November 19, 1999

CONGRESSIONAL RECORD—SENATE

31115

(1) ELECTRONIC.—The term “electronic” means a technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities.

(2) ELECTRONIC AGENT.—The term “electronic agent” means an electronic record or electronic document that is logically associated with a record and executed or adopted by a person with the intent to sign the record.

(5) GOVERNMENTAL AGENCY.—The term “governmental agency” means an executive, legislative, or judicial agency, department, board, commission, authority, or institution of the Federal Government or of a State or of any county, municipality, or other political subdivision of a State.

(6) RECORD.—The term “record” means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(7) TRANSACTION.—The term “transaction” means an action or set of actions relating to the conduct of commerce, between 2 or more persons, whether of which is the United States Government, a State, or an agency, department, board, commission, authority, or institution of the United States Government or of a State.

(8) UNIFORM ELECTRONIC TRANSACTIONS ACT.—The term “Uniform Electronic Transactions Act” means the Uniform Electronic Transactions Act as provided by State laws by the National Conference of Commissioners on Uniform State Laws in effect in a State.

SEC. 5. INTERSTATE CONTRACT CERTAINTY.

(a) IN GENERAL.—In any commercial transaction affecting interstate commerce, a contract may not be denied legal effect or enforceability solely because an electronic signature or electronic record was used in its formation.

(b) METHODS.—Parties to a transaction are permitted to determine the appropriate electronic signature technologies for their transaction, and the means of implementing such technologies.

(c) PRESENTATION OF CONTRACTS.—Notwithstanding subsection (a), if a law requires that a contract be in writing, the legal effect or enforceability of an electronic record of such contract shall be denied under such law, unless it is delivered to all parties to such contract in a form that a reasonable person in its customary business practice would accept as providing such effect or enforceability.

(d) SPECIFIC EXCLUSIONS.—The provisions of this section shall not apply to a statute, regulation, or rule of law governing any of the following:

(1) The Uniform Commercial Code, as in effect in a State, other than sections 1-107 and 1-206, Article 2, and Article 2A of such Code;

(2) Premarital agreements, marriage, adoption, divorce or other matters of family law;

(3) Documents of title which are filed of record in a governmental unit until such time that a state or subdivision thereof chooses to accept filings electronically, and

(4) Residential landlord-tenant relationships.

(5) The Uniform Health-Care Decisions Act as in effect in a State.

(6) ELECTRONIC AGENTS.—A contract relating to a commercial transaction affecting interstate commerce may not be denied legal effect or enforceability solely because its formation involved—

(1) the interaction of electronic agents of the parties; or

(2) the interaction of an electronic agent of a party and an individual who acts on that individual’s own behalf or as an agent for another person.

(f) INSURANCE.—It is the specific intent of the Congress that this section apply to the insurance industry.

(g) APPLICATION IN UETA STATES.—This section does not apply in any State in which the Uniform Electronic Transactions Act is in effect.

SEC. 6. PRINCIPLES GOVERNING THE USE OF ELECTRONIC SIGNATURES IN INTERNATIONAL TRANSACTIONS.

To the extent practicable, the Federal Government shall observe the following principles in an international context to enable commercial electronic transactions:


(2) Permit parties to a transaction to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced.

(3) Permit parties to a transaction to have the opportunity to prove in court or other proceedings that their authentication approaches and their transactions are valid.

(4) Take a non-discriminatory approach to electronic signatures and authentication methods from other jurisdictions.

SEC. 7. STUDY OF LEGAL AND REGULATORY BARRIERS TO ELECTRONIC COMMERCE.

(a) BARRIERS.—Each Federal agency shall, not later than 6 months after the date of enactment of this Act, provide a report to the Director of the Office of Management and Budget and the Secretary of Commerce identifying any provision of law administered by such agency, or any regulations issued by such agency and in effect on the date of enactment of this Act, that may impose a barrier to electronic transactions, or otherwise to the conduct of commerce online or by electronic means, including barriers imposed by a law or regulation directly or indirectly requiring that signatures, or records of transactions, be obtained or retained in an electronic form. In its report, each agency shall identify the barriers among those identified whose removal would require legislative action, and shall indicate agency plans to undertake regulatory action to remove such barriers among those identified as are caused by regulations issued by the agency.

