEC. 2. DEFINITIONS.

For purposes of this Act:

(1) The term ''Jurisdictional Map'' means the map entitled ''Transfer of Jurisdiction—Vallecito Reservoir, United States Department of Agriculture, Forest Service and United States Department of the Interior, Bureau of Reclamation and the Bureau of Indian Affairs'' dated March, 1998.

(2) The term ''Pine River Project'' or the ''Project'' means Vallecito Dam and Reservoir owned by the United States and authorized in 1937 under the provisions of the Department of the Interior Appropriation Act of June 25, 1910, 36 Stat. 835; facilities appurtenant to the Dam and Reservoir, including equipment, buildings, and other improvements; lands adjacent to the Dam and Reservoir; easements and rights-of-way necessary for access and all required connections with the Dam and Reservoir, including those for necessary roads; and associated personal property, including contract rights and any and all ownership or property interest in water or water rights.

(3) The term ''Repayment Contract'' means Repayment Contract #I1r–1204, between Reclamation and the Pine River Irrigation District, dated April 15, 1940, and amended November 30, 1953, and all amendments and additions thereto, including the Act of July 27, 1954 (68 Stat. 534), covering the Pine River Project and certain lands acquired in support of the Vallecito Dam and Reservoir pursuant to which the Pine River Irrigation District has assumed operation and maintenance responsibilities for the dam, reservoir, and water-based recreation in accordance with existing law.

(4) The term ''Reclamation'' means the Department of the Interior, Bureau of Reclamation.

(5) The term ''Secretary'' means the Secretary of the Interior.

(6) The term ''Southern Ute Indian Tribe'' or ''Tribe'' means a federally recognized Indian tribe, located on the Southern Ute Indian Reservation, La Plata County, Colorado.

(7) The term ''Pine River Irrigation District'' or ''District'' means a political division of the State of Colorado duly organized, existing, and acting pursuant to the laws thereof with its principal place of business in the City of Bayfield, La Plata County, Colorado and having an undivided 5/6 right and interest in the use of the water made available by Vallecito Reservoir for the purpose of supplying the lands of the District, pursuant to the Repayment Contract, and the decree in Case No. 1848–B, District Court, Water Division 7, State of Colorado, as well as an undivided 5/6 right and interest in the Pine River Project.

SEC. 3. TRANSFER OF THE PINE RIVER PROJECT.

(a) CONVEYANCE.—The Secretary is authorized to convey, without consideration or compensation to the District, by quitclaim deed or patent, pursuant to section 6, the United States undivided 5/6 right and interest in the Pine River Project under the jurisdiction of Reclamation for the benefit of the Pine River Irrigation District. No partition of the undivided 5/6 right and interest in the Pine River Project shall be permitted from the undivided 1/6 right and interest in the Pine River Project described in subsection 3(b) and any quit claim deed or patent evidencing a transfer shall expressly prohibit partitioning. Effective on the date of the conveyance, all obligations between the District and the Bureau of Indian Affairs on the one hand and Reclamation on the other hand, under the Repayment Contract or with respect to the Pine River Project are extinguished. Upon completion of the title transfer, said Repayment Contract shall become null and void. The District shall be responsible for paying 50 percent of all costs associated with the title transfer.

(b) BUREAU OF INDIAN AFFAIRS INTEREST.—At the option of the Tribe, the Secretary is authorized to convey to the Tribe the Bureau of Indian Affairs' undivided 1/6 right and interest in the Pine River Project and the water supply made available by Vallecito Reservoir pursuant to the Memorandum of Understanding between the Bureau of Reclamation and the Office of Indian Affairs dated January 3, 1940, together with its Amendment dated July 9, 1964 ('MOU'), the Repayment Contract and decrees in Case Nos. 1848–B and W–1603–76D, District Court, Water Division 7, State of Colorado. In the event of such conveyance, no consideration or compensation shall be required to be paid to the United States.

(c) FEDERAL DAM USE CHARGE.—Nothing in this Act shall relieve the holder of the license

issued by the Federal Energy Regulatory Commission under the Federal Power Act for Vallecito Dam in effect on the date of enactment of this Act from the obligation to make payments under section 10(e)(2) of the Federal Power Act during the remaining term of the present license. At the expiration of the present license term, the Federal Energy Regulatory Commission shall adjust the charge to reflect either (1) the ⅙ interest of the United States remaining in the Vallecito Dam after conveyance to the District; or (2) if the remaining ⅙ interest of the United States has been conveyed to the Tribe pursuant to section 3(b), then no federal dam charge shall be levied from the date of expiration of the present license.

SEC. 4. JURISDICTIONAL TRANSFER OF LANDS.

(a) INUNDATED LANDS.—To provide for the consolidation of lands associated with the Pine River Project to be retained by the Forest Service and the consolidation of lands to be transferred to the District, the administrative jurisdiction of lands inundated by and along the shoreline of Vallecito Reservoir, as shown on the Jurisdictional Map, shall be transferred, as set forth below (the ''Jurisdictional Transfer''), concurrently with the conveyance described in section 3(a). Except as otherwise shown on the Jurisdictional Map—

(1) for withdrawn lands (approximately 260 acres) lying below the 7,765-foot reservoir water surface elevation level, the Forest Service shall transfer an undivided ⅚ interest to Reclamation and an undivided ⅙ interest to the Bureau of Indian Affairs in trust for the Tribe; and

(2) for Project acquired lands (approximately 230 acres) above the 7,765-foot reservoir water surface elevation level, Reclamation and the Bureau of Indian Affairs shall transfer their interests to the Forest Service.

(b) MAP.—The Jurisdictional Map and legal descriptions of the lands transferred pursuant to subsection (a) above shall be on file and available for public inspection in the offices of the Chief of the Forest Service, Department of Agriculture, the Commissioner of Reclamation, Department of the Interior, appropriate field offices of those agencies, and the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(c) ADMINISTRATION.—Following the Jurisdictional Transfer:

(1) All lands that, by reason of the Jurisdictional Transfer, become National Forest System lands within the boundaries of the San Juan National Forest, shall be administered in accordance with the laws, rules, and regulations applicable to the National Forest System.

(2) Reclamation withdrawals of land from the San Juan National Forest established by Secretarial Orders on November 9, 1936, October 14, 1937, and June 20, 1945, together designated as Serial No. C–28259, shall be revoked.

(3) The Forest Service shall issue perpetual easements to the District and the Bureau of Indian Affairs, at no cost to the District or the Bureau of Indian Affairs, providing adequate access across all lands subject to Forest Service jurisdiction to insure the District and the Bureau of Indian Affairs the ability to continue to operate and maintain the Pine River Project.

(4) The undivided ⅚ interest in National Forest System lands that, by reason of the Jurisdictional Transfer is to be administered by Reclamation, shall be conveyed to the District pursuant to section 3(a).

(5) The District and the Bureau of Indian Affairs shall issue perpetual easements to the Forest Service, at no cost to the Forest Service, from National Forest System lands to Vallecito Reservoir to assure continued public access to Vallecito Reservoir when the Reservoir level drops below the 7,665-foot water surface elevation.

(6) The District and the Bureau of Indian Affairs shall issue a perpetual easement to the Forest Service, at no cost to the Forest Service, for the reconstruction, maintenance, and operation of a road from La Plata County Road No. 501 to National Forest System lands east of the Reservoir.

(d) VALID EXISTING RIGHTS.—Nothing in this section shall affect any valid existing rights or interests in any existing land use authorization, except that any such land use authorization shall be administered by the agency having jurisdiction over the land after the Jurisdictional Transfer in accordance with subsection (c) and other applicable law. Renewal or reissuance of any such authorization shall be in accordance with applicable law and the regulations of the agency having jurisdiction, except that the change of administrative jurisdiction shall not in itself constitute a ground to deny the renewal or reissuance of any such authorization.

SEC. 5. LIABILITY.

Effective on the date of the conveyance of the remaining undivided ⅙ right and interest in the Pine River Project to the Tribe pursuant to subsection 3(b), the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurrence relating to such Project, except for damages caused by acts of negligence committed by the United States or by its employees, agents, or contractors prior to the date of conveyance. Nothing in this section shall be deemed to increase the liability of the United States beyond that currently provided in the Federal Tort Claims Act (28 U.S.C. 2671 et seq.)

SEC. 6. COMPLETION OF CONVEYANCE.

(a) IN GENERAL.—The Secretary's completion of the conveyance under section 3 shall not occur until the following events have been completed:

(1) Compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), and other applicable Federal and State laws.

(2) The submission of a written statement from the Southern Ute Indian Tribe to the Secretary indicating the Tribe's satisfaction that the Tribe's Indian Trust Assets are protected in the conveyance described in section 3.

(3) Execution of an agreement acceptable to the Secretary which limits the future liability of the United States relative to the operation of the Project.

(4) The submission of a statement by the Secretary to the District, the Bureau of Indian Affairs, and the State of Colorado on the existing condition of Vallecito Dam based on Bureau of Reclamation's current knowledge and understanding.

