

those helpless people. I hope we come to the quick realization of the steps that must be taken to resolve this tragic conflict.

I yield the floor.

#### TRIBUTE TO WORKING WOMEN

Mr. LOTT. Mr. President, I would like to take this opportunity to recognize the Greenwood Business and Professional Club of Greenwood, Mississippi, and the working women who comprise its membership. The club was established on November 20, 1931, and will be holding its annual Women of Achievement Banquet on Thursday, October 22, 1998. It is my privilege to note that my daughter, Tyler Lott, a working woman in her own right, will provide the banquet's keynote address.

For nearly 67 years, the Greenwood Business and Professional Club has been a shining example of women helping women through countless programs and projects. More importantly, the members of this club are representative of working women across America who make invaluable sacrifices every day to strengthen the economy and fiber of our families, communities, states and nation.

Working women are found in virtually every profession, trade and vocation, and constitute well over 62 million members of the United States workforce. In fact, women-owned businesses account for approximately one-third of domestic firms and employ over 13 million people. Moreover, we should always remember that, in addition to women working in traditional businesses, women may be found working in homes throughout America making significant contributions each day through their occupation as homemakers.

As working women continue their service to America through professional, civic and cultural endeavors, it is fitting that we recognize their growing numbers, and congratulate these women who labor so tirelessly and effectively both inside and outside the home. Whether in business, industry, a profession, or as a homemaker, today's working women are vital role models for young women coast-to-coast who will help mold the future of this country.

I am honored to have this opportunity to commend our nation's working women, and to extend my most sincere thanks to the members of the Greenwood Business and Professional Club for its 67 years of achievement and service.

#### PASSAGE OF THE GOVERNMENT PAPERWORK ELIMINATION ACT

Mr. ABRAHAM. Mr. President, the Omnibus Appropriations bill that the Senate is about to consider contains the full text of S. 2107, the Government Paperwork Elimination Act, a bill I introduced in April along with Senators WYDEN, MCCAIN and REED. I want to

thank Senators MCCAIN, LOTT, WYDEN, and HOLLINGS 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.

Senators WYDEN, MCCAIN and REED joined me in introducing the Government Paperwork Elimination Act in May of this year. On July 15, 1998, I chaired a hearing on this legislation before the full Commerce Committee. Two weeks later, S. 2107 was marked up in the Committee with several modifications. On a voice vote, the bill as amended was ordered to be reported.

When the Senate returned to session after the August recess, a unanimous consent agreement was propounded on S. 2107. This unanimous consent request brought the bill to the attention of Senator THOMPSON, the Chairman of the Government Affairs Committee. Senator THOMPSON had concerns with the bill because of the extent to which it dealt with Federal agencies.

Despite the time constraints—the session was expected to end in two weeks—Senator THOMPSON generously offered to work with me to address some of his committee's concerns and ensure that the bill as offered did not conflict with current mandates on the Executive. Over the course of the last week in September, Senator THOMPSON and I modified S. 2107 to address the concerns raised in his committee. On Tuesday, October 7, S. 2107 as amended was added as an amendment to S. 442 by unanimous consent.

The Internet Tax Freedom Bill passed the Senate on October 8 and was sent to the House for consideration. However, because the House did not agree with some of the language contained in the bill, House Members proposed adding the text of the House passed Internet Tax Freedom Bill to the omnibus rather than passing S. 442 as amended.

On October 15th, the Senate passed S. 2107 independent of other vehicles. On the same day, the text of S. 2107 was included in the omnibus appropriations bill. The next day, October 16th, the Omnibus Appropriations bill was passed by Congress with the text of the Government Paperwork Elimination Act included therein.

This legislation 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.

In order to protect the private sector and ensure a level playing field for companies competing in the development of electronic signature technologies, this legislation 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 in order to ensure that no one industry or technology receives favorable consideration. It 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 the public is going to send money or share private information with the government, people 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 the 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 or with the prior consent of the individual. Also included is legislation which establishes 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 it, electronic submission of sensitive documents would be impossible. Finally, the Government Paperwork Elimination Act requires that Federal agencies to send an individual 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 who conduct business with the government electronically.

