United States of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 105th CONGRESS, SECOND SESSION

Vol. 144 WASHINGTON, MONDAY, OCTOBER 5, 1998 No. 137

Senate

(Legislative day of Friday, October 2, 1998)

The Senate met at 11 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

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

Almighty God, Sovereign of this Nation and Lord of our lives, grant us Your peace for the pressures of this week. May Your peace keep us calm when tensions mount and serene when strain causes stress. Remind us that You are in control and that there is enough time to do what You want us to accomplish.

Fill this Senate Chamber with Your presence. May we hear Your whisper in our souls, ''Be not afraid; I am with you.'' Bless the women and men of this Senate with a special measure of Your strength for the demanding schedule ahead. Through our Lord and Savior. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

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

SCHEDULE

Mr. ASHCROFT. Mr. President, this morning the Senate will be in a period for morning business until 2 p.m. Following morning business, it will be the leaders' intention to begin consideration of the agriculture appropriations conference report under a short time agreement. The Senate may also resume consideration of S. 442, the Internet tax bill. At 5:30 p.m., under a previous order, the Senate will vote on the motion to invoke cloture on the motion to proceed to H.R. 10, the financial services modernization bill.

Further votes could occur following the cloture vote in relation to the motion to proceed, and if consent is granted, a vote on or in relation to the agriculture conference report, the Internet tax bill, or any other legislative or executive items cleared for action.

Members are reminded that a cloture petition was filed on Friday to the Internet tax bill. That vote will occur immediately following the adoption of the motion to proceed to the financial modernization bill, if cloture is invoked today at 5:30 p.m.

In addition, as a result of cloture being filed on the Internet bill on Friday, members have until 1 p.m. today to file first-degree amendments to the Internet bill.

Mr. President, finally, I ask unanimous consent that the time under the control of Senator MACK begin at 12 noon today.

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

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

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

MORNING BUSINESS

The PRESIDING OFFICER. The Senate will now proceed to a period for the transaction of morning business until 2 p.m., with Senators permitted to speak for up to 10 minutes with the following exceptions: The Senator from Missouri controls the time until 12 noon; the Senator from Florida, Mr. MACK, 15 minutes; the Senator from Montana, Mr. BAUCUS, controls the time from 1 p.m. until 2 p.m.

The Senator from Missouri.

Mr. ASHCROFT. Mr. President, thank you.

TAX CUTS

Mr. ASHCROFT. Mr. President, I am pleased to have this opportunity to begin a discussion today which should clarify some of the competing rhetoric and certainly some of the misinformation that is being spoken about the potential for tax cuts in our culture.

We are taxed at the highest rates in history. Never before have the American people been asked to devote so much of their hard-earned resources to government. Yet there are lots of statements made about the incapacity of this government to afford tax cuts to the American people, to give them some more of what they have earned in return for their hard work.

I rise today to speak the truth about tax cuts, to speak the truth about the so-called emergency spending, about Social Security, and about the budget surplus. A group of like-minded Senators and I have been engaged in a long and arduous fight to return to the American taxpayers more of their own money. We are here to announce that we are not giving up that fight. It may now be clear that the Senate will not be passing a tax cut this year.

Even if the majority leader were to bring the House-passed bill to the floor, there are just too many Members, big spenders, if you will, who are more interested in spending the surplus than returning the surplus to the rightful owners—those who generated the surplus. I only wish the advocacy groups who attack tax cuts would be honest enough to criticize the President and the other big spenders as they spend the surplus on more and more government programs and projects.

Senators INHOFE, GRAMS, BROWNBACK, BOB SMITH and I have waged a long battle, battle after battle, as a matter of

fact, since May of this year, when we opposed the Senate Budget Committee resolution, because it contained only $30 billion in tax cuts over the next 5 years. Because of our strong and vocal opposition to that particular measure, our leadership made a commitment to us to fight for more tax relief, to adopt the House-passed tax cut number, to make eliminating the marriage penalty a priority of the Senate in a tax cut bill, and to move the budget reconciliation package so that tax cuts would be protected.

In June, the House did pass a budget resolution that included $101 billion in tax relief. The other Senators and I, in accordance with the previous agreement with the leadership of this House, assumed that this would be the amount of tax relief that would be delivered to hard-working Americans this year. You have $101 billion in the House and an agreement by the Senate that it will go to the House figure; you would think you would be able to get to $101 billion.

As the August recess loomed before us, the tax cuts remained elusive. That is why on July 17, a group of Senators and I came to the floor during consideration of the legislative branch appropriations bill and attempted to add a marriage penalty elimination amendment to that bill. To eliminate the marriage penalty would effectively reduce taxes for about 21 million couples who are penalized simply because they are married. Our point was simple and clear: Congress should not receive the funding under the legislative branch appropriations before the American people got the opportunity to keep a reasonable amount of what they earned. Why give all the money that Congress wants to Congress while we don't honor the need for the American people to fund their families?

We were prevented from offering our amendment at that time by the Democrats. We came back 2 weeks later while this body was considering the Treasury-Postal Services appropriations bill and we offered our amendment again. Our amendment would have eliminated the unfair and discriminatory marriage penalty, that extra tax that people pay just because they are married, which affects 21 million American families to the tune of about $29 billion a year.

We did not rely on spending the surplus in order to advocate that tax cut. We called for reductions in spending. We said that the Government has been on a budget high in fat for too long, it is time for us to provide the people with some relief, and we should do that by cutting spending. So we called for reductions in spending to offset the reduced revenues that would have come as a result of the tax cut.

On July 29, a majority of the individuals serving in this Senate voted in favor of eliminating the marriage penalty when they voted not to table our amendment. A majority of the Senate said that it is time to stop imposing Washington's values on the people and start imposing the people's values on Washington. The marriage penalty is perhaps one of the best examples of an elitist Washington imposing its values on the principles of the American people. We know that the American people understand the value of marriage and families in our culture. We know that they understand that if we expect to succeed in the next century, if we don't want to sink, if we want to swim, we had better make it possible for families to meet their needs. One way to do that is to stop penalizing people for being families, and we ought to do that.

Unfortunately, we had to withdraw the amendment because of the constitutional requirement that revenue bills originate in the House of Representatives. But the Senate did go on record supporting a marriage penalty elimination—this tax cut. A majority of this body voted to support eliminating the marriage penalty, but today we are facing the disappointing reality that the Senate will not pass, or probably will not even vote on, tax relief.

Much has been made about the surplus that is now attendant to the financial situation in Washington. Last week, the President happily announced that, for the first time in almost 30 years, the Federal budget is in balance—not just in balance, but there is a budget surplus of almost $70 billion. President Clinton even took credit for the balanced budget and the budget surplus.

Well, who is really responsible for the budget surplus? Was it the President and his party who voted for the largest tax increase in American history in 1993? Or was it the Republicans who made balancing the budget a national priority? Let me suggest that it wasn't the President, and let me suggest that it wasn't the Republicans, but that it was the American people who continued to work hard, to pay their taxes, continued to demand from their elected officials that we have some fiscal discipline. The American people should be credited with balancing the budget through their hard work, creativity, innovation, and their industry. Government doesn't generate revenue, it doesn't create wealth, people do, when they work hard.

Make no mistake, the Federal budget surplus is up because Federal income taxes are up. Income tax revenues have increased $83.7 billion, or 11 percent, just since last year. Where do those tax revenues come from? They come from the American people.

The President's record on taxes is threefold: Increase, increase, and increase. He has not proposed cutting taxes. Rather, his latest budget proposed increasing taxes by $100 billion over the next 5 years. Americans pay more in taxes today than they have in any other time in our history. President Clinton raised taxes by $242 billion in 1993, the largest hike in U.S. history, and sought to increase them another $290 billion as part of his plan to nationalize the Nation's health care system in 1994. And he sought to increase taxes by another $500 billion-plus this year as part of a tobacco tax bill. In 1995, he vetoed the first major tax cut since Ronald Reagan was President. We all remember when the President mused aloud about his 1993 tax increase. He put it this way: ''It might surprise you to know that I think I raised them too much, too.''

Well, frankly, I believe the President is right that he raised taxes too much. If we raised taxes too much, wouldn't it behoove us to begin to settle the account and start to let the American people have some of their hard-earned resources for expenditure in their families? It is one thing to confess that you raised taxes too much; it is another thing to develop another plan to spend all that you raised when you raised too much. If he really believes we raised taxes too much, we should give some of these hard-earned resources back. The President seems to have forgotten that it is the American people who have led us to this budget surplus. It is their money, not our money.

Mr. President, I have not forgotten this key fact. That is why I am here today—to say to the American people that they deserve not to have their money squandered on more Government, but they deserve a return on their investment—a return in the form of tax relief that is funded by reducing the spending of a Government addicted to a high-fat diet. This Government should be involved in reducing its invasion of the American culture with more and more Government and thereby consuming more and more of what families need to meet their needs.

Now, the President has a plan, but his plan is to spend the surplus. When it became clear earlier in the year that the fiscal discipline the Republican Congress had demanded from the President would result in a budget surplus, the President made a statement in his State of the Union Address which he has repeated numerous times since then. He said this, and I have this statement on a chart here:

> But whether the issue is tax cuts or spending, I ask all of you to meet this test: Approve only those priorities that can actually be accomplished without adding a dime to the deficit. Now, if we balance the budget for next year, it is projected that we will then have a sizable surplus in the years that immediately follow. What should we do with this projected surplus? I have a simple four-word answer: Save Social Security first. Tonight, I propose that we reserve 100 percent of the surplus—that's every penny of any surplus—until we have taken all the necessary measures to strengthen the Social Security system for the 21st century.

That is quite a statement. It is a bold statement. The President has used this statement to attack our plan to eliminate the marriage penalty and provide tax relief. He has used this sort of suggestion that we will just have to save Social Security and therefore you can't have any tax relief for the American people—a tax relief package that we

were and are prepared to pay for out of reduced spending. But has the President attempted to keep his pledge to use every penny to save Social Security? There is only one answer. That answer is a resounding no.

Only days after his Social Security pledge, he sent a budget to Congress that contained $150 billion in new spending, according to the Senate Budget Committee. Without that new spending, the surplus would have been $150 billion larger—hardly every penny of any surplus being used to save Social Security.

It seems like every week the President has proposed an additional new spending program. His fiscal year 1999 budget, submitted earlier in the year, contained $150 billion in new spending. Just last Thursday, the President was at it again. At a press conference at the White House, he repeated his call for $34 billion to run our schools from Washington and to take control of our children's education away from their parents and teachers with new Federal expenditures of resources that are hard-earned by the American people, which he won't allow them to keep to fund their families.

The President called for this new spending, as with all his spending requests, without a dime of offsetting savings. He is not talking about reallocating Federal expenditures, he is talking about increasing Federal expenditures. That means it can only be financed by dipping into the same surplus that he pledged would be spent for Social Security.

Every penny of any surplus—the President said, should be reserved until we have taken all the necessary measures to strengthen Social Security.

The President is gifted with language, so now we're redefining the phrase, every penny.

It reminds me of the fellow who sat down to dinner every night and put his finger in the wine glass and flipped a little wine off his fingers. His friend said to him, ''Why do you do that? Every night you come in, stick your finger in the wine glass, and you flip the wine off your finger.'' He said, ''Well, I promised my mother on her deathbed that I would never drink a drop of wine. And that is the drop I am not drinking.''

The truth of the matter is that the President has said we are going to devote every penny of the surplus to Social Security, and there are not any pennies there—just dollars, and billions of dollars. So we are free to spend the billions of dollars. Those are the pennies we are not saving but flipping them off our finger because they are not there.

In addition to all the increased spending that the President has asked for—spending that breaks the budget caps—this body will be called upon to vote for a package that includes at least $17.8 billion to pay for so-called emergencies—and I will go into what those quote-emergencies-unquote are shortly—that will be paid for out of the surplus.

The truth is, they have done nothing to save Social Security. They have no proposal. They tried to discredit tax cuts by saying cutting taxes would impair Social Security. They might impair some other invasive government programs but not Social Security. But this is a way of trying to fight against any reduction in government, any ability of this Senate to try to say to families you need to be able to fund your needs rather than just be used as workers to fund the ambitious schemes of spending and big government.

The truth is that the big spenders don't care about saving Social Security or balancing the budget. They care about reserving their ability to spend the taxpayers' money.

They do not want their ability to spend curtailed in any way—they want the amounts to continue to increase, and they want to stop any tax cut that infringes on their spending power.

They look at this surplus as an huge pot of money to finance all their pork barrel pet projects. There is no fiscal discipline here! There is only a strong commitment, an all consuming passion to prevent tax cuts at any expense—even if it means misleading the American people by their demagoguery about saving social security.

The President said he wanted to save Social Security; devote every penny. The President and the big spenders have feigned their concern for Social Security and fiscal responsibility. It is a mantra that has been repeated thousands of times—sort of a slogan that any time there is a problem, they run and hide behind the Social Security billboards. They stick their heads into the ground and yell, ''Social Security,'' so they can avoid dealing with issues that count.

I guess we can expect to hear that mantra another thousand more times in the next month preceding the election. But it is also clear that when we look at the President's record on Social Security reform, that he talks the talk but then takes a walk.

Despite promising to save Social Security first, the President has never proposed a plan to reform Social Security—not even hinted at it. Clinton's one and only proposal related to Social Security was to promote and to sign into law a $25 billion tax increase for some Social Security beneficiaries. For all his rhetoric, not one plan—not one concrete proposal—to preserve the Social Security program.

Social Security merely becomes a tool in his hand to try to divert attention from the opportunity to cut government spending and provide Americans with the opportunity to fund their families rather than to fund the bureaucracy.

While a series of bills have been introduced by Republicans and Democrats addressing Social Security solvency, Congress is still, to this day, waiting upon a plan from the President.

But the President has one goal, and that is to spend the surplus, and spend it as quickly as he can. Unfortunately, the President is not alone in this goal. It appears that a majority of the Senate is opposed to cutting taxes or cutting spending. They are only interested in one thing as well—stopping tax relief so that they can spend the surplus themselves.

The President has presented to the American people a false choice—he said it has to be either this or this—and it is a false choice. He has said it is a choice between saving Social Security and Squandering the Surplus on tax relief. But this is a misleading choice. It doesn't have to be one or the other. We can take the surplus, devote it to Social Security, and we can provide tax relief by cutting some of the spending that is wasteful and inappropriate by a bureaucracy which is bloated.

I believe we can do both. But only if we do not spend the surplus on increased government, as is currently being planned. Congress is planning to spend at least $17.8 billion of the surplus next week in the ''emergency supplemental'' bill. And we can be sure that the $17.8 billion figure will continue to grow exponentially by the time this Congress adjourns.

Mr. President, the Administration's spending requests during this Congress have become more than a bad habit. These requests reveal a consistent failure at responsible governance. Twenty billion dollars or more in ''emergency'' appropriations may be requested before this Congress adjourns.

Billions of these dollars will pay for expenditures the Administration knew it would incur. What are we talking about? These aren't surprise expenditures. These aren't emergencies that have come up. These are expenditures that have long been planned to be put into the emergency spending portion of the budget so they wouldn't come under the caps—so they wouldn't come under the normal limits that are related to balancing the budget.

First, the administration did not realize—according to this, if it is an emergency—the year 2000 would follow the year 1999. It requested $3.25 billion to clean up the year 2000 computer problem. Why wasn't that in the ordinary spending appropriations request?

DId anyone in the Administration have a calendar? Not only is the emergency designation of Y2K funding wrong, but experts in the field have informed my office that the Administration could have corrected this computing problem for far less money if the process had been stated earlier.

So instead, the administration proposes to raid the surplus and to spend money that could have been used to save Social Security.

Every penny? Maybe there haven't been any pennies, just dollars.

Second, the administration claims it did not know that we would continue to deploy troops in Bosnia next year. This is an ''emergency''—that somehow

the Bosnia deployment is unanticipated.

It has been apparent from the beginning of NATO's Implementation Force (IFOR) that American troops were there to stay much longer than the President had initially promised the American people three years ago.

In dispatching over 22,000 U.S. soldiers to participate in the NATO Bosnia mission in 1995 and 1996, the President told the American people that the mission would take about one year. Secretary of Defense William Perry and Chairman of the Joint Chiefs John Shalikashvili both confirmed the one-year duration of NATO's Implementation Force (IFOR). Secretary Perry testified before the House International Relations Committee that the total cost of the Bosnia mission would be about $2 billion.

Now, three years later, after two broken troop withdrawal deadlines and over $6 billion in cost, the Administration is seeking to fund this operation straight out of the surplus, which could be used, if we were to take the President at his word, to save Social Security. The President announced in December of 1997 that American troops would stay in Bosnia indefinitely, and yet he asked for an emergency appropriations of $1.9 billion for fiscal year 1999 operational costs.

Next the Administration proposed to spend the surplus that he proposed be used to save Social Security on building embassies overseas. Yet, after the tragic bombings of Kenya and Tanzania, the State Department could not even tell the Congress how much money they had spent to upgrade embassy security to meet standards set forth in the Inman Report of 1985. An effective accounting system to track these funds had not been established.

A failure to monitor where the money has been going is not the only problem. In recent years, the State Department has not even spent all the money appropriated by Congress for diplomatic security. In 1995 and 1996, the State Department failed to spend $100 million appropriated by Congress to enhance the security of U.S. overseas posts but now they want to raid the surplus in a so-called ''emergency.''

Mr. President, this administration has not managed fiscal resources in a manner which inspires confidence. The administration will spend over $550 billion in discretionary spending under the budget agreement, but instead of paying for these new spending requests from some other part of the budget, the administration wants to raid the surplus that would save Social Security.

The real outrage is that the President plans to spend the surplus, not to preserve Social Security. The truth is that the President and some in the Congress have misled the American people about their plans for the surplus. They have no intention of saving the surplus to fix Social Security. They have no plan to fix Social Security. Their plan is to spend the surplus on fake emergencies and increase spending. They are unwilling to use the budget process to live within the budget caps to finance their spending, so they categorize items as emergencies so that they don't have to exist within the framework and discipline that would characterize any family's budget. We have caps on our spending at home. We have limits on what we can take and spend. We can't decide we are going to call something an emergency and create resources out of thin air. It can't be done by the American people. It shouldn't be done by the American President and Congress. So we, the Congress, end up denying hard-working Americans a tax cut and we scare senior citizens about the future of Social Security, and then they spend the surplus.

One of the things we end up spending the surplus on is pork projects. There are many additional spending items that are being talked about for the omnibus appropriations emergency spending behemoth. I do not mean to say all of these items are without merit. Indeed, there have been natural disasters, floods, embassy bombings and other occurrences which demand our attention and perhaps some additional funding. But to do it all in an emergency rather than to be addressing in the next funding year, very shortly anyhow, where we would put the funding in the stream of limits and discipline that the budget process imposes is to simply not do our job.

But even these events should not be used to excuse our willingness to deny tax relief or to spend the surplus. The Congress should find the money within the existing budget to pay for these items. As I said before, most of these items are not true emergencies. We have known about Bosnia for a long time. The need to increase our military's readiness we have known, and the Y2K computer problem we have known for years. But by labeling them emergencies, the President wants to use an accounting gimmick to spend the surplus, to spend it outside the normal budget process, and spend it in a way that does not affect the calculation under our spending caps. The fiscally disciplined way to deal with this is to work within the budget, to stop pork barrel spending, and to pay for these priorities.

Mr. President, I want to share with you some of the items contained in the fiscal year 1999 budget in various appropriations bills that the Congress thinks are more important than saving Social Security because they are willing to spend on this kind of pork.

Now, the Senator from Arizona, Mr. MCCAIN, has done the American people and this body a great service. He has gone through the appropriations bills and he has identified all the earmarked pork programs and put this information on his home page on the Internet. I recommend it to people who want to spend an evening getting a headache reading about additional Federal spending. Seriously, it is a list that is comprehensive and it is worth looking at. I have looked at the information. Let me share some of it with you. Here are some of the examples of what we are spending for this year, items that the big spenders obviously think are more important than Social Security because they are unwilling to cut these programs in order to save the surplus. If they really wanted these things, thought they were worth it, they should be willing to cut other spending. But they are willing to take them out of the surplus.

Believe you me, if this list of earmarked expenditures that Senator MCCAIN has on his web site were put up in big print, it would be a stack that would be substantial. Here are a couple things. Here is $3.3 million for the Shrimp Aquaculture project. And let me apologize to the Senate for calling it pork. This isn't pork. This is shrimp. But there is $3.3 million.

Here is another earmark. Wait a minute. Here is another one that is not pork, either. Pardon me. This is grasshoppers—$750,000 for grasshopper control research. Here is another—pardon me, not pork, not shrimp, not grasshoppers. Here is $150,000 to hire a new potato breeder. Here is $143,200 to continue subterranean termite research.

Well, we have gotten through virtually everything but pork. Let's see if we can find something related to pigs in the process. Obviously, this is political pork, whether or not it is pork in the nutritional sense. Here is $2 million to unspecified communities in southern California for planning associated with the National Communities Conservation Planning Program. So we have $2 million for communities to plan to be a part of a planning program. We might call it planning squared, I think—planning for planning. I suppose we could have some additional resources to help people plan for planning to plan. Here is an earmark of $1.1 million to rehabilitate priest quarters in an old schoolhouse in a national historic site; an earmark of $1 million for incinerator replacement; an earmark of $3.4 million to meet uncontrollable costs at a wildlife center located in Wisconsin. ''Uncontrollable costs'' may be a phrase that seems acceptable in government, but families don't allow for uncontrollable costs. We are not allowed to have uncontrollable costs.

So the bottom line is this. When we are willing to load up our bills with this kind of pork or termites or shrimp or grasshoppers or whatever else it is, it is not about tax cuts, and it is not about saving Social Security. It is about money. It is about spending. It is about power because he who has the money has the power. Someone said it is the Golden Rule: He who has the gold makes the rules. It is a power game here in Washington, and the big spenders just can't allow the American people to control their own money.

Last week, Federal Reserve Chairman Alan Greenspan appeared before

the Senate Budget Committee and was asked what in his opinion should be done with the surplus. Let's look at his remarks.

My first preference is to allow the surplus to reduce the debt. I am also, however, aware of the pressures that will exist to spend it.

This individual, who perhaps knows as much about Washington and knows as much about this country and its financial caps indicates he knows about . . .

. . . the pressures that will exist to spend it. And that in my judgment would be the worst of all outcomes. And if push came to shove and it was either to spend it or cut taxes, I would strongly and unequivocally be on the side of cutting taxes.

Alan Greenspan happens to know that the growth and intensity, the kind of opportunity that is presented in the American economy is curtailed when we have more and more spending, and that growth and opportunity is enlarged when we have people with more of their money to spend themselves through tax cuts.

That is why he says:

And if push came to shove and it was either to spend it or cut taxes, I would strongly and unequivocally be on the side of cutting taxes.

He stated that to spend the surplus would be the worst of all outcomes, but that is apparently what this President plans to do.

I am sad to inform you, Mr. President, that the worst of all outcomes is about to happen. The pressure to spend is just too strong. I am here today to set the record straight. We cannot let the surplus be spent on mislabeled emergencies and increased spending. We must demand fiscal discipline from this Congress. We should demand truth to senior citizens about the fate of the surplus, and we will demand that the President, who decries tax cuts—we will demand that the President stand accountable for his actions as he prepares to spend the surplus rather than to keep his promise to save Social Security.

The American people will not be fooled. You cannot save Social Security by wasting the surplus on bureaucracy in Washington, DC. You cannot save Social Security when you are sending the elderly's Social Security checks to the shrimp aquaculture project in Hawaii. You cannot save Social Security when the people recognize your posturing for what it is, a political exercise designed not to save Social Security but to save yourself.

Mr. President, I appreciate this opportunity and yield the remainder of my time to my colleagues.

I yield the floor to the Senator from Idaho, Senator CRAIG.

The PRESIDING OFFICER. The Senator from Idaho.

TAX CUTS

Mr. CRAIG. Mr. President, I will take just a few moments because I want to sandwich some comments into this very important discussion on cutting taxes and lowering the rate of impact our Federal Government has on the average American family. The Senator from Missouri has spoken so very clearly today about what is happening, once again, in our Nation's capital. We fought for a decade to balance the budget—and Republicans are proud that it has now happened, it happened on our watch with our fiscal conservatism—but now we have a President who wants to throw up the facade of saving Social Security and yet sending a very large spending package to Capitol Hill. I hope we do have an opportunity to vote for tax cuts. This is one Senator who will proudly cast an ''aye'' vote for it.

PRESIDENTIAL TRAVEL

Mr. CRAIG. Mr. President, I thought it would be important this morning to do a short reality check on our President. The President last week said Congress is a do-nothing Congress. They have not done their work. Why has Congress not done its work? You know, when he made that comment about us—and I have been here hour after hour in committee meeting after committee meeting, here on the floor, day after day for the balance of the year—I thought, you know, Mr. President, you challenged me a little bit. It is time to do a reality check. So I sent staff scurrying. We compiled the President's travel log, and what I am about to report to you is the travel log of President Bill Clinton.

For a man who is bent on remaining in the White House, President Clinton sure spends a lot of time away from the White House. What you are about to hear is an analysis of how much time he has spent away, and why his people have not been on the Hill, why they have not been working with us, and now in the closing hours of a Congress he is either threatening a veto or threatening that he might just have to shut down Government to awaken us. Mr. President, let's do a bit of a reality check.

Last year, President Clinton broke the Presidential record for foreign travel with his 27th trip abroad. Like the Energizer Bunny, he has continued to keep on going and going and going. This year so far he has logged 41 days in 11 countries—11 different foreign countries. Some say he is traveling in foreign countries to keep his mind off domestic problems. I would not want to make that assertion. What I do know is that the President has now broken all-time Presidential travel records with 32 trips abroad, more than any other president ever. Mr. President, you are out breaking records.

However, just because President Clinton is not on foreign soil all the time doesn't mean he is in the White House. Bill Clinton also likes to travel around the country as well. He is particularly fond of combining both domestic travel and campaign fundraisers, with at least 37 trips which include fundraisers just through this year, 1998, and there are at least 14 more fundraising events scheduled for October, according to reports. Stay tuned as I go down through this report, because you will find an anomaly between official travel and fundraising travel and what it is costing the taxpayers and maybe why he needs a little bit of supplemental spending.

All told, the President has spent almost half of 1997, 149 days, as well as over half of 1998 so far, 155 days, outside of Washington, DC. Hello, Mr. President, we are trying to get our work done here. You criticize us for being a do-nothing Congress? Mr. President, where have you been?

The President's travel at taxpayers' expense long ago broke the foreign travel record. To put it in perspective, Mr. President, you have traveled domestically over 304 days in the last 2 years. You have already spent more time out of Washington than four out of the last five Congresses have spent in session.

If the implications were not so serious, the President's wanderlust would be a mere fact for amusement, and we could all chortle a little bit about it. This is, after all, a President who has claimed an initiative for every problem and credit for every solution. Yet the President has not been around for much of the work. If America is to believe he is serious about Social Security reform and Medicare reform and health care reform, tax reform and a host of other problems, it would help if they could first believe he is going to be here so we could meet with him to get the work done.

In 1992, then-candidate Bill Clinton excoriated President Bush for taking 25 trips to 60 countries from 1989 to 1993. He stated, ''It is time for us to have a President who cares more about Littleton, NH, than Liechtenstein; or more about Manchester than Micronesia.'' But once in office, guess what? Mr. Clinton took Air Force One and away he went, and he broke the Bush record. In less than 2 years, 1997 through 1998, Clinton has spent almost as many days overseas as Bush spent during his entire term in office—79 versus 86 days. President Clinton has taken 32 foreign trips during his Presidency, 6 more than President Bush, to 78 countries, including 51 different ones. Trips to South Korea, Japan, Malaysia are already in the travel plans for next year.

Mr. President, I could go on and on. The point is quite simple. As America has discovered, just because Mr. Clinton is in the country does not mean he is in the White House. The ''DC'' in Washington, DC, probably means ''Devoid of Clinton.'' While Clinton was able to leave his passport in the White House, he has made sure he has taken donor cards. As the press has noted, fundraising is prominent in his travel agenda.

What is in the Washington Post today? The President was out once

again, Friday, fundraising. I understand now the American people are waking up a little bit. Here is what one of the picket signs said as the President entered a fundraiser in Ohio: ''Fundraising? Is this the people's work?''

I am starting to ask the same thing. In 1997, President Clinton spent 111 days on the road on domestic travel. He has already surpassed that in 1998 with 114 days. In 1997, he used at least 28 of those trips for fundraising. Through September of this year, President Clinton has already used at least 37 of those days for fundraising.

That is part of the story, but here is the rest of the story that really concerns me. Do you know how much it costs to fly Air Force One? Mr. President, in 1992 figures it was $42,000 an hour. Mr. President, that is for you and the entourage. How do you balance that off between important domestic travel and fundraising? I hope you are keeping an accurate record, or the taxpayers will be paying a phenomenal amount for our President to be out of the White House.

President Clinton was out of town 149 days in 1997; 155 days through September of 1998. The President spent a total of 304 days outside of Washington in just the last 21 months.

The reason I come to the floor this morning to talk about the President's travel schedule is to bring some substance to the seaminess of a comment a week ago that this is the do-nothing Congress. You might have grounds to make that kind of an argument if you had been sitting down at the White House with a phone in your hand working with us to try to resolve the budgets, to try to get out our appropriation bills, to try to do the business of this Government. But you have chosen not to do that. You have been out and about the country and the world at a record pace, and at the expense of the American taxpayer.

I understand by news reports today the President is in town for the week: Mr. President, welcome back to Washington. I understand that you are going to be here for a week, hopefully to work with us in finalizing the work of Congress to get our budgets complete so we can leave town—most important, adjourn the Congress and go home as the American people would expect us to do and turn off the expense clock.

I also think it is important, Mr. President, that you do, in fact, recognize that our country and our world is just in a little bit of an economic crisis and you are finally willing to cancel a few travel schedules and stay home to see if we can work out our problems.

So, Mr. President, welcome home. I am going to be watching very closely and giving reports from time to time as the President spends the American public's tax dollars to travel around the country. Here is the travel log, and it is growing. Here are the charts, and they are growing. Call us a do-nothing Congress, Mr. President, and I will call you AWOL because you won't be here; you will be off flitting around the country, either fundraising or staying out of Washington because the heat is too hot in the kitchen.

I yield the floor.

Mr. HUTCHINSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Arkansas.

THE TAXPAYER RELIEF ACT

Mr. HUTCHINSON. Mr. President, I rise in support of tax relief for the American people and in support of the House-passed legislation that will provide taxpayer relief today.

Tax collections, it is estimated, will exceed over $8 trillion in the next 5 years. An $80 billion tax cut—that is what the House of Representatives cut—an $80 billion tax cut amounts to about one penny savings on every dollar paid in to the Federal Government. I don't believe that is too much out of this surplus that we are realizing because of a robust economy and because of restraints on spending, as much waste as therestill is. We have slowed the growth of Federal spending and, as a result of that, for the first time in 29 years, we have a balanced budget, we have a surplus, and it is only right and it is only proper that a portion of that be returned to the American people.

I think the only problem with the House-passed tax cut is that it is too little, but we should at least bring it forward, and we should at least have that debate on the floor of the U.S. Senate.

Under the Clinton administration, taxes have risen to the highest level in peacetime history. If Ben Franklin was right, that the only thing that is certain is death and taxes, this administration has made it equally true that nothing is as certain as spending and overtaxation. We have the highest tax rate in peacetime history. Taxes are at a historic high at a level of 21 percent of the gross domestic product.

According to data from the OMB, total Federal receipts will amount to 19.9 percent of the GDP in 1998 and 20.1 percent of the GDP in 1999. That tells me one thing. That tells me that even under a Republican-controlled House and Senate, Government continues to grow and Government revenues continue to grow as well.

In my home State of Arkansas, this amount of taxation translates into $7,352 in taxes per capita in 1998. That is an onerous burden to put on a low-income State. It is a heavy burden to place upon people anywhere.

In Connecticut, the tax burden is $15,525 per capita.

The typical American family sees 38 percent of its income going to pay for taxes, as opposed to 28 percent for food, for clothing, for housing and only 3.6 percent going to savings—38 percent for taxes—Federal, State and local level—28 percent for food, clothing and housing.

Mr. President, it is time to stop picking the pockets of American taxpayers, and it is time to put money back in their pockets and untie their hands. The Taxpayer Relief Act does just that by giving the American people a tax cut of $80.1 billion.

Couples today who want to be responsibly married, to share their lives together, have a slap in the face immediately from the Federal Government. Twenty-one million couples pay an average of $1,400 extra in taxes for pursuing the right course of marriage.

The Taxpayer Relief Act takes away this stinging insult by allowing married couples who file jointly to claim a standard deduction twice the amount of the standard deduction for a single taxpayer. It also increases the basic standard deduction for married taxpayers who file separately to equal the basic standard deduction for singles. Even as they try to raise a family with limited resources and increasing costs, parents strain under this very heavy burden of taxation.

The House-passed bill protects important tax credits, including credits for children, the $500-per-child tax credit, new credits for adoption and education, and reduces the alternative minimum tax as well.

All of these are important steps. They are, I believe, the right course for this Congress to take. I regret the President's commitment to veto any tax-cut legislation this year.

American farmers and ranchers have had to face a terribly hard time with unpredictable and damaging weather trends that have destroyed their harvest and livelihood, only to face income erosion from unpredictable and damaging tax regulations as well. The House-passed bill would provide greater stability amidst this turmoil by income averaging, currently set to expire in the year 2000, and it would make that permanent. Farmers and ranchers would be able to benefit from the 100 percent health insurance deductibility. All of these things would provide relief for the agricultural community.

Men and women attempting to manage their money wisely find the Government chipping away at their savings, through taxation on interest and dividends, and the Taxpayer Relief Act will exclude the first $200 in interest and dividends that they receive. We say we want the American people to save and invest, and yet we penalize them with our Tax Code. Some say the $200 exclusion is not very much. That exclusion will eliminate all taxation on interest and dividends for 32 million people in this country.