(5) The development of an agreement between the Bureau of Indian Affairs and the District to prescribe the District's obligation to so operate the Project that the ⅙ rights and interests to the Project and water supply made available by Vallecito Reservoir held by the Bureau of Indian Affairs are protected. Such agreement shall supercede the Memorandum of Agreement referred to in section 3(b) of this Act.

(6) The submission of a plan by the District to manage the Project in a manner substantially similar to the manner in which it was managed prior to the transfer and in accordance with applicable Federal and State laws, including management for the preservation of public access and recreational values and for the prevention of growth on certain lands to be conveyed hereunder, as set forth in an Agreement dated March 20, 1998, between the District and residents of Vallecito Reservoir. Any future change in the use of the water supplied by Vallecito Reservoir shall comply with applicable law.

(7) The development of a flood control plan by the Secretary of the Army acting through the Corps of Engineers which shall direct the District in the operation of Vallecito Dam for such purposes.

(b) REPORT.—If the transfer authorized in section 3 is not substantially completed within 18 months from the date of enactment of this Act, the Secretary, in coordination with the District, shall promptly provide a report to the Committee on Resources of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate on the status of the transfer described in section 3(a), any obstacles to completion of such transfer, and the anticipated date for such transfer.

(c) FUTURE BENEFITS.—Effective upon transfer, the District shall not be entitled to receive any further Reclamation benefits attributable to its status as a Reclamation project pursuant to the Reclamation Act of June 17, 1902, and Acts supplementary thereto or amendatory thereof.

The committee amendment was agreed to.

The bill (S. 2142), as amended, was considered the third time and passed.

FORT MATANZAS NATIONAL MONUMENT

The bill (S. 2239) to revise the boundary of Fort Matanzas National Monument, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2239

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

SECTION 1. REVISION OF BOUNDARIES.

The boundary of Fort Matanzas National Monument is revised to include the area generally depicted on the map entitled ''Fort Matanzas National Monument'', numbered 347/80,004 and dated February 1991, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

SEC. 2. ACQUISITION.

The Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, transfer from any other Federal Agency, or exchange, my lands, waters or interests which are located within the revised boundaries of the monument.

SEC. 3. ADMINISTRATION.

Lands and interests in land held by the United States which are included within the boundary referred to in section 1 shall be administered by the Secretary as part of the Fort Matanzas National Monument, subject to the laws applicable to the monument.

ADAMS NATIONAL HISTORICAL PARK ACT OF 1998

The Senate proceeded to consider the bill (S. 2240) to establish the Adams National Historic Park in the Commonwealth of Massachusetts, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2240

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Adams National Historical Park Act of 1998''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in 1946, Secretary of the Interior J.A. Krug, by means of the authority granted the Secretary of the Interior under section 2 of the Historic Sites Act of August 21, 1935, established the Adams Mansion National Historic Site, located in Quincy, Massachusetts;

(2) in 1952, Acting Secretary of the Interior Vernon D. Northrup enlarged the site and renamed it the Adams National Historic Site, using the Secretary's authority as provided in the Historic Sites Act;

(3) in 1972, Congress, through Public Law 92–272, authorized the Secretary of the Interior to add approximately 3.68 acres at Adams National Historic Site;

(4) in 1978, Congress, through Public Law 95–625, authorized the Secretary of the Interior to accept by conveyance the birthplaces of John Adams and John Quincy Adams, both in Quincy, Massachusetts, to be managed as part of the Adams National Historic Site;

(5) in 1980, Congress, through Public Law 96–435, authorized the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, the burial place of John Adams, Abigail Adams, and John Quincy Adams and his wife, to be administered as part of the Adams National Historic Site;

(6) the actions taken by past Secretaries of the Interior and past Congresses to preserve for the benefit, education and inspiration of present and future generations of Americans the home, property, birthplaces and burial site of John Adams, John Quincy Adams, and Abigail Adams, have resulted in a multi-site unit of the National Park System with no overarching enabling or authorizing legislation; and

(7) that the sites and resources associated with John Adams, 2nd President of the United States, his wife Abigail Adams, and John Quincy Adams, 6th President of the United States, require recognition as a national historical park in the National Park System.

(b) PURPOSE.—The purpose of this Act is to establish the Adams National Historical Park in the City of Quincy, in the Commonwealth of Massachusetts, to preserve, maintain and interpret the home, property, birthplaces, and burial site of John Adams and his wife Abigail, John Quincy Adams, and subsequent generations of the Adams family associated with the Adams property in Quincy, Massachusetts, for the benefit, education and inspiration of present and future generations of Americans.

SEC. 3. DEFINITIONS.

As used in this Act:

[(1) ADAMS PROPERTY.—The term ''Adams property'' means the property currently owned by the National Park Service and commonly referred to as the Old House and Stone Library situated at the northwest corner of the intersection of Adams Street and Newport Avenue in Quincy, Massachusetts.]

(1) HISTORICAL PARK.—The term ''historical park'' means the Adams National Historical Park established in section 4.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

[SEC. 4. ADAMS NATIONAL HISTORICAL PARK.

[(a) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain properties in Quincy, Massachusetts, there is established as a unit of the National Park System the Adams National Historical Park.

[(b) BOUNDARIES.—(1) The historical park shall be comprised of all property currently owned by the National Park Service as generally depicted on the map entitled ''Adams National Historical Park'', numbered _____ and dated _____, 1997. Such map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

[(2) To preserve the historical setting of the Adams property, the Secretary is authorized to acquire up to 10 additional acres for the development of visitor, administrative, museum, curatorial, and maintenance facilities adjacent to or in the general proximity of the property depicted on the map identified in subsection (b)(1) of this section. Any lands acquired shall be administered by the Secretary as part of the park and the park's boundary shall be modified to include the additional land parcels upon their conveyance.]

SEC. 4. ADAMS NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain properties in Quincy, Massachusetts, associated with John Adams, second President of the United States, his wife, Abigail Adams, John Quincy Adams, sixth President of the United States, and his wife, Louisa Adams, there is established the Adams National Historical Park as a unit of the National Park System.

(b) BOUNDARIES.—

(1) The historical park shall be comprised of the following:

(A) All property administered by the National Park Service in the Adams National Historic Site as of the date of enactment of this Act, as well as all property previously authorized to be acquired by the Secretary for inclusion in the Adams National Historic Site, as generally depicted on the map entitled ''Adams National Historical Park'', numbered NERO 386/80,000, and dated April 1998;

(B) all property authorized to be acquired for inclusion in the historical park by this Act or other law enacted after the date of the enactment of this Act.

(c) VISITOR AND ADMINISTRATIVE SITES.—To preserve the historical character and landscape of the main features of the historical park, the Secretary may acquire up to 10 acres for the development of visitor, administrative, museum, curatorial, and maintenance facilities adjacent to or in the general proximity of the property depicted on the map identified in subsection (b)(1)(A).

(d) MAP.—The map of the historical park shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—The park shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to units of the National Park System, including the Act entitled ''An Act to establish a National Park Service, and for other purposes'', approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), as amended.

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

(2) Any payment made by the Secretary pursuant to a cooperative agreement under this paragraph shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such a project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(c) ACQUISITION OF REAL PROPERTY.—For the purposes of the park, the Secretary is authorized to acquire real property with appropriated or donated funds, by donation, or by exchange, within the boundaries of the park.

(d) REPEAL OF SUPERCEDED ADMINISTRATIVE AUTHORITIES.—

(1) Section 312 of the National Parks and Recreation Act of 1978 (Public Law 95–625; 92 Stat. 3479) is amended by striking ''(a)'' after ''SEC. 312''; and strike subsection (b) in its entirety.

(2) The first section of Public Law 96–435 (94 Stat. 1861) is amended by striking ''(a)'' after ''That''; and strike subsection (b) in its entirety.

(e) REFERENCES TO THE HISTORIC SITE.—Any reference in any law (other than this Act), regulation, document, record, map, or other paper of the United States to the Adams National Historic Site shall be considered to be a reference to the historical park.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized such sums as may be necessary to carry out the purposes of this Act for annual operations and maintenance of the park and for acquisition of property and development of facilities necessary to operate and maintain the park as may be outlined in an approved general management plan for the park.]

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

The committee amendments were agreed to.

The bill (S. 2240), as amended, was considered read the third time and passed, as follows:

S. 2240

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Adams National Historical Park Act of 1998''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in 1946, Secretary of the Interior J.A. Krug, by means of the authority granted the Secretary of the Interior under section 2 of the Historic Sites Act of August 21, 1935, established the Adams Mansion National Historic Site, located in Quincy, Massachusetts;

(2) in 1952, Acting Secretary of the Interior Vernon D. Northrup enlarged the site and renamed it the Adams National Historic Site, using the Secretary's authority as provided in the Historic Sites Act;

(3) in 1972, Congress, through Public Law 92–272, authorized the Secretary of the Interior to add approximately 3.68 acres at Adams National Historic Site;

(4) in 1978, Congress, through Public Law 95–625, authorized the Secretary of the Interior to accept by conveyance the birthplaces of John Adams and John Quincy Adams, both in Quincy, Massachusetts, to be managed as part of the Adams National Historic Site;

(5) in 1980, Congress, through Public Law 96–435, authorized the Secretary of the Interior to accept the conveyance of the United First Parish Church in Quincy, Massachusetts, the burial place of John Adams, Abigail Adams, and John Quincy Adams and his wife, to be administered as part of the Adams National Historic Site;

(6) the actions taken by past Secretaries of the Interior and past Congresses to preserve for the benefit, education and inspiration of present and future generations of Americans the home, property, birthplaces and burial site of John Adams, John Quincy Adams, and Abigail Adams, have resulted in a multi-site unit of the National Park System with no overarching enabling or authorizing legislation; and

(7) that the sites and resources associated with John Adams, second President of the

United States, his wife Abigail Adams, and John Quincy Adams, sixth President of the United States, require recognition as a national historical park in the National Park System.