As much as individuals will benefit from this bill, 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 in excess of \$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. I ask unanimous consent that a statement of intent for the Government Paperwork Elimination Act be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, AS FOLLOWS:

STATEMENT OF INTENT ON THE GOVERNMENT PAPERWORK ELIMINATION ACT—SENATOR ABRAHAM, Senator WYDEN, Senator MCCAIN  
I. PURPOSE OF THE GOVERNMENT PAPERWORK ELIMINATION ACT

The Act, as reported, would require Federal agencies to make electronic versions of their forms available online and would allow individuals and businesses to use electronic signatures to file these forms electronically. The intent of the bill is to provide a framework for reliable and secure electronic transactions with the Federal government, while remaining "technology neutral" and not inappropriately favoring one industry over another.

II. BACKGROUND AND NEEDS

The widespread use and world-wide accessibility of the Internet provides the opportunity for enhanced electronic commerce

and substantial paperwork reduction. State governments, industry, and private citizens have already embraced the electronic medium to conduct public and private business. Allowing businesses and individuals to conduct their affairs with the Federal government within a stable legal framework would save financial resources by eliminating burdensome paperwork and bureaucracy.

The widespread use of electronic forms can greatly improve the efficiency and speed of government services. Such efforts as people traveling to government offices for forms would no longer be required. If implemented, the bill would save the government million of dollars in cost associated with such things as copying, mailing, filing and storing forms.

Electronic signatures can offer greater assurances that documents are authentic and unaltered. They minimize the chances of forgeries or people claiming to have had their signatures forged.

An electronic signature is a method of indicating that a particular person has originated and approved the contents of an electronic document. There are a wide array of electronic signature technologies currently available, which range from simply typing one's name on an electronic document or e-mail, to scanning a handwritten signature as a bitmap and copying it onto an electronic document. More technologically complex versions of electronic signatures involve the analysis of physical characteristics (biometrics) such as fingerprints, retina scans, and the biometrics of an actual signature to digitally verify the signer's identity. The widely referred-to "digital signature" is slightly different, and is merely one type of electronic signature which often, although not always, involves the use of trusted third parties.

Security levels for all electronic signatures vary according to the technology used. Simply typing a name on a document offers no security protection, and cannot be verified as unique to the originator. Bitmaps, which are digital versions of handwritten signatures, require large amounts of memory, are vulnerable to copying or pasting, and cannot be used to accurately tie the document to the signature. Electronic signature technologies which use biometric analysis offer a higher level of security. Digital signatures and the use of licensed third parties also yield a higher degree of security.

Several states have enacted electronic signature legislation with varying scopes and legal requirements. Some states have chosen to limit the scope of the law to transactions with state or public entities, or even to more specific purposes such as court documents, medical records, and state treasurer checks and drafts. Other states have applied their statutes to private as well as public transactions. State statutes also have varying technology requirements which highlight the potential for future compatibility and interoperability problems.

III. SUMMARY OF MAJOR PROVISIONS

As reported, the Government Paperwork Elimination Act would provide a legal framework and time line for electronic transactions between individuals and businesses and the Federal government. Major provisions of the Act, as reported, include:

1. Each Federal agency would be required to make electronic versions of their forms available for electronic submission. Such electronic submission would be supported by guidelines issued by the Director of Office of Management and Budget (OMB) and the National Telecommunications Information Administration.

2. The bill establishes the following time lines:

(1) At 18 months, the Secretary of Commerce will report on the bill's effect on elec-

tronic commerce and individual privacy, agencies will make electronic forms available for downloading and printing, agencies will permit employers to store Federal forms electronically, and agencies will establish policies and procedures for implementation of this Act.

(2) At 60 months, final implementation deadline.

3. The bill provides definitions of key terms, and specifies under what circumstances, and in what special cases, an agency is not required to provide for the electronic submission of forms.

IV. LEGISLATIVE HISTORY

The Government Paperwork Elimination Act, S.2107, was introduced by Senator ABRAHAM on May 21, 1998. The bill was cosponsored by Senator WYDEN, Senator MCCAIN, and Senator REED. In June 1998, Senator LOTT, Senator COCHRAN, and Senator BURNS were added as co-sponsors to the bill. On July 15, 1998 the Commerce Committee held a hearing on digital signatures at which time testimony was heard from Mr. Andrew Pincus, General Counsel, Department of Commerce; Mr. Scott Cooper, Manager, Technology Policy, Hewlett Packard; Mr. Kirk LeCompte, Vice President, Product Marketing, PenOp Inc.; and Mr. Dan Greenwood, Deputy General Counsel, Information Technology Division, The Commonwealth of Massachusetts.