When taxpayers become senior citizens, their Social Security earnings limit will be increased under this legislation, between full retirement age and age 70, from $17,000 in fiscal year 1999 to almost $40,000 in fiscal year 2008.

These are important provisions, certainly not the least of which is the accelerated relief that will be provided from the death tax, a heinous provision

in our Tax Code that says if you work hard enough, save enough, invest well enough, Uncle Sam is going to reach into your grave, reach into your pocket and take 55 percent of what you own. The American dream is to work hard enough, invest enough, and pass them on to your children and give them a little better start than you had.

The death tax is just the opposite. It is one of the most anti-American dream provisions in the Tax Code. The bill passed from the House would accelerate raising that exclusion to 41 million. It would be a small step in providing relief from the death tax.

There are those who say we can't cut taxes this year; we have to give it all to Social Security. It is interesting to me that those who argue that have yet to come forward with a save Social Security plan. They have yet to come forward with a Social Security reform plan, but they have advocated billions of dollars in new spending.

Mr. President, I wish I had much longer to elaborate on this, but I quote the President when on May 26 of this year, he said:

> We can use these good times to honor those who've put in a lifetime of work and prepare for the future retirement of the baby boomers by saving the Social Security system for generations to come. Or we can give in to the temptation in this election year to squander our surpluses the moment they start coming in.

Do you get the picture? If you take the surplus and spend it on new spending programs, that is good, but if you return it to the American people in the form of tax relief, that is squandering. The very President who made that statement has advocated billions of dollars in additional spending—$5.8 billion already spent—and a request in supplemental funds for $14.148 billion, including almost $2 billion for Bosnia. That is coming out of this sacrosanct untouchable surplus.

The Taxpayer Relief Act just says let's return $7 billion of that surplus in the first year, 1999, to the American people. I believe that is what we should do. Instead of enacting $150 billion in new spending programs, we should return one penny on the dollar, which is what the Taxpayer Relief Act does, out of what they are paying into the Government back to them in the form of tax relief.

The debate hasn't changed: higher taxes and more Government; lower taxes and less Government. We were given that mandate by the American people, and we should enjoin that debate by passing the Taxpayer Relief Act this year, sending it to the President and letting him decide whether or not he will give the American people the relief they so much deserve.

I thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER (Mr. KYL). The Chair, in his capacity as a Senator from the State of Arizona, suggests the absence of a quorum. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MACK. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. MACK. Mr. President, I thank the Chair.

(The remarks of Mr. MACK pertaining to the submission of S. Res. 286 are located in today's RECORD under ''Submission of Concurrent and Senate Resolutions.'')

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

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

UNANIMOUS CONSENT AGREEMENT—CONFERENCE REPORT TO ACCOMPANY H.R. 4101

Mr. MACK. Mr. President, I ask unanimous consent that at 2 p.m. today the Senate proceed to the consideration of the conference report to accompany H.R. 4101, the Agriculture Appropriations bill, with the reading of the conference report being waived.

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

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

The PRESIDING OFFICER (Mrs. HUTCHISON). Without objection, it is so ordered.

WHITE HOUSE PROPOSALS TO SPEND THE SURPLUS

Mr. GRAMM. Madam President, I have come over today to respond to the Office of Management and Budget and to the White House in relation to comments they made about our weekly radio address, which we made in response to the President's radio address and which I had the privilege to make on behalf of the Republican majority in the Senate.

What I thought I would do is simply take a little bit of time and review what I said in the radio address because it is relevant, obviously, to the response by OMB and the White House. I would like then to respond to the comments they made. And I will try to do it as quickly as possible.

Madam President, in the Saturday radio address I tried to make several simple points, the first point being that we all can remember vividly, when the President gave his State of the Union Address, in probably the most dramatic statement made by any political figure in 1998, the President proclaimed: ''Save Social Security first.'' He then set out a prescription for Congress, and the prescription basically boiled down to: ''Don't increase spending; don't cut taxes; take every penny of the surplus and save it for Social Security.''

The President kept delivering exactly the same message over and over and over again through February, into June; and then all of a sudden, during the summer and into the fall, the President's message started to change. And the President's message started to change because he started leaving out the part of the policy prescription that had to do with not spending the surplus.

What the President is now saying is that Republicans are wrong in trying to cut taxes, eliminating the marriage penalty, providing some tax relief to farmers and small business and to senior citizens—that Republicans are wrong in doing that in the House because it takes $6.6 billion away from the surplus. And then the President last week said if you take a little of the surplus here and a little of it there on tax cuts, then you don't have the money to put Social Security first.

The problem is that at the very moment that the President is saying to the Republicans in the House not to use $6.6 billion to fund a tax cut, the President is proposing to Congress, in the strongest possible terms, that we spend up to three times that amount—roughly $20 billion this year—on a series of programs, most of which have nothing whatsoever to do with emergency spending by any definition that we have ever used for emergency spending.

So the point I made, in very simple terms, was the President is not living up to his word. He is not putting Social Security first. The President is pretty clear about not wanting Republicans in the House to cut taxes and to use $6.6 billion of the surplus for that purpose. But the President is now actually threatening to veto bills and to shut down the Government unless we spend up to $20 billion of additional money this year, every penny of which would come out of the same surplus that the President is saying to the Republicans in the House, ''Don't dare touch that surplus, don't take $6.6 billion to cut taxes.''

The White House decided, over the weekend, that they wanted to respond to what I had to say. And I want to respond to a lady, Linda Ricci, who is the spokeswoman for the Office of Management and Budget. She made two statements that I want to respond to.

Let me read you from the Reuters wire service story:

> Linda Ricci, spokeswoman for the administration's Office of Management and Budget, noted the actual additional spending request is roughly $14 billion, and said such emergency packages have become a normal part of the budget process.

She further says:

There is nothing extraordinary about emergency spending and there's nothing extraordinary about the amount of emergency spending we are requesting in this year's budget.

Madam President, I take great exception to these statements because they are not true. I mean, other than the fact that they are not true, I do not have much objection to them. But one of the standards that we normally set in debate is a standard that we cannot have much of a meaningful dialogue if we are not sticking with the facts. One of the things that is often said in these kinds of debates is that you have a right to your own opinion, you just do not have a right to your own facts.

Let me remind the Senate, and anybody who is listening, of the following facts: No. 1, we have already passed a $6 billion emergency spending bill earlier this year. If you add up all the requests the President has made for additional emergency spending, it is $14 billion. And when you add the two, that is a $20 billion emergency spending increase that was requested in calendar year 1998.

The OMB says, ''There's nothing extraordinary about the amount of emergency spending we are requesting in this year's budget.''

Let me tell you what is extraordinary about it. Everything —everything—is extraordinary about it.

First of all, the level of emergency spending is far beyond any level of emergency spending ever proposed by any President under the budget agreement that was reached in 1990 that started this current loophole of emergency spending.

I remind my colleagues, and anybody who is interested, that the first year that this ability to designate something as ''emergency'' and exempted from the budget—the first year it was in effect, in 1991, President Bush signed into law $.9 billion worth of emergency spending. President Clinton this year has asked for $20 billion of emergency spending. In fact, if you take the 3 years that President Bush was in office while we have had this emergency spending designation, in those 3 years President Bush averaged $4.6 billion of emergency spending, virtually all of it for things like hurricanes, floods, natural disasters, or what we normally refer to as acts of God.

In the years, since President Clinton came into office, if this year's request is granted, President Clinton will have requested $9.9 billion worth of emergency spending a year. And, as I said, this year's total is roughly twice what the President has requested, on average. And that is what Bill Clinton has requested since he has been President. So to say there is nothing extraordinary about the request I think is simply not true.

But there are two other things that are extraordinary. First of all, we have never had emergency requests for money to be spent in years where we have not even appropriated the money yet. And, finally, what we have in the President's proposal is a designation of emergency spending for ongoing programs of the Federal Government. I could talk a long time about this, but let me give you three examples.

The President tells us that he needs $3.25 billion because he has discovered since he submitted his budget in January that the year 2000 is coming. Apparently he was unaware of this in January when he submitted his budget, because he did not ask for the money to be used for year 2000 computer problems of the Government in January, but since then it is an emergency because he did not ask for it in January.

I went back and looked, Madam President, at when we first started to keep time in Anno Domini, ''in the Year of Our Lord.'' And the first time we did was when the Julian calendar was amended so that the measurement of time started at the birth of Christ. And that was in the year 525. The point is, we have known for 1,470 years that the year 2000 was coming. Everyone in the world knew it was coming. In fact, we hardly hear a political speech that does not talk about the 21st century or the President rarely opens his mouth that he doesn't talk about the new millennium.

Many people have actually planned where they are going to be on New Year's eve of next year. The only people on the planet who were surprised that the year 2000 is actually coming, are people in the Clinton administration. The reason they are surprised is they knew the year 2000 was coming, they knew we had these computer problems, but they didn't include this in their budget in January so they could try to hide the fact that they are busting their own budget, so that they could hide the fact that they are taking money away from Social Security to spend, at the same time that they are criticizing the House of Representatives for trying to have a modest tax cut.

Now, a second example of nonemergency spending is Bosnia. I know the Presiding Officer is aware that we have troops in Bosnia because I have heard her demand that the administration establish a policy on numerous occasions. Her feelings and leadership on this are well-known. But we have an emergency in the President's mind because we don't have funding in his budget for Bosnia.

I remind my colleagues the President sent troops to Bosnia 3 years ago. Then he extended the mission for our troops to Bosnia 2 years ago, and he extended it again last year. Finally, he said they would be there indefinitely. You might ask yourself a question: Given that we have had troops in Bosnia for 3 years, given that no one on the planet is surprised that there are troops in Bosnia, why does the President now ask for funding for troops in Bosnia as an emergency?

Now, this lady, Linda Ricci, with the Office of Management and Budget says that there is nothing extraordinary about the President's emergency requests. I find it extraordinary, when we are in our fourth year of troops in Bosnia and the President has an emergency because he has discovered that we have troops in Bosnia, that we have no money in his budget to pay for troops in Bosnia. I find that extraordinary.

The next item is my last. The Constitution, in article I, mandates that there be a census; that every 10 years we go out and count the number of people in the country and that we allocate representation in the House of Representatives based on the census. It has been in the Constitution for over 200 years. We have never had the change of a decade occur that we have not done a census. We have known from the first day that the Constitution was ratified in 1779 that we were going to do a census in the year 2000. Yet now we are considering declaring an emergency because we are going to have to do a census in the year 2000. Now, why is there an emergency? There is an emergency because the Administration did not include enough money in their budget to provide the funding for the buildup to the census year. In fact, they and Congress have systematically underfunded the census.

Now, the Office of Management and Budget may not find it extraordinary that we have $20 billion worth of requested emergency spending by the President. But I find it extraordinary. They may not find it extraordinary that the President is asking for twice as much emergency spending this year as he has on average since he has been President, and on average since President Clinton has been in office. He has asked for twice as much as President Bush. In fact, his request in calendar year 1998 is over 20 times as big as President Bush's request for emergency spending in 1991, the first year that we had this emergency designation. I find it extraordinary. OMB may not, but the fact that they don't, it seems to me, simply shows that either they don't know what the history of the use of emergency spending is or they don't want to know.

Now, the second response I wanted to give is a response to the brand-new White House spokesman. Joe Lockhart, in his first day on the job, White House spokesman Joe Lockhart rejected my comments saying that the emergency requests only total $14 billion and that it would not come out of the surplus. As I have already said, in calendar year 1998 the President has requested a total of $20 billion. The fact that he already has gotten $6 billion does not change the fact we are talking about $20 billion worth of new unbudgeted spending.

I suggest that Joe Lockhart, in one day at the White House, has either shown that he is getting bad habits at the White House very quickly or he knows absolutely nothing about the budget. The only way these ''emergency spending programs''—like fixing

the computers of the government, the census, funds for Bosnia—can be funded is taking every penny of it directly out of the surplus.

When Mr. Lockhart, in his first day at the White House says that none of this money will come out of the surplus, it is obvious that Mr. Lockhart either doesn't know how the budget works, or he has gotten a very bad habit in only one day at the White House.

I suggest that Mr. Lockhart set the record straight.

Now, what is relevant here is the following: There were a few people—and I am one of them, so I am sensitive about it—who took the President at his word back in January. That word was ''save Social Security first.'' I would like to vote for a tax cut but I have said, given that we have problems in Social Security, given that we need next year to restructure Social Security and build the financial base of it, I have been willing to forego a tax cut so that we could set aside the whole $70 billion of the surplus to put Social Security first. I feel in this area that I have been trying to do what the President requested. Now I find that the President is not doing what the President requested, that while I have been trying to say no to spending and while I have been trying to say no to tax cuts, the President is saying no to tax cuts, but he is trying to force-feed Congress the largest increase in emergency spending in history.

Mr. BAUCUS. Will the Senator yield?

Mr. GRAMM. Let me finish this thought and I would be happy to yield.

Mr. BAUCUS. What is the pending order?

The PRESIDING OFFICER. The Senator from Montana, by unanimous consent, does control the time between 1 o'clock and 2 o'clock.

Mr. BAUCUS. I am happy to yield 3 minutes to the Senator from Texas.

Mr. GRAMM. That is more than generous and I can complete what I have to say.

Madam President, I have tried to live up to the President's challenge in that State of the Union Address by putting Social Security first, by delaying until next year a tax cut so that we could rebuild the financial base of Social Security and have the money to do it with.

However, I have to say I am very distressed in that while I am trying to carry out the President's policy on a bipartisan basis and not supporting something that I am very much for—a tax cut—the President now is trying to say to Congress I am going to veto your spending bills and shut down the Government unless you spend $20 billion more than you have written into your budget and $20 billion of additional spending that the President didn't even ask for in his budget back in February.

Now we have people at the White House and at OMB who are saying there is nothing extraordinary about what the President is doing and that the amount of money he is spending is not coming out of the surplus. My point is, everything about what the President is doing is extraordinary. It is twice as much as the President, on average, has requested in the past.

It is 20 times as much as the last President requested for emergencies in 1991; it is for programs that have nothing to do with conventional emergencies: Funding for Bosnia, when we have been there 3 years. Why doesn't the President put it in his budget? Funding for the census, which we have done every 10 years since 1789. Why doesn't the President put it in his budget? Funding for the computer problem for the year 2000, when we have known since 525, when the world went to measuring time from the birth of Christ, that we were going to have a year 2000.

Clearly, every penny that the President spends, or forces the Congress to spend, is coming right out of the surplus and right out of Social Security. So I don't believe the President is living up to his word. I don't think he is putting Social Security first, and I don't think it is right.

I thank our dear friend from Montana for allowing me to finish my statement.

I yield the floor.

THE GLOBAL CRISIS, BIPARTISANSHIP AND THE IMF

Mr. BAUCUS. Madam President, in my 20 years in the Senate, I have scarcely experienced a more politically trying time than this. As the nation decides how to cope with an unprecedented political crisis, Congress must not only consider impeachment proceedings but pass spending measures to keep our government running.

More important, a number of serious foreign policy crises demand our attention. From Kosovo to Iraq and Tanzania to Latin America, the need for American leadership has never been greater.

To the extent that we can deal with these issues in a reasoned, bipartisan fashion, the world and the United States stand to gain.

AMERICA'S ROLE

Mr. President, we Americans have a unique role. More than at any time since the early years of the cold war, the world looks to us as a guarantor of peace in regions from Kosovo to Central Africa to Cambodia and the Persian Gulf; as a leader in the quest for prosperity, as we look toward more fair and open trade and an effective approach to the financial crisis; as the pace-setter in science and technology; and as an example of effective democratic government and respect for human rights.

This is a demanding role. We may not have sought it. Some of us may not entirely welcome it. But it is a role that in this post-cold-war world nobody else can fulfill.

Japan is in the midst of a deep financial crisis; Russia and China still in the process of economic reform; Europe concentrated on deepening and expanding the EU. Only the United States can lead.

As the world's largest economy and most trusted trading partner, the United States is unique. I find this sentiment continually reinforced as I travel to Asia, Europe and South America. My counterparts there tell me that there is no one with whom they would rather do business than Americans.

Our openness, respect for the rule of law and willingness to innovate mark the United States as the global leader. It's why we won the cold war, and it's why we are viewed as a relative safe haven in these times of global financial instability.

Mr. President, we are also the world's foremost cultural power. America is the birthplace of the Internet and more than 80 percent of World Wide Web material is in English; our movies dominate over 70 percent of the European market, more than half that of Japan; and there are increasingly few countries where one cannot order a Big Mac in English, pay for it in U.S. dollars and wash it down with a Coke or Pepsi.

Mr. President, I may sound biased, but I think it appropriate that if there is to be a world superpower, the United States should be it. We are not an imperialist country; we respect human rights; we have open markets; and we are the foremost example of this experiment called democracy.

It has been said that our Founding Fathers envisioned a governmental system that is fragmented and dispersed of power. Our Founding Fathers succeeded. Neither the President nor the Congress nor the Judiciary has an inordinate ability to effect change, and that sets us apart from parliamentary systems of government.

But this is the system we have, and while we must accept its limitations, we must also praise its virtues for making us the wealthiest and most powerful nation in the history of the world.

We must also work especially hard to facilitate more contact between Congress and the Executive, and between the parties that make up our unique political system.

And we must accept that despite the current political crisis, Bill Clinton is still our President. Whatever the outcome of impeachment proceedings, crises the world over will not wait.

Americans have a duty—bipartisan, bicameral, and bi-institutional—to lead.

Like or not, this is a role we must fulfill—for the sale of our own people, because if we do not lead, Americans will pay the price in a more turbulent, dangerous world.

So while we may at times have differences, as individuals or as Democrats and Republicans, we must also at times put these differences aside and remember our larger responsibililities.

ASIAN FINANCIAL CRISIS

We see this very clearly in the Asian financial crisis. In the past eighteen

months, an event which began with the devaluation of the Thai currency has become a crisis threatening nations all over the globe.

It has brought cataclysmic change to Indonesia, a nation of 200 million people. It has threatened the stability of Russia—a nuclear power whose efforts toward reform will help determine the future of Europe. It has shaken the economies of South America and South Africa.

And this year, it has come home to the farms and the farmers in our country. And I can say that particularly of my State of Montana, as our export markets have dropped. Asians are not buying our wheat. Prices have fallen and families have faced the worst threats they have faced in recent years to their future in farming.

On such an occasion, the United States must lead, both in long-term reform and in short-term emergency action.

In the long run, we need to carefully examine our international financial policies. This includes the question of whether the international financial institutions have enough capability to monitor the health of foreign financial systems.

And it includes the search for ways to improve our ability to predict financial crises and thus prevent them from spreading around the world. That must be a careful, deliberate process.

In the short run, however, we need to do two things.

First, the Administration should speed up and perhaps augment food relief to Indonesia and other countries that may be threatened by hunger. The President has committed to provide 2.5 million tons of wheat to these people, and the Administration has now disbursed about 25 percent of that. We need to do better.

We are already hearing reports of malnutrition in Indonesia; and our farmers are watching prices decline by the week. When people need food and farmers need relief, we need to act fast and we need to act boldly.

Second, we in Congress ought immediately to pass our contribution to the International Monetary Fund.

RESULTS OF IMF PROGRAMS

Last year, the IMF organized recovery programs for Thailand, Indonesia, Korea, the Philippines, and Russia. And while even the best-off among these countries still face difficult times ahead, it's clear that those which have implemented IMF programs most efficiently now have the best prospects for early recovery.

The Philippines, which under Presidents Aquino and Ramos carried out financial reform monitored by the IMF, has suffered less than any other affected country.

Thailand, where the present Democrat Party government has overseen the closure of 56 finance companies and the nationalization of four banks, has seen the baht recover from a low of 57 to the dollar this February to a stable band around 40 since March. This means a reduced debt burden for Thai companies and an earlier recovery.

Korea, where President Kim Dae-jung has committed to breaking up the monopolies and closed markets many of us have protested in the past, has also seen currency rates rise.

By contrast, those countries which did not implement reforms early—in particular Russia and Indonesia—now face a far more difficult future.

The Indonesians—including the government as well as the citizen movements which sparked last spring's ''reformasi''—have on the whole peacefully changed a 30-year-old government; and moved on to open the press, set an election time-table, and begin economic reform. They deserve our support.

CRITICISMS OF IMF FUNDING

Some of course have criticised the IMF programs on the merits. And it is true that these programs have not always been flawless.

For example, some have criticised them as ''austerity programs'' requiring too much economic sacrifice. To some extent I have shared that criticism. For example, I said last February that their Korea and Southeast Asia programs were mistaken in asking for budget cuts during a deep recession.

But they have learned and improved over time. In Thailand, the initial IMF requirement for a budget surplus at 1 percent of GDP has been dropped and replaced with a deficit of 3.5 percent GDP.

And in a larger sense, had the IMF not been there to provide loans when Thailand and Korea were threatened with default, we would be much worse off today.

Others have expressed fears that these programs will create a ''moral hazard.'' That is, emergency IMF loans will encourage other countries to make the same types of mistakes later. I find this theory completely untenable.

A glance at daily papers—let alone a visit to Southeast Asia or Korea—will show you families pulling their children out of school because they can't afford to pay tuition; men spending all day in local parks because they are ashamed to tell heir families they have lost their jobs; governments choosing between money for schools and money for food relief.

No country anywhere in the world will want to repeat their experience.

NEED TO ACT NOW

Thus, our experience with these programs is clear. Those countries which have implemented reforms are by no means in good shape, but their situation is much better than those which have not.

And as we face the prospects that the crisis may spread beyond Asia, we must make sure the IMF has the resources it needs to address any new emergencies. If we do not, we run a tremendous risk.

Imagine how much worse, for example, the crisis in rural America will become if we do nothing in the face of threats to Mexico, Brazil or other critical Latin American markets. The pressure we are under because of the decline in our Asian markets could double overnight.

After bailing out Russia, the Fund's coffers are nearly empty, the IMF having had to draw on a credit line not used since 1978. If the House does not act soon, it risks jeopardizing global and American economic viability by rendering the IMF broke and unable to deal with future crises.

To quote the Economist Magazine:

If the Fund runs out of money—a real possibility if Congress remains obdurate—the next emerging market collapse could trigger a default that would spill over, fatally, to all other emerging markets. And since rich countries now account for barely half of world output, that could easily mean a global slump. Even the most isolationist congressman would hardly welcome that.

Madam President, it should be noted here that allocating funds for the IMF has no budgetary impact. A capital increase in the IMF is paid for with an exchange of assets, not cash. Any country has a right to demand that its contribution to the Fund be returned—at any time.

So we need to act now. We need to put political disputes aside and focus on our larger responsibilities. Thus, on a bipartisan basis and with particular credit due to Senator HAGEL, the Senate has now twice voted to approve our full IMF quota. The House, however, has approved only a bill providing $3.4 billion for the IMF's New Arrangements to Borrow.

This is very disappointing in itself. And I am even more troubled that some in the House have apparently decided to link this issue to support for family planning overseas. That goes beyond disappointing to irresponsible.

Abortion is, as we all know, among the most heated and emotional issues we have. We can debate our views and the right way to support family planning on its own merits. But to link this question to IMF funding threatens our ability to address a financial crisis of world magnitude.

U.S. RESPONSIBILITIES

Madam President, those affected by this crisis are democracies and treaty allies: Thailand, the Philippines, and Korea. They are countries attempting to build democracy in the face of enormous challenges: Indonesia and Russia. They are Montana farmers and factory workers. And we must do the right thing.

As Surin Pitsuwan, the immensely capable Thai Foreign Minister, said in his recent visit to Capitol Hill:

''We look to Washington for leadership. We need the dynamism, the energy, the focus from Washington. There is a need for leadership, and that leadership is only here.'' That is the United States. ''That is the expectation of the world.''

Madam President, let us prove him right. It is time to act; it is time to lead.

Let us search, carefully but seriously, for financial reforms that will create a more stable world economy.

Let us push ahead more quickly and globally with food relief, pay our U.N. dues, pass fast track, and, above all, I urge the House to act without any further delay to pass our IMF quota. That is the very least we can do now in exerting responsible American leadership in the world.

AG CRISIS IN AMERICA

Mr. BAUCUS. Madam President, I stand before you today with a heavy heart.

Why? Because I am extremely disappointed and terribly frustrated that despite our best efforts, the Agriculture appropriations conference report has completely missed the mark in responding to the crisis in farm and ranch country.

As I see it, we had four issues that were worthy of bipartisan support in this conference.

Proposals that would have delivered immediate support to our producers suffering from unusually low prices and natural disasters.

Disaster assistance is necessary; uncapping those market assistance loans is necessary; mandatory price reporting; and, improved meat labeling—all would have helped just a little but would still have helped tremendously in view of the depths of the situation.

Perhaps we've come to a meeting of the minds on natural disaster assistance. And, we should. No one can argue that drought, disease, flooding, and now hurricanes have devastated crops across the board and across the country. But what brought us to this point in the first place; that is, the crisis facing rural America? Extraordinarily low prices, prices rivaling the disaster of the 1980s, with no end in sight. And what did our Republican ag conferees deliver? Thirteen cents a bushel for wheat.

To be honest, it is an outrage, it is an insult, it is a slap in the face to every hard-working, struggling, desperate grain farmer. And the so-called ''relief'' is equally inadequate for every commodity.

The agriculture conference committee looked at the options, including a package offered by Senators DASCHLE and HARKIN that would have lifted loan caps and extended the term of the marketing loan. But they shot it through the heart.

We should have laid aside our partisan politics and done what was right for folks back home—giving them relief enough to make it through the crisis so they don't lose their family farm this year. The Daschle-Harkin plan to lift loan caps would give our producers roughly 60 cents a bushel—not 13 cents but 60 cents—a far cry from the pittance included in the conference report.

I think we can do better. We must do better. In the 1980s we spent nearly $16 billion in just 1 year to get through that agriculture crisis. Now we are asking for half of that on a one-time, 1-year bases. Is that too much to ask? Too much to ask to help provide some relief?

In Montana, the U.S. Department of Agriculture estimates that the Daschle-Harkin plan would provide Montana producers with $100 million more than the plan of 13 cents proposed by the other side. Every precious dollar counts to those in Montana's largest industry.

What happened to the other parts of the package that passed the Senate—price reporting and mandatory imported meat labeling? We lost the fight to the House—an easy fight, a bipartisan fight. The result now is that we have a 6-month study on both price reporting and meat labeling—just a study.

You tell me how I can tell folks back home that they have to wait for a report when they already know things aren't right in the market. They see it every day. I hear it every day in telephone calls I make to home. When I go home and talk to producers worried about holding onto the farm, or the ranch, or passing it on to their children, these people aren't complainers, they are hard workers who believe in the land and doing what is best for their community.

If we do not help them, no one will. We don't need to study the problem more. Rather, we need to fix it. What will this conference report send home? It will send home rhetoric, not help them as they need help.

Madam President, we still have time. The clock is ticking. But I say let's get to work. We have to work together on both sides of the aisle to help people in our country, people who are not Democrats, people who are not Republicans, people who are not Independents—people who are America's farmers.

A decent cash influx for bad prices should be part of a bipartisan package; adequate disaster assistance and real price reporting and meat labeling. That is not asking much at all. That is what we should together agree to. Then together we can send a message from both sides of the aisle that we won't go home emptyhanded; that we are here to help our people; that this Congress did something right. It is simple. We should have sent this bill back to conference and crafted a package that would have really done something to halt this crisis. That is no longer an option.

I encourage my colleagues to vote against the conference report which will be before us. If the report is not adopted, that is, the vote is not successful, then I say let's go back to work and do the right thing. On the other hand, if the vote on the conference report is successful, as it may well be, then I expect the President will veto it, as he should. Maybe then we can sit down and roll up our sleeves and figure out a way to adequately help our people.

I thank the Chair. I yield the floor. 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. COCHRAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

AGRICULTURAL, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 1999—CONFERENCE REPORT

The PRESIDING OFFICER. Under the previous order, the report will be stated.

The assistant legislative clerk read as follows:

The committee on conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4101), have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The Senate proceeded to consider the conference report.

(The conference report is printed in the House proceedings of the RECORD of October 2, 1998.)

Mr. COCHRAN. Madam President, pending before the Senate at this time is the conference report on the fiscal year 1999 Agriculture, Rural Development, Food and Drug Administration and Related Agencies Appropriations Act. We present this conference report for the Senate's approval this afternoon.

The agreement provides total new budget authority of $55.7 billion for programs and activities of the U.S. Department of Agriculture—except for the Forest Service, which is funded by the Interior appropriations bill—the Food and Drug Administration, the Commodity Futures Trading Commission, and expenses and payments of the farm credit system. This is $6 billion more than the fiscal year 1998 enacted level; it is $1.9 billion less than the President's request level; it is $192 million less than the House-passed bill, and it is $1.1 billion less than the Senate-passed bill level.

The changes that were made in conference on mandatory funding requirements account for the overall increase from the fiscal year 1998 enacted level, principally reflecting a $2.6 billion lower estimate for Food Stamp Program funding requirements, higher Child Nutrition Program expenses, and a $7.6 billion increase in the payment to reimburse the Commodity Credit Corporation for net realized losses. The conference report also provides an additional $4.2 billion in emergency appropriations to assist agricultural producers and others who have suffered financial hardship due to adverse weather conditions and loss of markets.

Including congressional budget scorekeeping adjustments and prior

year spending actions, this conference agreement provides total discretionary spending for fiscal year 1999 of $13.651 billion in budget authority and $14.050 billion in outlays. These amounts are consistent with the revised discretionary spending allocations established for this conference agreement under the Budget Act.

It was a very difficult conference. As Members may recall, a number of legislative provisions were added to the bill when it was considered in the Senate in July. Not only did the conference committee have to reach agreement with the House on these issues, but it had to resolve funding differences within a more constrained discretionary spending allocation for the conference than originally established in the Senate bill.

Special recognition is due and deserved by the ranking member of the subcommittee, my distinguished colleague from Arkansas, Mr. BUMPERS. In addition, the chairman of the House subcommittee, Congressman SKEEN from New Mexico, and ranking minority member of the House subcommittee, Congresswoman KAPTUR from Ohio, turned in hard work and cooperated with our efforts to make this conference agreement possible.

The report includes credit relief for farmers, a 6-month extension of the Northeast Dairy Compact, sanctions relief for exports to India and Pakistan, a waiver of the statute of limitations for certain discrimination claims filed against the Department of Agriculture, and a number of other legislative provisions that were included in the Senate and House-passed bills.

In addition, at the request of the House and Senate Agriculture Committees, chaired by Senator LUGAR here and Congressman SMITH in the House, the conference report includes a moratorium on the rulemaking authority of the Commodity Futures Trading Commission over swaps and derivatives, as well as language requested by the administration authorizing the creation of an Under Secretary for Marketing and Regulatory Programs position at the Department of Agriculture. That change also had the approval of the legislative committees with jurisdiction over that subject.

During consideration of the bill in the Senate, an amendment was adopted providing increased funding for the President's Food Safety Initiative. A major portion of this additional spending was offset by an ''assessment'' on the purchasers and importers of tobacco. This was subsequently determined by the House Ways and Means Committee to be a ''tax,'' and therefore off limits to the Appropriations Committee and was not included in the conference report. I am pleased to report to the Senate, however, that the conference report provides increased funding of $51.9 million for activities and programs which are part of the administration's Food Safety Initiative.

In addition, the conference report provides $609 million for the Food Safety and Inspection Service, an agency critical to maintaining the safety of our food supply. That is $20 million more than the fiscal year 1998 level, and $460 million more than the President requested in his budget.

As most of my colleagues are aware, one of the major differences between the House and Senate-passed bill was a House bill provision to prevent fiscal year 1999 funding for the new Competitive Agriculture Research Program established by the Agricultural Research, Extension, and Education Reform Act of 1998. I did not support the proposal to remove or prevent the funding going forward as directed in that legislation. However, with a total discretionary budget authority allocation for the conference that was $64 million below the level we had for the Senate bill, it was a House position that the Senate conferees had little choice but to accept.

Without that offset, drastic cuts would have been necessary in funding for other discretionary programs and activities in the bill. In view of this 1-year delay in funding for the new Agriculture Research Competitive Grant Program, the conference provided increased appropriations for existing agricultural research programs.

Here are some examples: There is an appropriation of $782 million for the Agriculture Research Service. That represents a $38 million increase from the 1998 fiscal year level, and it is $14 million more than was included in the Senate-passed bill.

There is total funding of $481 million for research and education activities of the Cooperative Research, Education and Extension Service. That is $50 million more than the fiscal year 1998 level, and it is $48 million more than was in the Senate-passed bill. Included in this amount is a 7-percent increase from the fiscal year 1998 level for payments under the Hatch Act, cooperative forestry research, payments to the 1890 and 1994 institutions, including Tuskegee and animal and health disease grants.

Also included is a $22.1 million increase for the National Research Initiative Competitive Grants Program.

In addition, the bill recommends $434 million for extension activities which preserves the 3-percent increase recommended by the Senate for Smith–Lever formula funds, as well as extension payments to the 1994 and 1890 institutions, including Tuskegee University.

Approximately $36.1 billion, close to 65 percent of the total new budget authority provided by this conference report, is for domestic food programs administered by the U.S. Department of Agriculture. These include food stamps; commodity assistance; the special supplemental food program for Women, Infants, and Children (WIC); and the school lunch and breakfast programs. The Senate receded to the House-recommended appropriations level for the WIC program because recent data on actual participation rates and food package costs indicate that this amount should be sufficient to maintain current program participation levels in fiscal year 1999.

For farm assistance programs, including the Farm Service Agency and farm ownership and operation loan subsidies, the conference report provides $1.1 billion in appropriations.

Appropriations for conservation programs administered by the Natural Resources Conservation Service total $793 million, $9 million more than the House bill level and $1 million more than the level recommended by the Senate.

For rural economic and community development programs, the conference report provides appropriations of $2.2 billion to support a total loan level of $6.2 billion. Included in this amount is $723 million for the Rural Community Advancement Program, $583 million for the rental assistance program, and a total rural housing loan program level of $4.25 billion.