(b) PURPOSE.—The purpose of this Act is to establish the Adams National Historical Park in the City of Quincy, in the Commonwealth of Massachusetts, to preserve, maintain and interpret the home, property, birthplaces, and burial site of John Adams and his wife Abigail, John Quincy Adams, and subsequent generations of the Adams family associated with the Adams property in Quincy, Massachusetts, for the benefit, education and inspiration of present and future generations of Americans.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) HISTORICAL PARK.—The term ''historical park'' means the Adams National Historical Park established in section 4.

(2) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior.

SEC. 4. ADAMS NATIONAL HISTORICAL PARK.

(a) ESTABLISHMENT.—In order to preserve for the benefit and inspiration of the people of the United States as a national historical park certain properties in Quincy, Massachusetts, associated with John Adams, second President of the United States, his wife, Abigail Adams, John Quincy Adams, sixth President of the United States, and his wife, Louisa Adams, there is established the Adams National Historical Park as a unit of the National Park System.

(b) BOUNDARIES.—The historical park shall be comprised of the following:

(1) All property administered by the National Park Service in the Adams National Historic Site as of the date of enactment of this Act, as well as all property previously authorized to be acquired by the Secretary for inclusion in the Adams National Historic Site, as generally depicted on the map entitled ''Adams National Historical Park'', numbered NERO 386/80,000, and dated April 1998.

(2) All property authorized to be acquired for inclusion in the historical park by this Act or other law enacted after the date of the enactment of this Act.

(c) VISITOR AND ADMINISTRATIVE SITES.—To preserve the historical character and landscape of the main features of the historical park, the Secretary may acquire up to 10 acres for the development of visitor, administrative, museum, curatorial, and maintenance facilities adjacent to or in the general proximity of the property depicted on the map identified in subsection (b)(1)(A).

(d) MAP.—The map of the historical park shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—The park shall be administered by the Secretary in accordance with this section and the provisions of law generally applicable to units of the National Park System, including the Act entitled ''An Act to establish a National Park Service, and for other purposes'', approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2, 3, and 4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461–467), as amended.

(b) COOPERATIVE AGREEMENTS.—(1) The Secretary may consult and enter into cooperative agreements with interested entities and individuals to provide for the preservation, development, interpretation, and use of the park.

(2) Any payment made by the Secretary pursuant to a cooperative agreement under this paragraph shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such a project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(c) ACQUISITION OF REAL PROPERTY.—For the purposes of the park, the Secretary is authorized to acquire real property with appropriated or donated funds, by donation, or by exchange, within the boundaries of the park.

(d) REPEAL OF SUPERCEDED ADMINISTRATIVE AUTHORITIES.—

(1) Section 312 of the National Parks and Recreation Act of 1978 (Public Law 95–625; 92 Stat. 3479) is amended by striking ''(a)'' after ''SEC. 312''; and strike subsection (b) in its entirety.

(2) The first section of Public Law 96–435 (94 Stat. 1861) is amended by striking ''(a)'' after ''That''; and strike subsection (b) in its entirety.

(e) REFERENCES TO THE HISTORIC SITE.—Any reference in any law (other than this Act), regulation, document, record, map, or other paper of the United States to the Adams National Historic Site shall be considered to be a reference to the historical park.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out this Act.

ROOSEVELT NATIONAL HISTORIC SITE

The bill (S. 2241) to provide for the acquisition of lands formerly occupied by the Franklin D. Roosevelt family at Hyde Park, New York, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2241

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

SECTION 1. GENERAL AUTHORITY.

The Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to acquire, by purchase with donated or appropriated funds, by donation, or otherwise, lands and interests in lands located in Hyde Park, New York, that were owned by Franklin D. Roosevelt or his family at the time of his death as depicted on the map entitled ''F.D. Roosevelt Property Entire Park'' dated July 26, 1962, and numbered FDR–NHS 3008. Such map shall be on file for inspection in the appropriate offices of the National Park Service.

SEC. 2. ADMINISTRATION.

Lands and interests therein acquired by the Secretary shall be added to, and administered by the Secretary as part of the Home of Franklin D. Roosevelt National Historic Site or the Eleanor Roosevelt National Historic Site, as appropriate.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

FREDERICK LAW OLMSTED NATIONAL HISTORIC SITE

The bill (S. 2246) to amend the Act which established the Frederick Law Olmsted National Historic Site, in the Commonwealth of Massachusetts, by modifying the boundary, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2246

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 201 of the Act of October 12, 1979 (93 Stat. 664), is amended by adding at the end thereof a new subsection to read as follows:

''(d) In order to preserve and maintain the historic setting of the Site, the Secretary is authorized to acquire, through donation only, lands with associated easements situated adjacent to the Site owned by the Brookline Conservation Land Trust. These lands are to be used for educational and interpretive purposes and shall be maintained and managed as part of the Frederick Law Olmsted National Historic Site.''.

NATIONAL PARK SERVICE LEGISLATION

The bill (S. 2247) to permit the payment of medical expenses incurred by the United States Park Police in the performance of duty to be made directed by the National Park Service, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2247

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 12(e) of the Act of September 1, 1916 (ch. 433, 39 Stat. 718), is amended—

(1) following ''District of Columbia'', by inserting ''in the case of Metropolitan Police members, or by the National Park Service in the case of United States Park Police members''; and

(2) following the second reference to ''the Mayor'', by inserting, '', in the case of Metropolitan Police members, or upon a certificate of the Chief, United States Park Police, in the case of United States Park Police members''.

NATIONAL PARK SERVICE LEGISLATION

The bill (S. 2248) to allow for waiver and indemnification in mutual law enforcement agreements between the National Park Service and a State or political subdivision, when required by State law, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 10 of the Act of August 18, 1970, Public Law 91–383 (16 U.S.C. 1a–6), is amended—

(1) in paragraph (c)(2) by striking ''and'';

(2) by redesignating paragraphs (c)(3) and (c)(4) as (c)(4) and (c)(5), respectively; and

(3) by inserting the following new paragraph:

''(c)(3) waive, in any agreement pursuant to paragraph (1) and (2) of this subsection with any state or political subdivision thereof where state law requires such waiver and indemnification, any and all claims against all the other parties thereto and, subject to available appropriations, indemnify and save

harmless the other parties to such agreement from all claims by third parties for property damage or personal injury, which may arise out of the state or political subdivision's activities outside their respective jurisdictions under such agreement; and''.

SEC. 2. TECHNICAL AMENDMENT.

Section 10(c)(5) is further amended by striking the paragraph (5) designation, by striking ''the'' at the beginning of the paragraph and inserting ''The'', and by removing the indentation of the first line of the paragraph.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

The Senate proceeded to consider the bill (S. 2257) to reauthorize the National historic Preservation Act, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The part of the bill intended to be stricken is shown in boldface brackets and the part of the bill intended to be inserted is shown in italic.)

S. 2257

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

SECTION 1. [NATIONAL HISTORIC PRESERVATION ACT.] *REAUTHORIZATION OF HISTORIC PRESERVATION FUND.*

The second sentence of section 108 of the National Historic Preservation Act (16 U.S.C. 470h) is amended by striking ''1997'' and inserting ''2004''.

SEC. 2. REAUTHORIZATION OF ADVISORY COUNCIL ON HISTORIC PRESERVATION.

The last sentence of section 212(a) (16 U.S.C. 470t(a)) is amended by striking ''2000'' and inserting in lieu thereof, ''2004''.

The committee amendments were agreed to.

The bill (S. 2257), as amended, was considered read the third time and passed.

MINUTEMAN MISSILE NATIONAL HISTORIC SITE ESTABLISHMENT ACT OF 1998

The Senate proceeded to consider the bill (S. 2284) to establish the Minuteman Missile National Historic Site in the State of South Dakota, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Minuteman Missile National Historic Site Establishment Act of 1998''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) the Minuteman II intercontinental ballistic missile (hereinafter referred to as ''ICBM'') launch control facility and launch facility known as ''Delta 1'' and ''Delta 9'', respectively, have national significance as the best preserved examples of the operational character of American history during the Cold War;

(2) the facilities are symbolic of the dedication and preparedness exhibited by the missileers of the Air Force stationed throughout the upper Great Plains in remote and forbidding locations during the Cold War;

(3) the facilities provide a unique opportunity to illustrate the history and significance of the Cold War, the arms race, and ICBM development; and

(4) the National Park System does not contain a unit that specifically commemorates or interprets the Cold War.