On July 29, 1998 the Committee met in executive session and, by a voice vote, ordered the bill, as amended, to be reported.

On September 17, 1998 the bill was reported to the Senate with an amendment in the nature of a substitute by the Senate Committee on Commerce, Science and Transportation and placed on the Senate Legislative.

On October 7, 1998, the bill was added as amendment # 3678 to S. 442, the Internet Tax Freedom Act by unanimous consent.

On October 8, 1998, the Internet Tax Freedom Act was passed by the Senate and sent to the House of Representatives.

On October 15, 1998, S.2107 was passed in the Senate by unanimous consent.

On October 21, the bill passed the Senate as part of the Omnibus Appropriations Act.

V. PRIVACY

This legislation will not have an adverse impact on the privacy of individuals. The Director of the Office of Management and Budget, in cooperation with the Administrator of the National Telecommunications Information Administration will conduct an ongoing study of the Act's impact on individual privacy.

VI. PAPERWORK

This legislation will not increase the paperwork requirement for private individuals or businesses. The legislation would require two reports: (1) the Secretary of Commerce would be required to submit to Congress a report on the Act's effect on electronic commerce and individual privacy; and (2) the General Accounting Office would be required to submit to Congress a report on agencies' policies, procedures, and timeliness for the implementation of this Act.

VII. SECTION-BY-SECTION ANALYSIS OF THE GOVERNMENT PAPERWORK ELIMINATION ACT  
TITLE XVII GOVERNMENT PAPERWORK ELIMINATION ACT

Section 1. This section would permit the bill to be cited as the "Government Paperwork Elimination Act."

Section 2. Authority of OMB to Provide For Acquisition And Use Of Alternative Information Technologies By Executive Agencies. Amends current law to provide for the availability of electronic submission as a substitute for paper and for the use and acceptance of electronic signatures.

Section 3. Procedures For Use And Acceptance Of Electronic Signatures By Executive Agencies. Subsection (1) would require the Office of Management and Budget, in consultation with the National Telecommunications Information Administration to develop procedures for the use and acceptance of electronic signatures by Executive agencies.

Subsection (2) establishes the requirements for these procedures. Paragraph (i) would ensure that these procedures would be compatible with those used in the commercial and State government sectors. Paragraph (ii) would require that these procedures would not inappropriately favor one industry or technology. The intent of the bill is for the government to remain "technology neutral." And, so as not to prescribe one electronic signature security level for all documents, paragraph (iii) would allow the security level to be commensurate with the document's sensitivity. Paragraph (iv) would require agencies to electronically acknowledge the submission of electronic forms. Paragraph (v) would require agencies to ensure multiple methods of electronic submission when it expects to receive 50,000 electronic submittals of a particular form, paragraph E would require the agency to make multiple electronic signature formats available for submitting the forms. To further ensure technology neutrality, "multiple methods" are required when a form is submitted in substantial enough volume so that the government does not favor a particular technology provider by accepting only one electronic signature technology.

The intent of the bill is not to mandate the use of a particular technology. Rather, the bill is intended to be technology neutral leaving open the possibility that a wide variety of existing technologies or technologies that will be developed in the future may be used by the Federal government in satisfying the requirements of this bill.

Section 4. Deadline For Implementation By Executive Agencies Of Procedures For Use And Acceptance Of Electronic Signatures. Requires that, when practicable, Federal forms must be available for electronic submission, with electronic signatures within 60 months after enactment.

Section 5. Electronic Storage And Filing Of Employment Forms. After 18 months from enactment, the Office of Management and Budget shall develop procedures to permit employers that are required by law to collect, file and store Federal forms concerning their employees, to collect, file and store the same forms electronically.

Section 6. Study On Use Of Electronic Signatures. This section would require the Director of the Office of Management and Budget, in cooperation with the National Telecommunications Information Administration to conduct an ongoing study on how this bill affects electronic commerce and individual privacy. A periodic report describing the results shall be submitted to the Congress.

Section 7. Enforceability and Legal Effect of Electronic Records.

This section stipulates that electronic records, or electronic signatures or other forms of electronic authentication, submitted in accordance with agency procedures, will not be denied legal effect, validity or enforceability because they are in electronic form. This provision is intended to preclude agencies or courts from systematically treating electronic documents and signatures less favorably than their paper counterparts.