(b) REPORT TO CONGRESS.—The Secretary of Commerce, in consultation with the Director of the Office of Management and Budget, shall, within 18 months after the date of enactment of this Act, report to the Congress concerning—

(1) legislation needed to remove barriers to electronic transactions in order to facilitate the conduct of commerce online or by electronic means; and

(2) actions being taken by the Executive Branch with respect to the individual Federal agencies to remove such barriers as are caused by agency regulations or policies.

(c) CONSULTATION.—In preparing the report required by this section, the Secretary of Commerce shall consult with the General Services Administration, the National Archives and Records Administration, and the Attorney General concerning matters involving the authenticity of records, their storage and retention, and their usability for law enforcement purposes.

(d) OPEN FINDINGS IF NO RECOMMENDATIONS.—If the report required by this section omits recommendations for actions needed to fully remove identified barriers to electronic transactions or to online or electronic commerce, it shall include a finding or findings, including substantial reasons therefor, that such removal is impracticable or would be inconsistent with the implementation or enforcement of applicable laws.

CHURCH PLAN PARITY AND ENTANGLEMENT PREVENTION ACT OF 1999

SESSIONS (AND JEFFORDS) AMENDMENT NO. 2788

Ms. COLLINS (for Mr. SESSIONS (for himself and Mr. JEFFORDS)) proposed an amendment to the bill (S. 1309) to amend title I of the Employee Retirement Income Security Act of 1974 to provide for the preemption of State law in certain cases relating to certain church plans; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PURPOSE.

The purpose of this Act is only to clarify the application to a church plan that is a welfare plan of State insurance laws that require or sole relate to licensing, solvency, insolvency, or the status of such plan as a single employer plan.

SEC. 2. CLARIFICATION OF CHURCH WELFARE PLAN STATUS UNDER STATE INSURANCE LAW.

(a) IN GENERAL.—For purposes of determining the status of a church plan that is a welfare plan under provisions of a State insurance law described in subsection (b), such a church plan (and any trust under such plan) shall be deemed to be a plan sponsored by a single employer that reimburses costs from general church assets, or purchases insurance coverage with general church assets, or both.

(b) STATE INSURANCE LAW.—A State insurance law described in this subsection is a law that—

(1) requires a church plan, or an organization described in section 41(e)(3)(A) of the Internal Revenue Code of 1986 and section 33(3)(C)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(33)(C)(i)) to the extent that it is administering or funding such a plan, to be licensed; or

(2) relates solely to the solvency or insolvency of a church plan (including participation in State guaranty funds and associations).

(c) DEFINITIONS.—For purposes of this section:

(1) CHURCH PLAN.—The term “church plan” has the meaning given such term by section 41(e) of the Internal Revenue Code of 1986.
and section 3(33) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(33)).

(2) **Reimburse Costs from General Church Assets.**—The term “reimburse costs from general church assets” means engaging in an activity that is not the spreading of risk solely for the purposes of the provisions of State insurance laws described in subsection (b).

(3) **Welfare Plan.**—The term “welfare plan” means any plan to the extent that such plan provides medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, death or unemployment, or vacation benefits, apprenticeship or other training programs, or day care centers, scholarship funds, or prepaid legal services; and shall not otherwise be construed to recharacterize the status, or modify or affect the rights, of any plan participant or beneficiary, including participants or beneficiaries who make plan contributions.

**Legislation to Amend the Consolidated Farm and Rural Development Act to Improve Shared Appreciation Arrangements**

**Burns Amendment No. 2789**

Ms. Collins (for Mr. Burns) proposed amendment to the bill (S. 961) to amend the Consolidated Farm And Rural Development Act to improve shared appreciation arrangements; as follows:

Strike all after the enacting clause and insert the following:

**Section 1. Shared Appreciation Arrangements**

(a) **In General.**—Section 335(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(e)) is amended by striking paragraph (2) and inserting the following:

(2) **Shared Appreciation Agreement.**—The shared appreciation agreement entered into by a borrower under this subsection shall—

(A) have a term not to exceed 10 years;

(B) provide for recapture based on the difference between—

(i) the appraised value of the real security property at the time of restructuring; and

(ii) the appraised value of the real security property by the borrower after the time of restructuring;

(c) allow the borrower to obtain a loan, in addition to any other outstanding loans under this title, to pay any amounts due on a shared appreciation agreement, at a rate of interest that is not greater than the rate of interest on outstanding marketable obligations of the United States of a maturity comparable to that of the loan.