(b) PURPOSES.—The purposes of this Act are—

(1) to preserve, protect, and interpret for the benefit and enjoyment of present and future generations the structures associated with the Minuteman II missile defense system;

(2) to interpret the historical role of the Minuteman II missile defense system in the broader context of the Cold War and the role of the system as a key component of America's strategic commitment to preserve world peace; and

(3) to complement the interpretive programs relating to the Minuteman II missile defense system offered by the South Dakota Air and Space Museum at Ellsworth Air Force Base.

SEC. 3. MINUTEMAN MISSILE NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—(1) The Minuteman Missile National Historic Site in the State of South Dakota (hereinafter referred to as the ''historic site'') is hereby established as a unit of the National Park System. The historic site shall consist of lands and interests therein comprising the following Minuteman II ICBM launch control facilities, as generally depicted on the map referred to as ''Minuteman Missile National Historic Site'', numbered 406/80,008 and dated September, 1998:

(A) An area surrounding the Minuteman II ICBM launch control facility depicted as ''Delta 1 Launch Control Facility''.

(B) An area surrounding the Minuteman II ICBM launch control facility depicted as ''Delta 9 Launch Facility''.

(2) The map described in paragraph (1) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) The Secretary of the Interior (hereinafter referred to as the ''Secretary'') is authorized to make minor adjustments to the boundary of the historic site.

(b) ADMINISTRATION OF HISTORIC SITE.—The Secretary shall administer the historic site in accordance with this Act and laws generally applicable to units of the National Park System, including the Act of August 25, 1916 (16 U.S.C. 1, 2–4) and the Act of August 21, 1935 (16 U.S.C. 461–467).

(c) COORDINATION WITH SECRETARY OF DEFENSE.—The Secretary shall consult with the Secretary of Defense and the Secretary of State, as appropriate, to ensure that administration of the historic site is in compliance with applicable treaties.

(d) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with appropriate public and private entities and individuals in furtherance of the purposes of this Act.

(e) LAND ACQUISITION.—(1) Except as provided in paragraph (2), the Secretary is authorized to acquire lands and interests therein within the boundaries of the historic site by donation, purchase with donated or appropriated funds, exchange or transfer from another Federal agency: Provided, That lands or interests therein owned by the State of South Dakota may only be acquired by donation or exchange.

(2) The Secretary shall not acquire any lands pursuant to this Act if the Secretary determines that such lands, or any portion thereof, are contaminated with hazardous substances (as defined in the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601)), unless all remedial action necessary to protect human health and the environment has been taken pursuant to such Act.

(f) GENERAL MANAGEMENT PLAN.—(1) Within three years after the date funds are made available, the Secretary shall prepare a general management plan for the historic site.

(2) The plan shall include an evaluation of an appropriate location for a visitor facility and administrative site within the areas depicted as ''Support Facility Study Area—Alternative A'' or ''Support Facility Study Area—Alternative B'' on the map referred to in subsection (a). Upon a determination by the Secretary of the appropriate location for such facilities, the boundaries of the historic site shall be modified to include the selected site.

(3) In developing the plan, the Secretary shall consider coordinating or consolidating appropriate administrative, management, and personnel functions with Badlands National Park.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated such sums as may be necessary to carry out this Act.

(b) AIR FORCE FUNDS.—The Secretary of the Air Force shall transfer to the Secretary any funds specifically appropriated to the Air Force for the maintenance, protection, or preservation of the facilities described in section 3. Such funds shall be used by the Secretary for establishing, operating, and maintaining the historic site.

(c) LEGACY RESOURCE MANAGEMENT PROGRAM.—Nothing in this Act affects the use of any funds available for the Legacy Resource Management Program being carried out by the Air Force that, before the date of enactment of this Act, were directed to be used for resource preservation and treaty compliance.

The committee amendment was agreed to.

The bill (S. 2284), as amended, was considered read the third time and passed.

WOMEN'S PROGRESS COMMEMORATION ACT

The bill (S. 2285) to establish a commission in honor of the 150th Anniversary of the Seneca Falls Convention, to further protect sites of importance in the historic efforts to secure equal rights for women, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2285

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Women's Progress Commemoration Act''.

SEC. 2. DECLARATION.

Congress declares that—

(1) the original Seneca Falls Convention, held in upstate New York in July 1848, convened to consider the social conditions and civil rights of women at that time;

(2) the convention marked the beginning of an admirable and courageous struggle for equal rights for women;

(3) the 150th Anniversary of the convention provides an excellent opportunity to examine the history of the women's movement; and

(4) a Federal Commission should be established for the important task of ensuring the historic preservation of sites that have been instrumental in American women's history, creating a living legacy for generations to come.

SEC. 3. ESTABLISHMENT OF COMMISSION.

(a) ESTABLISHMENT.—There is established a commission to be known as the ''Women's Progress Commemoration Commission'' (referred to in this Act as the ''Commission'').

(b) MEMBERSHIP.—

(1) IN GENERAL.—The Commission shall be composed of 15 members, of whom—

(A) 3 shall be appointed by the President;

(B) 3 shall be appointed by the Speaker of the House of Representatives;

(C) 3 shall be appointed by the minority leader of the House of Representatives;

(D) 3 shall be appointed by the majority leader of the Senate; and

(E) 3 shall be appointed by the minority leader of the Senate.

(2) PERSONS ELIGIBLE.—

(A) IN GENERAL.—The members of the Commission shall be individuals who have knowledge or expertise, whether by experience or training, in matters to be studied by the Commission. The members may be from the public or private sector, and may include Federal, State, local, or employees, members of academia, nonprofit organizations, or industry, or other interested individuals.

(B) DIVERSITY.—It is the intent of Congress that persons appointed to the Commission under paragraph (1) be persons who represent diverse economic, professional, and cultural backgrounds.

(3) CONSULTATION AND APPOINTMENT.—

(A) IN GENERAL.—The President, Speaker of the House of Representatives, minority leader of the House of Representatives, majority leader of the Senate, and minority leader of the Senate shall consult among themselves before appointing the members of the Commission in order to achieve, to the maximum extent practicable, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission.

(B) COMPLETION OF APPOINTMENTS; VACANCIES.—The President, Speaker of the House of Representatives, minority leader of the House of Representatives, majority leader of the Senate, and minority leader of the Senate shall conduct the consultation under subparagraph (3) and make their respective appointments not later than 60 days after the date of enactment of this Act.

(4) VACANCIES.—A vacancy in the membership of the Commission shall not affect the powers of the Commission and shall be filled in the same manner as the original appointment not later than 30 days after the vacancy occurs.

(c) MEETINGS.—

(1) INITIAL MEETING.—Not later than 30 days after the date on which all members of the Commission have been appointed, the Commission shall hold its first meeting.

(2) SUBSEQUENT MEETINGS.—After the initial meeting, the Commission shall meet at the call of the Chairperson.

(d) QUORUM.—A majority of the members of the Commission shall constitute a quorum for the transaction of business, but a lesser number of members may hold hearings.

(e) CHAIRPERSON AND VICE CHAIRPERSON.—The Commission shall select a Chairperson and Vice Chairperson from among its members.

SEC. 4. DUTIES OF THE COMMISSION.

Not later than 1 year after the initial meeting of the Commission, the Commission, in cooperation with the Secretary of the Interior and other appropriate Federal, State, and local public and private entities, shall prepare and submit to the Secretary of the Interior a report that—

(1) identifies sites of historical significance to the women's movement; and

(2) recommends actions, under the National Historic Preservation Act (16 U.S.C. 470 et seq.) and other law, to rehabilitate and preserve the sites and provide to the public interpretive and educational materials and activities at the sites.

SEC. 5. POWERS OF THE COMMISSION.

(a) HEARINGS.—The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission considers advisable to carry out its duties of this Act.

(b) INFORMATION FROM FEDERAL AGENCIES.—The Commission may secure directly from any Federal department or agency such information as the Commission considers necessary to carry out the provisions of this Act. At the request of the Chairperson of the Commission, the head of such department or agency shall furnish such information to the Commission.

SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) COMPENSATION OF MEMBERS.—A member of the Commission who is not otherwise an officer or employee of the Federal Government shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the performance of the duties of the Commission. A member of the Commission who is otherwise an officer or employee of the United States shall serve without compensation in addition to that received for services as an officer or employee of the United States.

(b) TRAVEL EXPENSES.—A member of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of service for the Commission.

(c) STAFF.—

(1) IN GENERAL.—The Chairperson of the Commission may, without regard to the civil service laws (including regulations), appoint and terminate an executive director and such other additional personnel as may be necessary to enable the Commission to perform its duties. The employment and termination of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(2) COMPENSATION.—The executive director shall be compensated at a rate not to exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code. The Chairperson may fix the compensation of other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay for such personnel may not exceed the rate payable for a position at level V of the Executive Schedule under section 5316 of that title.

(3) DETAIL OF GOVERNMENT EMPLOYEES.—Any Federal Government employee, with the approval of the head of the appropriate Federal agency, may be detailed to the Commission without reimbursement, and the detail shall be without interruption or loss of civil service status, benefits, or privilege.

(d) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed the daily equivalent of the annual rate of basic pay prescribed for a position at level V of the Executive Schedule under section 5316 of that title.