A total of $1.2 billion is provided for foreign assistance and related programs of the Department of Agriculture, including $136 million in new budget authority for the Foreign Agricultural Service and a total program level of $1.1 billion for the P.L. 480 Food for Peace Program.

Total new budget authority for the Food and Drug Administration is $977 million, $11.5 million more than the level recommended by the House and $24.5 million more than the Senate bill level, along with an additional $132 million in Prescription Drug Act and $14 million in mammography clinics user fee collections. Included in the appropriation for salaries and expenses of the Food and Drug Administration is a $20 million increase for food safety.

For the Commodity Futures Trading Commission, $61 million is provided; and a limitation of $35.8 million is established on administrative expenses of the Farm Credit Administration.

Titles XI–XIII of this conference report provide emergency relief to agricultural producers and others who have suffered weather-related and economic losses. As Members will recall, a number of amendments were adopted to this bill when the Senate considered it in July to address disaster-related requirements with the understanding that additional relief would be necessary once actual losses were determined by the Department of Agriculture and a supplemental request was submitted by the Administration. No request was submitted to the Congress until September 23. On September 23, the Administration submitted a $1.8 billion budget authority request to support $2.3 billion in emergency agricultural programs. In the interim, the Republicans released a $3.9 billion relief package to assist agricultural producers. This emergency agricultural relief package is included in this conference report, along with additional

emergency supplemental appropriations, to make a total of $4.2 billion in emergency assistance available.

A total of $1.5 billion is made available to assist producers who have been hit by crop losses in 1998, and an additional $675 million for producers who have suffered from multiple-year crop losses. Also included is $175 million for emergency livestock feed assistance, and $1.65 billion to assist producers with market losses. In addition, the conference report provides temporary recourse loans for honey and mohair; $5 million for cotton indemnity payments; an increase of $25 million for the Food for Progress program to help move more grain out of the country; and expanded non-insured crop assistance for raisin producers. Additional supplemental emergency appropriations provided by the conference report include the $40 million to cover additional costs to the Farm Service Agency of administering this assistance, $10 million for the Forestry Incentives Program; and $31 million in subsidy appropriations to fund an additional $541 million in farm operating loans.

Madam President, this conference report was filed on Friday and was passed by the House of Representatives that day by an overwhelming vote of 333 yeas to 53 nays. Senate passage of this conference report today is the final step necessary to send this fiscal year 1999 appropriations bill to the President for signature into law.

I urge my colleagues to adopt this conference report. Many of our farmers and ranchers are facing the worst crisis in agriculture that they can remember. The economic collapse in Asia has resulted in lost markets. Producers in some states have suffered severe weather conditions. Others have been hit hard by crop diseases. The farmers need help now, and it is time to quit playing politics with disaster relief and adopt this conference report.

Madam President, this is the last Agriculture Appropriations bill my distinguished colleague, the Senator from Arkansas, will manage in the Senate after serving on the Appropriations Committee for 20 years and this Subcommittee for 13 years. Senator BUMPERS has been an advocate of American agriculture and a proponent of the programs in this bill to improve the quality of life and help bring jobs to rural areas. His expertise and many contributions to this process and this bill will indeed be missed.

In summary, let me point out, Madam President, that there has been raised the specter of a Presidential veto over this conference report because of the inadequacy of the provision relating to disaster assistance payments. I am very disturbed by that suggestion, and I hope that it is more rumor than promise. I know the President spent some time on Saturday in his weekly radio address speaking to that subject.

I recall that 2 weeks ago, I was asked to deliver the Republican response to the President's weekly radio address, and my subject was the need for a more aggressive and meaningful disaster assistance program for farmers.

I think everyone can agree that both the President and the Congress have been speaking out and making very clear the fact that we need a helpful, sensitive, generous program of disaster assistance to help deal with the realities of weather-related disasters that have struck many parts of the country, market loss problems because of the Asian economic crisis, and other factors that have worked together to make this a very difficult year for agriculture.

The question is, Are we going to resolve this in a way that is consistent with the legislative process that makes sense for farmers, that serves to establish policies that are thoughtful and consistent with the needs of American agriculture, or are we going to continue to treat this as a political football and just kick it around and have us skirmish every day or every week over this issue, leading to delay, leading to uncertainties, leading to anxieties? Farmers in America certainly deserve better.

I would like just for a moment or two to think back on the date when we had the bill on the floor of the Senate and the subject of disaster assistance was first raised. We adopted in the Senate a sense-of-the-Senate resolution calling on the President and the Congress to work together to come up with a proposal that would meet the needs for emergency action to respond ''to the economic hardships facing agriculture producers and their communities.'' The Senate adopted that on July 15 by a vote of 99 to 0.

The next day, there was an amendment offered by the Senator from North Dakota, Mr. CONRAD, and others who suggested we establish a $500 million indemnity program to compensate farmers for income losses that had been suffered due to various adverse conditions—weather and otherwise—throughout the country, although mainly the benefits were directed to the upper plains and other selected areas, not countrywide benefits or a program designed to be national in scope.

During my remarks on that occasion, I recall on the Senate floor saying that we needed to have the President and the Department of Agriculture get involved and provide the Congress with a complete and accurate assessment of the funds that were needed for a program of this kind. We hadn't had a proposal from the administration for any specific benefit program for agriculture, although there had been meetings on the Hill with farm groups, with Senators and Congressmen trying to, first, get the facts and get a sense of what the agriculture leadership throughout the country thought would be an appropriate response by the Federal Government.

There was no question at the time we were debating the bill that there was great interest in developing a disaster assistance program to meet the needs of American agriculture. As a matter of fact, during the discussion, I asked Senators if they had any better ideas, if they had suggestions for anything other than this $500 million indemnity program, and no one came forward to offer any amendments and no one expressed opposition to adopting that amendment. We checked with the legislative chairman in the Senate, and others, and without objection, we suggested that the Senate adopt the amendment of the Senator from North Dakota on a voice vote, and that is what we did. We accepted the amendment.

After that was done, it became clear that through gathering information, that the situation was more widespread. I remember going to Georgia, for example, with the distinguished Senator from Georgia, Mr. COVERDELL. I had an opportunity to meet with farmers in southern Georgia and became convinced that we had a problem that was bigger than the upper plains and Texas. Everybody knew about the drought in Texas and the severe complications that were resulting from that for agriculture producers and ranchers in that area. But I do not think it was well known that in south Georgia, which had had a series of weather-related disasters over a period of years, the agriculture sector there was really hurting. And the $500 million indemnity program, suggested by the Senators from North Dakota and others, was not going to be sufficient to deal with that problem and others as well.

I know in my State of Mississippi, for example, when I was home right after we adopted this bill in July—we had a break during the August recess—I had an opportunity to visit some areas of my State that were devastated because of isolated weather patterns that had ruined corn crops in the northwest part of Mississippi, and others had been damaged to the extent that diseases were infesting the crops. Aflatoxin was attacking the corn crops.

There was no provision in any Federal disaster assistance program for yield losses, for crop losses. Those who were suggesting an indemnity program based on lifting loan caps had to realize that was not going to help somebody who had a total crop failure. It would not help them a bit.

So we came back, started working on a new proposal, got with the leadership of the House and Senate, and asked the administration they were going to request supplemental funding. They did come back with a $1.8 billion supplemental budget authority request to support $2.3 billion in emergency agricultural programs, without a lot of specificity about how those benefits would be determined, how the eligibility would be determined, who would administer the program. But, nonetheless, it was a step in the right direction, and I applauded the President for responding in that way.

But based on that supplemental request—and working with the knowledge that other Members had generated from their States—we proposed to the conference committee a $4.1 billion disaster assistance program, and it was accepted in the conference committee with some changes. We accepted some amendments proposed by House Members in conference. We added some money proposed by the Senate in response to specific amendments that were urged in conference to the managers' proposal. So the end result was the conference committee agreed to provide emergency benefits totaling about $4.2 billion.

So I come to the Senate today very pleased to be able to report that, instead of a $500 million indemnity program that the Senate adopted as a way to deal with the crisis in agriculture, working with farmers, producers, and ranchers from around the country, and other Members of the Congress, including the House, we now have a conference report that is much more generous, much more responsive to the real needs that exist in our country today in production agriculture, and designed to more nearly bring farmers to a point where they can continue to operate without going broke, without the devastating effects that would have been the reality of the situation had not this package of changes been agreed upon.

We hear now that the Democratic leadership has urged the President to veto the bill. And I got a letter suggesting that he would if the conference agreement on disaster assistance was inconsistent with the proposal just recently made by the Democratic leader of the Senate to remove the loan caps under the current farm program for the commodities that are subsidized, in effect, by the Federal Government—no ifs, ands, buts about it.

The letter said—and I took this up with the Secretary of Agriculture to be sure I understood that that was the meaning—that the President said he would veto the bill if the conference report was inconsistent with a proposal made by the Democratic leader to remove the loan caps for those commodities that are subsidized by the Government.

I am very disappointed by that. I certainly hope that there is room for the President to change his mind on that subject, because it seems to me that rather than argue over whether or not this program is really going to do a good job and is thoughtfully crafted to try to put farmers back on their feet who have been devastated by bad weather and market conditions beyond their control, it just seems to me that this is not an appropriate response for the President to be making, given the other opportunities for positive things.

Here are some examples of positive things that I think could be done which are beyond the jurisdiction of this committee today that brings you this conference report. The House of Representatives just passed recently a tax bill making a lot of changes in the Tax Code, but I specifically recall that some of those tax changes are designed to benefit farmers and farm families, and I am told that we are not going to have a chance to vote on that tax bill here in the Senate because we cannot get the bill cleared to bring up. We cannot get the House-passed tax bill cleared.

So in order to bring it up, the majority leader would have to move to the consideration of the bill, the motion would become debatable, and then in order to get the bill on the floor for consideration and debate and passage, 60 votes to invoke cloture would have to be undertaken because the Democrats are promising to filibuster the bill.

Here are the changes that it bothers me we will not even get a chance to approve that would help farmers.

There is a 5-year net loss carryback of losses that you can carry back and set against income for 5 previous years. That is in the House-passed bill. The House-passed bill makes permanent income averaging, which permits farmers and ranchers to average income, high years against low years, and even out the tax burden, which is very beneficial to many.

There is a provision that makes deductible, to 100 percent of the cost, health insurance premiums by those who are self-employed. If you are in agriculture and you have a farm and you are your own boss, under this change you will be able to deduct 100 percent of the cost of your health insurance. That helps farmers. That helps farm families.

There is also an acceleration of the exemption for death taxes and gift taxes. One of the most difficult things facing agriculture today is the obligation to come up with cash money to pay the Federal Government so-called inheritance taxes on the death of a family member who has an interest in the land or the other property that goes into making up the decedent's estate.

We have passed rules that phase in some higher exemptions for small farms and for businesses. What this House-passed bill does is accelerate the phasing in of those exemptions. That would be a big help to many farm families who are going to have to liquidate assets in real estate to pay death taxes.

Another thing that this administration has been slow to react to is the trade problems that we are having in this hemisphere, with Canada, with Mexico, and beyond, barriers to trade so that our farmers and our exporters are having to deal with unfair tariff situations and other difficulties that are erected to keep America from selling what we are producing in the world marketplace and at the same time importing, in violation of some existing rules, I am told, some foodstuffs, live cattle, from other countries.

Finally the administration is beginning to act. We see the Trade Representative engaging Canada in trade talks now about steps that can be taken to solve the problems that have developed in that area. But we were hearing this on the Senate floor and urging the administration to take action. Being the chief negotiator in the executive branch, the President has an obligation to assume some leadership. Frankly, there has been a breakdown in leadership on that subject.

We hope we haven't waited too late to make changes and reach agreements and work out problems in the trade area for the farmers who have suffered this year. That is one of the reasons why we felt it necessary to include direct payments that are bonus payments under the transition.

We think the market transition program to compensate producers directly for income losses due to the economic crisis and trade problems that we have is very important. The administration does not propose and has not suggested that as an appropriate step to aid America's farmers.

I make those comments, Madam President, not to pick a fight with anybody here on the floor of the Senate today, but to simply express my concern that we not see this bill held up, delayed, postponed, vetoed, whatever may happen to it, because of an interest in being able to say the Democrats are for a $7 billion disaster program, the Republican bill is only $4 billion. I bet it will be the same folks who said we want $500 million in an indemnity program to help meet the needs of the agriculture crisis. That is what the story was in July. We all agreed at that time that was probably temporary, that more needs to be done. So I am not belittling that suggestion. It was the suggestion on the floor of the Senate at the time and no one had any better idea at that time.

Since then it seems we have been engaged in a show of one-upsmanship. The Republicans then come up with, with Democrat input in many cases, this $4 billion program of disaster assistance. Now, all of a sudden, that is not enough; we need $7 billion.

How much has the President requested? I have the exact amount: $1.76 billion in budget authority has been requested by the President for agriculture producers and ranchers. That will support $2.3 billion program level. The other suggestion is removing the loan caps. Then CBO is called on to answer the question, what will that cost? The answer is that will probably cost—and it is speculation, it is a guess, nobody knows because nobody knows what commodity prices will be in the future—it is guessed it will be $5.5 billion.

The proponents of that proposal say we are for spending $5.5 billion plus $2.3 billion, so we are for spending almost $8 billion. So this is a more generous plan. What is not disclosed is the effect that policy change of raising the loan caps will have on prices of those commodities next year or the next. The

fact is there are many who tell us that we are buying into a program that is going to have a continuing depressing effect on market price of these commodities that are covered by the loan programs.

I don't know if that is true or not. I don't think anybody could have guessed that corn and wheat prices would have been as low as they are right now a year ago. So nobody knows what the prices are going to be in the future. I am told they will be lower because of that change in policy. So are we doing farmers a favor by making that policy change?

It is really not a question, in my view, of who is willing to spend more money on farmers, the Republicans or the Democrats. Both are being very generous. That is the fact. Both are being very, very generous in terms of where we started, existing programs, precedent, previous disaster benefit efforts. The fact is the Democrats are in favor of making a policy change and substituting a change for an existing farm bill provision that set up the market transition payments and the phasing in to a market economy. We are in the second year of that farm bill. There are 3 more years left under the authority of the 1996 bill. I m hopeful that we can find a way to provide the benefits to American agriculture producers without rewriting or trying to rewrite portions of the 1996 farm bill. So we have a difference of opinion on that.

Let me simply conclude my remarks by thanking everyone who helped us write this conference report. It has been a very challenging experience. I don't know that we had a more contentious or at least long drawn out conference on agriculture appropriations since I have been in the Congress. I don't recall having any more difficult time putting the bill together. We had a lot of disagreements that were discussed, but we worked them all out. We have a conference agreement. That is the good news. The other body has passed the conference report by a very large vote.

PRIVILEGE OF THE FLOOR

Mr. COCHRAN. Madam President, I ask unanimous consent that the following members of the staff of the Appropriations Committee be granted the privilege of the floor during consideration of the conference report to accompany H.R. 4101, and during any votes that may occur in relation to this measure: Rebecca Davies, Martha Scott Poindexter, and Rachelle Graves.

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

The Senator from Nebraska is recognized.

Mr. KERREY. Madam President, first of all, let me compliment the Senator from Mississippi for his usual articulate and persuasive fashion—always a gentleman, always wanting to work with us, regardless of momentary disagreements. I regret to say this is one of those momentary disagreements.

I come to the floor today to offer arguments against this conference report. I had initially intended to offer a motion to recommit the report back to conference, but now that motion would be out of order since the House has reported it. I prefer that it go back to the conference rather than going on to the President.

I appreciate very much the President indicating he will veto this bill. Perhaps if we can dispose of this conference report in a hurry, get the President's veto, the conferees can direct their attention to the objections the President has raised. Those objections are similar to the ones I will offer here this afternoon.

Let me say, first of all, I do appreciate that there is bipartisan agreement that rural America is facing a real crisis. That is very good news. What the Senator from Mississippi said is quite right. There has been, throughout the year, a process of developing proposals, but there has been significant disagreement on one particular point; that is, taking the caps off the loan rate. We voted twice on that. It did not pass here in the Senate. I will talk about that later. I think, unfortunately, that ideological argument is getting in the way of our ability to be able to reach agreement.

This conference report, I believe, fails in two areas: First, it does not achieve the goal of providing support, both to the farmers who grow the crop who are in serious trouble due to the prices, and those who are in trouble as a consequence of weather disasters. For livestock, this conference report fails to put the law on the sides of the producers and take action to make our markets work better.

First, as to the amount of income support for grains, it is simply not enough. It is not targeted as it should be to the people growing our food.

I ask unanimous consent to have printed in the RECORD an editorial that appeared in the Lincoln Journal Star praising Congressman DOUG BEREUTER, a Republican from Nebraska, who represents the First Congressional District. Congressman BEREUTER also objected to the plan in the conference report as not sufficiently generous to meet the needs of agriculture under current economic conditions; that the $4 billion in aid should be closer to $7 billion in aid that the budget has requested. I ask unanimous consent that this be printed in the RECORD.

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

[From the Lincoln Journal Star, Oct. 2, 1998]

BEREUTER PATH ON FARM AID BEST APPROACH

First District Rep. Doug Bereuter has a sound, responsible approach to helping farmers at a time when commodity prices have plunged to lows not seen since the 1980s.

Breaking with his GOP cohorts, Bereuter said this week the Republican plan ''is not sufficiently generous'' to meet the needs of agriculture under current economic conditions.

House and Senate conferees Wednesday chose the Republican plan, which would provide $4 billion in aid, over a Democratic plan which would have provided $7.1 billion in tax subsidies to farmers.

Agriculture was one of the first sectors of the economy to be buffeted by the Asian financial crisis. Export markets in some Asian nations have virtually evaporated. Now markets in Latin America also are being affected.

In addition to providing a cushion against low prices, the aid package under consideration in Congress is intended to help farmers who have been hit by drought and other adverse weather conditions.

Debate over the size of an aid package for farmers unfortunately has bogged down in partisan rhetoric and a running debate over the five-year Freedom to Farm act approved by Congress in 1996.

The Republican aid package unfortunately also rejects other measures that would provide substantial benefit to agriculture. For example, it does not require mandatory price reporting, which would allow cattle producers to know what packing plants are paying for beef.

It also does not include a provision to require labeling showing the national origin of meat. The measure would allow consumers to select beef produced in the U.S. rather than other countries. While pushing for more financial help for farmers, Bereuter rightly resists a return to previous ag policies that are part of the Democratic approach, which would base subsidies for grain farmers on the so-called loan rate.

Previous farm policy was based on a heavily bureaucratic approach with strict government dictates. Proponents of the Freedom to Farm act left more decision-making to farmers, at the same time leaving them more subject to market pressures.

In the long run, the market-oriented approach under Freedom to Farm will benefit agriculture, although it certainly should be open for modification and improvement.

But now, while farmers are facing a double whammy of record harvests and low prices, is not the time to get bogged down in partisan debate over basic philosophy.

Providing aid under the payment system of the existing farm bill makes sense. But, as Bereuter suggested, the amount should be more generous than Republicans have agreed to so far to preserve the stability and capability of the sector of the economy that feeds the nation.

Mr. KERREY. Madam President, as to the income, the proposal in the conference report would be, approximately, for corn, 7 cents a bushel. That does not get the farmer much closer to either recovering the cost of production nor providing his banker confidence to lend him money again next year, and significantly, of all the tests that I trust as to whether or not the President's proposal should be a part of the conference report or not, economists will come forward and argue on both sides of practically any proposal you come out with. The Independent Bankers of America have endorsed taking the caps off the loan rate, not because it provides more income, and by no means does it provide a sufficient amount of income that we won't still have significant people going broke, but because it is attached to a marketing loan, it increases the chances that farmers who will need operating loans will be able to get them.

Likewise, this conference report is inadequate because provisions were dropped that were passed in the Senate

in July, which were to require price reporting for beef, and meat labeling requirements as well. The conferees have said to farmers and ranchers that they think the livestock markets work just fine. But I am here in a brief period of time to say that the markets are not working.

Cattle feeders and ranchers have lost more than $2 billion in equity this year, with millions more being lost every week. When I am home—typically every weekend—the people in Nebraska are worried about their financial stability and they believe that this Agriculture appropriations bill, with the disaster package attached to it, will be terribly important for their financial stability. More deeply than just the money, they are worried about their way of life, because, in the final analysis, this debate is about much more than just the size and makeup of a relief package; it is about the future of rural America.

We can see the future of our small towns and rural areas very clearly right now, and it doesn't look good, with prices low and economic conditions as hard as they are on our farms and ranches.

Those who are not driven off the land in this crisis have already found that their children are not interested in the life farming has to offer. Two weeks ago, in Scottsbluff, I held a town hall meeting, and 60 people were in the room who are involved directly in production agriculture. I asked how many of them had children who would take over the farms, and I didn't get a single affirmative answer. Those with grown children had already lost them to the cities. Others said, ''There is no opportunity out here.''

That is what this Congress has the ability to change, and we can start with this piece of legislation. We need an agricultural sector that offers some opportunity, but first we must bring some stability to that agricultural sector.

Again, I am pleased the President is going to veto it. Let me talk of the differences, specifically to our States. Again, I heard the distinguished Senator from Mississippi talk about economists who are saying taking the caps off of loan rates could have a depressing impact on price. I have not come to the floor and said that Freedom to Farm produced these lower prices. I think the lower prices are clearly there as a consequence of a declining demand in the international marketplace. Nobody is forecasting that demand is going to come back in 1999. Nobody expects the decline in exports to increase. I wish this Congress had been able to pass fast-track legislation. I have supported it in the past. I believe that, long term, it would help. But in the short term, we see substantial declines in income that are there as a consequence of this decline in demand and increased production that has occurred here in America.

This package in the conference report versus what the President asked for is substantially different. I pointed this out before, and it bears repeating. In Nebraska, the difference is $434 million of income—this does not go to State government or county government; it goes to individual farm families—versus $177 million, almost a quarter of a million dollars. In Mississippi, it is $145 million versus $71 million. In Minnesota, it is $483 million versus $227 million.

I ask unanimous consent that this table, which shows the differences between the package in the conference report and what the President has asked for be printed in the RECORD.

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

DEMOCRATIC VERSUS REPUBLICAN PROPOSALS, BY STATE (CBO ESTIMATE)

[In millions of dollars]

State	Democratic	Republican	Difference
Alabama	96	64	32
Arizona	39	19	20
Arkansas	194	105	89
California	227	142	85
Colorado	120	53	67
Connecticut	2	1	1
Delaware	6	2	4
Florida	58	47	11
Georgia	218	147	71
Idaho	127	37	90
Illinois	527	186	341
Indiana	277	95	182
Iowa	600	235	365
Kansas	371	176	195
Kentucky	65	30	35
Louisiana	99	84	16
Maine	3	2	1
Maryland	21	7	14
Massachusetts	1	1	0
Michigan	109	47	62
Minnesota	483	227	256
Mississippi	145	71	74
Missouri	205	81	124
Montana	160	71	89
Nebraska	434	177	257
Nevada	1	0	1
New Hampshire	1	0	1
New Jersey	5	1	4
New Mexico	40	27	14
New York	41	12	29
North Carolina	185	115	70
North Dakota	431	316	115
Ohio	197	64	133
Oklahoma	170	109	60
Oregon	74	14	60
Pennsylvania	46	10	36
South Carolina	46	28	18
South Dakota	363	214	149
Tennessee	73	29	44
Texas	896	813	83
Utah	11	3	8
Vermont	26	11	16
Virginia	39	19	20
West Virginia	153	42	111
Washington	12	2	10
Wisconsin	139	60	79
Wyoming	10	4	6
Total	7,546	4,000	3,546

Mr. KERREY. Madam President, again, not only are our grain farmers adversely affected, but cattle producers and cattle processors have been as well. We have met extensively with our ranchers and our feeders, and they say to us two things need to happen, and they need to happen in order to improve our prices and increase the chances that we are going to get a market bid that is higher than what we are getting now.

The first is mandatory reporting of prices, regardless of whether the prices occur in cattle that are owned by the feeder or cattle controlled through formula feeding, or some other contract by the packinghouse. Those prices today are not reported. We had extensive debate here on the floor about that issue. Unfortunately, the conferees dropped that. I believe that provision, all by itself, would increase prices for cattle in the United States, for beef, and would have a very positive impact as a consequence on our rural communities.

Likewise, the meat labeling requirement included in the Senate bill was dropped by the conferees, and it is supported by almost all of the cattle organizations. There is some dispute on price reporting, although I think we can deal with the changes that we had in the conference language. There is almost no dispute, from the standpoint of the producer, on the need to put on the label information that allows the consumer to determine from where that product came. It is allowing the market to work. Rather than saying that the Government is going to impose a solution, we say inform the consumer where the product came from and let them decide.

I hope, as I said in the beginning, that the President's veto of this conference report will lead to the conferees coming back quickly and looking, as no doubt they will, for ways to improve it along the lines of what the President has recommended. Not only are there tens of thousands of farmers who will survive if we can get this legislation passed and on to the President for his signature, as he has asked us to, but it will give us a chance to take a step in the direction of giving our rural communities a chance to survive.

I yield the floor.

Mr. DORGAN addressed the Chair.

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

Mr. DORGAN. Madam President, it is a custom in the Senate to speak well of someone you are about to oppose. So let me speak well of the Senator from Mississippi. We have worked together on a wide range of issues. He is a very effective Senator and somebody I enjoy working with a great deal. He has a very effective staff and we work on a lot of issues together. But I come to the floor today opposing the conference report and to do so as aggressively as I possibly can. I want to explain to him and other Members why I feel so strongly about this.

First of all, it is not the case that all that was offered in July was the $500 million indemnity program that was introduced as an amendment by Senator CONRAD and myself. It is the case that we also proposed, and had a vote on an amendment to increase the price supports by lifting the caps on the loan rate. We did it then; and we did it a second time. We lost twice in those efforts. We proposed a series of steps, one of which was lifting the loan rate, and another of which dealt with disaster issues.

I want to describe why I feel so strongly about this. I received a letter from the head of the Farm Service Agency in our State. I asked him, ''If things don't change, what should we

expect in the next few months in North Dakota with respect to family farms?'' He points out that North Dakota in the judgment of the Farm Service Agency, will lose over 3,500 farms by this spring without some significant assistance. That is probably some 14,000 people. I assume there is an average of three or four persons on each of those family farmers, including a spouse and a couple of children. So at least 3,500 family farms will not get credit and will not be able to continue farming this coming year. That means 12,000 to 14,000 North Dakota farm people will be told that their dream is over. They tried, but they failed.

Let me describe the reasons they are not making it. There are two main reasons. One, is the disaster. We had the 500-year flood of the Red River, and people know about that. They remember the flood at Grand Forks. For a number of years we have been in a wet weather cycle in eastern North Dakota. We have had massive quantities of standing water that have inundated acres and acres of farmland in North Dakota. This wet cycle has caused and exacerbated a crop disease known as fusarium head blight, or scab. This combination has devastated the quality of farm life in North Dakota.

I have a chart here. If you are a North Dakota farmer and you are in these red counties on this chart in the eastern part of the State, you have had 5 straight years of disaster declaration. The red counties are not 1, 2, or 3, but every year for 5 straight years that these counties have been declared a disaster. Why? Because of weather-related events, and other events, their production has been devastated. So that is the disaster portion of this problem. You can see that with the orange counties and yellow counties, that these counties have had disasters 3 out of 5 years. In fact two thirds of the counties in my State have been declared a disaster area 3, 4 or 5 years out of 5 years.

Now, in addition to the disaster, what also has happened to these farmers is that Congress passed a new farm bill. The Senator from Nebraska might be right that this might have nothing at all to do with price. The new farm bill might not be related to the collapse in price. But it might be; I don't know. I am not asserting that today, I am just saying that we passed a new farm bill. This chart shows what has happened to the price of wheat since Congress passed the farm bill. It is down by almost 60 percent. There has been a 60-percent drop in the price of wheat since Congress passed the new farm bill. The price of wheat has fallen from $5.75 a bushel to $2.36.

Add together the significant disasters year after year and the collapse of prices and here is what you have. In my State, in North Dakota, which is the hardest hit, in 1 year there was a 98-percent drop in net farm income. These are U.S. Government figures. We had a 98-percent drop in net farm income. With respect to this group of North Dakotans, their income has virtually been wiped away.

Is it any wonder they are in deep trouble? We are not a State of big corporate agrifactories. We are a State largely composed of family farms. When they suffer a loss of virtually all of their income, many of them just do not make it.

The current farm bill doesn't provide a bridge across price valleys. The philosophy of the current farm bill is that you ought to operate in the free market. If there is a price valley, the farmer is told, ''Tough luck; try and find your way across the valley.''

So because we don't have that pricing bridge under this economic philosophy, family farmers certainly don't get to the other side. The head of our Farm Service Agency says 3,500 farms will not be in the field next spring in North Dakota.

I am betting that if any other Member of this body had the same set of statistics in front of them concerning what is happening to their family farmers would also be here. They would be here with as much energy and as much passion as I have to see if we can't change this result and to do whatever we need to do to change it.

The underlying bill has disaster assistance. I am very appreciative of that. We might argue about who provides more. But overall, frankly, I think the underlying bill, and the administration, and virtually everyone who is party to this has offered a fairly decent package with respect to disaster assistance.

The Senator from Mississippi correctly pointed out that he and Senator LOTT accepted the $500 million indemnity program amendment that we put into in the bill in the Senate in the first instance to deal with the initial estimate of damages from the disaster in the Northern Plains. That amendment was done prior to the almost complete collapse of the cotton crop in Texas and the devastation in Louisiana, Oklahoma and other States. At that time we all understood that the disaster indemnity program was going to have to be increased at some point along the way. The disaster package in this appropriations bill started with the acceptance by the Senator from Mississippi to put in the $500 million indemnity for the Northern Plains. I appreciate that.

I am not here to argue about which disaster proposal for this bill is better than the other. Both the President and the conference report addressed this disaster issue in a very significant way. But, I am here to say that is not enough.

On top of the disaster provision, as the Senator from Mississippi indicated, the majority party added a 18-cents-a-bushel payment for wheat. This additional AMTA payment really only means that farmers will get 13 cents a bushel for wheat when it is all figured out. That is because AMTA payments are made on only 85 percent of contract acreage on the frozen historic yields. So the real assistance to deal with price collapse in this bill amounts to 13 cents a bushel for wheat. And it is not enough.

It won't allow farmers enough cashflow. It won't allow their bankers to decide that they will get another loan to go to the fields next spring to plant crops. They simply won't be able to do it. That is the dilemma. This is not enough. And there isn't any way to argue to say that it is enough, or that it will solve this problem.

If numbers are to be believed with respect to the estimates in North Dakota, at least 3,500 farm families are going to be washed away. These farm families are not going to be able to farm next spring. I am not willing to accept that result. It is not a fair result. Family farmers are not getting their share of this country's national income. They should be expected to get a decent share of that.

Let me show you what family farms face. They are told that they should just go ahead and operate in the free market and whatever happens, happens. What is that free market about? Everywhere they look, they confront near monopolies, or at least enormous concentrations of economic power. The top four firms in this country control 62 percent of flour milling. The top four firms in dry corn milling control 57 percent. In wet corn milling, the top four control 76 percent. In soybean crushing, the top four have 76 percent.

If a farmer happens to produce livestock and he markets that cow, he finds that 87 percent of the beef slaughter is controlled by the top four firms. The top four control 73 percent of sheep slaughter. It is 60 percent for pork. Or, if farmers want to haul their grain to market on a railroad—and most of them have to—they stick it on a rail car somewhere in my State, and they get double charged at least because there is no competition.

I have mentioned this before and I will say it again. If you put a carload of wheat on the rail track in Bismarck and haul it to Minneapolis, they charge you $2,300. If you put it on a car in Minneapolis, and haul it to Chicago, which is about the same distance, it costs you $1,000. Why do we get double charged? Because there is no rail competition in North Dakota, while there are multiple lines between Minneapolis and Chicago.

So it is not just concentration among processors. It is also the transportation components of the grain trade that are highly concentrated. This isn't a circumstance where there is a free market. Yet farmers are told to operate in the free market. If prices collapse, they are told tough luck, and we will give you 13 cents. If they can't make it with that, tougher luck.

Those want to pass this bill also contemplate tax cuts that they say will help farmers. Tax cuts don't help people without income. The problem in

farm country is lack of income. The first thing we should do is to restore income.

I happen to support most of those tax proposals that I have heard about. In fact, some that the Senator from Mississippi described today have great merit. I support fully deductible health insurance for sole proprietorships and income averaging. I can go down a whole list of proposals that I support. My point is that first we need to restore income to these family farmers. They need to get a fair share of this Nation's income.

The fact is that everybody who touches products produced by these farmers is virtually making record profits. The railroads? You bet your life they are doing fine. They haul the farmers' products. How about the slaughterhouses? Are they doing fine? You bet they have solid profits. They are the ones who slaughter the livestock that is sent to market by those farmers.

How about the cereal manufacturers who put the snap, crackle and pop into a cereal. They take a kernel of wheat, put it in a plant some place, put it in a bright-colored box, ship it to a grocery store, and sell it at $4 a box. The company that puts the puff in puffed wheat makes far more than the person who gassed the tractor, planted the seed, and harvested that wheat. In fact, the person that harvested the wheat that they planted is going broke. And the people who are puffing it, crackling it, and snapping it are having record profits.

I don't understand the notion that somehow, if we just do nothing, things will work out. When we look at all of the evidence here, we are going to lose tens and tens of thousands of family farmers across this country unless this Congress does what it needs to do now. We need to provide some decent price supports to get farmers across this price valley.

I am not standing here asking that we tip the current farm program upside down. I didn't vote for the current farm program. I am not going to stand here and provide a litany of why I think it is not a good program. I am not suggesting we tip it upside down. I am simply saying what this farm program did in the big print it took away in the small print. This farm program, passed by this Congress, said we would provide farmers 85 percent of the five-year Olympic average price as a price support in the form of a loan rate. That is what it said in the big print. In the small print it said that the 85 percent of the five-year Olympic average price would be capped. The small print says we will put an artificial cap on it to bring the loan rates way down.