(b) **Application.**—The amendment made by subsection (a) shall apply to a shared appreciation arrangement entered into under section 335(e) of the Consolidated Farm and Rural Development Act (7 U.S.C. 2001(e)) that matures on or after the date of enactment of this Act.

**Digital Theft Deterrence and Copyright Damages Improvement Act of 1999**

**Hatch and Leahy Amendment No. 2790**

Ms. Collins (for Mr. Hatch) proposed an amendment to the bill (S. 1257) to amend statutory damages provisions of title 17, United States Code; as follows:

On page 1, line 2, insert “Digital Theft Deterrence and” before “Copyright”.

On page 2, strike lines 2 through 26 and insert the following:

Within 120 days after the date of enactment of this Act, or within 120 days after the first date on which there is a sufficient number of voting members of the Sentencing Commission to constitute a quorum, which is a sufficient number of voting members of the Sentencing Commission to constitute a quorum, which ever is later, the Commission shall promulgate emergency guide-line amendments to implement section 2(g) of the No Electronic Theft (NET) Act (28 U.S.C. 994 note) in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987, as though the authority under that Act had not expired.

**Condemning the Violence in Chechnya**

**Helms Amendment No. 2791**

Ms. Collins (for Mr. Helms) proposed an amendment to the preamble of the resolution (S. Res. 223) condemning the violence in Chechnya; as follows:

In the second whereas clause of the preamble, strike “is” and insert “are”.

**Designating “National Biotechnology Week”**

**Grams Amendment No. 2792**

Ms. Collins (for Mr. Grams) proposed an amendment to the resolution (S. Res. 200) designating the week of February 14-20 as “National Biotechnology Week”; as follows:

In the Heading of S. Res. 200: strike “the week of February 14-20” and insert “February 14-20” and insert “January 2000;” strike the word “week” and insert “Month.”

On page 2, line 2 strike “the week of February 14-20;” and insert “January.”

On page 2, line 3, strike “Week” and insert “Month.”

On page 2 line 7, strike the word “week” and insert “Month.”


McConnell and Robb Amendment No. 2793

Ms. Collins (for Mr. McConnell) proposed amendment to the concurrent resolution (H. Con. Res. 221) authorizing printing of the brochures entitled “How Our Laws Are Made” and “Our American Government,” the pocket version of the United States Constitution, and the document-sized, annotated version of the United States Constitution; as follows:

Strike all after the enacting clause and insert the following:

**Section 1. Our American Government.**

(a) **In General.**—The 1999 revised edition of the brochure entitled “Our American Government” shall be printed as a House document under the direction of the Joint Committee on Printing.

(b) **Additional Copies.**—In addition to the usual number, there shall be printed the lesser of—

(1) 550,000 copies of the document, of which 440,000 copies shall be for the use of the House of Representatives, 100,000 copies shall be for the use of the Senate, and 10,000 copies shall be for the use of the Joint Committee on Printing; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $412,873, with distribution to be allocated in the same proportion as described in paragraph (1), except that in no case shall the number of copies be less than 1 per Member of Congress.

**Sec. 2. Document-Sized, Annotated United States Constitution**

(a) **In General.**—The 1999 edition of the document-sized, annotated version of the United States Constitution shall be printed as a House document under the direction of the Joint Committee on Printing.

(b) **Additional Copies.**—In addition to the usual number, there shall be printed the lesser of—

(1) 550,000 copies of the document, of which 440,000 copies shall be for the use of the House of Representatives, 100,000 copies shall be for the use of the Senate, and 10,000 copies shall be for the use of the Joint Committee on Printing; or

(2) such number of copies of the document as does not exceed a total production and printing cost of $903,318, with distribution to be allocated in the same proportion as described in paragraph (1), except that in no