SEC. 7. FUNDING.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission such sums as are necessary to carry out this Act.

(b) DONATIONS.—The Commission may accept donations from non-Federal sources to defray the costs of the operations of the Commission.

SEC. 8. TERMINATION.

The Commission shall terminate on the date that is 30 days after the date on which the Commission submits to the Secretary of the Interior the report under section 4(b).

SEC. 9. REPORTS TO CONGRESS.

Not later than 2 years and not later than 5 years after the date on which the Commission submits to the Secretary of the Interior the report under section 4, the Secretary of the Interior shall submit to Congress a report describing the actions that have been taken to preserve the sites identified in the Commission report as being of historical significance.

GATEWAY VISITOR CENTER AUTHORIZATION ACT OF 1998

The bill (S. 2309) to authorize the Secretary of the Interior to enter into an agreement for the construction and operation of the Gateway Visitor Center at Independence National Historical Park, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 2309

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Gateway Visitor Center Authorization Act of 1998''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) in 1997, the National Park Service completed a general management plan for Independence National Historical Park that establishes goals and priorities for the future of the park;

(2) the plan calls for the revitalization of Independence Mall and recommends as a critical component of the revitalization the development of a new visitor center;

(3) such a visitor center would replace the existing park visitor center and serve as an orientation center for visitors to the park and to city and regional attractions;

(4) after completing of the general management plan, the National Park Service completed a design project and master plan for Independence Mall that includes the Gateway Visitor Center;

(5) plans for the Gateway Visitor Center call for the center to be developed and managed, in cooperation with the Secretary of the Interior, by a nonprofit organization that represents the various public and civic interests of the Philadelphia metropolitan area; and

(6) the Gateway Visitor Center Corporation, a nonprofit organization, has been established to raise funds for and cooperate in a program to design, develop, construct, and operate the proposed Gateway Visitor Center.

(b) PURPOSE.—The purpose of this Act is to authorize the Secretary of the Interior to enter into an agreement with the Gateway Visitor Center Corporation to construct and operate a regional visitor center on Independence Mall in cooperation with the Secretary.

SEC. 3. GATEWAY VISITOR CENTER.

The Act of June 28, 1948 (16 U.S.C. 407m et seq.) is amended by adding at the end the following:

''SEC. 8. REGIONAL GATEWAY VISITOR CENTER.

''(a) DEFINITIONS.—In this section:

''(1) CENTER.—The term 'Center' means the Gateway Visitor Center authorized by subsection (b).

''(2) CORPORATION.—The term 'Corporation' means Gateway Visitor Center Corporation, a nonprofit organization.

''(b) AGREEMENT.—The Secretary of the Interior may enter into an agreement under appropriate terms and conditions with the Corporation to facilitate the construction and operation of the Gateway Visitor Center on Independence Mall.

''(c) AUTHORIZED ACTIVITIES.—The agreement under subsection (b) shall—

''(1) authorize the Corporation—

''(A) to operate the Center in cooperation with the Secretary and provide at the Center information, interpretation, facilities, and services to visitors of Independence National Historical Park, its surrounding historic sites, the city of Philadelphia, and the region, in order to assist in the enjoyment of the historic, cultural, educational, and recreational resources of the Philadelphia metropolitan area; and

''(B) to engage in activities appropriate for operation of a regional visitor center, which may include selling food, charging fees, conducting events, and selling merchandise and tickets to visitors to the Center; and

''(2) authorize the Secretary to undertake at the Center activities relating to the management of Independence National Historical Park, including provision of appropriate visitor information and interpretive facilities and programs related to the park.

''(d) REVENUES.—Revenues from the operation of the Center's facilities and services shall be used to pay for expenses of operation.

''(e) PRESERVATION AND PROTECTION.—Nothing in this section authorizes the Secretary or the Corporation to take any action in derogation of the preservation and protection of the values and resources of Independence National Historical Park.''.

DANTE FASCELL BISCAYNE NATIONAL PARK VISITOR CENTER DESIGNATION ACT

The Senate proceeded to consider the bill (S. 2468) to designate the Biscayne National Park visitor center as the Dante Fascell Visitor Center at Biscayne National Park, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2468

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Dante Fascell Biscayne National Park Visitor Center Designation Act''.

SEC. 2. DESIGNATION OF THE DANTE FASCELL VISITOR CENTER AT BISCAYNE NATIONAL PARK.

(a) DESIGNATION.—The Biscayne National Park visitor center, located on the shore of Biscayne Bay on Convoy Point, Florida, is designated as the ''Dante Fascell Visitor **[**Center at Biscayne National Park''.**]** *Center.''*

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other document of the United States to the Biscayne National Park visitor center shall be deemed to be a reference to the ''Dante Fascell Visitor **[**Center at Biscayne National Park''.**]** *Center.''*

Mr. GRAHAM. Mr. President, I am pleased today to support, along with my colleague, Senator MACK, legislation to honor former Congressman Dante Fascell by naming the Biscayne National Park Visitors Center after the ex-Congressman of Florida. I had the pleasure to begin my political career as an intern in Congressman Fascell's office and am proud to have had the opportunity to serve with one of Florida's greatest representatives.

Congressman Fascell's long history of public service began in the Florida House of Representatives after his service in World War II. He was elected to the Eighty-fourth Congress and spent the following thirty-six years in office. During this time Congressman Fascell was influential in both foreign and domestic policy.

While in Congress, Dante Fascell influenced U.S. foreign policy by co-authoring the War Powers act and chairing the Committees on Foreign Affairs and Arms Control, International Security and Science. In 1969, Congressman Fascell led House action to establish the Department of Housing and Urban Development. This legislation was the first step in efforts to develop economically healthy communities and affordable opportunities for numerous families throughout the nation. He was also a devout supporter of both law enforcement and education on narcotics abuse.

During his years in Congress, Dante Fascell was an outstanding environmental activist and improved the quality of Florida's natural habitats and wildlife. He battled to protect South Florida's national parks and led the successful effort to establish the national marine sanctuary in the Florida Keys during the 101st Congress.

The Biscayne National Park visitor center introduces local, national and international visitors to the resources of the Biscayne National Park at Convoy Point, Florida. Its museum features exhibits simulating the park's four main ecosystems: the mangrove forest, Biscayne Bay, the Florida Keys, and the coral reef. The naming of this visitor center will serve as a lasting tribute to Congressman Fascell's persistent efforts to protect the environment for future generations.

I ask for your support today for our bill which will pay tribute to the service of the former Florida Congressman, Dante Fascell.

The committee amendment was agreed to.

The bill (S. 2468), as amended, was considered read the third time and passed.

The title was amended so as to read: ''A bill to designate the Biscayne National Park Visitor Center as the Dante Fascell Visitor Center.''.

CAPE COD NATIONAL SEASHORE ADVISORY COMMISSION

The bill (H.R. 2411) to provide for a land exchange involving the Cape Cod National Seashore and to extend the authority for the Cape Cod National Seashore Advisory Commission, was considered, ordered to a third reading, read the third time, and passed.

FOLSOM DAM, CALIFORNIA

The bill (H.R. 4079) to authorize the construction of temperature control devices at Folsom Dam in California, was considered, ordered to a third reading, read the third time, and passed.

IDAHO ADMISSION ACT AMENDMENTS

The bill (H.R. 4166) to amend the Idaho Admission Act regarding the sale or lease of school land, was considered, ordered to a third reading, read the third time, and passed.

UNANIMOUS CONSENT AGREEMENT—S. 744 AND S. 2117

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the consideration en bloc of the following bills: Calendar No. 613, S. 744 and Calendar No. 621, S. 2117.

I further ask unanimous consent that amendment No. 3786 to S. 744 and amendment No. 3787 to S. 2117 be agreed to, en bloc.

I finally ask unanimous consent that any committee amendments be agreed to; that the bills then be read a third time and passed, as amended; that the motions to reconsider be laid upon the table; and that any statements relating to these measures appear at the appropriate place in the RECORD.

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

FALL RIVER WATER USERS DISTRICT WATER SYSTEM ACT OF 1998

The Senate proceeded to consider the bill (S. 744) to authorize the construction of the Fall River Water Users District Rural Water System and authorize financial assistance to the Fall River Water Users District, a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 744

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fall River Water Users District Rural Water System Act of 1997''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Fall River Water Users District Rural Water System located in Fall River County, South Dakota, and the water supplies that

are available are of poor quality and do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) past cycles of severe drought in the southeastern area of Fall River County have left residents without a satisfactory water supply, and, during 1990, many home owners and ranchers were forced to haul water to sustain their water needs;

(3) because of the poor quality of water supplies, most members of the Fall River Water Users District are forced to either haul bottled water for human consumption or use distillers;

(4) the Fall River Water Users District Rural Water System has been recognized by the State of South Dakota; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Fall River Water Users District Rural Water System members consists of a Madison Aquifer well, 3 separate water storage reservoirs, 3 pumping stations, and approximately 200 miles of pipeline.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Fall River Water Users District Rural Water System in Fall River County, South Dakota;

(2) to assist the members of the Fall River Water Users District in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Fall River Water Users District Rural Water System.

SEC. 3. DEFINITIONS.