All we are saying is that we should take the artificial cap off. Do what the big print said the farm bill will do. Get rid of the small print that took away that help to the family farmers.

In North Dakota it means a $156 million difference just on the price support mechanism. The difference for the farmers in my State alone is $156 million. That could well mean the difference between making it and not making it. It can mean the difference between succeeding and failing.

A young fellow wrote to me recently. I have referred to his letter previously in the last couple of days. His name is Wyatt. He is a sophomore in high school at Stanley, ND. He wrote this plaintive cry for help on behalf of his family farm. He is a young boy who loves to farm. He knows his dad and mom do as well. He wrote me a letter that says, ''My dad can feed 180 people. And he can't feed his family.'' He was describing a circumstance where his family's income has been washed out. Their family farm may not be able to make it and he wonders whether that is fair, and whether that is good economic policy for this country. The answer clearly is no, that is not fair. And clearly it is not good economic policy for our country.

Both the independent community bankers in my State and the North Dakota Bankers Association tell me that if we don't pass some meaningful assistance this year these farmers won't be in the field next spring. That is from the lenders.

This weekend, I was reading some of President Truman's speeches in 1948. I want to read a couple of pieces from President Truman in 1948. Old Harry was doing a whistle stop tour on a train back then. I like Harry Truman. Harry spoke plainly and never minced any words. I thought maybe we would celebrate just a bit of what Harry Truman said about family farmers and what this debate is about today.

Harry Truman said at the National Plowing Match in Dexter, IA, September 18, 1948:

> [I] believe that farmers are entitled to share equally with others in our national income. [I] believe a prosperous and productive agriculture is essential to [this country's] national welfare.

He said:

> Those who are wilfully trying to discredit the price support program for farmers don't want the farmers to be prosperous. They believe in low prices for farmers, cheap wages for labor, and high profits for big corporations.

And then he said:

> The big money [interests look] on agriculture and labor as merely an expense item in a business venture. [They try] to push their share of the national income down as low as possible and increase [their] own profits. And [they] look upon the Government as a tool to accomplish this purpose.

That was 1948, 50 years ago. Isn't it interesting that as we stand here debating agriculture, in North Dakota there are probably 12,000 to 14,000 citizens who will not get into the fields next spring unless this Congress does the right thing. At least 3,500 farms will go belly up. That is 12,000 to 14,000 people, who will lose their livelihood unless we do the right thing. Yet, surrounding those farmers are the bigger economic interests that are all making money. There are the railroads, slaughterhouses, grain trader, cereal manufacturers, grocery manufacturers, and you can name all the others that are all making record profits.

Does that say something about whether the system is fair? And you might say, well, what business is it of ours? The business for this country is that if we do not act, we will not have people living in the country. We will not have people living out on the land. We won't have yard lights illuminating those family farms. We won't have the Jeffersonian notion of broad-based economic democracy in America if we don't start caring a bit about whether we have family farmers in our future.

Instead, we will end up having big agribusiness in control in rural America from California to Maine. When they do that, the price of food will go way up, and then they will have cornered everything. I guess they can haul it, process it, slaughter it, and make money off of that and then finally they can grow it because they got rid of mom and pop on the family farm. You ask them, would that be good for the country? I don't think so.

So this issue is very simple. Is what the conference committee brought to the Senate floor enough? The answer is clearly no. It is not nearly good enough. Do we have the resources in this country to do better and do what we should? The answer is yes, clearly yes. For those who believe in this as a priority, there are clearly enough resources to make the difference. I hope that if the Congress falls short, the President will veto the legislation as he indicated earlier. He should send it back and say let us do better. We can do better and work together.

We must understand that there are two components, one of which is a disaster component. For that portion I commend the Senator from Mississippi and the entire conference. But the second portion is the price support component. These two components added together must be enough to give farmers some hope and some opportunity. This bill falls far short of that.

As I mentioned in my opening statement, it is not the case that somehow the proposal to increase the price supports that are available to family farmers has just emerged from some mysterious corner of policy making. That is not the case at all. We have already had two votes in the Senate on this issue of raising price supports. We have lost by a handful of votes both times, and we may lose again. But, I will be here through the last breath of legislative effort to see that this Congress is persuaded to do the right thing for these family farmers.

These 3,500 farm families deserve a chance. They didn't cause the Asian financial crisis. They didn't cause the crisis in Asia which means that this country can export fewer agricultural goods to Asia. Family farmers didn't cause crop disease. Family farmers didn't cause the collapse of grain

prices. Family farmers didn't cause the incessant wet cycle in our part of the country that has helped exacerbate crop disease. Family farmers didn't cause these problems. And this Congress should not say to family farmers, ''Well, you deal with it. And if you can't, you don't matter.''

This Congress ought to extend a helping hand to say to family farmers, ''We want to help you over this trouble spot. We want to help you survive because you are important to this country.''

Madam President, I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. I thank the Chair.

Madam President, first of all, I would like to start out thanking my colleague from Mississippi, Senator COCHRAN. Above and beyond his ability as Senator, I think probably the best thing about him is his civility, and I wish I wasn't in profound disagreement with my colleague, but I am. I do wish to thank him for some of the good things in this bill. In this appropriations bill, we are talking about farm programs; we are talking about nutrition programs, forestry, and also there is a great deal of research money. In particular, I am very pleased that we are going to see additional funding for research of the scab disease which is a terribly important problem for my State and certainly for North Dakota as well. The faculty at the University of Minnesota is doing some very important research in this area.

Madam President, I talked to our FSA director, Wally Sparby, and he sent me some information that I might just start out with. Mr. Sheldon Erickson from Roseau, MN at Border State Bank is talking about the situation of bankers: 90 percent of his farmers can't repay in 1998; 25 percent he won't be able to lend to in 1999; he says more equity lending is required but less is available. Percy Blake of Bremer Bank in Crookston, MN: 75 percent of borrowers won't be able to meet their obligations in 1998; 50 percent are in jeopardy of not being financed in the coming year; he says that regulators are trying to pressure them away from equity financing.

We have a plea and cry from not just family farmers in our communities, but from the lenders and small businesses and from the citizens, I say to my colleague from Mississippi.

I have here petitions from all over the State of Minnesota. People who signed these petitions did this with some hope. It says:

> We, the people of rural Minnesota, exercising our constitutional right to petition the Government for redress of grievances, hereby state and declare: That the exceptionally low prices being paid for farm commodities in the State of Minnesota constitute a dire threat, a crisis imperiling residents, businesses and institutions of rural communities who are demanding an immediate response from our Federal Government; that without action by the Secretary of Agriculture to increase the support prices for corn, soybeans, wheat, small grains, hogs, cattle and dairy products and to extend loans and increase loan rates and to make crop insurance coverage effective, thousands of families relying on farming and rural businesses will lose their livelihoods; that the 1996 Federal farm bill must be revised this year in order to restore an economic safety net for family farmers and allow them to support rural small businesses and community institutions; that these destructive policies must be reversed to ensure healthy main streets, full schools and full churches in rural communities of the State of Minnesota.

I say to the Chair, I don't know how many signatures there are here, but this is just a sample of the people. Let me show you those who have signed their names to this with the hope that it will make a difference.

Madam Chair, the differences between this bill's $4 billion package and the $7 billion package that we proposed are ones that make a difference.

Part of it has to do with the amount of assistance, but the big issue is the price crisis. I am actually not going to speak that long on the floor of the Senate because my colleagues, Senator KERREY from Nebraska and Senator DORGAN from North Dakota, have already spoken about this. In many ways what we are struggling with is not just the wet weather and not just the scab disease, but disastrously low prices. It is hard to believe that we really want to have such a low cap as that in the Freedom to Farm bill—I call it the ''Freedom to Fail'' bill—at a time when prices are so low.

In our proposal we talked about taking the current cap off the loan rate. As I hear from people in our communities—not just the farmers but the lenders as well—this is the most direct and dramatic way that we can get some income to these families. We would raise the loan rate about 57 cents a bushel for wheat, about 27 cents a bushel for corn, and over 20 cents a bushel for soybeans. That would be what would happen if we would lift the cap.

What was not anticipated—I think my colleague from Mississippi would agree with me on this point—when the Freedom to Farm bill, or ''Freedom to Fail'' bill, was passed, was that the prices would plummet. I do not think Senators realized that, although I think farmers have always known that prices go up and down. What happened is we basically eliminated the leverage the farmers have in the marketplace —where the loan rate helps them in their dealing with grain companies. In addition there was a safety net that was extremely important. At least it provided some direct assistance to people. We have eliminated that.

I say to my colleagues today, I appreciate their work, but this relief package will not do the job. It is impossible for me as a Senator to come out here and speak for it or to vote for it. It is very important that the President veto this. The President said he will. It is important that we get back to negotiations and work out a package together. It has to be a bipartisan package.

Just in terms of corn growers who currently are receiving $1.50 a bushel for corn or less, they cannot cash flow on that. The same is going on with our wheat farmers—low prices.

I think surely we will hear from Senator FEINGOLD from Wisconsin. Senator KOHL actually has just come out on the floor. Our dairy farmers in the upper Midwest have been going under. We have a federal milk marketing order system that is absolutely discriminatory, and there is a legislative rider in this appropriations bill which effectively extends that discrimination another half a year. That is completely unsatisfactory, at the very time the Secretary of Agriculture has put a process into effect to examine and reform this system. That reform process is not enough for many of us, but we appreciate it as a positive step, moving forward. Now that reform process will be postponed for an additional 6 months under the provision of this legislative rider, which in addition has the effect of extending for 6 months the Northeast Interstate Dairy Compact, another policy which has a discriminatory effect upon dairy producers and the dairy industry of the upper Midwest.

So, as a Senator from Minnesota, I cannot in good conscience support an appropriations bill that will not provide the needed assistance to family farmers in rural communities in my State. It would amount to betrayal. People are in desperate shape. That is the ''why'' of all these petitions. That is the ''why'' of all the meetings I have attended: in Crookston, East Grand Forks, Granite Falls, Fulda, Worthington. That is the ''why'' of grown men and women crying because they are being driven off their farms. They work there, they live there, it is everything that they have ever worked for.

Nobody can say we are talking about a group of citizens who do not work hard, but this just seems beyond their control. Now we have an appropriations bill that does not deal with the price crisis, that does not get enough relief out there, that is not going to enable these people to stay on the farms. It does not do the job.

I think family farmers in rural America know that. We have to do better. Senator COCHRAN has done all that he can do. I think he has pushed hard for what he thinks is right. But some of the rest of us have to come out here and we have to fight hard for what we think is right. The President has to stay strong, and he has said he will veto this bill. We need to go back to the table and put negotiations on a fast-track to get a farm crisis relief package that will do the job.

For my State, the differences between the two packages amount to a quarter of a billion dollars. That is $250 million more for family farmers and small businesses in rural communities. This is a decisive moment for the State

of Minnesota, for agriculture and for family farmers.

In many parts of our country we hardly have a family farm structure of agriculture any longer, where the people who live on the land make the investments and work on the land. In the Midwest I think we understand a very sound economic point, which is also, I think, a social message: the health and vitality of our communities are not based upon the number of acres that are farmed or the number of animals that are owned. Somebody will always farm that land or own that land. The question is, Are we going to have family farmers? The health and vitality of our communities are based upon the number of farmers—I say to the Senator from Wisconsin—the number of family dairy farmers.

We have a crisis, and that crisis deserves a strong and effective response from the U.S. Congress. This appropriations bill—and I say this not in a shrill way but in a very determined way—is not an adequate response to that crisis.

Therefore, I will vote against it. I call on the President to veto it. And I call on my colleagues please to work together and do better.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. Madam President, I rise to discuss the conference report that is before us as well. I want to start by acknowledging the efforts of the chairman of the committee, Senator COCHRAN. Senator COCHRAN, I think, is really one of the most decent Members in this Chamber. He is somebody I respect, somebody I like, somebody who has made a real contribution in the Agriculture Committee in previous years as well as being chairman of the Agriculture Appropriations subcommittee. So I acknowledge right up front he is someone, I think, who has the best interests of American agriculture at heart.

But he is not the only one to make the decisions. He has to make the decision, not only in the Senate Agriculture Appropriations Subcommittee, but in a conference committee. It is a conference between the Senate and the House. And what has been brought back to this Chamber is inadequate.

I represent North Dakota. North Dakota has been absolutely devastated by what I call the triple whammy of bad prices, bad weather and bad policy. That triple whammy has washed away farm income.

This chart shows the Government's own figures. From 1996 to 1997, we saw a 98-percent drop in farm income in the State of North Dakota. That is a crisis by any definition. It is a combination of terrible prices—we have the lowest prices in 50 years—coupled with natural disasters—we have had an outbreak of scab and other fungi because of continuing overly wet conditions—and then we have, on top of it, bad policy.

The last farm bill, I don't know how else to say it, is bad policy. It is its own disaster, because, in previous times, if prices would have collapsed, there would have been an automatic adjustment mechanism. That automatic adjustment mechanism has been taken away, and the result is now, when prices collapse and you have a natural disaster, there is not much there. The result is literally thousands of farmers in our State being forced off the land.

When the Secretary of Agriculture came to North Dakota, his crisis response team told him over the next 2 years we could lose 30 percent of the farmers in North Dakota—30 percent. That would change the face of our State forever.

We have no choice but to fight. We have no choice but to come out and plead with our colleagues to do better and to do more, because if we fail, there will be dire consequences, not only in our State, but in other farm-belt States as well.

It is not just conditions in North Dakota, although we have had the worst conditions. The price collapse is affecting everybody in the farm belt. This chart shows what has happened to spring wheat prices over a very extended period. This shows what has happened to prices from 1946 to 1998, 52 years of prices. You can see we are at an all-time low. In 52 years, this is the lowest they have ever been, adjusted for inflation. This is it. At no time in 52 years have prices been lower than they are today.

It is not just spring wheat prices. We lead the Nation in production of spring wheat, or at least in many years we do. Barley is also a major crop in North Dakota. Again, 52 years of history, and here we are today, the lowest prices in 52 years. When I talk about the triple whammy of bad prices, bad weather and bad policy, the bad prices are abundantly clear. We have the worst prices in 52 years.

We have looked at spring wheat. We looked at barley. This chart shows durum prices. Does it look familiar? It is exactly the same pattern, the lowest prices in 52 years. You can look back on the whole period of 52 years, and prices have never been lower.

When we then look at what our colleagues have brought before us from the conference committee, we can see that the Republican plan does not measure up. The Democratic plan is $7.5 billion. Some estimates are as high as $7.8 billion. The Republican plan is $4.1 billion.

I must say to you, Madam President, and say to my colleagues, honestly, even the Democratic plan will not solve this problem. If you go back to 1986, the Federal Government spent $26 billion because we were faced with a similar farm economy.

We are not going to be anywhere close to that. We will be less than half of that level of funding this year, even if the Democratic plan passes. Make no mistake, the Democratic plan does not solve the problem, but what our Republican colleagues are offering is totally inadequate. It is not going to stem the tide. It is not going to prevent literally thousands of family farmers from being forced off the land.

I just had a series of meetings all across my State, and every town I go to, there are large meetings of farmers. It is very interesting because usually when I hold meetings like this, it is just farmers. Not this year. Now it is Main Street businesspeople. The mayors and city councilmen in the cities and the bankers are all coming to these meetings, many of whom have never attended a farm meeting in my 12 years in the U.S. Senate, stopping me afterwards and saying, ''Senator, there's something radically, radically wrong, and unless something is done and done quickly, not only is that farmer going to fail, but the Main Street businesses are going to fail and the towns themselves are going to fail.''

For the first time ever in my experience, mayors and city councilmen are coming to my meetings and telling me that the cities are going to fail unless something dramatic is done and done quickly.

If we look at the constituent elements of the plan, the first part involves support on the income side. The Democrats call for removing the marketing loan rate caps. The Republicans call for increased transition payments. There is a dramatic difference here. The Democratic plan costs over $5 billion; the Republican plan, less than one-third of that.

The difference here is the Democratic plan says that the loan rate caps that were put in the last farm bill at a very low level, artificially low level, especially on the commodities that we produce in our part of the country, leave farmers in a circumstance in which if prices collapse, they have no protection.

Some have said, ''Gee, you're going to give a loan to farmers who have an income problem? Isn't that just digging the hole deeper?'' Let me explain for those who may be listening that a marketing loan in agriculture is not like a normal loan.

A marketing loan in agriculture works this way: A farmer gets a loan—and in the farm bill, on wheat it is $2.58, but if the price goes below that, if the farmer sells for not $2.58 but sells for $2, he doesn't have to pay back the difference between the market price and the loan rate. That is why it is called a marketing loan. He only pays all of it back if prices exceed the amount of the loan level. This doesn't build debt. This is a floor under income. It is to guard against the kind of price collapse that we have occurring now.

Unfortunately, in the new farm bill, the loan rates were capped at an artificially low level. They did that because of a budget consideration. That is why these loan levels were set at such low rates, because, frankly, agriculture was cut dramatically at the same time the

new farm bill was put in place. In fact, much of the problem that we are experiencing with the new farm bill is not the specifics of the farm bill as much as the budget limitation that we were under when the farm bill was written.

In fact, the support for agriculture was cut in half at the time the last farm bill was written. In the previous 5 years, we had been getting about $10 billion a year to support agriculture. Under the new budget agreement, that was cut in half, to about $5 billion a year. That is one reason we are in such desperate shape, because our major competitors, the Europeans, are spending almost $50 billion a year, 10 times as much as we are to support our producers. It is not too hard to understand that the Europeans are on the move, they are on the march, they are gaining market share because they are doing it the old-fashioned way: They are buying these markets.

Madam President, one thing we have to ask ourselves is do we want to roll over, do we want to play dead, do we want to fly the white flag of surrender when our major competitors are spending 10 times as much as we are to support their producers?

I said at the time I thought it represented unilateral disarmament, that the United States was making a profound mistake, because the Europeans have a strategy and they have a plan. And, oh, how well that strategy and plan are working. Their strategy and their plan is to dominate world agricultural trade.

If you look at the trend lines in agriculture, you can see that their strategy and their plan are working very well. They have gone from being major importers to being major exporters in just 10 years. In the United States we are going backwards. If you look at our world position, it is slipping. And it is slipping in part because we are not in this fight. We have ceded it to our competitors.

Why do they have a different view? In part, because they have been hungry twice in Europe. They do not intend to be hungry again. But more than that, they have decided it makes sense to have people out across the land. They do not want everybody forced into the cities. And we have to make a decision in this country. Do we want everybody to go to the cities? Because if that is what we want, we are on schedule. We are right on track because that is what is going to happen. We are going to see the people from the farms move into the cities because you cannot make a living on the farm.

So the first part of the difference between these two plans is on the income side of the house. The Democrats have a plan of over $5 billion of assistance. The Republicans are offering $1.6 billion.

If you look at the specifics between the two, you again see that the Republican plan just does not measure up. The Democratic plan on wheat would provide 57 cents a bushel.

When prices are at the lowest they have ever been—prices in my State are down to $2.50 a bushel on wheat. That is the least they have ever been, at least in the 52 years we have looked at putting these records together—the lowest prices in 52 years. The Democrats have a rescue plan of 57 cents a bushel. The Republican plan would provide 13 cents a bushel on wheat. And 13 cents a bushel is not going to pay many bills, very frankly.

When I tell the farmers back home that the Republican plan would provide 13 cents a bushel, the reaction is a combination of mystification, anger, and disbelief. They cannot believe in this circumstance that the best we can do is 13 cents a bushel.

On barley, the Democratic plan is 23 cents; in the Republican plan it is 6 cents a bushel.

On corn, the Democratic plan is 28 cents a bushel; the Republican plan one-quarter of that, 7 cents a bushel.

And on soybeans, the Democratic plan is 28 cents a bushel; the Republican plan is 2 cents.

Madam President, that is the income side of this proposal to deal with the crisis.

On the indemnity relief plan, that part of the plan that is designed to deal with the natural disasters that are occurring around the country, the Democratic plan is $2.48 billion of money that would go out to farmers; the Republican plan, $2.43 billion. And you can see the differences in the two plans.

The Democratic plan has $935 million for multiyear loss indemnity; $960 million for the 1998 loss indemnity—that would go primarily to the South, the second part there, because those are folks that have just suffered losses in 1998. In our part of the country, we have multiple-year losses—3, 4, or 5 bad years in a row because of natural disasters.

The third element of the Democratic plan is for noninsurable, uninsured crops, $250 million. There is a fourth element, $50 million for flood compensation. These are for folks who do not qualify for anything. Their land is under water. And we have people in North Dakota, northeastern North Dakota whose land has been under water now for 5 years. They have no income—none. The Republican plan is silent with respect to those people. They get nothing. They have been getting nothing; they continue to get nothing. I guess there is at least a consistency to that—nothing; that is what they get.

Those people—I just talked to one fellow who has put in everything he has. He had an insurance settlement—put that in—and his lifetime savings. This fellow used to be a world champion bull rider. He put all his lifetime winnings in. Every single thing his family had he has put into the pot. He is a remarkable, remarkable man. Five years in a row he sees more and more of his land going under water, and his response is really remarkable. He is just hopeful that something good is going to happen. He is just happy to be alive. But he is really counting on us to do something. The Republican plan does nothing.

Emergency livestock assistance, there is $200 million in the Democratic plan. There is $31 million for farm operating loans. There is $40 million for an FSA increased workload; $10 million for U.S. Forest Service assistance; $10 million for tree assistance—for a total of $2.48 billion. You can see the comparable elements to the Republican plan, which is roughly equivalent.

Madam President, another way to look at this is to look at individual farmers. What happens in these different plans? So we took three examples from North Dakota and looked at individual producers with individual situations and compared what the two plans would provide the individual farmer.

Chart A relates to our first producer. We are not using names here because we thought it would be more appropriate to label them A, B and C. This chart represents a typical North Dakota producer who farms 500 acres of wheat, 300 acres of barley and is suffering only from low prices. He has not been affected by the bad weather. And we look at what he would receive under the Democratic plan, which is $12,630. In the Republican plan it is about one-quarter of that. This is a circumstance in which somebody has not been affected by bad weather, just the very low prices.

Producer B represents a circumstance that shows a typical North Dakota producer, what they can expect to receive from suffering not only low prices, but also has repeated years of crop loss due to natural disasters, such things as flooding or the crop disease scab. So this is producer B who is suffering from low prices and from natural disaster. And under the Democratic plan this farmer would get $22,130; under the Republican plan they get $12,686.

Producer C is somebody who has really got the triple whammy. This producer is not only affected by low prices, he has also had repeated years of disaster and has flooded land. Under the Democratic plan they would get $28,000 of assistance; under the Republican plan $12,686.

Madam President, these are specific examples of what people would experience under the two plans. I say to you that neither one of them are going to solve the problem. I mean, that is the truth of the matter. This problem in my State is so deep and so serious that neither of these plans is going to solve the problem. In fact, if we do not do a lot more next year, there are going to be thousands of farmers who never get into the fields because their bankers will not finance them.

If you are looking at what we are doing, we are shoring them up to try to get them to next year, trying to allow them to survive the winter. But the

hard reality is—the harsh reality is if we do not do something dramatically more this year and next year, those farmers are not going to plant because if you look at what the Republican plan does and what the Democratic plan does, it provides money this year.

I guess we are all praying that prices increase. I hope that happens. I hope that happens. But with the collapse in Asia, I think, frankly—the collapse in Russia as well—it is probably unlikely that prices will increase substantially. And that means when the banker looks at the income statement for a farmer, under the Republican plan what they see is that we have moved forward the AMTA payments. We all agreed to do that. Republicans are providing 13 cents more a bushel this year in assistance, but there is nothing for next year. The AMTA payments that are supposed to be paid next year have been pulled into this year.

So when the banker looks at the income payments for the farmer for next year, all he looks at are the price projections for the commodities that are going to be produced on that farm. Bankers are telling me they are not going to be able to extend loans to farmers next year if either one of these packages passes because we are not doing anything about next year. The families are going to their bankers in February and March to get operating money for next year.

I had blown up a letter I got from a constituent back home that explains it very well. This is from Steve and Stephanie Johnson. Stephanie wrote the letter from Luverne, ND:

I am writing in hopes that it will encourage you to quickly push forward the farm assistance program that is in the works.

She goes on to describe that they are farming near Luverne, ND, they have 90 head of cattle, 13 head of horses. They raise corn, wheat, barley, sunflowers, and canola. She works as an RN outside the home, 24 to 40 hours a week, which pays part of their health insurance and most of their bills. Her husband works usually 12 hours a day, 6 to 7 days a week, and he works 24 hours a day during calving time in February or March. He made $12,000 of farm income this year, of which $2,000 and an income tax return of $1,000 went to pay part of the 1997 operating loan balance. So that leaves her husband with $10,000 for the entire year of 1998. As she points out, that is $833 a month without benefits. That amounts to $2.30 an hour. That doesn't include the labor that she and her son have put into the farm either. She says:

The really sad part of this is we didn't have to take operating loans in the 12 years my husband has been farming until 4 years ago.

The cattle and the horses have helped us break even in the past, but in these last few years we can't even do that.

She says in capital letters:

With skyrocketing production costs and plummeting prices it is obvious that you can't quite break even. Something needs to be done quickly.

Madam President, she goes on to say:

We are in no way asking for handouts, only fair prices. We have to pay whatever price the retailers put on our products, but we have no way to set our prices on our products.

She concludes by saying:

We are not sure if we will farm next year, my husband doesn't want to lose everything he has worked for in the past 12 years. Nor do I think either of us can take any more stress. We are losing numerous family farmers in our area, in the past few years, 4 of our neighbors quit or were forced to quit. Isn't it time to do something?

Madam President, it is time to do something and it is time to do something that is much more significant than what is in this conference report. The truth is, it is not going to solve this problem. It isn't even a Band-Aid on the problem. At least a Band-Aid covers a wound. I can say if this is the best we do, then we are consigning thousands of farmers—thousands of farmers—to the auction block, because that is exactly what is going to happen in our State.

Finally, to put this in perspective, this chart shows what we are spending to support our producers and what the Europeans are spending to support theirs. We are spending $5 billion a year; they are spending nearly $50 billion a year. If we add $7 billion to that total, we are still being outspent nearly 4–1. I submit that it is pretty hard to win a fight when the other side is outspending you 4–1, much less the 10–1 that is currently happening.

I hope before we are done with this legislative session that we will go back to the drawing boards and substantially strengthen the package that is before the Senate. It is absolutely critically important to the State I represent, and I think it is fair to say that there are many other States whose farm producers are in much the same shape as the people who are farming in North Dakota. Bedeviled by the triple whammy of bad prices, bad weather, and bad policy—not much we can do about the weather; perhaps not much we can do in the short run about prices; we can do something about the policy that is passed on the floor of the U.S. Senate.

I implore my colleagues to join with others of us who really want to make certain that farmers have a fighting chance, a chance to get through this winter, a chance to be out plowing those fields again next spring.

I thank my colleagues for their attention and their patience.

I yield the floor.

Mr. KOHL. Mr. President, I rise in opposition to the fiscal year 1999 Agricultural appropriations conference report. This bill would delay reform of the current milk pricing system and extend the life of the controversial Northeast Dairy Compact. Both policies would cost consumers and hurt dairy farmers in the Midwest.

Most of the debate on this bill has rightly been about how we can help farmers devastated by drought and low crop yields. But just as we must act to help them, we should not act to harm the dairy farmers of Wisconsin and other Midwestern states.

It is not as if there is support for the damaging dairy policies in this bill. Twenty-five Senators have signed a letter opposing extension of the current milk pricing system and the Northeast Interstate Dairy Compact. The Judiciary Committee has requested that no action be taken to renew the Compact without their review.

And it is by no means certain that the Compact could survive scrutiny. The higher prices ordered by the Compact are leading to higher consumer prices and a continued decline in fluid milk consumption. Worse yet, these higher prices are primarily benefiting large dairy farms. In Vermont the largest 7 percent of farms receive 30 percent of the Compact revenues.

As for extending the USDA's time to review the milk pricing system, that is unnecessary. By delaying reform, this legislation does exactly what the authors of the 1996 Farm Bill were trying to prevent. Congress deliberately gave the job of reform to the Secretary of Agriculture so it could be done in a more analytical and less political environment. Our actions today put the antiquated dairy pricing system back into the political arena that created it in the first place.

To many of you, this may seem to be an arcane debate with little real impact. But in Wisconsin, and through the Midwest region, the current inequitable pricing system is destroying family farms—not because they are uncompetitive, but because of a system that closes off regional markets and prices milk based on where it is made, not on its quality or its cost. Our actions today punish a traditional and successful industry. We are making the Midwest dairy farmers the victims of regional infighting and inside-the beltway politics. That is wrong. I urge my colleagues to oppose this legislation.

LONG PARK DAM

Mr. BENNETT. I would like to raise an issue addressed in the Senate report language regarding the Long Park Dam in Daggett County, Utah. Daggett County is the smallest county in Utah, with a population of just over 700 people. It is also the home of the Flaming Gorge Recreation Area, which is host to over 2 million visitors annually.

I appreciate the committee's efforts to provide some assistance in repairing the dam through the water and waste disposal loans and grants program under RCAP. The city of Manila already has acquired a loan for a new treatment plant for Long Park Dam water, which has now been put in jeopardy because of the structural problems in the Long Park Dam. The city has a very limited capacity to assume more debt to repair the dam.

Once the repairs on the dam are completed, the city would use as much as 50 percent of the water stored in Long

Park Dam. Given the size of the communities involved and the limited ability to assume new debt, would it be appropriate to remind the Department of the special circumstances in Daggett County and encourage the Department to consider the community's current financial obligations when it reviews the grant application?

Mr. COCHRAN. The Senator from Utah is correct that here are some unique circumstances in this situation. I hope the Department will take into consideration the impacts of visitation on the local communities and the limited tax base in Daggett County, as well as the current financial obligations of the communities involved. The Department should be as flexible as possible when considering this application in order to provide a safe source of culinary water for the community as well as the visitors to the area.

Mr. BENNETT. I thank the Chairman for his comments.

Mr. ROBERTS. Madam President, I rise today to express my strong support of the conference report on H.R. 4101, which is being discussed on the floor and has been discussed on the floor by my colleagues from the northern plains.

I also rise today to express my serious concerns with President Clinton's threatened veto of this conference report, the agriculture appropriations bill—the bill that contains the spending for all of the essential programs that are of great benefit to farmers and ranchers. I want to pay, as my colleagues have, very deserved tribute to the distinguished Senator from Mississippi, Mr. COCHRAN, who down through the years has been a champion on behalf of America's agriculture producers and basically serves as an oversight commissioner in regard to the spending we desperately need for research and development for our farmers to be competitive. He has done another outstanding job under very, very difficult circumstances, because we are going through some tough times in farm country. So I thank the Senator.

Madam President, it is not my intent to get partisan in this debate. Goodness knows we have enough of that going around in this session. But I do think it is time for a little candor. In so doing, I noticed a report from World Perspectives, Inc., which is a publication that comes out every day that provides Members of Congress and subscribers very pertinent information regarding the global marketplace and worldwide agriculture. There is a young man that writes for them by the name of Gregg Doud. Last week, he pretty well summarized, I think, what this debate is all about. He said this:

On the legislative calendar, Christmas doesn't always come on 25 December. When a sector of the U.S. economy is faltering or votes are up for grabs, it usually means that politicians will come bearing gifts sometime before the November election.

Now, that is a little harsh. I am not too sure I would buy all of that. He went on to say:

This year's low commodity prices, world financial difficulties, and serious drought means that both U.S. political parties are currently in a bidding war over how much to spend in farm country.

Obviously, we are doing that because we think we have severe problems. Those are my words, not his.

In their minds, the votes will eventually go to the highest bidder. As a result, considerations about an appropriate strategy for U.S. domestic farm policy could end up last on the list of a policymaker's priorities.

In other words, if we are going to provide emergency assistance to farmers and ranchers, that is one thing in the short term. But for goodness' sake, let's not turn the firehose on and let it get away and destroy a policy that makes sense over the long term.

Then Mr. Doud pointed out the history of these two proposals that had been discussed on the floor. He said, ''The announcement by congressional Republicans of their package came only 2 days after Agriculture Secretary Glickman''—Mr. Glickman of Kansas, my former colleague, and my good friend—''announced that he was reversing his stance to be in favor of lifting the cap on the nonrecourse marketing loan rate''—that is the basis of the Democrat plan—and then stated, ''This flip-flop was likely an effort to avoid the appearance of conflicting policy positions within the Democratic Party.''

He continues, ''Secretary Glickman's announcement was coordinated with an amendment offered by Senator TOM HARKIN''—my colleague and friend in Iowa who is the ranking member of the Senate Agriculture Committee and long a voice in regard to farm program policy advice and counsel to his Iowa constituents and the Nation as well. But, at any rate, that was ''. . . to the Interior Department's appropriations bill.''

By my count, I think we debated this—I don't know how many hours had been devoted on the other side, because in the northern plains the situation is much more severe. I don't know if the Senator from Mississippi has tallied up the hours. There must be 50, 75 or 100 hours on this side. We have spoken to the issue probably not as much as we should have. But this is an issue that has been debated. As a matter of fact, I think we have had five votes. I think this is No. 5 in regard to a vote that we are going to have on this issue. So we have done quite a bit of debating.

I will continue with what I think is a candid assessment, and this is in regard to the Democratic plan to raise the commodity marketing loan rate.

Mr. Doud points out, however: ''It is not well suited to providing disaster relief. How did the Government make a larger loan deficiency payment to a farmer who hasn't raised a crop?''

That is a good question.

''In addition, this delivery mechanism does not reach livestock producers and other nonprogram commodity producers.''

That certainly is a good quote.

Then he goes on to mention one thing, and this is sort of an aside. I am going to have to skip over here to a point that has been made by some of my good Democrat colleagues, more especially the distinguished Democratic leader, who, to be very candid, has never been too supportive of the current farm bill.

The Senator from North Dakota decried the fact that under the new farm bill, Freedom to Farm, in what he describes as the ''Freedom to Fail'' bill, ''farmers were told to plant fence row to fence row.''