Section 8. Disclosure Of Information. This section is intended to protect the privacy of individuals who submit information electronically to Federal agencies. Information

submitted by individuals may only be used to facilitate electronic communications between that individual and the agency and may not be disclosed by agency employees without the affirmative consent of that individual. This section is not intended to supersede current law in this area.

Section 9. Application With Other Laws. This section would exempt the Internal Revenue Service (IRS) and the Department of the Treasury from the provisions in this Act, when in conflict with the administration of internal revenue laws or conflicts the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986. The IRS collection process should also be exempted from this Act.

Section 10. Definitions. This section would provide the definitions of several key terms used throughout this bill.

#### CHARITABLE CHOICE

Mr. ASHCROFT. Mr. President, recently, both the House and Senate voted unanimously to pass the conference report on S. 2206, the "Coats Human Services Reauthorization Act of 1998." During House debate on the conference report, some members expressed concerns regarding bill language described as the "charitable choice" provision, which is similar to language I drafted for the welfare reform law passed in the 104th Congress and signed by the President in August of 1996.

As I have said in a previous floor statement, the charitable choice provision will expand the opportunities for private, charitable, and religious organizations to serve their communities with Community Services Block Grant (CSBG) funds. This provision expresses the judgment of Congress that these organizations can play a crucial role in helping people out of poverty through the CSBG program.

I am confident that the charitable choice language in the Community Services Block Grant reauthorization is constitutional and represents sound public policy. However, I want to respond to the comments made regarding this provision, as critics of the provision seem to overlook recent case law of the Supreme Court regarding this issue, and even mischaracterize certain sections of the charitable choice provision.

First, most of the concerns expressed by certain House members are based upon case law that does not represent the current jurisprudence of the Supreme Court. In recent years, the general trajectory of the Supreme Court's Establishment Clause cases has been in the direction of what constitutional scholars describe as "neutrality theory." Under this theory, private organizations are eligible to provide government-funded services to beneficiaries through contracts, grants, or vouchers without regard to religious character. Moreover, there are serious constitutional problems when the government screens potential service providers based upon religious beliefs and practices—which is what the critics of charitable choice want to do.

The charitable choice provision in the 1996 welfare reform law and the Child Care Development Block Grant Program of 1990 conform to the principle of religious neutrality. Under the first legislation, charitable and faith-based organizations are eligible, on the same basis as all other non-governmental organizations, to receive federal funds to provide services to welfare recipients. Similarly, the child care law allows low-income parents to choose among an array of private providers—including religious ones—in obtaining federally funded day care services.

The test the Supreme Court has used over the years to analyze Establishment Clause cases has been the "Lemon test," which has the two-fold requirement that the government action in question must have a valid secular legislative purpose, and a primary effect that neither enhances nor inhibits religion. (In the recent case of *Agostini v. Felton*, the Court took the third prong, the "entanglement" analysis, and folded it into the second prong of the test). The first prong, requiring a valid secular purpose, is usually not subject to much controversy, as the Court has been highly deferential to the legislature's action. In its review of the Adolescent Family Life Act (AFLA), for example, the Court noted that the "provisions of the statute reflect at most Congress' considered judgment that religious organizations can help solve the problems to which the AFLA is addressed. Nothing in our previous cases prevents Congress from making such a judgment or from recognizing the important part that religion or religious organizations may play in resolving certain secular problems."

The serious debate generally concerns the second prong of the Lemon test, namely, whether the "primary effect" of these social welfare initiatives is to advance religion. In neutrality theory, Lemon's primary-effect inquiry is accomplished by examining how a service provider actually spends the program monies. Obviously, the test is whether funds are being spent in accordance with the valid secular purposes set out in the governing statute, and as expressed in the service contract or grant at issue. These purposes necessarily exclude use of the monies for inherently religious programming.

On the other hand, critics of charitable choice would argue that the primary-effect inquiry should focus on whether a service provider is religious in character, and if so, how religious. An organization found "too religious" is dubbed "pervasively sectarian," thereby disqualifying the organization as a provider of government-funded services.

In recent years, the Supreme Court has been moving away from this "too religious" versus "secular enough" inquiry, and toward the neutrality approach. Two of the Court's most recent pronouncements on this issue are