In this Act:

(1) ENGINEERING REPORT.—The term ''engineering report'' means the study entitled ''Supplemental Preliminary Engineering Report for Fall River Water Users District'' published in August 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term ''project construction budget'' means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the engineering report.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term ''pumping and incidental operational requirements'' means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Fall River Water Users District Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of [the Interior, acting through the Director of the Bureau of Reclamation.] *Agriculture.*

(5) WATER SUPPLY SYSTEM.—The term ''water supply system'' means the Fall River Water Users District Rural Water System, a nonprofit corporation, established and operated substantially in accordance with the engineering report.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of the planning and construction of the water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, and water conservation within the boundaries of the Fall River Water Users District, described as follows: bounded on the north by the Angostura Reservoir, the Cheyenne River, and the line between Fall River and Custer Counties, bounded on the east by the line between Fall River and Shannon Counties, bounded on the south by the line between South Dakota and Nebraska, and bounded on the west by the Igloo-Provo Water Project District.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 9.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report has been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the engineering report.

SEC. 6. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Fall River Water Users District;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATE.

This Act does not limit the authorization for water projects in South Dakota under law in effect on or after the date of enactment of this Act.

SEC. 8. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 9. FEDERAL SHARE.

The Federal share under section 4 shall be 80 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 10. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 20 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 11. CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—The Secretary *of the Interior, acting through the Director of the Bureau of Reclamation* may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Fall River County, South Dakota.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $3,600,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

The amendment (No. 3786) was agreed to, as follows:

On page 2, line 3, strike ''1997'' and insert ''1998''.

On page 6, line 3, strike ''has'' and insert ''and plan'' for a water conservation program have''.

On page 9, line 2, strike ''80'' and insert ''70''.

On page 9, line 11, strike ''20'' and insert ''30''.

The committee amendments were agreed to.

The bill (S. 744), as amended, was considered read the third time and passed, as follows:

S. 744

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Fall River Water Users District Rural Water System Act of 1998''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Fall River Water Users District Rural Water System located in Fall River County, South Dakota, and the water supplies that are available are of poor quality and do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) past cycles of severe drought in the southeastern area of Fall River County have left residents without a satisfactory water supply, and, during 1990, many home owners and ranchers were forced to haul water to sustain their water needs;

(3) because of the poor quality of water supplies, most members of the Fall River Water Users District are forced to either haul bottled water for human consumption or use distillers;

(4) the Fall River Water Users District Rural Water System has been recognized by the State of South Dakota; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Fall River Water Users District Rural Water System members consists of a Madison Aquifer well, 3 separate water storage reservoirs, 3 pumping stations, and approximately 200 miles of pipeline.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Fall River Water Users District Rural Water System in Fall River County, South Dakota;

(2) to assist the members of the Fall River Water Users District in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Fall River Water Users District Rural Water System.

SEC. 3. DEFINITIONS.

In this Act:

(1) ENGINEERING REPORT.—The term ''engineering report'' means the study entitled ''Supplemental Preliminary Engineering Report for Fall River Water Users District'' published in August 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term ''project construction budget'' means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the engineering report.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term ''pumping and incidental operational requirements'' means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Fall River Water Users District Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of Agriculture.

(5) WATER SUPPLY SYSTEM.—The term ''water supply system'' means the Fall River Water Users District Rural Water System, a nonprofit corporation, established and operated substantially in accordance with the engineering report.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of the planning and construction of the water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, and water conservation within the boundaries of the Fall River Water Users District, described as follows: bounded on the north by the Angostura Reservoir, the Cheyenne River, and the line between Fall River and Custer Counties, bounded on the east by the line between Fall River and Shannon Counties, bounded on the south by the line between South Dakota and Nebraska, and bounded on the west by the Igloo-Provo Water Project District.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 9.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report and plan for a water conservation program have been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the engineering report.

SEC. 6. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Fall River Water Users District;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATE.

This Act does not limit the authorization for water projects in South Dakota under law in effect on or after the date of enactment of this Act.

SEC. 8. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 9. FEDERAL SHARE.

The Federal share under section 4 shall be 70 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 10. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 30 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

SEC. 11. CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—The Secretary of the Interior, acting through the Director of the Bureau of Reclamation may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Fall River County, South Dakota.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $3,600,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after August 1, 1995.

PERKINS COUNTY RURAL WATER SYSTEM ACT OF 1988

The Senate proceeded to consider the bill (S. 2117) to authorize the construction of the Perkins County Rural Water System and authorize financial assistance to the Perkins County Rural Water System, Inc., a nonprofit corporation, in the planning and construction of the water supply system, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

(The parts of the bill intended to be stricken are shown in boldface brackets and the parts of the bill intended to be inserted are shown in italic.)

S. 2117

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Perkins County Rural Water System Act of 1997''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Perkins County Rural Water System located in Perkins County, South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) in 1977, the North Dakota State Legislature authorized and directed the State Water Commission to conduct the Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;

(3) amendments made by the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 101–294) authorized the Southwest Pipeline project as an eligible project for Federal cost share participation;

(4) the Perkins County Rural Water System has continued to be recognized by the State of North Dakota, the Southwest Water Authority, the North Dakota Water Commission, the Department of the Interior, and Congress as a component of the Southwest Pipeline Project; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Perkins County Rural Water System, Inc., members is the waters of the Missouri River as delivered by the Southwest Pipeline Project in North Dakota.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Perkins County Rural Water Supply System, Inc., in Perkins County, South Dakota;

(2) to assist the members of the Perkins County Rural Water Supply System, Inc., in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Perkins County Rural Water System, Inc.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEASIBILITY STUDY.—The term ''feasibility study'' means the study entitled ''Feasibility Study for Rural Water System for Perkins County Rural Water System, Inc.'', as amended in March 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term ''project construction budget'' means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the feasibility study.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term ''pumping and incidental operational requirements'' means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Perkins County Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

(5) WATER SUPPLY SYSTEM.—The term ''water supply system'' means the Perkins County Rural Water System, Inc., a nonprofit corporation, established and operated substantially in accordance with the feasibility study.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of—

(1) the planning and construction of the water supply system; and

(2) repairs to existing public water distribution systems to ensure conservation of the resources and to make the systems functional under the new water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, repairs to existing public water distribution systems, and water conservation in Perkins County, South Dakota.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 10.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply [system;] *system; and*

(2) a final engineering report has been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the [system; and] *system.*

[(3) the water supply system has developed and implemented a water conservation program.

[SEC. 5. WATER CONSERVATION PROGRAM.

[(a) PURPOSE.—The water conservation program under section 4(d)(3) shall be designed to ensure that users of water from the water supply system will use the best practicable technology and management techniques to conserve water use.

[(b) DESCRIPTION.—The water conservation program shall include—

[(1) low consumption performance standards for all newly installed plumbing fixtures;

[(2) leak detection and repair programs;

[(3) rate structures that do not include declining block rate schedules for municipal households or special water users (as defined in the feasibility study);

[(4) public education programs;

[(5) coordinated operation and maintenance (including necessary repairs to ensure minimal water losses) by and between the water supply system and any member of the system that is a preexisting water supply facility within the service area of the system; and

[(6) coordinated operation between the Southwest Pipeline Project of North Dakota and the Perkins County Rural Water System, Inc., of South Dakota.

[(c) REVIEW AND REVISION.—The program described in subsection (b) shall contain provisions for periodic review and revision, in cooperation with the Secretary.]

SEC. [6.] *5.* MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. [7.] *6.* USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Perkins County Rural Water System, Inc.;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. [8.] *7.* NO LIMITATION ON WATER PROJECTS IN STATES.

This Act does not limit the authorization for water projects in South Dakota and North Dakota under law in effect on or after the date of enactment of this Act.

SEC. [9.] 8. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. [10.] *9.* FEDERAL SHARE.

The Federal share under section 4 shall be 75 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. [11.] *10.* NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 25 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. [12.] *11.* CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—The Secretary may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Perkins County, South Dakota.

SEC. [13.] *12.* AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $15,000,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

The amendment (No. 3787) was agreed to, as follows:

AMENDMENT NO. 3787

(Purpose: To require a water conservation program)

On page 2, line 3, strike ''1997'' and insert ''1998''.

On page 6, line 1, strike ''has'' and insert ''and a plan for a water conservation program have''.

The committee amendments were agreed to.

The bill (S. 2117), as amended, was considered read the third time and passed, as follows:

S. 2117

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

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Perkins County Rural Water System Act of 1998''.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that—

(1) there are insufficient water supplies of reasonable quality available to the members of the Perkins County Rural Water System located in Perkins County, South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) in 1977, the North Dakota State Legislature authorized and directed the State Water Commission to conduct the Southwest Area Water Supply Study, which included water service to a portion of Perkins County, South Dakota;

(3) amendments made by the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 101–294) authorized the Southwest Pipeline project as an eligible project for Federal cost share participation;

(4) the Perkins County Rural Water System has continued to be recognized by the State of North Dakota, the Southwest Water Authority, the North Dakota Water Commission, the Department of the Interior, and Congress as a component of the Southwest Pipeline Project; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Perkins County Rural Water System, Inc., members is the waters of the Missouri River as delivered by the Southwest Pipeline Project in North Dakota.