As Mr. Doud pointed out, and others of us would like to point out: ''. . . but WPI thought farmers were told to respond to market signals, rather than Federal programs.''

Let me point out that in regard to wheat, the farmers made the decision. They made that decision. They responded to the market signals, and we haven't gone fence row to fence row. What happened was we had 11 percent fewer acres planted to wheat under the new farm bill than the old farm bill. That means this fence row to fence row business is not accurate.

What happened, of course, is the farmer put the seed in the ground, and it was better seed. And with better farming practices and precision agriculture, we knocked their socks off. We had great yields.

In the northern plains, they have all sorts of problems, wheat scab, weather, unfair trading practices, across the board, border contagion, you name it, they have had it. Quite frankly, a Federal farm program in regard to sugar makes the land prices a little high and raises their price and cost of production. It is high risk up there. Everybody knows that. But not any of these things have anything to do with the farm bill.

The extra production came that drove the market prices lower—from China, 200 million bushels more in regard to wheat production; the European Union was about 300 million bushels more. I don't know of any U.S. farm law that can restrict China, or the European Union, or, for that matter, Australia that has a record crop. It is not all in yet. We don't know yet. But the global supply situation has changed dramatically.

That has nothing to do with the current farm bill. It has everything to do with our export strategy in regard to being competitive and using all of the tools we would like to have in regard to the administration's conducting an aggressive export policy.

As a matter of fact, the president of the Wheat Growers said we have to quit taking a knife to a gun fight. We have to really get tough. And we haven't done that. That is one of the problems. So I guess that would be an accurate statement.

Let me get back to the article. This is by Mr. Doud, again:

Is the term ''crisis'' an appropriate way to describe the situation in farm country today?

I will tell you one thing. If you are a farmer and you can't get a loan from

your banker, and the price is about half of what it was several years ago, it sure is a crisis. It is 100 percent.

''At least one question needs to be answered before deciding how serious this situation really is.'' —I am back to Mr. Doud's comments—''Will prices stay at the current (a 10–20-year low) level into next crop year? If so, next year may bring reopened discussions, leave no stone unturned, on a major overhaul of U.S. farm policy.''

I think that is appropriate.

And I will be right in line with the rest of the people who are privileged to represent agriculture States, if, in fact, that is the case.

We have the unfair trading practice. We can't get our exports cracking. We don't pass the trade legislation that we should pass that the President continues to sort of hunker down in the weeds in regard to fast track and other things.

Then he went on to say: ''In a Congressional election year, the debate isn't about whether or not money should be allocated to farm country. It's about the delivery mechanism itself.''

Then he lists some information that ''. . . suggests that, even in Washington, DC, terms, the amount of Government expenditures in farm country this year is serious money.''

''The potential direct U.S. Government outlays to U.S. producers are as follows:

No, it is not the $5.3 billion that showed up on the chart over there from my colleagues. But, in September 1998, this year, the second half of the transition payments will come to farmers.

Transition payments, called AMTA payments—that is the Agriculture Marketing Transition Assistance payments.

I see the distinguished Senator from Mississippi raising his head. The reason I wanted to point that out is that it has been ignored in the debate. Hardly any Member on the other side mentions that we even have transition payments. Everybody says, ''The bridge is washed out. I can't swim. My farmers are on the other side.'' That is country western music. It has the wrong notes. We have the transition payments here. They ignore that.

''In September 1998, the second half of FY 1998 transition . . . payment''—by the way, that transition payment is the highest of any payment during the entire 6-year period of the farm bill. And I know it is the highest as of this year because I helped write the bill. I thought at the end of 2 years that we probably would be going through some kind of a price swing. And I thought that assessment should be the greatest in this particular year, and it is. How much? $5.7 billion is the total with the first half having already been paid in December of 1997, or January of 1998.

''In October 1998, $5.5 billion will be made available in FY 1999 transition . . . payments.''

That is next year. Farmers probably wouldn't want to accept that. I wouldn't, if I can get by with my lender and I can tighten up, because of the world markets and the situation. I probably wouldn't want to take that. But it is available. And that is $5.5 billion.

''Emergency assistance programs that are currently being discussed . . .''

That is what this debate is all about here. That is in addition to those two transition payments that many of my colleagues are ignoring. That is going to be about $4.1 billion. You add that up.

Then our Senate Agriculture Committee chairman, the distinguished chairman of the Senate Agriculture Committee, DICK LUGAR, recently put the possible marketing year price tag for the loan deficiency payment.

I am not going to get into a description of that payment. As a matter of fact, I talked about all of these payments. People wonder. My goodness. How many payments are we making to farmers, and what kind and shape and form? But those will be about $2 or $3 billion. And then, finally, crop insurance for the entire marketing year is $2 billion.

According to Mr. Doud, that totals up to $16.4 billion. That is a lot of money. Yes, the farm crisis is very serious. I understand that. But $16.4 billion is quite an investment in regard to agriculture.

Let me see if I can find a closer here. In regard to Mr. Doud's article:

> Policymakers should not ignore the message this [debate] sends to trading partners and the WTO regarding U.S. domestic farm policy, particularly as it applies to the next round of trade negotiations. Once again, [we want to emphasize] that in an even-numbered election year, the debate isn't about whether or not money should be allocated to farm country. It is about the delivery mechanism and whether or not ''Freedom to Farm'' will be maintained. U.S. agricultural trading partners will be paying [very] close attention to see if ''Freedom to Farm'' survives.

Now, as the principal author of Freedom to Farm, I have an interest in this, but I said it didn't come down from the mountain on any tablet saying this was the only farm bill; if the farm bill didn't work, you ought to change it. And I think once this emergency assistance is provided, if we can see what happens in 1999—and I hope the global contagion gets better and I hope all the other factors improve—why, perhaps we won't have to do this. And if we can enact some of the promises we made in conjunction with Freedom to Farm, we shouldn't have to do it. But Congress has not done that and the administration has not done that.

I want to now return to the threat of a Presidential veto.

The President has sent a letter to Congress stating he will not support legislation that does not include agricultural relief provisions similar to the plan to uncap loan rates as proposed by Senators HARKIN, DASCHLE, WELLSTONE, KERREY, CONRAD, BAUCUS, and JOHNSON.

He, as a matter of fact, took time out in his Saturday radio address to talk about two things—well, three; one, we have a serious farm crisis. Right. Second, we need to uncap the loan rates. Wrong, because of what it will do that will be counterproductive to long-term policy to farmers and ranchers. Three, we ought to pass IMF. Yes. Yes, I am for that. And I am just as unhappy with Members of my own party in the other body who oppose that. I think we need IMF. So the President was right about two out of three.

Let me talk about the plan that is promoted by the northern plains' Senators—not trying to pick on them; they have a very legitimate point of view—that would uncap the marketing loan rates and provide approximately $1 billion in disaster assistance to the northern plains. But the other side of the story is that their proposal provides less than $500 million for the rest of the United States, from New Mexico to Maryland, which has experienced drought, flooding, or a combination of both.

I really find the President's arguments for his threatened veto rather frustrating and difficult because the administration really threatens to veto this package—I am quoting here.

> . . . if the bill presented to the President includes agriculture disaster provisions that provide inadequate indemnity assistance or are inconsistent with the Daschle-Harkin proposal.

It is obvious the President really believes we need to provide assistance to our producers. I believe that as well. Yet he threatens to veto a bill that provides $4.1 billion in assistance to our farmers and ranchers.

And as long as we are mentioning vetoes, he has also threatened to veto a House-passed tax bill that also provides very needed relief to farmers and ranchers.

As to the two vetoes, one on the emergency assistance and the tax bill, let me just list all of the provisions that have been passed by the House of Representatives in its tax bill: 100 percent deductibility of health insurance—every farm association I have ever been associated with has passed this in their resolution; permanent extension of income averaging for farmers—God bless CONRAD BURNS, the distinguished Senator from Montana, for putting it in originally with a tax bill; an immediate $25,000 expense deduction for small businesses; and an additional net operating loss carryback period.

These are steps that, when combined with the $4.1 billion in income assistance, would immediately put money in the pockets of farmers and ranchers and, most importantly, they are positive answers for the long term as opposed to the Democrat plan which I personally think would be very, very counterproductive.

On several occasions earlier this year Secretary of Agriculture Dan Glickman made the comment that trade is the ''safety net'' for America's farmers

and ranchers, yet I am concerned that the Secretary and the administration refused to support fast-track legislation when it was considered in the House. I said they were AWOL during the debate. And they even asked, as I recall, some of my colleagues across the aisle in the other body to vote against the legislation. ''Not this time,'' ''not the proper time,'' that was the quote, to pass fast track. Meanwhile, our foreign markets for agriculture products have collapsed and we know that. And, Latin American countries are waiting for fast track to pass before entering into agricultural trade with the United States.

I went with Senate Majority Leader TRENT LOTT to Latin America. Every country we visited asked, ''When are you going to pass fast track? The European Union is knocking on our door. And we need this particular provision.''

I do not know; I would like to ask the President, if now is not the proper time to open up new markets for our producers, when will the proper time be?

I agree with him on IMF. I do not agree with the decision to hunker down in the weeds with regard to fast track. And I must say the failure to pass fast track holds the potential to become one of the most serious U.S. agriculture foreign policy blunders since the shattered glass embargo policy of the late 1970s and early 1980s. When we withdrew, it may have been a mistake. And when it went down to defeat, it was a terrible mistake.

Consequently, I should also add that I am not very happy with my Republican colleagues over in the House of Representatives who decided not to vote for fast track. That was a very bad mistake as well.

So the President apparently has refused to support these trade and tax and income assistance initiatives that I believe will help our farmers and ranchers in both the short and long term, but he continues to support a proposal that will provide virtually no assistance to producers who have suffered losses in 1998.

We can raise the loan rates as high as we want. As a matter of fact, in the six or seven farm bills I have been associated with, there was always the debate, do you use the loan rate as a market clearing device or income support? And several farm bills ago we agreed that when you raise the loan rate to the degree you really interfere with markets, that is not the proper way to do it. And we used to have deficiency payments to assist farmers during the tough times when their markets would decline due to unfair trading practices or some other reason. We changed those to transition payments.

What will raising a loan rate do for producers in Oklahoma, Texas, Louisiana and Maryland who have lost all or most of their crop to some kind of a weather situation? What about the farmer in Louisiana or Mississippi who lost most of his rice crop due to drought and had his cotton crop get hit with 16 inches of rain from a tropical storm earlier this year and then was hit by Hurricane Georges in late September? That was incredible. These producers are facing a serious situation. They will receive virtually no assistance from higher loan rates, and the Harkin-Daschle proposal provides less than $500 million for 1998 losses, but it contains almost $1 billion for multiple year losses in the northern plains. I am not trying to pick on them. But I think it is skewed just a bit. I don't question the problems suffered by producers in the northern plains in recent years, nor do I question that prices are low. We have heard time and time again about the painful crop losses experienced in the northern plains over the past years, but, ''thank goodness, South Dakotans are expecting a good crop this year—that is a welcome change—after the blizzards and flooding of 1996 and 1997, scab disease, and unfair trading practices.'' That quote comes from a September 1998 edition of the National Farmer Union News. Thank goodness they do at least have a crop.

But let me get back to the plan that is within the Ag appropriation bill and why I think it is the proper course. The plan to be included will provide $4.1 billion to producers. Of this amount, $1.65 billion, 29 percent of the transition payments—the infamous transition payments that are ignored and forgotten or somehow have disappeared in the debate on the other side—will be provided to farmers as payments for lost export markets caused by world economic pneumonia, the global contagion, the Asian Flu. Not to mention U.S. sanction policies that shut out our producers, out of world markets, and the inadequate agricultural trade initiatives of this administration—compounded by some in this Congress.

Any farmer who received AMTA payments—the transition payments that do not exist, on the other side of the aisle—in 1998 will receive an additional 29 percent of this amount. Those receiving payments will include southern cotton, wheat, corn and rice farmers who had little or no crop to harvest. The Harkin-Daschle plan leaves them empty-handed. The plan in the agriculture appropriations bill includes $1.5 billion for losses and $675 million for multiple year losses.

The Daschle-Harkin plan provides approximately $1 billion for the northern plains, $500 million for the south. Again, I am not trying to criticize problems in the north. But the plan does not do much for any grower suffering losses in New Mexico, Texas, Oklahoma, Arkansas, Louisiana, Mississippi, Alabama, Georgia, Kentucky, Florida, South Carolina, North Carolina, Virginia and Maryland—and the list goes on.

Senators from those States, wake up. Here is the real issue that is now being debated. The northern plains Senators, and now the President, have stated repeatedly that we have yanked the rug out from underneath the producer—no safety net.

''Tough luck,'' I think it was described by my good friend and colleague, the Senator from North Dakota. As they have said, there is no bridge, nothing. But they fail to mention that the Government has provided approximately $17.5 billion—$17.5 billion in transition payments since the inception of the new farm bill in 1996 through 1998. It is estimated the old bill, the old supply/demand bill, the old command and control bill where the USDA would tell the farmer what seed to put in the ground and maybe he would qualify for a subsidy—that bill would have provide only around $10 billion during this time. That is a difference of $7.5 billion. They are getting more money under the new bill, less money under the old bill, but the new bill is the problem? Hello.

It is estimated, as I said, the old bill would have provided only about $10 billion during this time. They forget to mention the estimated $4 billion the producers will receive in loan deficiency payments in 1998. And, what about the $5.5 billion in advance 1999 payments? Again, if I'm a farmer I'd be mighty careful with that. And if you add these together and include the additional $4.1 billion included in the agriculture appropriation bill as put on the floor by the distinguished Senator from Mississippi, total funding provided over the 3-year period is $31 billion. Mr. President $31 billion; that is nothing? That is tough luck? That is a bridge that has been washed out, $31 billion?

Still, the Senators on the other side of the aisle from the northern and great plains argue this is not enough. It may well not be, over the long term. I understand that. If things do not improve, with all the things that have gone wrong it may well not be. They say their producers have been forgotten. They even cited this on the floor in a Congressional Budget Office table. This is going to get a little tricky here. The table that is called the CBO study showing a side-by-side comparison of the two plans—we have all seen it in regard to this debate. In addition, I think the CBO plan was sent with a letter attached to numerous State Governors, certainly trying to gain support for their plan. But there was only one problem with these actions and this CBO study. It is my understanding, and I think I am right, it is not a CBO study. In fact, CBO was not even involved in running these numbers. Rather, they were put together by staff members of the appropriate Senators who have proposed the Democratic plan.

I don't want to play this business of, ''How much is enough?'' I have said before, the problem is very serious in the northern plains, and for that matter all over the country, where we have had these unprecedented problems in regards to farm country. But I thought perhaps we should do some ''truth in

spending'' and take a look at the level of payments the States of North Dakota, South Dakota, Minnesota, Nebraska and Iowa have actually received under the 1996 farm bill. It may not be enough. But with all of this talk about, ''no bridge, tough luck, you are just out of luck, we are not going to support you''—Here we go: North Dakota in 1996, North Dakota farmers and ranchers received $309.7 million; 1997 $245.1 million and 1998, $245.2 million. Total, $800 million. That is more than nothing.

The yearly State average in Government payments in 1991–1995—the old farm bill which has been defended saying this might be the foundation for the next farm bill, this one is not working—what would have that provided? That average, 1991–1995, $265.4 million.

In 1996 through 1998 the average was $266.6 million. In July, the House Agriculture Committee estimated North Dakota farmers will be eligible to receive $215.1 million in advanced 1999 payments. Again, I am not sure I would take that, but some may have to.

The 29 percent bonus payments for 1998 crops will equal approximately $71 million. Adding the 1998 payments to the 1998 bonus payments and the advanced 1999 payments together, North Dakota farmers could receive up to $531.3 million during the calendar year 1998, this year.

South Dakota, 1996, $161.8 million; 1997, $183.1; 1998, $161.3—total, $506.2 million.

The yearly State average in Government payments in 1991–1995 under the old farm bill, $149.7. The 1996 through 1998 average was 168.76 million—19 million more per year. In July the House Agriculture Committee estimated South Dakota farmers will be eligible to receive $160.7 million in advance 1999 payments. The 29 percent bonus payment for 1998 crops will equal approximately $46.7 million. When you add them all up, South Dakota farmers could receive $368.9 million during calendar year 1998.

I am going to skip Montana. Nothing personal, I just think we ought to shorten it up.

Minnesota, the Democratic Senator from Minnesota has been on the floor indicating that times are tough in Minnesota. They are. It is a crisis. He is entitled to say that. In 1996, $261.5 million; 1997, $383.8 million; 1998, $322.6 million; total, $968.1 million—almost $1 billion. That is not nothing? Is that a double negative?

The yearly State average in Government payments in 1991–1995 under the farm bill—you haven't heard one word on the other side about the failures of the old farm bill and people standing in line waiting on the USDA to issue all the paperwork so they could fill out the paperwork to plant less, not at least respond to market signals but so that they might get a subsidy. Not one word. That was $270.2 million.

In 1996 through 1998, the average was $322.7 million—over $50 million more. In July, the House Agriculture Committee estimated Minnesota farmers will be able to receive $336.8 million in advanced 1999 payments. The 29 percent bonus for 1998 crops will equal approximately $93.5 million. Add them all up, $753.08 million during calendar year 1998. That is a lot of money. It is, perhaps not enough for the dire situation they face and in absentia of other things that we should be doing. The question is not how much is enough, but the claim, again, by the other side, that we are not providing any assistance.

Nebraska: 1996, $303.2 million; 1997, $490.082 million; 1998, approximately $400 million. Total: $1.193 billion.

The yearly State average in government payments in 1991–1995 was $349.9 million. That was back under the old farm bill.

The 1996 through 1998 average was $397 million; $349 million to $397 million, about $50 million more. I am not going to go through the advanced payments and the 29-percent bonus. I will add them all.

Nebraska farmers, as well as being No. 2 in the Nation in football, could receive up to $830 million during the calendar year 1998.

Iowa—Senator HARKIN, my good friend on the Ag Committee who has a very honest and sincere difference of opinion about the direction of the farm policy program: 1996, $350.2 million; 1997, $680 million; 1998, $535 million. Total: $1.566 billion.

The yearly State average under the old farm program was about $449 million; under the new farm program, $522 million. Madam President, $522 million is more; $449 million is less.

OK. Advanced payments, the bonus payment, add them all up: Iowa farmers could get about $1.288 billion during calendar year 1998.

Madam President, I apologize to my colleagues for taking this much time and going over all the figures. The facts are clear. The rug has not been yanked out from producers in the northern plains. In fact, these States have fared quite well under the 1996 act's payments. When compared to the old farm bill—I realize we have extenuating and very dire circumstances now—the farmers who need assistance the worst—those without a crop—receive nothing—nothing—from higher loan rates. Yet, this is the situation many southern farmers will face under the proposal that is the alternative to the conference report.

I have made some remarks on the floor on several occasions against the loan rate proposal, uncapping loan rates. I don't disagree with my colleagues across the aisle that we need to provide assistance to farmers; that is a given. But history has shown us that their plan will not work, and I believe several myths should be addressed about their proposal.

Myth No. 1: Higher loan rates will put more money into the pockets of all producers and do not lead to excess stocks and lower prices in the long run. It is also argued that higher loan rates will not eventually lead us back to Government set-asides.

Contrary to these assertions, history has shown us that higher loan rates lead to excess stocks, greater production, a long-run depressing effect on price, and uncompetitiveness in the world market.

In addition, due to the difficulty in predicting budget outlays with marketing loans, it inevitably leads us back to command-and-control policies in an attempt to limit the budget exposure.

Again, some in the House and Senate do not feel we should spend $4.1 billion in emergency funding. How are we going to pay for $7 billion? And, more to the point, if you encourage more Government stocks and a tie-up of the transportation system and more production, you are going to extend that loan beyond the 15 months and you are going to get into more expenditures. We have been down that road before and farmers overwhelmingly tell me they do not want to retrace the journey. I think we should look forward and not backwards.

Myth No. 2: There is no safety net.

I have gone over the payment numbers. I have mentioned previously that there is a safety net. How can an extra $7.5 billion, at a minimum, over the last 3 years, compared to the old program, be hurting farmers and ranchers? I want a safety net that is a trampoline, not a hammock. If we go down this loan rate trail, it will be a hammock—we will sag in the middle.

On the other hand, if we can get our export policy straightened out, our trade policy straightened out, and our tax policy changes and regulatory reform, and get cracking, it may well be a trampoline with this assistance we are providing.

Myth No. 3: New trade markets will not help us get out of this problem.

There are, indeed, some in this body who argue that trade is not the answer to avoiding these problems in the future. How can you discount the importance of trade when we have to export a large proportion of our ag products? We must continue to work toward trade agreements and sanctions reforms that do not continue to shoot our producers in the foot and lock them out of world markets. And we must encourage producers to maintain the flexibility that allows them to plant according to the demands of the world market. Raising loan rates won't achieve these goals.

Several weeks ago, Senator CRAIG—the distinguished Senator from Idaho, who has been a very aggressive and constant champion of the American farmer and rancher and all the commodities and all the producers of those commodities in his great State of Idaho—and I sat down, along with others, in a small group, and we made a list of what we thought would be appropriate to address this farm crisis.

We decided on lost market payments and disaster payments. That is in this

bill. We decided on crop insurance reform. Got some. Not enough. Need to make it better. First order of priority in the next session. Wish we could have done it this year.

We decided on tax relief. I have already mentioned that. It is in the House bill. The President says he is going to veto it. That will be the best long-term—perhaps not the best—one of the best long-term things we could do for farmers and ranchers in 1999, 2000, and the year beyond.

Trade expansion. I have gone over that. Folks, you have to sell it or you are going to smell it, and we are smelling it right now. We need fast track and normal trading status with China, we need IMF, and we need sanctions reform. As I said before, we have to quit taking a knife to a gunfight.

Full enrollment in the Conservation Reserve Program.

The agriculture appropriations bill contains $4.1 billion in payments and also protects the sanctity of crop insurance. The bill does not include the important reforms that are needed, but I am pleased the protections included in the bill, and we are going to work for that reform next year.

I mentioned tax relief, and Senator CRAIG, who is on the floor now, and I sent a letter to the Secretary requesting full enrollment in the CRP program. This is an administrative action. The Secretary doesn't need any congressional action. We don't need to debate this and delay it. He can undertake it right now. It will provide an important tool to address the problem of marginally productive land that repeatedly suffers from natural disasters or disease problems, land like the northern plains. One of the things he can do right away is enroll the CRP in that part of the country. He can do it with the stroke of a pen.

Madam President, it appears that we will not be able to achieve all of the goals that Senator CRAIG and others of us have proposed in this Congress. However, this agriculture appropriations bill, combined with the House tax bill and the trade tools the administration already has available, will provide an important step in addressing the economic problems throughout our rural areas. But the President must be willing to step up and work with us, if he is serious about helping our farmers and ranchers.

Webster's defines a ''statesman'' as one who exercises the political leadership at his disposal wisely and without narrow partisanship. I am hopeful that we will see the President and my colleagues across the aisle act as statesmen on this issue and that we will not prevent farmers and ranchers from receiving this much-needed assistance. This agriculture appropriations bill is too important—too important—for our producers. I urge the President to reconsider his veto threat on this bill.

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

Mr. COVERDELL. Mr. President, I rise today in strong support of the conference report to the FY 1999 Agriculture Appropriations bill. This legislation includes much needed economic assistance for Georgia farmers. The disaster and market loss assistance proposal, which totals over $4 billion, includes $1.5 billion for one time payment to person with a crop loss in 1998, $675 million for multiple year crop loss and crops impacted by disease, $175 million for livestock feed assistance, $1.65 billion for a one time payment to offset financial hardship caused by the loss of markets, and $10 million for tree farmers through the Forestry Incentive Program.

I would like to thank the Majority Leader, Senator COCHRAN, Senator LUGAR, Senator ROBERTS, and others involved in the crafting of this important legislation. For months I have been stressing the need for Congress to address the current financial crisis facing farmers in Georgia and across the nation. I am pleased that our collective efforts bring us here to discuss this legislation. This disaster package is one step in many that is needed to get these farmers back on their feet.

Under this proposal the Secretary of Agriculture is given broad authority to define and implement these provisions. I am hopeful that when deciding how to distribute these funds, the Secretary does not forget Georgia farmers. President Clinton and Secretary Glickman should not help farmers in one section of the country by neglecting farmers in the Southeast. Georgia farmers have suffered disasters 2 out of the last 5 years and should be eligible for assistance under the multi-year losses program. In addition, the Secretary should include all crops, insured and uninsured, when considering who should be eligible for assistance under this disaster and market assistance proposal. Georgia farmers who produce peaches, onions, blueberries, watermelons, pecans, and other speciality crops, have just as much right to be eligible for this disaster assistance as farmers who produce major program crops such as corn, wheat, and cotton. Those who bought crop insurance should not be unnecessarily penalized and left out of receiving any assistance under this legislation. The current crop insurance program does not work and needs to be completely overhauled by Congress. We need a crop insurance program which is affordable and factors in the cost of production.

Secretary Glickman needs to also look at ways to provide assistance for peanut producers, either through a market loss assistance payment or under one of the other disaster assistance programs. The cost of production for peanuts continues to remain high while income for farmers continues to fall. Disease, weather, government regulations, taxes, increased costs for equipment and supplies, reduction in yields, and other problems have all contributed to this situation.

I look forward to working with Secretary Glickman and the U.S. Department of Agriculture in making sure these funds are distributed in a fair and equitable manner.

Mr. FAIRCLOTH. Mr. President, I rise in strong support of the agriculture appropriations conference report.

This bill includes critical assistance for farmers. It helps all farmers, not just Midwestern grain farmers, and that is why I believe that this is the right bill.

I urge President Clinton to withdraw his veto threat and to support this critical disaster relief bill. It is outrageous that the President is playing politics with the fate of American farmers. I was astonished to see Jacob J. Lew, the Director of the Office of Management and Budget, write that the President's ''senior advisers would recommend that he veto the bill'' unless the House and Senate craft a bill for the Midwest rather than for the whole nation.

I find it incredible that the Clinton Administration can oppose a package that includes $4.3 billion for increased AMTA payments, weather-related crop damage relief, ''multi-year'' disasters, livestock assistance, and assistance for tree farmers. This is about farmers, not politics, and it is time for the White House to put policy first.

This is a good bill for North Carolina and for all farmers. I congratulate the Committee for a job well done.

Mr. JOHNSON addressed the Chair.

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

Mr. JOHNSON. Madam President, I rise to express in part my profound disappointment with the contents of the agricultural appropriations conference report, recognizing that there are many in this body—in particular, that there are numerous instances, thanks to the leadership of the Senator from Mississippi, and others—who have brought together a sense of bipartisanship on some key issues. And there are other issues and other needs that I believe this body needs to address outside of this agricultural appropriations bill, as my very good friend and colleague from Kansas has made reference to a string of extraneous other issues that are urgent.

On the issue of trade, I believe that there is fairly good agreement in this body relative to where we need to go next. There is support in this body for funding for the International Monetary Fund. That is perhaps the single thing we could do that would have the greatest immediate impact on stabilizing currencies and opening markets and stabilizing economies in Asia, and increasingly in Russia and Latin America. Unfortunately, that issue has been held up in the other body, not this one; but it is an issue that should be dealt with before we adjourn for the year.

My colleague raises the issue of fast track. On that issue I share his concern that we ought to have fast-track authority. This body does as well. The House does not. I think in all fairness, though, it ought to be kept in mind

that if we were to pass fast track, that would have a consequence years down the road but not next month, not the next 6 months. It would simply put our trade representative back in at the negotiating table for trade negotiations. That would bear fruit probably years down the road from now, but it would not have an immediate consequence.

Certainly, in the case of relief of unilateral sanctions and the sanctions reform legislation that our colleague, the chairman of our Senate Ag Committee, Senator LUGAR, has championed, we ought to be moving forward with that. Unfortunately, we have not. But I think there is broad-based bipartisan consensus that we ought to do that. And certainly MFN, now having normal trade relations with China as well, is something that we should go forward with.

I think all these issues are concurred upon by this President and by the majority of both political parties in the Senate. Those are issues we should proceed with. We should not use them, however, as an excuse for a lack of action, for inaction on key disaster issues before us today.

On the tax agenda, as well, I think that there is broad-based support in both political parties for tax relief targeted to middle-class and working families, certainly for those in the agricultural sectors of our economy. But again in fairness, it ought to be kept in mind that the tax package that arrived in this body from the other body is funded 100 percent out of the Social Security trust fund surplus. That is unacceptable to a great many of us in this body. It is utterly unacceptable to the President of the United States who has expressed his veto intent if that were to reach his desk. I think there is a great likelihood it will reach his desk, but if he were to veto it, he would do the right thing.

And we talk about statesmanship, that is what we are talking about—doing the right thing, rejecting what seems on the surface to be popular, recognizing that in too many instances the underlying premise that allows that action to go forward is, in fact, simply wrong. Stealing money, raiding, plundering the Social Security trust fund is not acceptable for any of us. Regardless of how great the crisis might be that we have in agricultural today, how much we would like to have tax relief for every sector of our economy, that is not where we need to go.

To his great credit, Senator DASCHLE, with the help of numerous others, has put together a tax package which provides most of the same kinds of relief that my friend from Kansas was making reference to, but is funded exclusively out of efficiencies, out of savings, out of the closure of tax loopholes in the existing Tax Code and budget. So it is not a question of whether we can have tax relief or whether we cannot have tax relief; we can so long as it is carefully targeted, so long as it is focused on those areas where it is most in need, and so long as it is truly offset by savings, by efficiencies, by loophole closures—other places—and not premised on a raid on Social Security.

So, again, I think we ought to be able to find bipartisan agreement before we leave here on those issues as well.

I want to say that we did reach some concurrence on some important issues in this body. The pain and the hurt that is going on across much of rural America today is too great to allow for the kind of finger pointing and partisanship that too often characterizes the debate in this Congress, especially as we draw near an election as we reach the end of this Congress.

I am pleased that in this body we were able to find bipartisan agreement on my particular amendment that was incorporated in the Senate version of the agricultural appropriations bill on meat labeling. The Senator from Idaho was a champion on the meat labeling issue. And I was pleased that the chairman, the Senator from Mississippi, was supportive of our concern in the conference committee in that regard.

I am disappointed in what turned out to be a party-line vote from our colleagues in the House of Representatives that thwarted the will of the U.S. Senate in that regard—a measure which has the support of the National Cattlemen's Beef Association, the National Farmers Union, the American Farm Bureau Federation, and the American Sheep Industry Association.

The underlying bill, which had the sponsorship of eight Republican Senators and eight Democratic Senators, along with myself—this was a bipartisan effort to, for the first time, allow consumers to know the origin of their food products which they serve their families, much as they do virtually every other consumer item that they purchase. Yet even this commonsense measure was turned down in the conference committee, to my great disappointment. And I want to confirm that this issue simply will not go away. It will be revisited and revisited until it becomes law.

We also found bipartisan support on the Senate agricultural appropriations bill—again, with the support of the Senator from Idaho, the Senator from Mississippi, and a great many others—in a bipartisan fashion, to allow price transparency in the livestock industry to go forward, to put our individual livestock producers on the same footing as the packing industry to give them a better marketing opportunity. And yet even that which would have seemed, again, to be common sense we lost, unfortunately, on a partisan, party-line vote on the part of the House conferees, over the objections of the Senate.

I want to express my disappointment at the loss of both of those provisions which would not have meant night or day, would not have turned around overnight the price crisis that we have in the livestock industry, but we would have contributed, I think, in a very constructive fashion to lay the groundwork for a long-term recovery, and it would have been a constructive, positive step in the right direction. We reached some bipartisan agreement, I think, in this body early on, again, on the need for disaster relief.

I think we all recognized as time went on, as disasters struck the South and the West, other parts of the country, that the amount of money, the $500 million we had placed in the Senate agriculture appropriations bill simply was not going to be adequate from anyone's perspective, and that needed to be augmented in a significant way. I think the President is right that if we are going to realistically address the real pain all across rural America, that a final level of disaster relief approximating the funding in the President's recommendation rather than in the House proposal and imposed on the conference report on ag appropriations is more appropriate.

I think we all recognize that there needs to be some give-and-take, that the final version of whatever we do probably will not meet the 100 percent satisfaction of any of us here, should not be 100 percent what the Republican leadership in the House was offering, probably will not be completely what the President is offering; but we need to come together somewhere in the middle in a way which more effectively deals with the disaster that is national in scope and deals with it in a meaningful way, all within the context of, obviously, a balanced Federal budget.

I believe we can do that, but we need to take, I believe, some of the direction that is coming from the White House to moderate the provisions which have been imposed in the ag appropriations bill by our House colleagues.

This should not turn into a bidding war. It has been suggested that could occur. That would be wrong. That is not where we need to go. But we do need to step back, and with some careful deliberation and some care, evaluate the scope of the relief that needs to be made in order to have a meaningful consequence in the context of this national disaster.

One area where we were not able to reach bipartisan consensus in this body—and I certainly respect the views of those who differ with me and with many of my colleagues on this side of the aisle—is on the wisdom of utilizing a strategy which would take the cap off the existing marketing loan provisions in the freedom to market legislation.

Now, it is suggested by some that that is an attack on Freedom to Farm, that this is on the part of those who would go back to the old days of the previous farm bill. I think that simply is untrue. That is a straw man that is easily knocked down but one that does not characterize the goals and the perspective of those of us who believe that it makes a lot of sense to take the caps off the existing marketing loan. Keep in mind, the current bill has marketing loan provisions in it. It is not a turning inside out of that legislation.

The problem with the existing legislation, the existing farm bill, is that the loan rates established in that farm bill are unrealistically low. They are too low to be meaningful given the kind of crisis that we have today. And taking the caps off that loan rate and tying it to a 5-year Olympic average is a moderate but responsible step in the right direction. In fact, if we were to do that—and we are talking about doing this for 1 year only, so it would have no consequence whatever on planting decisions made by others because the crops have already been planted and are about to be harvested—it would have a 57-cent-per-bushel increase for wheat, 28 cents for corn, 28 cents for beans, if we were to follow the proposal in the President's recommendation.