(b) PURPOSES.—The purposes of this Act are—

(1) to ensure a safe and adequate municipal, rural, and industrial water supply for the members of the Perkins County Rural Water Supply System, Inc., in Perkins County, South Dakota;

(2) to assist the members of the Perkins County Rural Water Supply System, Inc., in developing safe and adequate municipal, rural, and industrial water supplies; and

(3) to promote the implementation of water conservation programs by the Perkins County Rural Water System, Inc.

SEC. 3. DEFINITIONS.

In this Act:

(1) FEASIBILITY STUDY.—The term ''feasibility study'' means the study entitled ''Feasibility Study for Rural Water System for Perkins County Rural Water System, Inc.'', as amended in March 1995.

(2) PROJECT CONSTRUCTION BUDGET.—The term ''project construction budget'' means the description of the total amount of funds that are needed for the construction of the water supply system, as described in the feasibility study.

(3) PUMPING AND INCIDENTAL OPERATIONAL REQUIREMENTS.—The term ''pumping and incidental operational requirements'' means all power requirements that are incidental to the operation of intake facilities, pumping stations, water treatment facilities, cooling facilities, reservoirs, and pipelines to the point of delivery of water by the Perkins County Rural Water System to each entity that distributes water at retail to individual users.

(4) SECRETARY.—The term ''Secretary'' means the Secretary of the Interior, acting through the Commissioner of the Bureau of Reclamation.

(5) WATER SUPPLY SYSTEM.—The term ''water supply system'' means the Perkins County Rural Water System, Inc., a nonprofit corporation, established and operated substantially in accordance with the feasibility study.

SEC. 4. FEDERAL ASSISTANCE FOR WATER SUPPLY SYSTEM.

(a) IN GENERAL.—The Secretary shall make grants to the water supply system for the Federal share of the costs of—

(1) the planning and construction of the water supply system; and

(2) repairs to existing public water distribution systems to ensure conservation of the resources and to make the systems functional under the new water supply system.

(b) SERVICE AREA.—The water supply system shall provide for safe and adequate municipal, rural, and industrial water supplies, mitigation of wetlands areas, repairs to existing public water distribution systems, and water conservation in Perkins County, South Dakota.

(c) AMOUNT OF GRANTS.—Grants made available under subsection (a) to the water supply system shall not exceed the Federal share under section 10.

(d) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the water supply system until—

(1) the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) are met with respect to the water supply system; and

(2) a final engineering report and a plan for a water conservation program have been prepared and submitted to Congress for a period of not less than 90 days before the commencement of construction of the system.

SEC. 5. MITIGATION OF FISH AND WILDLIFE LOSSES.

Mitigation of fish and wildlife losses incurred as a result of the construction and operation of the water supply system shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction, as provided in the feasibility study.

SEC. 6. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—From power designated for future irrigation and drainage pumping for the Pick-Sloan Missouri River Basin Program, the Western Area Power Administration shall make available the capacity and energy required to meet the pumping and incidental operational requirements of the water supply system during the period beginning May 1 and ending October 31 of each year.

(b) CONDITIONS.—The capacity and energy described in subsection (a) shall be made available on the following conditions:

(1) The water supply system shall be operated on a not-for-profit basis.

(2) The water supply system shall contract to purchase its entire electric service requirements, including the capacity and energy made available under subsection (a), from a qualified preference power supplier that itself purchases power from the Western Area Power Administration.

(3) The rate schedule applicable to the capacity and energy made available under subsection (a) shall be the firm power rate schedule of the Pick-Sloan Eastern Division of the Western Area Power Administration in effect when the power is delivered by the Administration.

(4) It shall be agreed by contract among—

(A) the Western Area Power Administration;

(B) the power supplier with which the water supply system contracts under paragraph (2);

(C) the power supplier of the entity described in subparagraph (B); and

(D) the Perkins County Rural Water System, Inc.;

that in the case of the capacity and energy made available under subsection (a), the benefit of the rate schedule described in paragraph (3) shall be passed through to the water supply system, except that the power supplier of the water supply system shall not be precluded from including, in the charges of the supplier to the water system for the electric service, the other usual and customary charges of the supplier.

SEC. 7. NO LIMITATION ON WATER PROJECTS IN STATES.

This Act does not limit the authorization for water projects in South Dakota and North Dakota under law in effect on or after the date of enactment of this Act.

SEC. 8. WATER RIGHTS.

Nothing in this Act—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water, whether determined by past or future interstate compacts or by past or future legislative or final judicial allocations;

(3) preempts or modifies any Federal or State law, or interstate compact, dealing with water quality or disposal; or

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource.

SEC. 9. FEDERAL SHARE.

The Federal share under section 4 shall be 75 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 10. NON-FEDERAL SHARE.

The non-Federal share under section 4 shall be 25 percent of—

(1) the amount allocated in the total project construction budget for the planning and construction of the water supply system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

SEC. 11. CONSTRUCTION OVERSIGHT.

(a) AUTHORIZATION.—The Secretary may provide construction oversight to the water supply system for areas of the water supply system.

(b) PROJECT OVERSIGHT ADMINISTRATION.—The amount of funds used by the Secretary for planning and construction of the water supply system may not exceed an amount equal to 3 percent of the amount provided in the total project construction budget for the portion of the project to be constructed in Perkins County, South Dakota.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) $15,000,000 for the planning and construction of the water system under section 4; and

(2) such sums as are necessary to defray increases in development costs reflected in appropriate engineering cost indices after March 1, 1995.

EXTENDING DEADLINE UNDER FEDERAL POWER ACT

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 4081, just received from the House.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 4081) to extend the deadline under the Federal Power Act applicable to the construction of a hydroelectric project in the State of Arkansas.

The Senate proceeded to consider the bill.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the bill be read a third time and passed and that the motion to reconsider be laid upon the table, without intervening action or debate.

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

The bill (H.R. 4081) was considered read the third time and passed.

ORDERS FOR THURSDAY, OCTOBER 8, 1998

Mr. MCCAIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Thursday, October 8. I further ask unanimous consent that the time for the two leader be reserved.

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

Mr. MCCAIN. I further ask unanimous consent that there then be a period for the transaction of morning business until 10 a.m., with Senators permitted to speak for up to 5 minutes each.

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

Mr. MCCAIN. Mr. President, I further ask unanimous consent that following morning business, the Senate proceed to the consideration of the VA-HUD conference report, and that there be 1 hour for debate equally divided on the report. I further ask that at 11 a.m., the Senate proceed to vote on the adoption of the conference report.

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

PROGRAM

Mr. MCCAIN. Mr. President, for the information of all Senators, on Thursday, there will be a period for the transaction of morning business until 10 a.m. Following morning business, the Senate will begin consideration of the VA–HUD conference report under a 1-hour time agreement. At 11 a.m., the Senate will proceed to vote on the adoption of the VA–HUD conference report.

Following that vote, the Senate may resume consideration of the Internet tax bill or begin consideration of the intelligence authorization conference report, the human services reauthorization conference report and possibly the Treasury-Postal appropriations conference report. The Senate may also consider any other available conference reports or other legislative or executive items cleared for action.

Once again, the leader would like to stress to all Members that there are only a few days remaining in which to complete many important legislative items. Therefore, Members are encouraged to be flexible to accommodate a busy schedule, with votes occurring throughout each day and into the evenings.

ORDER FOR RECESS

Mr. MCCAIN. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that following the remarks of the Senator from Hawaii, the Senate stand in recess under the previous order.

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

Mr. MCCAIN. Mr. President, I thank the Senator from Hawaii for his usual courtesy in allowing me to proceed with this closing business. I thank my dear friend from Hawaii. I yield the floor.

REAUTHORIZATION OF THE ENDANGERED SPECIES ACT

Mr. AKAKA. Mr. President, for the last year or so, both the House and Senate have been working on legislation that would reauthorize the Endangered Species Act of 1973. The Senate Environment and Public Works Committee has reported legislation offered by my colleague from Idaho, Senator KEMPTHORNE, that would modify the Act in significant ways. Although it is unlikely that we will take up this bill in the short time remaining to us, I would like to make a few observations about the Endangered Species Act and what it has meant to Hawaii, home to more endangered species than any other state or territory within the United States.

Mr. President, as legislators, we are guardians of our Nation's rich natural inheritance; in this capacity, we cannot afford to squander the ecological legacy we leave to our children. Surely, part of our concern for rare species and ecosystems is the simple realization that once they are gone, we would have failed in our stewardship responsibility. Hawaii is poised on the brink of irreversible ecological change, and it is important that wise stewardship decisions be rendered to preserve our unique, tropical ecosystem.

The term ''ecosystem'' has become a political buzzword and does not adequately described the delicate checks and balances that make up the natural world. The basis of Hawaii's natural system begins not with a list of threatened plants and animals, but with the unique origin of the islands. For millions of years, lava welling out from the earth's mantle cooled upon the ocean floor, gradually forming the Hawaiian islands, one by one, a process that is ongoing even today. As one island moves away from the influence of a ''hot spot'' in the middle of the Pacific, another island is born. Each island is the peak of a volcanic mountain, with its base hidden far below the surface of the ocean. Only a few types of birds, insects, and plants were able to colonize the remote islands, and these few evolved into scores or even hundreds of unique species. The islands sheltered no large land mammals or reptiles, only creatures that have gradually lost their natural defenses against such predators.