That won't make anyone rich, that won't bring the price back to anywhere near where a lot of us think in an ideal world it ought to be, but it will stave off in so many ways the crisis that is upon us. It will give a decent return. It will treat renters more fairly than alternative proposals would. It will not turn the clock back. It will not abandon the existing farm bill. It will be done within the context of that farm bill and we will preserve the marketing flexibility that I think a great many of us value in that farm legislation.

I think there is room for bipartisan concurrence. This is not a matter of one political party rolling the other or stiffing the other or coming away 100 percent victorious. I think in good faith everybody in this body wants to do what reasonably can be done to create the framework whereby family producers can at least survive the current era and emerge from the other side with an opportunity for prosperity in the future.

If we do nothing and if we take steps that are simply wholly inadequate, we are going to see the loss of thousands upon thousands of agricultural producers both in the grain and livestock sectors of our economy. The FSA leadership in my State tells us that we could lose as many as a third of the farmers and ranchers in my home State of South Dakota. That is unacceptable. That has consequences not only for the lives of those families, many of whom have been on the land for 100 years or more, going back to homesteading days, but it has consequences up and down the main streets of every community as well—not just the small farm community but the larger communities—as well as the ripple effect that takes hold, affecting the medium and large communities. I think this has global consequences. We need to recognize that as we address the situation.

I think we ought to avoid the pride of authorship and the temptation to subscribe to partisan warfare and find the middle ground. It makes meaningful, constructive, positive relief a ''doable'' sort of thing. I am hopeful we can send this conference report back to committee, not to emerge with a radically different approach, but to emerge with something looking more like what the President has recommended, more like what many of us on this side of the aisle would like to see happen. The veto threat is there and people can argue whether it ought to be there or not. I believe that the President is correct. I believe that the President is doing the responsible thing and doing the statesmanlike thing under these dire circumstances.

In the end, it is going to require both sides coming together. I think that is what our constituents want to see. I think they want to see us during these closing days of this 105th Congress reach that consensus that would allow for some substantially higher level of disaster relief than is currently being posed, utilized in a way that more efficiently gets to the people who need it, which addresses the national nature of the disaster which we face, and which sets a framework for prosperity in future years rather than simply being a Band-Aid for now.

Again, it is my hope that the issue of labeling country of origin on meat products—a compromise version which the Senator from Idaho and I subscribe to and went to great lengths to propose—could be revisited. Secondly, it is my hope that price transparency in the livestock industry can be revisited before we leave at the end of this week.

Much remains to be done. There is too much to be done to fall victim to partisanship and to finger pointing. We need a greater level of statesmanship, a greater level of cooperation than, frankly, has been the case all these past months. We are dealing with the very lives and the very future of thousands of hard-working, honest people in rural America who want nothing more than an opportunity to survive the year and to live by the sweat of their brow and the hard work of their families in years to come.

I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

Mr. CRAIG. Madam President, first of all, let me thank the Senator from South Dakota for those kind words. I enjoyed working with him on the meat labeling issue. While the legislation before the Senate advances it only slightly through a study as it relates to the country of origin, I do believe in this country the consumers have a right to know. I believe the consumers have a right to understand whether they are buying foreign or domestic beef. I think the livestock industry deserves, also, that opportunity.

I thank my colleague from South Dakota for his leadership in the area. We will continue to work on this. This is an issue that will not go away. I certainly understand the difficulties of those in the retail industry. We can work those differences out. The compromise the Senator from South Dakota spoke to, that he and I worked on, moved a lot in that direction. I am sorry that they finally, in the end, felt they had to gang up on us a bit during the conference, but we will be back and the issue will be resolved.

I must also tell you that I support a compromise in livestock reporting. I think there must be a transparency in that market for all the world to see. There isn't at this time. We are going to have to work to get to that. I am disappointed that the bill delays the implementation of a Federal milk marketing order reform that I supported.

Now, while I have expressed my disappointment, I will stop with that because those are the areas that I had some concern about. Let me discuss the positive things that are in this very important bill. First, I thank the chairman of the Agriculture Appropriations Subcommittee of the full Appropriations Committee, the Senator from Mississippi, Senator COCHRAN, for his leniency, his cooperation, his understanding, but most importantly, his dedication to the American farmer—whether in his State of Mississippi or whether in my State of Idaho—in ensuring that there is fair play in the balance of appropriating the Nation's resources, tax dollars, for the purpose of American agriculture.

I do believe that this agriculture appropriations bill contains important funding for America's farm families. I am proud of it. I will vote for it. I ask my colleagues on both sides of the aisle to do the same. It is an excellent effort on the part of the Senator from Mississippi.

Compromise is what we work at. I am disappointed that the President, at the last moment, would send a signal of veto. I am amazed that this is a President who didn't say agriculture twice in his first campaign, but promised to say it three times in his second campaign. He never came with an agriculture policy, and now, in the last minute, after they discovered there was a farm crisis 3 months ago, he wants to veto an effort that has been underway for months to try to not only be sensitive to the issues that are down on the farm at this moment, causing great consternation, but would do so by saying, ''let's veto.''

The reason he says ''let's veto'' is because it is a habitual kind of thing for the President to want to fall backward into old policy that didn't work, that bound America's agricultural producers into a lockstep Government program offering no flexibility to the marketplace, but more importantly, having to ask the producer to turn to Government every year to decide what they were going to produce and what they were going to get in return.

Now, that is not what the American farmer wanted, and even today, while those in production agriculture recognize the importance of some adjustment, some change in the current program, they are still saying leave the new farm bill program in place. Yet, this President is threatening a veto because we will not fall back to the policy of the old.

What does the bill do that we are talking about here on the floor? Let me

tell you what it does and let me tell you what it does for my State of Idaho. I will use it as an example. It funds research at America's colleges and universities in agriculture, at a time when agriculture and yields were dropping nationwide because we weren't investing in the future of American agriculture.

Well, in my State of Idaho, the bill contains $500,000 for peas and lentils research; $500,000 for grass seed research; $500,000 for barley research; $550,000 for research on canola, a new and important crop in our area of Idaho; $1.7 million for research in small fruits; and $1.2 million for research in potatoes and potato disease, the blight that devastated production in the Idaho potato crops last year. Those are all part of a new research initiative the Senator from Mississippi worked to assure that we would get funded so we can invest in the productive future of American agriculture. It funds food stamps and other nutrition programs.

Very little has been said about that today by those on the other side. Yet, that is critically important to America's poor and disadvantaged. It funds conservation and environmental programs, and some very good ones. It contains important biodiesel legislation, a new program for a very important part of a new and emerging market for production agriculture in the oilseed industry. It contains important sanction reform legislation and exempts agricultural products from sanctions on India and Pakistan.

Why, then, if all of these good things are in there, do we have a President that threatens a veto? I have to believe it is because they didn't come with a policy; they don't have one today, and they have this habitual problem of wanting to fall back into the past. Freedom to Farm is everything about the future and very little about the past. That is where we ought to be.

Now, there is a problem in weather-related disasters. There are certainly problems with world markets, as we increasingly tie production agriculture and its profitability to the world markets. Well over 40 percent of everything a farmer in America produces today has to sell in the world market, and we have to be sensitive to that. When those markets go south, prices go south. Does that mean the policy is bad, or does it mean we have a world economic problem? I think it is the latter. We recognize that and we have pumped billions of dollars into that. It won't go to the trader and it won't go to the exporter; it goes right to the bank account of the American farmer—$2.35 billion in disaster-related programs, weather-related programs.

We turn to the Secretary of Agriculture and say: You have the tools, you implement it. We even gave him money to hire more staff to do so—$1.65 billion in income assistance directly to the farmer. This assistance will help provide America's farmers with economic stability that they need to talk to their banker this fall and to talk to their banker next spring, to get a line of credit to put the seed in the ground. And the cycle goes on.

What does it mean in my State of Idaho? I will break it out for you. Today, the price of wheat at the Port of Lewiston, ID, is $2.75. So in the 1998 crop-year, if you add the transition payment of 65 cents, another transition of 45 cents, a loan deficiency payment of 55 cents, and the aid package I just talked about of $1.65 billion, that is 19 cents—that is $1.85 per bushel, Government assistance, to a $2.78 price at the Port of Lewiston today. That is $4.62 per bushel, and $4.62 is, under the current domestic and world market situation, a fair if not a good price in Idaho for wheat.

Idaho wheat hit the bottom in early September when the price hit $2.26 at the Port of Lewiston—although the price was lower further inland in my State, which is more dependent upon rail traffic. Today, wheat is sold at $2.78; that is up 50 cents from its low. The market has assessed the production, and it is making its adjustments. We are helping stabilize that. That is probably why the bill that I am talking about, the current legislation, is supported by the National Farm Bureau and a majority of Idaho's farmers. Is it enough? Well, it is enough to get by on, especially when Government should not be the sole provider of the well-being of production agriculture. But it should understand when there is a crisis and respond to the crisis. That is what we are doing. That response is $1.84 a bushel in assistance.

Now, some keep talking about the loan caps. We voted and voted, and we voted once again on that issue. A majority of Congress said leave the loan caps alone. I believe that the farmers don't want current policy changed. And while some would agree that the loan caps ought to be changed, when I talk to my farmers back home and we walk them through all that this appropriation bill offers, they say: That is fair, Senator. That is as much as we could expect you to do, and thank you for doing it.

We have worked hard on this bill. The Senator from Kansas explained the coalition that came together before the July 4 break. We met with all of the commodity groups and asked, ''What do you need?'' They said, ''Don't change the policy, but we have to have some transitional assistance.'' Times are tough, and we understood that. Many of us went home in August and listened to our farmers and came back with the mind of putting a package like this together to offer assistance.

The President wasn't listening then and he wasn't focused then. Mr. President, why did you quit your travels and come back this week and say you are going to veto the bill? I don't understand that. I don't understand why you have not been focused on this; yet, all of a sudden, it is time to veto it. You said, ''I support Senator HARKIN's programs''; yet, you offer a supplemental that is billions of dollars less. You have taken two positions on the issue and now you have a third. You say, ''I will veto what you send me.'' I don't understand that. I don't think America's farmers understand that very well. Government isn't the end-all to production agriculture. It should be of assistance when assistance is needed. It should care, and it should be concerned, and that is what this bill is reflective of this evening. We should knock down the political barriers and boundaries to enhanced trade. What has this administration done this year? They have not sold or given away one kernel of wheat in the name of humanity. Yet, they have hundreds of millions of dollars to buy wheat in the world and move it into the world hunger areas. Mr. President, why are you not doing that? Why do you come home from your world travels and political travels and say it is time to veto this effort? I don't understand that, Mr. President. I don't understand it.

What we do understand, what Congress understands, and what this bill is reflective of is that you don't change policy; you work to adjust it. You make it fit the marketplace. When there is a national environmental or weather-directed disaster, when there is a downturn in world markets, you make adjustments, you care about production agriculture, and you darn well make sure the money gets home to the bank account of the farmer.

That is what this appropriations bill offers. That is why the House voted on it 333 to 53. That is a big bipartisan vote for the House. Somehow there has to be some good in this legislation, if it drew that kind of a vote in the House. I hope it draws a bipartisan vote here when we vote on it. It deserves it, because it is reflective of the concerns of the current agricultural situation in our country, and, most importantly, it is reflective of the concern of production agriculture when production agriculture says don't change the policy over some transition, make sure that you are sensitive to what we are concerned about.

But what is important to all of us is that we listen to production agriculture. And we know that there are times when a safety net is necessary. This year, as in past years, we have offered one of the largest safety nets in the history of our Government, and we will continue to do that. But let us not change the policy and drive our Government into the business of being the partner of production agriculture, drive it into the business of not ever determining the acreage that should be farmed, or the amount that should be farmed, but into the business of knocking down political barriers, into the business of working as a partner in selling in the world markets instead of simply sitting back with hands folded saying, ''Oh, gee, we have an agriculture problem.''

I think we ought to do something about it. We ought to control production. We ought to squeeze down on production in the rest of the nations of the world, save time to gear up and time to increase our acreage. If we are going to pull away, if the United States is going to pull away from its spot in the world market, we are going to fill it. That is what the policies of the past offered, and we had to fight for decades to gain them back.

I hope that in the end, when the rhetoric cools, when the President develops an understanding of production agriculture—and I give him 24 hours to do it—that he will sign the bill, offer up the kind of assistance that this bill recognizes is important for our producers, and get on with the business of being a cooperating partner with production agriculture, and not a barrier, or not a hindrance, or not a Johnny-come-lately.

Mr. President, I yield the floor.

Mr. HARKIN addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Iowa is recognized.

Mr. HARKIN. Thank you, Mr. President.

PRIVILEGE OF THE FLOOR

Mr. President, I ask unanimous consent that Yvonne Byrne and Maureen Knightly, members of my staff, be granted floor privileges during the debate of the agriculture appropriations conference report and the vote that is taking place at 5:30.

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

Mr. HARKIN. Mr. President, first, I was listening to what the distinguished Senator from Idaho was saying. He raised one question. He asked the question, What do farmers want? That is a fair question. But there is an answer.

A poll was prepared by Rock Wood Research, a subsidiary of the Farm Journal, Inc.—we are all familiar with Farm Journal—for the Nebraska Wheat Growers Association, the American Corn Growers Association, and the Nebraska Farmers Union. It was a widely disseminated poll. It was done between September 4 and September 10 of this year. And 1,000 farmers, actual producers, were interviewed—500 corn growers and 500 wheat growers.

There were a number of questions. One of the questions asked was whether Congress should lift loan caps and raise loan rates 59 cents per bushel on wheat and 32 cents on corn, and 72.5 percent of the farmers polled said yes, they wanted the loan rates raised; only 19 percent said no.

So if you are asking the question about what farmers want, I have a scientific poll done of 1,000 farmers, a pretty good cross section, and 72.5 percent said they wanted the loan rates raised.

Another question: A farm program should retain planting flexibility, including farmer-owned and farmer-controlled grain reserves; 85.9 percent of the farmers interviewed said they would support that proposal. Only 9.9 percent opposed it.

Yet the Republicans in this body and in the House would never vote to give farmers a farmer-owned and farmer-controlled grain reserve. We have had that in the past. I, for one, happen to be in favor of reinstituting it. But, obviously, the party in power will not countenance that. So when you ask what farmers want, it is here in this poll; it is as plain as can be. If we were voting on what farmers wanted, we would have lifted the caps from the commodity marketing assistance loan rates and we would have a farmer-owned and farmer-controlled grain reserve.

So much for that question.

It has also been said that our marketing loan proposals are undermining Freedom to Farm. That is not so. What has undermined Freedom to Farm is external events, which is weak export demand from the Asian markets, along with the strong dollar, generally favorable weather and bumper crops in many areas. Those are the factors that have undermined the hoped-for success of Freedom to Farm.

Actually, the proposal that we have made would in some ways help Freedom to Farm. It is kind of odd that I find myself, who was opposed to Freedom to Farm because of its lack of income protection, saying that our proposal probably will help save it more than what is being done in this conference report. But, be that as it may, I still think that, looking at it both in the short and the long term, raising the caps on the marketing loans is the way to go.

One other point that I wanted to raise is that I really take issue with any suggestion that Secretary of Agriculture Glickman has flip-flopped on loan rates. I don't believe that assertion is supported by the facts. Secretary Glickman for some time has talked about the need to restore a farm income safety net. In fact, he said that when the President signed the 1996 farm bill into law. He was not saying that he opposed taking the loan rate caps off; he just said there needed to be a safety net. When a specific proposal to lift the caps on loan rates was made, he endorsed it, as did President Clinton. So I can't see that as any kind of a flip-flop.

A lot has been said here about generosity and how generous the Republican proposal in the conference report is for farmers, for disaster-related assistance. I divide the conference report in this regard into two areas. There is the part that goes for the natural disaster assistance and the part that goes for the income losses related to commodity prices.

On the disaster side, the proposal that we offered in conference would provide $2.486 billion in disaster assistance. The conference report has $2.350 billion. Actually, the proposal that we offered would have been more generous overall to farmers suffering from disasters than the conference report in front of us.

Mr. President, having said all of that, I must also say that there are many good features in this conference report. I commend the distinguished chairman and ranking member for their outstanding work under very difficult constraints to pull this conference report together. It has a number of provisions important not only to my State of Iowa but to the Nation that I am pleased to see included. So there are a lot of good things in the bill.

But there is one overriding shortcoming in the bill that will, of course, compel me to oppose the conference report. And that is what we have been speaking about most of the afternoon, those of us who have been on the floor; that is, what I feel to be the lack of adequate assistance to help our farmers—our farm families—deal with the worst economic devastation in over a decade. It is a matter that is simply too important to let go. I regret that I must urge my colleagues to vote against the adoption of the conference report.

Again, just to refresh my colleagues about the seriousness of the crisis facing American farm families and rural communities, in July, when this legislation was last on the Senate floor, 99 Senators voted in favor of a resolution recognizing the severity of the crisis that confronts us in agriculture and calling for immediate action. What was bad then has become even worse since.

Commodity prices have fallen even further. In the period of 11 weeks, corn and soybean prices at Central Illinois Terminal Elevators have declined 39 cents a bushel for corn and $1.49 a bushel for soybeans. At Iowa Interior Elevators, prices have fallen by similar amounts to about $1.53 a bushel for corn, and about $4.65 a bushel for soybeans. And on the livestock side, hog prices have continued at low levels, remaining at or below $30 a hundredweight in southern Iowa markets since early September. Country elevator prices are expected to fall even lower as the fall harvest gets fully in swing. Cattle prices remain low. Wheat prices have been depressed for a long time and are expected to continue so.

In addition to the low commodity prices, farmers in several regions of the country have suffered devastating losses from damaging weather, crop diseases, and other natural disasters. There has been severe drought in the South, Southwest, Southeast, and now followed by devastating hurricanes.

In the northern plains, several years of crop disease have put farmers on the ropes. As a result of all of these forces, farm income is falling drastically. It is estimated that this year net farm income will be down by more than $11 billion from last year.

That is over a 20-percent drop in farm income in 1 year. Again, this loss of income is having a horrendous effect on farm families and their communities. And there appears to be no relief in the market on the horizon.

We are all talking about the market. The theory of Freedom to Farm supposedly was that farmers can plant for the market. Well, there is no market to speak of now. We have too large a quantity of commodities for the market. We have a glut on the market, and our Asian markets and other markets are suffering. I don't know when they are going to come back. So if the response is that farmers can plant for the market, I assume the advice to farmers is not to plant because there is no market.

Well, how can that be when the farmer has his fixed costs. He has land. He has his equipment. He has all this money tied up. He has to plant. He has to plant his crops to try to make something. In fact, economically, that farmer will try to plant more. He will try to get more out of his fixed asset base to make up for his losses. He will try to get more production out of his fixed base to make up for lower prices. Therefore, we look again next year for another bumper crop coming on and continued low prices. The Asian economy is not expected to turn around quickly, the Russian economy is in the tank, and the relative strength of the U.S. dollar means that other exporting countries can offer more competitive prices than we can.

So we are now in what appears to be a prolonged period of low commodity prices. And unless we take some action, action that is truly effective, we are headed into another round of farm foreclosures and families forced out of business and off the land.

A recent Iowa State University study, for example, concluded that 2 to 3 straight years of low prices could push as many as a third of Iowa farmers into restructuring or liquidation with disastrous consequences for Iowa's economy.

I want also to underscore the broad ramifications of this farm crisis on the wider economy. Agriculture is the largest industry in my State of Iowa, as it is in a number of States. When agriculture is in a downturn in Iowa, the entire State economy feels it.

If we consider the drop in corn and soybean prices alone this year, leaving aside the precipitous drop in hog prices, Iowa's economy this year is going to take a hit of about $1.4 billion. Chopping that much out of Iowa's economy could cost upwards of 26,000 jobs, jobs that we can ill-afford to lose in my State.

Again, I want to make it clear exactly what part of the conference report I disagree with—the part dealing with loss of income caused by low commodity prices.

Again, I am not opposing that part of the conference report dealing with disaster assistance, although I did point out that what we had in our package was a little bit more generous to those farmers hard hit by the disasters than what is in this conference report.

We had worked, Senator DASCHLE and a number of my colleagues and I had worked on an emergency request sent up by the administration. We made some modifications and additions to the administration's request. We came up with what we considered to be a well-balanced bill. The emergency package that we put together would have provided about $130 million more in disaster-related assistance than the provisions now in the conference report.

The other essential part of the package, apart from the disaster assistance, is to restore some of the farm income safety net. If we consider those two aspects of the emergency package in tandem, then every State in the United States would have come out better under our proposal than under what is now in the conference report, and that includes the States hard hit by natural disasters.

Let me explain further why what is in this conference report is inadequate to deal with the problem of low commodity prices. The conference report includes $1.65 billion that would be added to the Agriculture Market Transition Act, otherwise known as AMTA, payments that farmers will receive for fiscal 1999. I understand that these payments would mean an addition of about 19 cents a bushel for wheat and about 11 cents a bushel for corn when considered on the basis of program payment yield.

Keep in mind there are no payments directed for soybeans or oilseeds in this conference report even though soybean prices have dropped dramatically.

Also, keep in mind that actual yields are greater than the program payment yields used for calculating the AMTA payments. So if we consider the actual production on farms, the conference report would provide about 13 cents a bushel for wheat and about 7 cents a bushel for corn. Again, no direct assistance for soybeans.

These levels of assistance are totally inadequate. In fact, a spokesman for one Member of this body said it better than I could. He said the proposal is a ''slap in the face'' to farmers. Well, it really is. I likened it to giving a person dying of thirst a thimbleful of water; it might relieve suffering momentarily but it really doesn't solve the problem of the person dying of thirst.

The proposal that Senator DASCHLE and I along with others put forward is different. This proposal, which has been talked about by others this afternoon, simply would lift the caps from the commodity marketing assistance loan rates. If that was done, our proposal would add about 57 cents a bushel in added income protection for wheat, compared to 13 cents in the conference report, 28 cents a bushel for corn compared to 7 cents a bushel for corn in the conference report, and about 28 cents a bushel for soybeans compared to zero for soybeans in the conference report. I might also point out it would provide higher loan rates for both cotton and rice.

Our proposal obviously was rejected in conference. That is very unfortunate because it goes much further than what is in the conference report toward addressing the devastating loss of farm income due to low commodity prices. Again, if we have low commodity prices caused by a glut, bumper crops, combined with the loss of foreign markets we are going to have to enact some reasonable income protection to help farmers make it through this economic disaster—a disaster not of their own making. I know there has been a lot of discussion about fast track as though that is the magical solution to everything that is wrong in the farm economy. If only we had fast track, it is suggested, everything would be beautiful. Let's be honest and let's be real about it. Fast track could help us 5 or 7 years from now, which is how long it took to get the Uruguay Round completed. But fast track doesn't help us now. Not in any way does it help the farm families who face foreclosure in the next few months. I say that as someone who has voted for fast track in the past, who voted for NAFTA and voted for the Uruguay Round agreement. I defy anyone to come to the floor and tell me how, if fast track were passed right now, it could possibly help farmers who are in dire straits this year and next year. So fast track may have some benefits down the pike, depending on what comes out of the negotiations, but none in the immediate future.

Again, I and others who have proposed lifting the caps on marketing loan rates have been accused of going beyond the scope of the farm bill, of reopening the farm bill. Well, the fact is marketing loan are in the farm bill. The bill set a formula for loan rates, but then put an arbitrary cap on the loan rates for budgetary reasons. Taking off the caps and letting the formula already in the bill work, as we are proposing, is not really reopening the farm bill. We are simply taking what is in the farm bill, a tool that is in there, and using the tool to enhance the farm income protections within the basic structure of the 1996 farm bill—simply by removing the caps. That change, combined with extending the loan period, will help farmers well into next year—and next year and the year after if the policy were adopted for the long term as I believe would be desirable. Added AMTA payments will go out this year, and that is it. A lot of the new AMTA payments will go to farmers who will not be farming next year. A lot of that AMTA payment will go to farmers whose landlords will seize the opportunity to increase the rent and take it back in rent payments. So basically the AMTA payment is sort of a one-time payment to farmers, but it really is not going to solve the problem.

Again, I would like to illustrate the difference between the conference report and what the Democratic plan was. For a 650-acre corn and soybean farm in Iowa with 390 acres of corn

base, 260 acres of soybeans, the conference report will provide a $4,230 payment to that farmer. The Democratic proposal, in removing the marketing loan caps, would provide increased income protection of $18,455 or a difference of $14,225 to the farmer with 390 acres of corn and 260 acres of soybeans in Iowa.

So again, that is a very substantial difference, and it is a difference that would carry through into next year because of the improved income safety net aspect of the marketing assistance loan. The small AMTA supplement is a short term one-time payment.

So again, I just ask my colleagues from the Corn Belt whether 7 cents a bushel paid out now, but soon gone, is anywhere near enough to address severe farm income problems. Is 13 cents a bushel enough even to begin to address the economic devastation in wheat country? And I ask my colleagues whether a proposal with no direct support for soybeans is adequate to address the steep decline in soybean prices.

So that is really the question today. The question is whether or not those very small cash payments are going to be adequate for the tremendous farm income problems that are out there. I do not believe so. I do not believe that will help nearly enough—

The PRESIDING OFFICER. If the Senator will withhold, the hour of 5:30 having arrived, the clerk is to report the motion to invoke cloture on the motion to proceed to H.R. 10.

Mr. HARKIN. Mr. President, I ask unanimous consent that I just be allowed 3 more minutes.

The PRESIDING OFFICER. Is there objection?

Mr. ROBB. Mr. President, reserving the right to object, I ask for 1 additional minute at the conclusion of the remarks of the Senator from Iowa before the rollcall vote on the motion to invoke cloture.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. HARKIN. Mr. President, again, this conference report needs to be rejected and sent back for further work to restore farm income protection by removing the marketing loan rate caps. There are also two other areas in which the conference report is not acceptable.

I would mention the labeling of beef and lamb for country of origin. The House Republicans rejected this idea. It is too bad, because under the WTO it is allowed, to have country of origin labeling. It is not just for our beef and lamb producers in this country. I believe our consumers have the right to know, when they buy a steak or chop or other cut of beef or lamb at the meat counter, what its country of origin is.

Second, we had mandatory price reporting in the Senate bill so livestock producers will have information to help them evaluate packer bids for fairness. The conference report converted that bill language into weak report language. We have had study after study after study on pricing practices in the livestock and meat business and the need for more openness and transparency. It is time we have real action, not another study on that.

For those reasons I believe the conference report ought to be rejected and sent back for further work. If it is not, then I am afraid we will have a one-time payment to farmers this fall and we will be back again here next year with fewer farmers and even more economic devastation in rural America.

Mr. President, I ask unanimous consent to have printed in the RECORD ''Suggested Changes in Farm Policy for the 21st Century,'' submitted by Dr. Neil Harl of Iowa State University, and I yield the floor.

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

SUGGESTED CHANGES IN FARM POLICY FOR THE 21ST CENTURY

FINE TUNING ''FREEDOM TO FARM''

(By Neil Harl)

Farmer-owned storage program for major commodities.

Long-term land idling (up to 20 years) in marginal areas (contracts terminate if prices rise above a specified level).

Standby authority to implement acreage set aside (if prices remain for a specified period below a designated level).

Adequate funding for FSA direct lending and loan guarantees for limited resource borrowers.

Continue LDP and marketing loans with slightly higher loan rate (not higher than cost of production on marginal lands).

The PRESIDING OFFICER. The Senator from Virginia, under a previous unanimous consent request, is recognized for 1 minute.

Mr. ROBB. Mr. President, I rise to express my surprise and dismay about what occurred in the conference committee on the agriculture appropriations bill.

During debate on this bill in July, Mr. President, the Senate accepted an amendment I offered to waive the statute of limitations for discrimination complaints filed by many small and minority farmers against the U.S. Department of Agriculture. This amendment addresses an urgent and shameful problem, Mr. President, and we worked with farmers, the White House, the USDA, the Department of Justice, and the Congressional Black Caucus to develop language that would protect the legal rights of farmers' and be implementable by USDA.

Mr. President, similar language was included in the House bill, but it was drafted more quickly and with less consensus. It was more narrowly defined and had less aggressive time limits for USDA to resolve discrimination complaints. And it cost $5 million less.

And even though Representative MAXINE WATERS, the chairman of the Congressional Black Caucus lobbied the conferees in support of the Senate version of this amendment, Mr. President, the Senate lost on almost all counts.

To give my colleagues some background, the investigative unit at USDA's Office of Civil Rights was abolished in 1983. Farmers whose complaints were pending at the time were led to believe their complaints were still being investigated, when they were not. Farmers who filed complaints after the abolition of the unit were also led to believe that their complaints would be processed and investigated, despite the fact that the USDA had no resources with which to conduct such investigations. The bottom line is that none of these complaints were ever considered—but none of the farmers were told that was the case.

When Secretary Glickman learned of this problem, Mr. President, he directed that the complaints be resolved quickly. In fact, I offered an amendment to last year's appropriations bill to fund the investigative unit.

But when USDA was finally prepared to enter into settlement agreements on some of these cases, Mr. President, the Department of Justice stepped in to claim that the statute of limitations for the complaints—despite USDA's deception in the matter—had expired. The amendment I offered to this year's appropriations bill eliminates this legal obstacle and allows farmers to pursue their claims of discrimination. It allows them to have their day in court, so to speak.

As we approached conference, however, I learned through staff that objections to accepting the Senate version of this amendment were raised based on cost. Our version was scored at $15 million, while the House version was scored at $10 million. Mr. President, there's no question the two amendments were slightly different. But the $15 million in the Senate amendment was to compensate Americans for discrimination perpetuated by their own government. It was a figure determined by CBO, conferring with USDA, about which of the pending complaints would have likely resulted in legitimate and provable cases of government discrimination. It is money that our government owes to farmers who have been treated in such an unjust and morally reprehensible manner.

Mr. President, during conference deliberations, I learned that the House conferees objected to the scope of the Senate amendment. As I've alluded to before, the House version addressed only discrimination complaints against the Farm Service Agency. My amendment addressed complaints filed against not only the Farm Service Agency, but also the Rural Housing Service. We know that discrimination has occurred in both agencies, and study after study has clearly illustrated this. Unless we address complaints against both agencies, we allow justice to continue to elude a number of minority farmers in America who deserve at long last to be treated fairly.

To my dismay, Mr. President, the conferees accepted the House version of the civil rights amendment, adding only a small portion of the Senate version.

The Senate version of the civil rights amendment allowed for the waiver of the statute of limitations for discrimination complaints made against both the Farm Service Agency and the Rural Housing Service. The House version only allowed the FSA claims.

While the conference language allows farmers to file suit in federal court if their claims for relief are denied by USDA, the Senate language specified that the federal court shall apply a de novo standard of review. This standard would have allowed a federal court to review USDA's findings and rationales with a fresh eye, so to speak. In other words, a court would not be required to give as much deference to USDA's decisions. This is obviously a protection that would have given aggrieved farmers a degree of legal protection that is imminently justified. Yet no such protection exists in the conference language.

To make matters worse, Mr. President, the one protective provision that I was told would be included in the conference language—the expedited review provision—was somehow omitted from the conference report. When the conferees reached a compromise on this amendment, it is my understanding that they specifically agreed to include a provision of my amendment which limited USDA to 180 days in which to investigate complaints, issue findings, and propose settlement awards, where applicable. This provision was supposed to be included, but it was not.

Mr. President, I am at a loss to explain why we can't do a better job of rectifying such a grevious history of overt, admitted discrimination for so little money. Our Minority farmers deserved better conference language from this Congress than they got. It just underscores the enormous obstacle we face in resolving this issue—and that is that too few members care enough about this problem to give it the attention and the priority it calls for.

Before I conclude, Mr. President, I'd like to share with my colleagues some updated news. Last week, the Office of Inspector General issued a report which lambasted the Office of Civil Rights' handling of the backlog of discrimination complaints. The report characterized the Office's case files as ''too slovenly to ensure the availability of critical documents.'' It further berated the Office for its failure to implement the majority of recommendations made to the Department in a February 1997 report.

I am not sure why this Department has had so many problems, not only with eliminating unjust and inexcusable behavior, but also with efficiently resolving complaints of discrimination. These are symptoms of an overwhelming and inexcusable problem. As many of my colleagues know, this is a problem that I have been working to solve for almost two years, from the moment it was first brought to my attention by a group of minority farmers headed by a Virginian.

Mr. President, I have heard account after account of inexcusable behavior on the part of various officials at USDA, primarily those in positions of authority who process farmers' applications for loans. Some farmers have had trouble even getting loan applications, much less having their applications processed in a timely manner. Many farmers have cited stories in which their applications have been purposely processed later than those of non-minority farmers. The loan money then, in effect, was dispersed to non-minority farmers first. Then, when many minority farmers checked the status of their applications, the USDA officials responded by stating that there wasn't any money left. Another farmer told me that a USDA official was permitted to keep a noose in his office, despite repeated complaints about the message it sent to minority farmers wishing to do business in that office.

I know that Secretary Glickman is committed to stemming this pattern, but ultimately Congress is responsible for overseeing our government agencies. In the two years that I've been working on this issue, talking with farmers, meeting with the Secretary and the President, we, as a Congress, have not taken a sufficiently forceful approach to stem this shameful pattern of discrimination. In my view, that makes us part of the problem as well.

When the conferees chose not to accept the Senate language, they made a choice that sends a disquieting message to minority farmers across this country. The message they sent was that they were willing to do the bare minimum for minority farmers who have suffered discrimination at the hands of government officials. It is a message that we, the Congress, are not willing to get fully invested in eliminating discrimination within our own government.

The President has indicated that he will veto this bill, and I am hopeful that my colleagues will take another opportunity to look at the differences between the Senate language and the conference language. We will have another opportunity to correct a critical error in our priorities. The farmers deserve our best oversight efforts, and they deserve the strongest civil rights amendment that we can craft. I will continue to push all of our colleagues to do so. A lack of attention to this issue means not only failure on our part, but a perpetuation of a problem for which we should all be ashamed.

Thank you, Mr. President. I'd like to ask unanimous consent that this letter and executive summary from the Inspector General to the Secretary of Agriculture dated September 30, 1998 be included in the RECORD immediately following my remarks.

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

U.S. DEPARTMENT OF AGRICULTURE,
OFFICE OF INSPECTOR GENERAL,
Washington, DC, September 30, 1998.

REPORT TO THE SECRETARY ON CIVIL RIGHTS ISSUES—PHASE V

From: Roger C. Viadero, Inspector General.
Subject: Evaluation of the Office of Civil Rights' Efforts to Reduce the Backlog of Program Complaints, Evaluation Report No. 60801–1–Hq.

In July 1998, your Assistant Secretary for Administration asked the Office of Inspector General to review the efforts by the Office of Civil Rights (CR) to reduce the backlog of program complaints in USDA. Attached is a copy of the results of this review. This represents our fifth evaluation of the Department's efforts to reduce the program complaints backlog and to improve the overall complaint processing system, including the investigative process.

We found that the Department, through CR, has not made significant progress in reducing the complaints backlog. Whereas the backlog stood at 1,088 complaints on November 1, 1997, it still remains at 616 complaints as of September 11, 1998.

The problems we noted before in the complaints resolution process also continue. CR's data base remains an unreliable repository of information, and its casefiles are too slovenly to ensure the availability of critical documents. A disaffected staff and a leadership vacuum have contributed to a system that cannot ensure complainants a timely hearing of their grievances.

Of considerable concern to us is CR's lack of progress in reforming its operations in accordance with our previous recommendations. Few corrective actions have been taken to increase the efficiency of the complaints resolution process. We also noted that CR staff members have not always been honest in portraying the actual level of their performance. Some of the information they gave us proved to be inaccurate. Some of the information they gave you on earlier occasions proved likewise to be inaccurate.

Because of continuing problems in the complaints resolution process, we are recommending that you convene a Complaints Resolution Task Force (independent of CR) to immediately assume control of the backlog and have full authority to resolve complaints, including entering into settlement agreements. We are also recommending that the civil rights function within the Department be elevated to the level of Assistant Secretary.

At your request, we will be continuing our work with CR, giving special emphasis to its management of settlement agreements.

EXECUTIVE SUMMARY

Purpose

The Assistant Secretary for Administration asked us to perform a followup review of the operations of USDA's Office of Civil Rights (CR), the office responsible for resolving complaints made against the Department for alleged civil rights violations in the administration of its programs. During four previous reviews of the Department's civil rights program complaints system, we determined that the system was not functioning properly and that the Department had amassed a growing backlog of complaints that required immediate attention. Although CR itself could not accurately determine how large the backlog was at the time of our first review, it later identified 1,088 outstanding unresolved complaints before November 1, 1997.

Results in brief

Our past reviews had questioned the productivity of CR; we had found a disaffected staff and a leadership vacuum. Little was being accomplished by USDA agencies to respond to citizen complaints of discrimination and little was done by CR to manage the resolution process. Some complaints in CR's backlog had languished for over 2 years. After our February 1997 report, CR made the resolution of its backlog its first priority.

Our current review disclosed that the backlog of complaints of civil rights violations, although reduced, still stands at 616 cases as of September 11, 1998. Of these 616 cases, 80 are under investigation, 310 are awaiting adjudication, 23 are undergoing a legal sufficiency review, and 103 are pending closure. The remaining 100 cases still await a preliminary analysis. (Because 164 complaints are involved in lawsuits against the Department, their cases cannot currently be processed. Of these 164 cases, 147 are included in the remaining backlog.)

The backlog is not being resolved at a faster rate because CR itself has not attained the efficiency it needs to systematically reduce the caseload. Few of the deficiencies we noted in our previous reviews have been corrected. The office is still in disarray, providing no decisive leadership and making attempt to correct the mistakes of the past. We noted with considerable concern that after 20 months, CR has made virtually no progress in implementing the corrective actions we thought essential to the viability of its operations. The following table summarizes the key areas for which our recommendations were made and in which the uncorrected deficiencies persist.

TABLE 1.—AREAS OF DEFICIENCY PREVIOUSLY NOTED BY OIG AND STILL UNCORRECTED—RECURRING OFFICE OF CIVIL RIGHTS ISSUES

Issue	OIG Evaluation Phases					
	Alert (02/25/97)	I (02/27/97)	II (09/29/97)	Memo (12/18/97)	IV (03/04/98)	V (09/30/98)
Review State foreclosure actions	X	X	X	X	X	X
Send letters of acknowledgment (Completed November 1997)		X	X			
Develop and maintain a data base		X	X	X	X	X
Evaluate each agency's civil rights staff		X	X	X	X	X
Clean casefiles		X	X	X	X	X
Clear backlog		X	X	X	X	X
Publish regulations		X	X	X	X	X
Reconcile casefiles with USDA agencies		X	X	X	X	X
Write plans for compliance reviews		X	X	X	X	X
Follow up on isolated instances of potential discrimination				X	X	X
Find lost casefiles		X	X	X	X	X
Use aging reports		X	X	X	X	X
Train investigators			X	X	X	X

X Condition originally noted and recommendation made. X Condition continues. X Corrective action taken but not adequately implemented. See exhibits B and C for the Secretary's memoranda regarding Phases I and II.

We estimate that if CR continues to operate under its current methods and at its current rate, the backlog of complaints existing on November 1, 1997, will not be completely resolved for at least another year.

Most conspicuous among the uncorrected problems is the continuing disorder within CR. The data base CR uses to report the status of cases is unreliable and full of errors, and the files it keeps to store needed documentation are slovenly and unmanaged. Forty complaint files could not be found, and another 130 complaints that were listed in USDA agency files were not recorded in CR's data base. Management controls were so poor that we could not render an opinion on the quality of CR's investigations and adjudications.

Of equal significance is the absence of written policy and procedures. It is incumbent upon CR to revise department policy to ensure it complies with civil rights laws and to establish the framework of its own activities. We believe standardized, written guidelines are essential to CR's operation, and it is a matter of concern to us that CR has, over the space of 20 months, produced nothing to lay the foundation for good management controls.

The absence of formal procedures and accurate records raises questions about due care within the complaints resolution process. We found critical quality control steps missing at every stage of the process. Staffmembers with little training and less experience were put to judging matters that carry serious legal and moral implications. Many of CR's adjudicators, who must determine whether discrimination occurred, were student interns. Legal staffmembers with the Office of the General Counsel (OGC), who review CR's decisions for legal sufficiency, have had to return over half of them because they were based on incomplete data or faulty analysis. We noted that a disproportionately large percent of the 616 cases of unresolved backlog had bottlenected in the adjudication unit.

Furthermore, CR may not understand the full scope of its authority. CR has concentrated its oversight on federally-conducted programs; it has largely ignored a host of federally-assisted programs (e.g., crop insurance, research grants) in which complaints of discrimination may have been made.

CR's unsuccessful efforts to resolve the backlog of civil rights complaints are in part the symptom of an insecurity that has affected office morale. The many reorganizations the complaints resolution staff has undergone, the high turnover the staff has experienced within the last several years, and the inadequate training afforded both managers and staffmembers, have left the staff unfocused and without clear direction. The staff we found at the civil rights offices was not a coherent team of dedicated professionals with a shared vision but a fragmented order of individual fiefdoms, each mindful only of its own borders and its own responsibilities. Low office morale has contributed to a lack of productivity. CR's data base shows that since January 1997, CR closed only 19 cases through adjudication, 8 of which were not even investigated by CR. Through this inefficiency, complainants are being denied a timely hearing of their civil rights complaints.

Also disturbing was the evasiveness we encountered at CR. We found discrepancies between what we were told by staffmembers and what we were subsequently able to verify. We found similar discrepancies in information CR communicated to the Secretary. These discrepancies, in the number of open and closed complaints, were repeated at congressional hearings and other public forums.

We concluded that in order to complete the backlog of cases expeditiously, the Secretary needs to transfer resolution of the backlog to a complaints resolution task force, composed of seasoned adjudicators and well qualified civil rights personnel from Federal agencies outside USDA. The task force should have full authority to review and resolve all complaints.

To increase CR's efficiency in the long term, the Secretary should create an Assistant Secretary of Civil Rights with subcabinet-level status. Concurrently, the CR Director should emphasize hiring managers who have a solid background in civil rights and a good knowledge of Department programs.

Once in operation, the task force would provide CR with the opportunity to focus on its own structure and implement the reforms it needs to function efficiently. We believe CR is capable of these reforms and that it is in the best position within the Department to act objectively in resolving civil rights complaints. Consequently it should retain Department authority to investigate future complaints. We believe that when CR has taken the corrective actions we previously recommended, as well as the steps outlined in this followup report, it will provide more efficient service.

Key recommendations

We recommend that the Secretary take the following actions to ensure that citizens who have complained of discrimination by USDA receive a timely hearing:

Immediately convene a complaints resolution task force, composed of well qualified civil rights personnel from other Federal agencies and senior USDA program personnel with decision-making authority. The task force, under the direction of an Executive Director who reports directly to the Secretary, should immediately assume control of the backlog and have full authority to review and resolve complaints.

The complaints resolution task force could also assist the CR Director in reviewing new complaints that have exceeded the 180-day resolution deadline set by the Civil Rights Implementation Team.

The OGC and the CR Director should be available to assist the task force in its efforts.

The task force should perform a case-by-case, document-by-document sweep of the casefiles to restore retrievability to the information contained in the files.

Elevate the Department's civil rights functions to the level of Assistant Secretary with full authority across agency lines.

Require CR to (a) issue needed operational policies and procedures within a 2-month timeframe, (b) resolve within 2 months all other recommendations that we made in our previous reports but that CR has failed to implement, (c) keep open all cases with settlement agreements so the agreements may be tracked, and (d) institute other operational improvements that will ensure the efficient operation of the civil rights functions within the Department and ensure due care in the resolution of all civil rights complaints as well as a timely hearing for all complainants.

Statistical data on complaints

According to CR's data base as of September 11, 1998, the Department's inventory of

complaints totals 1,439 that are open and 582 that are closed. Of the total open and closed cases, 383 are part of 2 lawsuits brought against the Department; 77 from the *Brewington* lawsuit, and 256 from the *Pigford* lawsuit. These cases are identified separately because the court prohibited CR from processing the cases as long as they were under litigation.

CR categorizes complaints that have not yet been reviewed as ''intend-to-file'' cases. Normally these cases are considered ''unperfected.'' However, if the complainant has indicated an intent to go forward with the complaint once Congress waives the 2-year statute of limitations, the case is identified separately.

The three tables on the next page identify the status of all cases in the inventory.

TABLE 2—STATUS OF CIVIL RIGHTS PROGRAM COMPLAINTS AS OF SEPTEMBER 11, 1998

	Not in Lawsuit			Pigford Lawsuit [1]			Brewington Lawsuit [2]			Total		
	Intend	Open	Closed	Intend	Open	Closed	Intend	Open	Closed	Intend	Open	Closed
Backlog	.....	469	455	.....	144	16	.....	3	1	.....	616	472
New	.....	138	106	.....	19	2	.....	6	1	.....	163	109
Unperfected	271	.....	1	6	.....	.....	7	.....	.....	284	.....	1
Statute of Limitations	248	.....	.....	69	.....	.....	59	.....	.....	376	.....	.....
Totals	519	607	562	75	163	18	66	9	2	660	779	582

[1] Actual total number of complainants in the Pigford lawsuit as of 08/06/98 is 481. Not all complainants are captured in CR's data base.
[2] Actual total number of complainants in the Brewington lawsuit as of 08/06/98 is 132. Not all complainants are captured in CR's data base. CR is prohibited from processing cases under litigation and cannot yet process those cases which fall outside the statute of limitations.

TABLE 3—STATUS OF CIVIL RIGHTS BACKLOG PROGRAM COMPLAINTS AS OF SEPTEMBER 11, 1998

	Not in Lawsuit	Pigford Lawsuit	Brewington Lawsuit	Total
Pre-Investigation	69	31	.....	100
Under Investigation	75	5	.....	80
Adjudication	214	93	3	310
At OGC	19	4	.....	23
Pending Closure	92	11	.....	103
Closed	455	16	1	472
Total	924	160	4	1,088

TABLE 4—STATUS OF CIVIL RIGHTS NEW PROGRAM COMPLAINTS AS OF SEPTEMBER 11, 1998

	Not in Lawsuit	Pigford Lawsuit	Brewington Lawsuit	Total
Pre-Investigation	126	17	6	149
Under Investigation	2	.....	.....	2
Adjudication	7	2	.....	9
At OGC	.....	.....	.....	0
Pending Closure	3	.....	.....	3
Closed	106	2	1	109
Total	244	21	7	272

Mr. BUMPERS. Mr. President, I ask unanimous consent I be permitted to proceed for 2 minutes prior to the cloture vote.

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

Mr. BUMPERS. Mr. President, when Senator COCHRAN and I reported the fiscal year 1999 appropriations bill for agriculture, rural development and related agencies to the Senate earlier this year, our recommendation included maintaining the studies and evaluations activities for USDA's food programs with the Food and Nutrition Service (FNS). This recommendation was consistent with the President's budget request.

The studies and evaluations activities are important for a number of reasons. These activities enable better program management of the several domestic feeding programs administered through USDA. We should remember that USDA's nutrition programs comprise the lions' share of the USDA budget and are often all that stands between many of our people and abject hunger. Because of the long-term health implications associated with a healthy, nutritious diet, it is absolutely vital that program administrators have access to relevant and updated information regarding nutrition and program delivery.

Mr. HARKINS. I agree with the Senator from Arkansas' explanation of the importance of these research functions at USDA. Although the Senate position going into conference was to fund the food program studies and evaluations through FNS, the House insisted on their provision which would place these functions with the Economic Research Service (ERS). We were able to reach an agreement with the House conferees, as included in this Conference Report, to transfer $2 million from the ERS back to the FNS for this purpose. It is our expectation that the ERS will continue its working relationship with the FNS in order for that agency to conduct the same type of studies and evaluations as in the current fiscal year.

Mr. BUMPERS. Mr. President, I would like to note the importance of coordinating the research agenda for the food program studies and evaluations between USDA's research and nutrition subcabinet officers. I cannot understate the importance of these two branches of USDA continuing to work together, as they have done this year, to ensure that FNS' research agenda meets the needs of program managers to have adequate information to guide their program decisions.

Mr. COCHRAN. Senator Bumpers is correct. I strongly urge the Under Secretary for Food, Nutrition, and Consumer Service and the Under Secretary for Research, Education and Economics to continue working together to establish a reasonable division of effort consistent with a sound research agenda.

NATIONAL SWINE CENTER

Mr. HARKIN. I would like to engage my colleague, Senator BUMPERS, the ranking member of the Senate Appropriations Subcommittee on Agriculture, Rural Development, and Related Agencies in a colloquy regarding the pending legislation. For clarification, I would like the Senator to provide further explanation of language included in the Statement of Managers accompanying the conference report to H.R. 4101.

It is my understanding that language under the heading of the Agricultural Research Service imposes a limitation on funding for the National Swine Research Center at Ames, Iowa, but is related to operational and maintenance costs for that facility beyond those normally associated with assignments of ARS personnel. This interpretation would not be inconsistent with the general provision of the conference report that prohibits the transfer of title of the Center to USDA.

Mr. BUMPERS. The Senator from Iowa is correct. While the conference report does not allow for the transfer of title of the facility to USDA, and the Statement of Managers includes language limiting the use of funds for operational costs, that limitation does not apply to the allocation of funds pursuant to normal ARS scientist assignments. The Statement of Managers includes direction that an increase of $2 million for ARS research at Ames, Iowa, is included as reflected in the accompanying table. That table indicates an increase of $1 million for the National Animal Disease Center and an additional $1 million for Livestock Management. The latter amount is available for use at the National Swine Research Center consistent with normal ARS personnel funding allocations.

Mr. HARKIN. I thank the Senator for his further explanation.

Mr. BUMPERS. Mr. President, let me say, and I would be remiss if I did not say it at this point, I think, one of the things I will miss deeply when I leave the U.S. Senate will be the excellent relationship I have had with the chairman of this committee. He has been, probably, much more generous to me through the years that he was chairman than I was to him when I was chairman. But I want the whole Senate to know of my deep admiration for him. I want the whole country to know it. He is a consummate gentleman. He is a man of impeccable integrity. He is accommodating to a fault to his colleagues. And one of the things I will miss is his counsel, advice and common sense.

He is the personification of what public service should be. I have been most honored to serve with him and I will cherish his friendship always.

I yield the floor.

FINANCIAL SERVICES ACT OF 1998—MOTION TO PROCEED

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 5:30 having arrived, or 5:36, the clerk will report the motion to invoke cloture on the motion to proceed to H.R. 10.

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.

The PRESIDING OFFICER. The question is, Is it the sense of the Senate that debate be brought to a close?

The yeas and nays are required.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Utah (Mr. HATCH) and the Senator from Pennsylvania (Mr. SANTORUM) are necessarily absent.

Mr. FORD. I announce that the Senator from California (Mrs. BOXER), the Senator from Illinois (Mr. DURBIN), the Senator from Ohio (Mr. GLENN), the Senator from South Carolina (Mr. HOLLINGS), and the Senator from New York (Mr. MOYNIHAN) are necessarily absent.

I further announce that, if present and voting, the Senator from New York (Mr. MOYNIHAN) would vote ''aye.''

The yeas and nays resulted—yeas 93, nays 0, as follows:

[Rollcall Vote No. 297 Leg.]

YEAS—93

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

NOT VOTING—7

Boxer	Hatch	Santorum
Durbin	Hollings	
Glenn	Moynihan	

The PRESIDING OFFICER. On this vote, the yeas are 93, the nays are 0. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. D'AMATO. Mr. President, I know that a number of my colleagues are on the floor who want to make statements. I see Senator DOMENICI is here, and he indicated to me that he wanted to speak for several minutes. I am wondering if my colleagues would agree to let Senator DOMENICI make his statement, and then I would like to address the vote that has just taken place. I am not going to spend too much time. If there is no objection, I will yield to Senator DOMENICI without losing my right to simply speak to this vote.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from New Mexico is recognized.

KOSOVO

Mr. DOMENICI. Mr. President, I will take just a couple of minutes. I want to comment on the administration's discussions with us regarding Kosovo and just make one statement that I feel compelled to make on the Senate floor, which I have made to the administration and to a number of Senators.

First of all, from this Senator's standpoint, it will be extremely difficult to support any kind of military action in Kosovo unless the President of the United States requests of us significant increases to the defense budget to address the shortfalls in military readiness, personnel, and modernization recently acknowledged by the Joint Chiefs of Staff.

From my standpoint, we ought not be supporting additional military action and putting our men and our equipment in harm's way unless and until we have a game plan to put adequate resources into our Defense Department for the readiness shortfalls that already exist.

The crisis in military preparedness that has only belatedly been acknowledged by the President and his administration is very grave.

To support ongoing operations around the world, our men and women in uniform are deployed far away from their homes and their families for unprecedented lengths of time. Morale among many of our troops is suffering, and recruiting and retention statistics are dangerously low. Modernization of our force is seriously underfunded across the services. Training in many of the combatant commands must halt well before the end of the fiscal year due to funding and supply shortfalls. Nearly 12,000 military families are once again on food stamps. And failing to provide additional funding for potential costly military operations in Kosovo while United States forces are about to complete 3 years in Bosnia at a cost of nearly $10 billion will, in my opinion, severely and perhaps irreparably exacerbate the critical readiness crisis that exists.

In summary, if the President expects this Senator to support Kosovo action—and I am not sure the administration seeks a resolution—I have just stated succinctly what I believe is an absolute necessity on the part of the President and his administration; that is, tell us how you are going to make our military ready again before you send them into harm's way again, when we already know that we are short of much of the equipment and parts and our military is in many respects lacking and deficient in readiness.

I think it is a simple proposition. I think they have time to do it. I think it is serious. I think when many Senators find out about the readiness issues, they are going to be saying the same thing: Let's see how we are going to fix that before we engage in another battle.

I yield the floor. I thank the Senator.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

THE FINANCIAL SERVICES MODERNIZATION BILL—MOTION TO PROCEED

Mr. D'AMATO. Mr. President, first of all, let me commend my colleagues for the overwhelming vote on H.R. 10, the financial services modernization bill, which passed 93 to 0, in terms of moving forward. It was a motion to proceed to consider. I know it wasn't on the bill itself, and I know that there are some Members who do not agree and some who oppose very strongly various provisions of the bill. That is understandable, because it is a major piece of legislation.

I thank the majority and the minority leaders for their support and for their help in getting this bill to this point, facilitating it, and the members of the Banking Committee and the ranking member, Senator SARBANES of Maryland, who have worked in the most constructive of manners, putting the interests and needs of the financial services community of this great Nation of ours—the capital formation system that is so important—putting those interests and needs first.

I have to tell you that this is not a partisan matter, that the Senate has addressed this in the uniquely bipartisan way that reflects very, very credibly upon this institution, again, recognizing the fact that Members certainly cannot agree with all of the provisions that may be contained in this very comprehensive bill.

Mr. President, the need for legislation to modernize the financial services industry is obvious. The existing legal framework has been for some time fundamentally outdated, and this body itself has recognized the existing laws are part of the statutory framework built largely in the 1930s and they just do not fit the realities of today's financial marketplace.

Congress has been attempting to pass legislation to modernize this system for almost 25 years. The only barrier to success now is the Senate of the United States. We really are at a historic moment.

Let me cite the views of Paul Volcker, a former Chairman of the Federal Reserve, to place our deliberations in some kind of historical perspective. No one can say it is turf as it relates to Mr. Volcker and what his position may or a may not be. He says:

Over the long years of debate, it typically has been the U.S. Senate that has been in the vanguard in seeking reform, and it was the House that could not reach satisfactory consensus. Now, after extended hearings and debate, with strong leadership support, a coherent and responsible bill has emerged from that body. This month the Senate has a unique opportunity to complete the process, ending years of frustration for the markets and for Congress alike. At issue is not just the matter of American banking legislation and certainly not a narrow political calculation of what parochial industry position is most completely satisfied. This is a time for the United States in much easier circumstances to demonstrate that we are capable of enacting ourselves the kind of reforms we press on others.

Mr. President, how cogent these words and these observations are. Indeed, Mr. Volcker wrote this article and submitted it, and it has been carried in a number of news media across the country some weeks before the full extent of what is taking place in the world banking community and the financial services industry has been understood, before it has become even more important and paramount that the kinds of reforms that are so necessary and that many other countries have been avoiding are reforms that we ourselves must and should undertake, instead of having a piecemeal approach in a haphazard way, of whether the regulator at the Fed or the Treasury in terms of the Comptroller undertaking changes leaves us in a situation where I can truthfully say we have abdicated our responsibility. I hope that we will not lose this opportunity to discharge our responsibilities in a manner that will reflect credibly on this body and the Congress of the United States and on each and every Member.

Mr. President, the fact is that this bill is a good bill. The fact is that we have been able to get together, for the first time, in an unprecedented fashion, a broad consensus for the need for financial modernization by the players themselves, by the people who are actually in this area. Virtually all of the financial services community has endorsed this legislation.

Indeed, let me just list a number of those groups. The American Community Bankers. How often have we heard it said, ''Oh, the little bankers are opposed to this.'' Indeed, the American Community Bankers are in favor of this legislation. The American Bankers Association. Now we are talking about the larger banks. They have signed on. So from community bankers to large money center banks. The American Council of Life Insurance Companies. Imagine, when did we ever have the life insurance industry and the Congress working together with their banking contemporaries? There has been such fierce estrangement of the issues. The Financial Services Council, the Independent Bankers Association of America, the Independent Insurance Association. Now we are talking about those people who are out there selling and who heretofore have been adamantly opposed; we have them supporting this. The Investment Companies Institute, the securities industry, the BOND Market Association, the National Association of Multiple Insurance Companies, and most executives of major financial companies have been strongly supportive.

Mr. President, no less than former Chairman of the Federal Reserve Board Volcker—and I read his remarks—is totally supportive because it is long overdue. Our present Chairman, Alan Greenspan, one of the world's most respected bankers, says this is a good bill and is supportive. The Securities and Exchange Commission and their Chairman, Arthur Levitt, are supportive of this bill.

Yes, there is room for reasonable people to have differences over various aspects of this bill. I suggest to you that some of those differences can and should be debated, the time can be provided, and that we can vote on them, and let the will of the Congress decide and not let the clock of a late session be the enemy of progress. Let's not let the quest for perfection stop that which is an excellent bill. Let's not look for 100 percent when we can get 99 and be doing the business of the people.

I am not going to argue the merits of some of those positions that my friends have—friends on my side of the aisle. Indeed, when it comes to various issues, reasonable people can disagree, but the question is, are we going to undertake our responsibilities in a manner which befits the great office and the prestige of U.S. Senators or are we going to say, no, unless I get it my way 100 percent, dot the i, cross the t, we are going to kill that which would otherwise advance the interests of all of our people, all of our citizens?

I hope that we can move to a higher level. I am not prepared to, nor will I, debate the relative merits of the changes that some of my colleagues are suggesting are necessary to earn their support. Indeed, I am not going to defend those who may have used the present law in a manner never intended to gain their way, to gain financial advantage for themselves as opposed to their community. If and when that takes place, it is wrong. It should be stopped.

But I suggest that if we look at the totality of this bill, to say that, unless we can deal with this particular abuse, we are not going to have financial reform, would be a mistake. I am not going to defend those who have used the law inappropriately, those who in essence violate the spirit, yes, and I think the actual law that exists today.

Do I think that we could do better? Yes, if we had sufficient time. Do I think we could bring together and put together a coalition that could pass this bill if, indeed, we adopted some of the changes that my colleagues and friends might want to see? And I am talking specifically about the area of CRA, the Community Reinvestment Act. The answer is no; it would be the death of the bill.

Now, Mr. President, I could understand my colleagues'—and I do understand—strong revulsion for the manner in which CRA may have been used in particular cases that they are conversant with, familiar with, and that they have put forth to this body. I understand that. But I do have difficulty understanding how and why at this time, when we can achieve such great progress in dealing with 90-plus percent of the problems that exist today, where we can make the kinds of fundamental changes that almost everyone agrees are necessary so that we can meet our obligations here at home and in the world of finances, we would sacrifice that gain because we can't get perfection at this point in time.

Wouldn't it be better to improve the situation dramatically by passage of this bill notwithstanding that it may not deal with an area that is as contentious as CRA? I suggest to you that if we had a great and strong bill, a platform by which we could see that our financial services could operate without having to go to the regulator, to the nameless, faceless regulator day in and day out to get various exemptions that may favor one over another, that is not in the interest of this country.

The piecemeal legislation, day in and day out, how do we better ourselves by that? What kind of an example do we set for the rest of the world when we say we can't even agree on a fundamental operation? Because we want perfection? Because we want to cure that deficiency that is there, that some have been evil in using and may be, in quoting the words of some of my friends, using to extort? I do not condone that, but you are not going to cure it here. And what we will be doing is killing an opportunity to make substantial progress. That is what we are doing. And you have to weight that up. Are you going to achieve substantial progress? And if you can make that cure, I will be with you. But you can't. Understand it.

Now, if the managers of the bill said under no circumstances are we going to permit you to offer amendments, we want to go right to cloture to cut off your amendments and your right to offer amendments and your right to debate them and to let people hear what is taking place, then I could understand using every parliamentary procedure to stop this bill.

That is not the case. This Senator would be willing to say, and I know because I have discussed it with the ranking member, Senator SARBANES, we

would offer any reasonable time for Members of this body to offer amendments dealing with the problems that may exist in CRA, dealing with possible solutions, and having votes, whether they are up or down, without amendments, to see if we can't get a consensus. I don't believe you can. And if you can't get your position today, at least to give the people of the United States an opportunity to have a banking bill which people understand clearly and not one that is manipulated day in and day out by the various needs and exigencies of the financial services community so that they have to come pleading: ''Oh, well, will you let me sell insurance? Oh, well, will you let me do securities? Oh, well, can I do it in the bank or outside the bank? Oh, well, is this legal or is that legal?''

While one group is receiving permission to do something, others are left behind. That is not the way for this country to be operating. It is wrong, and it is, indeed, an abrogation of our responsibility—an abrogation.

I hope, even at this late hour, notwithstanding the deep feelings that my colleagues have, related to the abuses that have taken place, that they would say the greater picture is one of doing the most good for the most people. That is what we are talking about.

This is an opportunity to do the most good—not for one industry over another but for our great country, and to see to it that there is a law that everyone sees clearly, where we reduce the necessity of having major financial institutions and parts of our industry being placed at competitive disadvantages because one gets a certain permission and another is left behind and then quickly must move to deal with that. That is not what competition in America can and should be about.

I have heard my colleagues raise this argument. I have been critical, yes, of the regulators for what I thought was absolutely going beyond what Congress had ever given to them. But the courts have said, and I think they have done it on a practical basis, that if you, the Congress, do not stop them with legislation, or you do not pass legislation that sets the ground rules, why, it is obvious that is the manner in which the law should be administered.

I do not think that is responsible. I really do not believe our forefathers ever thought or intended for us to operate in this manner, under these conditions. I certainly think that, looking at the world economic situation today, this does not create stability, if we fail to complete this. I say ''fail to complete'' because there are those who can run the clock out, run it out on our American citizens, because that is who is going to be deprived. Yes, all of our citizens.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I will be brief. I simply want to, first of all, commend the distinguished chairman of the committee for the very effective work I think he has done in bringing this to this point. I think it is important to understand we have not reached the bill yet. We are now actually postcloture on the motion to proceed to the bill. I do not think it is clear at this point yet exactly how many of these procedural hoops we will have to go through in order to finally get to the substance of the bill and in order, in the end, to have a vote up or down on the bill. I hope the leadership could commit to staying with this process as long as is necessary in order to reach that point, because I think there is overwhelming support for this legislation in this body—overwhelming support.

I think the Financial Services Act of 1998, which has been brought out of the Senate Banking Committee, is a carefully balanced piece of legislation. It would finally respond to an issue we have been wrestling with for years and years. I say to the chairman of the committee, we have been dealing with this issue for a very, very long time, and finally we have brought it to the point where we have an opportunity, I think, to put into law important legislation for the operation of the financial services industry.

This legislation would permit banks to affiliate with securities firms and insurance companies within a financial holding company structure, regulated by the Federal Reserve. The Banking Committee held four hearings in preparation for marking up this legislation after it passed the House. It passed the House by just one vote. We are informed, and I believe reliably informed, that the vote in the House on this legislation as is now being presented to the Senate would produce a very substantial majority. In other words, well above, clearly well above the vote that it obtained in just managing to get through the House and coming over to the Senate. The changes we have made have generally been met with favor on the other side of the Capitol.

We heard from the administration, the financial regulators, the various industry groups, public interest and consumer groups, and in the end the bill was brought out of the Banking Committee on the 11th of September by a broad, bipartisan majority of 16 to 2. The legislation, as I indicated, is balanced. It would expand the range of permissible financial activities for commercial banks while preserving the safety and soundness of the financial system, providing adequate consumer protections, and expanding access to the financial system for all Americans.

This bill has received unprecedented support across the entire range of the financial services industry. Just last Wednesday, the American Bankers Association, the Independent Bankers Association, the American Council of Life Insurance, the Independent Insurance Agents of America, the American Insurance Association, the Securities Industry Association, the Investment Company Institute and the Financial Services Council sent a joint letter to the two leaders—to Senators LOTT and DASCHLE—saying:

> The Senate Banking Committee, through its actions on H.R. 10, the financial modernization bill, in its discussions with a wide variety of parties including both Members of Congress and representatives of the private sector, has now produced a carefully negotiated product.

They indicated their very strong support for the package which we are bringing to the Senate. Last Friday, the American Community Bankers, who represent the thrift industry, sent a letter to the two leaders expressing support of H.R. 10, and stating:

> ACB supports the bill as a generally constructive measure.

These letters obviously reflect a very broad consensus that has been put together around this bill. Obviously, it is my hope we will be able to move it through the Senate over the next few days and move it on towards enactment into law. It is interesting to note, since I have colleagues on the other side who are raising the CRA issue, that the industry groups affected by the CRA issue are in favor of this bill. The community groups, I have to tell you because I am very much aware of it, are opposed to this bill, because they think it is inadequate on CRA. You know, they are making that concern very clear.

So I say to my colleagues on the other side who come along and they say, ''We are going to attack CRA,'' that the very people affected by it, the industry groups, say, ''We can live with this.'' The community groups are very unhappy with it. So we have that situation here.

In addition, and I am going to talk later in more detail about the separation between banking and commerce, which I think is an important aspect of this bill and one that Paul Volcker wrote a very thoughtful op-ed piece about in the Washington Post, on September 10. Let me just quote that and then I will not develop that issue any further tonight:

> A convincing argument can be made for combinations of banking, securities and insurance companies—under appropriate regulatory and supervisory safeguards. What cannot be defended is reshaping the financial services industry by ad hoc regulatory decisions, manipulating or manufacturing loopholes in plain contravention of the intent of the unchanged law.
>
> The proposed legislation will maintain and strengthen elements of financial regulation and oversight essential to the overall stability of the system. Specifically, H.R. 10 would reinforce the long-standing policy of the United States against the combination of banking and ''commerce,'' broadly defined.

As I indicated, I will come back to many other commentators who have stressed the importance of that aspect of this legislation, and I think one of its major accomplishments is to draw that line and draw a clear line and avoid this sort of fudging that has been taking place in this area.

On the safety and soundness, let me say I think the regulatory structure put in place by this legislation is important and would permit the formation of financial holding companies. These financial holding companies would be able to engage in any activity that is determined to be financial in nature or incidental to such financial activities.

Thus, the holding company could include a commercial bank, securities firm, mutual fund or insurance company. Each entity within the holding company would be regulated by its existing regulator. Thus, a commercial bank would be regulated by its bank regulator, whether that is the Comptroller of the Currency, the FDIC or the Federal Reserve. The securities firm and the mutual fund would be regulated by the SEC and by the appropriate State securities regulators, and the insurance company would be regulated by State insurance regulators, as is now the case. So you have functional regulation of each entity within the new financial holding company.