The Endangered Species Act is critical to this unique, insular ecosystem. There are, 1,126 total U.S. species listed by Fish and Wildlife Service under protection of the ESA, and although its islands represent just two-tenths of one percent of the total U.S. land area, Hawaii is home to more rare and endangered species than any other state or territory. In addition, three-fourths of the nation's now extinct plants and birds once existed only in Hawaii. Hawaii has an astounding 363 listed endangered species. Only California, with 223 listed species, rivals Hawaii in the number of listed endangered species. The Pacific islands, not including Hawaii, have a total of 16 listed endangered species.

The causes of Hawaiian species decline are numerous and complicated, but the most significant threats come from non-native animals that uproot and devour fragile native plants. Feral pigs, rats, and mongooses not only physicially destroy plants, but spread the seeds of aggressive alien plants such as the South American banana

poke vine, and small invasive trees like the Brazilian strawberry guava. These alien plants form thick, impenetrable monocultures that choke out native plants. When native plants disappear, the birds and insects that rely on native plants for food are also threatened. Diseases that kill native flora and fauna are also spread by alien species: birds in particular are ravaged by diseases transmitted through mosquitoes.

Hawaiian plants and animals coevolved over millions of years and continue to depend on each other for survival. The interdependency of Hawaiian insects, birds, and plants makes this ecosystem susceptible to rapid, irreversible change due to loss of species richness. Endangered species in Hawaii range from mammals such as the charismatic monk seal and the Hawaiian goose (also the state bird), or nene [nay-nay], to sea creatures like the hawksbill sea turtle and invertebrates such as the Oahu tree snail. There are endangered plants from 279 taxa, including plants with great cultural significance such as the mahoe and uhiuhi. Hawaii harbors at least 5,000 species as yet unknown to science as well as many rare species, including the wekiu bug, which has ''antifreeze'' in its blood, and the Wood's tree hibiscus, a small tree previously unknown to science, found in Kauai, with only four individuals known worldwide.

I cannot stress enough that the loss of even one species may contribute to the decline of entire ecosystems, and barring unprecedented action, many species may vanish undiscovered. Along with the species, lost also is genetic information that could lead to new foods and medicines.

Mr. President, the survival of hundreds of endangered species now depends on human intervention. Though gravely threatened, Hawaii's remaining natural treasures can be saved. Conservation of habitat, control and eradication of noxious introduced plants and predators, and enlightened resource management are the answer. Conservationists within Hawaii kill feral animals, erect fences to keep ungulates away from fragile plants, breed animals in captivity, pollinate flowers by hand, and destroy alien plants. We are hoping to restore and maintain healthy ecosystems so that Hawaii's native species have the respite and protection they need to survive. Thus, Hawaii is not a lost cause: more than a quarter of the state's land remains unspoiled. But we must continue in our struggle to protect rare and endangered species before the battle is over and our legacy to our children is robbed of species richness.

Since the enactment of the Endangered Species Act of 1973, we have garnered important knowledge and won substantial victories across the country in our efforts to protect imperiled species. Eight U.S. species have removed from the list due to recovery and another 18 species have been upgraded from endangered to threatened. More importantly, at least half of all species listed for a decade or more are not either stable or improving in status.

For example, the first group of captive-bred Mexican wolves was released back into the American southwest this year; California condors, southeastern fish, and dear to me, the Hawaiian silversword plant and 'alala have also been re-introduced to the wild. Bird conservation groups in my own state have hatched eggs from 12 different endemic species—species that have never before been reared in captivity like the 'akohekohe, palila, Maui parrotbill, puaiohi, 'elepaio, and 'amakihi. All of this has been accomplished in 25 years since the Act's passage—remarkable when considered on nature's time scale rather than our fast paced Congressional calendar.

But these successful conservation efforts are not merely a result of Federal law. In Hawaii at least, the State legislature has enacted an endangered species law that is comparable, and, in some instances, stronger than Federal law. Last year, the State amended this law to allow ''take'' of endangered or threatened species when such authorization is issued in conjunction with a safe harbor agreement or habitat conservation plan. Although modelled after Federal law, the State amendments are more strict. For example, under the ESA, in order to allow for a ''take,'' the population must not decrease; however, under the Hawaiian statute, the likelihood of population increase must be proven before taking is allowed.

Despite success on the Federal and State levels to protect and preserve biological diversity, Congress may next year consider legislation similar to the Kempthorne bill, that in its current form could weaken the Endangered Species Act of 1973, the Nation's most important law protecting endangered wildlife and wildlife habitat.

There are many provisions of the Kempthorne bill, S. 1180, the Endangered Species Recovery Act of 1997, that I applaud and support. The bill emphasizes recovery efforts, and codifies many of the administration's efforts to provide incentives to landowners that are affected by the Endangered Species Act. The Kempthorne bill also expands the role of States in implementing the act, which has the potential to tailor species recovery efforts on a case-by-case basis, rather than applying a Federal cookie-cutter approach to species protection.

However, there are key elements of S. 1180 that are fundamentally unsound. For example, the legislation would lock in Habitat Conservation Plans without allowing for review and adjustment. Mr. President, our knowledge of rare species is slow in coming; but as our information base grows, Habitat Conservation Plans need to change and grow, too, reflecting new and more complete information about the needs of endangered species. Imagine if our knowledge or medical science were similarly locked in—we would still be using leeches to bleed patients of ''humors.''

In addition, the Kempthorne measure does not fully cover water rights, nor does it provide just compensation to property owners. It would also establish significant bureaucratic obstacles to listing, management, and recovery plans. And it offers less conservation per dollar appropriated.

Our House colleague, Congressman GEORGE MILLER, has put forward a bill that I find more consistent with the original intent of the Endangered Species Act. The Miller bill emphasizes recovery of species; steps up protection of candidate species; creates a new and important category of ''survival habitat'' which is designated at time of listing, yet also has a version of ''no surprises'' permits; and creates a habitat conservation fund based on performance bonds paid by recipients of incidental take permits. It contains extensive tax benefits for landowners affected by the Endangered Species Act. Most importantly, under the Miller legislation, the public is allowed to sue to enforce the terms of Habitat Conservation Plans.

I applaud Senator KEMPTHORNE for attempting in his legislation to balance the needs of private landowners against the protections we accord endangered species; unfortunately, I believe his bill tilts too far in favor of the former. However well-meaning, key provisions of the bill represent a backtracking on endangered species and endangered species habitat protection. Until these shortcomings are addressed, Congress should not consider altering the most important and effective law we have on the books for protecting our rarest forms of life.

Mr. President, let me conclude by noting that more than any other state, Hawaii is teetering on the edge of no return. The Endangered Species Act is our ultimate safety net when the more than 150 other U.S. laws and international treaties fail to prevent a species from declining toward extinction. When measured in terms of preventing threatened species from going extinct, the Act has been an overwhelming success. I would be reluctant to support legislation, however well-intentioned, that would reduce the effectiveness of this landmark law.

I therefore look forward to debating reauthorization of the Endangered Species Act when the 106th Congress convenes. Senator KEMPTHORNE and Congressman MILLER have both made good starts in heightening concern about endangered species and in bringing to light the complexities of species protection and recovery. Let us build on their efforts next year and debate more thoroughly the requirements that are necessary to crafting a stronger, more effective endangered species law.

I yield the floor.

RECESS UNTIL 9:30 A.M. TOMORROW

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 9:30 a.m., Thursday, October 7, 1998.

Thereupon, the Senate, at 8:04 p.m., recessed until 9:30 a.m., Thursday, October 8, 1998.

NOMINATIONS

Executive nominations received by the Senate October 7, 1998:

DEPARTMENT OF JUSTICE

MARGARET ELLEN CURRAN, OF RHODE ISLAND, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF RHODE ISLAND FOR THE TERM OF FOUR YEARS, VICE SHELDON WHITEHOUSE, RESIGNED.

BYRON TODD JONES, OF MINNESOTA, TO BE UNITED STATES ATTORNEY FOR THE DISTRICT OF MINNESOTA FOR THE TERM OF FOUR YEARS, VICE DAVID LEE LILLEHAUG, RESIGNED.

FEDERAL MARITIME COMMISSION

HAROLD J. CREEL, JR., OF SOUTH CAROLINA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2004. (REAPPOINTMENT)

ENVIRONMENTAL PROTECTION AGENCY

ROBERT W. PERCIASEPE, OF MARYLAND, TO BE AN ASSISTANT ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY. (REAPPOINTMENT)

CONFIRMATIONS

Executive Nominations Confirmed by the Senate October 7, 1998:

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

JOY HARJO, OF NEW MEXICO, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2002.

JOAN SPECTER, OF PENNSYLVANIA, TO BE A MEMBER OF THE NATIONAL COUNCIL ON THE ARTS FOR A TERM EXPIRING SEPTEMBER 3, 2002.

THE ABOVE NOMINATIONS WERE APPROVED SUBJECT TO THE NOMINEES' COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.