In addition, the Federal Reserve would serve as the so-called umbrella regulator of the financial holding company. The Federal Reserve would have authority to set capital at the holding company level. It would have authority to conduct examinations and request reports from subsidiaries of the financial holding company if it determines they are necessary to assess a material risk to the bank holding company for its subsidiaries.

I think this balance is an effective approach to protecting the safety and soundness of the financial system and most independent observers, with respect to safety and soundness questions, agree with that evaluation.

There are also important consumer protections contained in the legislation with respect to the sale of uninsured financial products, and I am sure we will have a chance to develop those in some detail.

Where we find ourselves procedurally is the next vote, obviously, will be on the actual motion to proceed to the bill. At that point, the bill would then be before us and open to amendment. I subscribe to the position put forward by the chairman of the committee that Members ought to have a chance to offer an amendment; we ought to have reasonable debate on them and then move to vote on them, one way or another, and work through the legislation in that fashion.

It has been a long road to reach this point. I think it is important to try now to conclude deliberations on this important legislation in an orderly and rational fashion, and I think the approach the chairman has outlined certainly accommodates that.

We hear stories or rumors that people are out to simply try to delay this as long as they can in order to, in effect, sink the legislation. I very much hope that doesn't happen. An awful lot of work has gone into bringing us to this point, as is reflected by the comments of the various parties who have been deeply interested and affected by this legislation. I, frankly, think the Congress now has an opportunity to finally come to grips with an issue—this issue is being dealt with on an ad hoc basis. No one thinks it should be done that way. No one. At least I don't think anyone. I don't want to speak for all of my colleagues, but that is true of all of the regulators, all of the commentators. They say the way to deal with this is to do it statutorily through enactment by the Congress. So we will just have to see as we move ahead whether we can come to closure on this important issue. I very much hope it will be possible to do so. Mr. President, I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). The Senator from Texas.

Mr. GRAMM. Mr. President, let me begin by congratulating the chairman of our committee, Senator D'AMATO. I have had an opportunity to serve both in the House and in the Senate. I have worked with many great legislators in that process. But I have to say that the job Senator D'AMATO has done in putting this bill together, in bringing together people with very different starting points to a unity among the variety of interests that are concerned about this bill, represents one of the most outstanding and, I think, one of the most miraculous legislative achievements that I have seen in my service in the House and the Senate. I congratulate him. I congratulate Senator SARBANES, the ranking member, for his work.

Certainly our colleagues are right when they say that all the interests are for this bill, but I think it is fair to say that Senator SHELBY and I are not here today to represent any particular interest or even the collection of all interests. We are here today representing what we believe is a fundamental principle. Where I come from, when interest comes up against principle, then interest loses.

We have a fundamental issue before us. I believe that perhaps the greatest national scandal in America is not the scandal that is being covered every day at the White House. It is a scandal where a law is being used in such a way as to extract bribes and kickbacks and in such a way as to mandate the transfer of literally hundreds of millions of dollars and to misallocate billions and tens of billions of dollars of credit. I believe that this represents something that should be stopped.

Perhaps some word of explanation should be given. If the people who are being extorted, if the people who are being blackmailed are not objecting, why are we objecting? My response to this is to point out that when the mob was engaged in the protection racket, the little merchant who was afraid generally did not object. But we don't generally accept that in America anymore because there have been police officers and there have been prosecutors who did object on their behalf.

Senator SHELBY and I are here to object on behalf of bankers and small community banks that, in many cases, are afraid to object on their behalf.

I have related to the Senate on many occasions, and we are going to have an opportunity to debate this at length, the abuses under the Community Reinvestment Act, or CRA. I want to make a couple of points related to it.

No. 1, the so-called Community Reinvestment Act and the provisions contained in it was voted on only once in the Congress. It was voted on in 1977 in the Senate Banking Committee on a motion to strip the provision from a proposed housing bill, and that motion failed on a tie vote, 7 to 7, in 1977, which means for half of the Members to vote to strip the provision when the Republicans were in the minority, there had to be a bipartisan vote.

So far as I have been able to find, that is the only vote that ever occurred on this provision of law.

The logic of this provision, which came from the former chairman of the Banking Committee, Senator Proxmire, was to require banks to make loans in areas where they operated. The concern expressed at the time was that banks weren't serving their communities, and, therefore, the Government took upon itself to impose on the banks the necessity of lending in their local community.

I am not going to debate tonight the wisdom or lack of wisdom of that, but as I have pointed out on many occasions, what has happened is that CRA has taken on a meaning that has nothing to do with lending.

It has now become common practice in CRA for professional protest groups to protest a bank's ''community service record'' and, in turn, use the leverage of those protests to extract bribes, kickbacks, set-asides in purchases and quotas in hiring and promotion, none of which has anything to do with CRA and the lending practices of banks in the communities they serve.

All of this is made possible by the banking regulators in enforcing this law, who respond to the protests by holding up action which banks wish to undertake and often are under immense pressure to undertake once it has been announced. Professional groups here in Washington that you can hire will go to your community and protest against the bank, even dump garbage on the property, make all kinds of statements, claims and demands and, in turn, extract resources for themselves and for others. So strong is the growing resentment against this provision of the law, that when proponents of the provision sought to put it in the credit union bill, it was defeated on the floor of the Senate.

When consideration on this bill began in the Senate Banking Committee, Senator SHELBY and I, and others, offered an agreement which was—this is

a very contentious issue, so let us call a truce on it an leave it alone for now. I want to repeal this provision of law. I want to end this scandal. I want to stop this extortion. Others want to expand it, expand this provision of law.

Knowing that we would never be able to compromise on this issue within the very limited time that we had to enact this important financial services legislation, I sought to come up with a solution. And the solution was to treat it as slavery was treated by Abraham Lincoln in his campaign in 1860. That was, where the evil existed, leave it alone, but do not expand it into new areas.

On that basis, if we had left CRA out of this bill, we could have moved together, we could be at this moment united for this bill, and this bill, in my opinion, would be on the way to becoming law. But that is not what has happened.

There has been great confusion about what is actually contained in the bill. So I want to take a few minutes and go over what is in current law and what this bill actually does.

In current law, there are really only two provisions related to CRA. First, bank regulators consider how a bank has been meeting the local credit needs only when a bank applies to open a new bank, a branch or engage in a merger. Second, bank regulators may deny applications for these activities based on the record of the bank in community lending. That is the current law.

Based on this, all over the country banks that have exemplary records in community lending and that have received the highest ratings on CRA are routinely shaken down every time they want to open a branch, every time they want to start a new bank, every time they want to engage in a merger. They end up having to make cash payments, kickbacks, establish quotas in hiring, and many other things, because the regulator simply holds up approval of the action, even though the bank may have a perfect record on CRA.

In fact, we discussed on the floor the record of Bank of America. It was brought up by proponents as an exemplary bank in CRA. I pointed out how professional protest groups had said they were going to shut down the bank in California when it sought to merge with NationsBank if it did not make more concessions to them.

Those are the abuses under the current law. But look what is added by this bill. When you listen to proponents of the bill, it is as if there are no CRA provisions of any significance in it. In fact, we just heard that the so-called community groups, whoever they are, that they did not get—what?—they did not get enough of what they wanted. I submit they never get enough of what they want nor will they ever get it until we redistribute wealth in America.

Here are the provisions that are added:

The first provision added, the third that would become a part of the law, is that officers and directors can be fined up to $1 million per day for CRA noncompliance—a totally new provision of law.

The new fourth provision that is proposed: Banks can be fined up to $1 million a day for CRA noncompliance.

The fifth provision: cease and desist authority for CRA noncompliance.

Sixth provision: the Federal Reserve may place any restrictions on any banking activity for CRA noncompliance.

Seventh provision: the Federal Reserve may place any restriction on any insurance activity for CRA noncompliance.

Eighth provision: the Federal Reserve may place any restrictions on securities activities for CRA noncompliance.

Ninth provision: the Federal Reserve may place any restriction on any other activity of the holding company for CRA noncompliance.

Tenth provision: Any violation by any one bank in the holding company triggers the penalties that I have listed above against the entire company.

The eleventh provision would place in law sanctions affecting insurance sales.

The twelfth provision: CRA is applied to uninsured, wholesale financial institutions.

If we have the abuse that we have under current law with two simple provisions that have no enforcement mechanism whatsoever against a bank, unless it is seeking to acquire a new bank, to merge, or to branch, can you imagine what will occur when the officers of a bank can be fined $1 million a day for noncompliance? Or can you imagine the perpetual shake down of a national, nationwide bank, with 1,000 branches, when the entire company receive those penalties if one branch is found to be or accused to be out of compliance? So this is a very, very big issue.

Here is where we are. We have rules in the Senate. And those rules were designed to protect the rights of the minority. And basically, my position, and Senator SHELBY's position, is that the expansion of CRA by these provisions will greatly increase the opportunity for extortion and kickbacks and the imposition of coercive agreements, such as those whereby companies in the past have agreed to give protest groups a percentage of their profits, have agreed to hire protesters as advisors on dealing with these provisions of law—things that turn your stomach and that in any other area would call for prosecutors and would send the police out to do something about it.

We are now condoning it by law with very weak enforcement provisions. If we have a $1 million-a-day fine, we are going to have an explosion of these kinds of activities.

I have talked to Federal Reserve Board Chairman Alan Greenspan and I have talked to the Secretary of the Treasury about this whole problem area. And I have proposed yet another compromise. The easiest thing to do would be to leave CRA out of the bill. But I have recognized that the President has said that he would not support leaving it out. We have colleagues who would not support leaving it out. So here is the compromise that Senator SHELBY and I want to propose as an alternative, as another option: Expand CRA to the new financial service holding companies so that the laws that apply now to other banking entities will apply in the same way to the new banking entities. But also add two provisions of law to check abuses.

First, we want a simple, well-defined antiextortion, antikickback provision that focuses CRA on lending and not on cash payments, or quotas, or set-asides, or giving protesters a percentage of your profits for a certain number of years.

Second, if a bank is in compliance with CRA in its last examination, then that compliance should mean something. It should remain in force until the next regularly scheduled exam. Then we could end the double-jeopardy situation where the officers and directors are in a position where they can be extorted—even if they have a perfect CRA record—the moment they apply to open a new bank, to merge, or to open a new branch, even though they have an exemplary CRA record.

If we could do these three changes—expand CRA to address the requests those who want to expand it, joined together with those two checks against abuse, one on bribery and extortion, and the other on eliminating double jeopardy—I believe we could have a bill.

Let me make this clear. Obviously, many people are for this bill. All the interests are for this bill. But there is a strong principle at stake here, and I am not for this bill. Senator SHELBY is not for this bill. We believe that using our rights under the rules of the Senate we can probably stop this bill. We will, if we can, stop this bill unless some accommodation is made on the effort to expand CRA. We will not let this bill go forward with these massive expansions in CRA power.

We are in a position where one side is not willing to let the bill go forward with these massive expansions in CRA; the other side says they will kill the bill if these expansive provisions are taken out. So that is where we are.

I want people to understand, if you are for this bill, don't waste your time calling Senator SHELBY and me. We will not be moved. If you are for this bill, call those who are for expansion of CRA and ask them what is wrong with a simple expansion of CRA and a simple amendment dealing with bribery and extortion and a simple provision establishing that if a bank is in compliance, it is in compliance.

I urge those that are for this bill to let their views be known on this issue. I understand some banks in this country are willing to go on paying these

bribes and keep quiet about it because there are other provisions of the bill they want. This is a wrong that is bigger than dollars and cents, and it needs to be stopped. I remind my colleagues that the clock is running and will run out, and this bill will die unless an accommodation is made on this issue.

If you care about this bill, if you really believe that this bill is important—and I believe it is important, but I don't buy into the logic that we are not going to pass the bill early in the next session if we don't pass it here this week, but some people believe we won't—what I am saying is for those who want the bill now, there is one thing you have to do to get this bill. You will have to do something about the expansive CRA provisions.

Finally, let me say even if you fix CRA, the clock is running out, and if you are going to fix it, you better do it fast. That, I think, is the essence of our message.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Alabama.

Mr. SHELBY. Mr. President, I will take just a minute tonight. I associate myself with Senator GRAMM. We worked on this together in the Banking Committee and we will be working together on this for a long time. I will take a minute to inform the Senate of my objections to H.R. 10.

I believe that members of the Senate have not had the proper time to study and debate this matter. Most do not even know what is in this bill. This is a very complicated bill. There are a lot of good things in it, but there are some things that Senator GRAMM has raised and I will raise as the debate goes along that we need to debate and we need to take out of this bill. I believe Senators are just being told basically that this is a historical opportunity, you must pass H.R. 10.

Think about it tonight. We make history in this Chamber, the U.S. Senate, every day. If we pass H.R. 10 just because everyone on Wall Street tells us to pass H.R. 10, this will, indeed, be a historical moment. But I don't believe that is going to happen, not with a lot of the provisions that are now in the bill.

If H.R. 10 is so great, why is everyone reluctant to debate the bill? How come the members of the Senate Banking Committee were not permitted to read, study, or share the manager's amendment until the morning of the markup? Is that the way a Committee is supposed to function? What is hidden in this bill?

I'll tell you one thing that is in this bill—so well hidden, not one of the bank trade associations—not the American Bankers Association, the Independent Bankers Association of America, America's Community Bankers, the Bankers Roundtable or even the Consumer Bankers Association knew the implications of the CRA expansion in this bill until Senator GRAMM and I sent around a ''Dear Colleague'' about a week and a half ago. None of those associations realized that they were subjecting member bank officers and directors to million-dollar-a-day civil money penalties for CRA noncompliance.

Why didn't the associations realize this? These associations are caught up in the rush to judgment. They have not given proper consideration to this bill, and neither have we.

With less than a week to go in this Congress, H.R. 10 is being jammed through the Senate. The Senate is supposed to be the deliberative body.

There are many good things in H.R. 10, Mr. President, but there are also many bad things in H.R. 10. Currently, community groups and even labor unions use CRA to protest the merger of financial institutions. Most of the time, the merging institutions are forced to pay off the protest groups just in order to consummate the merger. Make no mistake about it, this is legalized extortion, one that the U.S. government is aiding and abetting.

The financial institutions who support this bill are used to paying off consumer groups. Nationsbank and BankAmerica have committed $350 billion to CRA in order to merge. Citibank and Travelers Group have committed over $100 billion to CRA in order to merge. These large institutions are used to paying a toll every time they want to do business.

That may be fine for Wall Street, but that is not fine for Main Street. Not every financial institution around the country has $350 billion to buy off consumer groups and labor unions.

Who do you think pays for this legalized extortion? I'll tell you who: all the paying customers in this country. Everybody is complaining about large institutions charging more and more fees at higher rates, ATM fees, late fees and the like. It takes a lot of fees to pay for a $350 billion CRA commitment.

Senator GRAMM and I have consistently stated our position since the Banking Committee first held a hearing on H.R. 10 several months ago. We will not seek to repeal, reduce or eliminate the CRA as it stands in its current form. However, we will not agree to expanding either the scope or the enforcement authority of CRA in H.R. 10.

Now, some have insisted on expanding both the scope and enforcement authority of CRA in H.R. 10. In this bill, some even delink CRA from deposit insurance and subject bank affiliated wholesale financial institutions woofies to CRA. The interesting thing about this is the woofies do not take deposits of less than $100,000 and are not insured by the Federal Government.

I guess, we could roll over like all the banks before us who have paid off the consumer groups. But, I for one, will not succumb to that kind of extortion, and I will fight this thing as long as it stays in the bill. Government mandated credit allocation is wrong. Legalized extortion is wrong.

Last week, Senator GRAMM said that this is a principled objection. It is. We will not be bought off by Wall Street. Wall Street does not have the best interest of Americans in mind in this bill. The only thing they understand is dollars and cents. The principle they understand is profit. The interest of Wall Street is not always the interest of Main Street.

Here is a message for Wall Street in terms I hope they can understand: If you really want to pass financial modernization, in order to consummate mergers and make money off of every American by offering a vast array of services, go to those that are insisting on expanding CRA and ask them to work with Senator GRAMM and myself in making H.R. 10 CRA neutral. Otherwise, I believe this bill will ultimately fail. There may be some late nights and strong words, but I, for one, am committed to ensuring this bill will not become law.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

UNANIMOUS CONSENT AGREEMENTS

Mr. HAGEL. Mr. President, on behalf of the leader, I ask unanimous consent that notwithstanding rule XXII, that the Senate proceed to vote on adoption on the motion to proceed at 10 o'clock a.m. on Wednesday. Before the Chair grants the consent, for the information of all Senators, immediately following the adoption of the motion to proceed to H.R. 10, the cloture vote with respect to S. 442 would occur under the provisions of rule XXII.

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

Mr. HAGEL. Mr. President, on behalf of the leader, I further ask consent that it be in order for the majority leader, after notification of the Democratic leader, to move to proceed to any available appropriations bills, conference reports, or resume the Internet bill prior to the 10 a.m. Wednesday vote, notwithstanding the invoking of cloture.

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

ORDER OF PROCEDURE

Mr. HAGEL. For the information of all Senators, in light of this agreement, the leader expects the Senate to resume the agriculture appropriations conference report tomorrow morning. In addition, tomorrow afternoon, the leader expects the Senate to resume the Internet tax bill. Therefore, votes could occur with respect to that bill, as well. A cloture vote on the Internet tax bill will occur Wednesday at 10 a.m.

Assuming cloture is invoked, the Senate would then remain on the Internet tax bill until disposed of. Therefore, votes can be expected throughout the day and evening on Wednesday.

Having said all of that, there will be no further votes this evening, and Members can expect votes prior to noon tomorrow.

I yield the floor and 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. GRAMS. 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. GRAMS. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. The motion to proceed on H.R. 10 is pending under cloture.

Mr. GRAMS. Mr. President, I ask unanimous consent that that be set aside and I be allowed to speak as in morning business for up to 40 minutes.

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

IMPROVING SOCIAL SECURITY

Mr. GRAMS. Mr. President, our Nation's Social Security system, forged in a much simpler time and patched and plugged over the years to keep it relevant, has been a godsend for millions of Americans over the program's 63-year history. It doesn't provide a life of luxury, but Social Security offers senior citizens a little bit of certainty during what is often a very tough time.

I have friends and family members who depend on that monthly check from Social Security, and I am grateful that it is there for them and would never do anything to take it away. But that is not to say we can't do something better, or we should not try to improve a system that will not be able to provide that certainty for retirees in the future.

As a product of the 1930s, it is clear that the Social Security system is a system that was best suited for yesterday, not tomorrow. Social Security's pay-as-you-go structure fails to meet the challenge of a sharp demographic change that is now underway in this country. With fewer and fewer workers supporting each retiree, the program is soon to go broke, or it will be too costly for our children and grandchildren to support, thus creating financial hardship for millions of baby boomers and leaving nothing for future generations. In the meantime, Social Security is shortchanging today's workers, denying them the opportunity to expand their personal wealth and control their own financial destinies.

The coming Social Security crisis is real, and it will shatter our economy and destroy the ability of our children to achieve the American dream. The question is, why? Because the only way to save the current system is to raise taxes by more than double, reduce benefits as much as one-third, while raising the age of eligibility to retire as high as 70 years old. These solutions are unacceptable for the workers of the future. If you offered this to somebody, why would they want to pay more, get less, and wait longer for retirement? To be honest with our families, we have no choice but to pursue real reform of Social Security. Mr. President, the sooner we act, the easier and less costly our choices will be and the more secure our children's future will be.

With a strong sense of responsibility, I rise today to introduce legislation that I believe will offer the best solution to avoiding the crisis ahead and preserving Social Security, while providing improved retirement security for every working American as we now approach the 21st century.

Mr. President, during the past six decades, whenever a Social Security crisis would arise, Washington's approach was to tinker with the system by either increasing the payroll tax or reducing benefits. When the tinkering was done, the politicians would slap themselves on the back and claim that Social Security will be solvent for another 50 to 75 years. That has happened more than 50 times—always at the expense of the American workers, who found themselves with higher taxes or lower benefits. But this is obviously the wrong approach. If it had worked before, we would not be where we are today.

Social Security, as you will remember, started off taking only one-half of 1 percent of your income. It is now at 13 percent. One-eighth of everything you make goes into a system that, right now, can't promise you that you are going to get the benefits that you expect.

Unlike any previous crisis, the magnitude of the current situation makes a traditional bailout impossible. Again, under an optimistic scenario, it would require a payroll tax increase of at least 50 percent or a one-third cut in benefits just to keep Social Security from bankruptcy. Under a more realistic ''high-cost'' projection, paying promised Social Security benefits would require the current 12.4 percent payroll tax to be more than doubled to 26 percent. If you include the additional tax to save Medicare, the total payroll tax would have to increase to an astonishing 46 percent, and even a tax hike that massive would be only a temporary fix. The total tax—income and payroll—could reach as high as nearly 80 percent for young Americans who enter the workforce today.

Payroll tax hikes at this rate will heavily burden working Americans who are already struggling to make ends meet. They will rob our children of their financial future, and demolish our economy.

Reducing benefits is not an acceptable solution. Low-income families are increasingly dependent on Social Security; in 1994, Social Security benefits accounted for 92% of the total income received by elderly Americans living alone, beneath the poverty line. A one-third benefit reduction will throw more elderly and disadvantaged Americans into poverty, and cast those already mired in poverty into further desperation. Again, those benefit cuts could be much deeper under more realistic scenarios.

We must abandon the traditional approach to fixing the Social Security system. We must expand our thinking—explore new opportunities to fundamentally change the way we think about Social Security—resolve the problems once and for all and offer the American people nothing less than peace of mind when they retire.

The best solution to avoiding the imminent crisis is to move from Social Security's pay-as-you-go system to a personalized retirement program that is fully funded and offers retirement security to every American. This is not a new idea. Sixty years ago, during debate in this chamber over creation of the Social Security system, Democratic Senator Bennett Clark proposed just such a plan. It passed the Congress overwhelmingly but was pulled out in conference with the promise it would be done the next year.

Again, back in the 1930's, Democratic Senator Bennett proposed a plan for personal accounts for retirement. It passed the Congress overwhelmingly but it was pulled out in conference again with the promise that it would be done the next year. That promise was never kept by the few who advocated a government-financed and run program. During each past crisis, similar proposals of personal retirement accounts have been discussed—yet never implemented.

Today, there are a number of plans that have been introduced by my colleagues from both aisles, favoring diverting anywhere from 1 to 4 percent of the Social Security payroll tax to set up a system of market-based personal retirement accounts. My colleagues are to be commended, Mr. President, and this is a move in the right direction.

However, if a market-based personal retirement system works so well, and is the right things to do as proven by countries like Britain, Chile, Australia and others, we should take full advantage of it by accelerating the wealth building for retirement security and expediting the transition from a PAYGO system to a fully funded system.

Mr. President, this is precisely the reason I am introducing my reform plan.

My legislation, the ''Personal Security and Wealth in Retirement Act,'' is based on six fundamental principles, principles that must guide Congress in any effort we undertake to ensure retirement security. The primary principle is to protect current and future beneficiaries, including disadvantaged and disabled adults or children, who choose to stay within the traditional Social Security system. The government must guarantee their benefits. There should be no change that reduces their benefits, and no retirement age increase.

Let me say that again: a guarantee of no change in benefits or age of retirement for those who wish to stay within

the traditional Social Security system. We must do no less.

I emphasize this principle not so much because we want to gain the support of seniors, nor to neutralize their opposition to Social Security reform, but because of the sacred covenant the federal government has entered into with the American people to provide their retirement benefits. It's our contractual duty to honor that commitment. It would be wrong to let current or future beneficiaries bear the burden of the government's failure to make the changes needed in a system that cannot handle the demographic changes that will begin to create huge cracks in our existing program.

The second principle my plan upholds is that Social Security reform must give the American people freedom of choice in pursuing retirement security. The purpose of Social Security is to provide a basic level of benefits for everyone in case of misfortune. And so if social insurance is a safety net to catch those who fall, it does not make sense to penalize those who are quite able to stand on their own two feet.

The third principle is to preserve a safety net for disadvantaged Americans, so no covered person is forced to live in poverty.

My fourth principle is that reform should make every American better off, and certainly no worse off, in their retirement than they are under the current system. It should enable workers to build personal retirement savings, improve the rate of return on their savings, increase capital ownership, and pass on their savings, as part of their estate, to their children.

The fifth principle is to replace the current pay-as-you-go financing scheme, in which today's workers support today's retirees, with a fully funded program.

In other words, one generation will pay for its own retirement and not rely on the second and third generation to pay for it. Social Security's pay-as-you-go feature is the program's fundamental flaw because it leaves the system vulnerable to changing demographics, thus creating enormous financial burdens for our children and grandchildren. Moving to a fully funded system will not only reduce inequality among generations, it will greatly increase our nation's savings and investment rates, and therefore prosperity.

The sixth principle is that any reform of the current system must not increase the tax burden of the American people. The taxpayers are already giving up an historic 40 percent in federal, state, and local taxes out of every paycheck they earn. Hiking taxes yet again in the name of fixing Social Security would be unfair and unjust to working Americans, and would only pave the way for additional, future tax increases.

Mr. President, with the above-mentioned principles as its foundation, the plan I bring before the Senate today is designed to achieve the goal of providing better and improved retirement benefits for all Americans. The proposal I will outline here is carefully designed to produce a highly appealing retirement option by maximizing the freedom and prosperity of working people. I have consulted seniors, farmers, small business owners, as well as large employers. I have made a number of revisions in accordance with their views.

Now, Mr. President, allow me to present the highlights of the plan and explain how it works.

The first component of the ''Personal Security and Wealth in Retirement Act'' upholds our primary principle by allowing people to remain in the current Social Security program if they so choose. In fact, my plan clearly stipulates that it is the right of workers to do so, and that they will be protected. The government will guarantee the promised benefits for those who elect to stay within the traditional system.

Many of the existing reform proposals include components to increase the retirement age to anywhere from 67 to 70, and/or mandate a reduction in promised benefits. The polls show that 75 percent of the American people oppose the age increase. That is hardly a surprise; the American people already work too hard. It is not fair to raise the retirement age and force them to extend their work careers. You cannot promise one thing and then do another.

Nor is it right to reduce their benefits. Such an irresponsible approach would serve only to throw more elderly Americans who increasingly depend on Social Security into poverty, and increase the hardship dramatically on those who are already suffering under poverty.

That is why my plan explicitly protects those who choose to stay within the current system against an age increase or benefit reduction of any kind—again, those who choose to stay within the current system are explicitly protected.

The key provision of my plan is to allow workers to set up a market-based, fully personalized retirement account, or PRA. Currently, workers and their employers pay a 12.4 percent FICA tax into the Old-Age/Survivor and Disability Insurance Trust Funds. Under my plan, we will allow workers to divert 10 percent out of their 12.4 percent FICA tax, within the covered earnings, into their PRAs and use the remaining 2.4 percent to finance transition costs. The responsibility for payment of taxes will be equally divided between employers and employees.

When the transition is complete, the 2.4 percent will be eliminated as tax relief, because under a market-based retirement system, a savings investment of 10 percent will itself provide a generous retirement.

In fact, with the 2.4 percent tax cut, workers would be paying 20 percent less into the fully funded system and they could still expect at least twice as much in benefits as they receive under Social Security. So our plan would actually cost less and it would provide more—much different from the current system.

Under this plan, workers would enjoy maximum freedom to control their funds and the resources for their own retirement security. Workers would have at least the freedom to design their own retirement plan, investing in stocks, equities, bonds, T-bills, or any combination of these or other approved financial instruments with approved investment firms and financial institutions. A worker could even have their funds placed in a traditional savings account, if they would choose.

There is no doubt that a market-based retirement system will generate much better returns than the traditional Social Security system we have today. Government data show that almost all workers in two-earner families receive real returns from their Social Security of approximately only 1 percent—a 1-percent or less return on their investments, with some actually receiving even negative returns. The return reaches 2 percent only for a family with two low-income working spouses. And these returns under Social Security will only diminish further in the future with benefit reductions and the raises in retirement age.

Compare that to the performance of the market where, over the 70-year period from 1926 to 1996, the average annual nominal return was 10.89 percent. And if you adjust that for inflation, that is still an average annual rate of return of 7.56 percent. So in over 70 years of the market there has been an average annual return of 7.56 percent. You couple that with Social Security now promising 1 percent or less in returns. It is much sounder, much better benefits for those under the new PRA system.

PRAs will put the power of compound interest to work in providing benefits for everyone, and under my plan the average annual benefits for two average-income, full-time working spouses could reach over $200,000. Compare that to $33,000 under today's Social Security. For one spouse earning an average income, the benefit could be $140,000. Meanwhile, you provide under Social Security only about $29,000. Low-income families also do better under my plan. The current Social Security program would provide $18,000 in annual benefits, but under this legislation their benefits could reach as high as $100,000.

Now, this isn't a fantasy; it can be achieved, and the proof can be found right here in America. Consider the employees of Galveston County, TX. They opted out of Social Security back in 1981 to set up a private retirement plan, an option on which the Federal Government long ago has shut the door. And here is what they have been able to achieve in Galveston County. Under Social Security, the death benefit is only $253, while under the Galveston plan the average death benefit

is $75,000, and the maximum benefit can reach $150,000. What a difference—$253 under Social Security and up to $150,000 in Galveston County, TX.

The disability benefit from Social Security is $1,280 per month, but in Galveston County, TX, for its employees, disability benefits are $2,749—more than double the disability benefits for their employees in Galveston County, TX, than under Social Security.

The maximum Social Security retirement benefit is $1,280 per month, but in Galveston County the average monthly retirement benefit for its employees is $4,790 a month—four times, nearly four times greater under the personal retirement plan than under Social Security—$1,280 per month under Social Security, and Galveston County, with their personal retirement accounts, $4,790 a month.

To their great credit, some in Washington have recognized the power of the markets. Their solution, however, has been to suggest we let the Federal Government invest the Social Security trust funds for the American people, or at least allow the Federal Government to invest a portion of it.

While appreciating the distance that my colleagues have come in reaching this point, I strongly believe that Government investment of the Social Security funds is dangerous and that it could seriously disrupt a market that is performing so well. Even Federal Reserve Chairman Greenspan agrees that this is an unworkable idea, and in a recent hearing of the Senate Banking Committee he said:

> No, I think it's very dangerous. . . I don't know of any way that you can essentially insulate Government decision makers from having access to what will amount to very large investments in American private industry.

He also said:

> I know there are those who believe it can be insulated from the political process. They go a long way to try to do that. I have been around long enough to realize that that is just not credible and not possible. Somewhere along the line that breach will be broken.

That was Chairman Greenspan.

Studies reveal that the current Social Security system discriminates against divorced women. If a woman gets married, stays home to care for her children, and divorces in less than 10 years, she doesn't get any benefits from Social Security. As a result, women in general receive lower benefits than men do. Poverty rates are twice as high among elderly women as among elderly men—13.6 percent versus 6.2 percent. Imagine supporting a retirement system that puts many of our parents into poverty—not security but into poverty.

My plan recognizes the need to have some form of protection built into the system to protect nonworking spouses as well, usually women, and especially in the event of divorce, and we propose to allow couples to treat the worker's retirement account as community property so divorced women would be able to share in the retirement benefits. Research shows that a 10-percent savings contribution rate would benefit women more than a partly personalized two-tiered system. And that is true even for poor women who move in and out of the job market.

Critics of a personalized fully funded retirement system often cite Social Security's survivor and disability benefits as a key reason to defend the status quo, but, of course, they often omit the many restrictions that go along with these benefits as well. The fully funded retirement system I am outlining could provide better disability benefits than the current Social Security system offers, and again I will refer back to Galveston County, TX, as a great example. Under my plan, for example, when a worker dies, his family would inherit all of the funds accumulated in his PRA. The savings would not disappear into the black hole of the Social Security trust fund.

The system would also provide, in addition to the retirement savings, a survivors benefit package. So imagine, Mr. President, right now—and I use my father as an example. When he died at the age of 61, there were no benefits at all from Social Security. So for the whole time that he paid into the system, he got $253 as a death benefit. But under our plan, all the money that he had accumulated in his personal retirement account would become a part of his estate tax free and go to his heirs—not to the Government but to the family. His heirs would benefit from his investment into his retirement account. Also, the system, as I said, would also provide, in addition to the retirement savings, a survivors benefit package.

Let me share a personal note here to prove that point. Under my legislation, retirement dollars stay right where they belong, and that is with the family that faithfully collected them, not with the Government. The Social Security disability insurance trust fund is most imperiled. Currently, workers pay 1.7 percent of their FICA tax for disability insurance. But the DI trust fund will be exhausted in the year 2019. GAO believes the program now to be outdated and that it doesn't reflect today's realities. So my plan requires that fund that manages the PRAs to use part of their annual contribution or yield to buy both life and disability insurance, supplementing their accumulated funds to at least match the promised Social Security survivors and disability benefits.

By requiring retirement funds to purchase life and disability insurance for workers, all workers in each individual fund would be treated as a common pool for underwriting purposes and the insurance would be purchased as a group policy; not by individual workers, but by the investment firms or financial institutions, thus avoiding insurance policy underwriting discrimination while providing the largest amount of benefits at the lowest possible costs.

Mr. President, another special feature in this plan is to allow PRAs to be established early on in life, before a child is even out of diapers. The idea is that when a child is born and given a Social Security number, his or her parents, even grandparents, should be able to put money into that child's retirement account and to allow compound interest to work. Mr. President, $1,000 deposited for a newborn could grow to nearly $200,000 by the time that child retires. That would not be a bad start. So, if you put $1,000 into his account when the child is born, by the time he or she would retire, that would add an additional $200,000 to that account. Not a bad start, and again it shows the power of compound interest.

In fact, when Albert Einstein was once asked what is the most powerful force on Earth, he answered without delay; he said, ''compound interest.''

To supply maximum flexibility and allow workers to tailor their insurance and retirement package according to their needs and financial ability, the Personal Security and Wealth in Retirement Act allows workers to invest up to 20 percent of after-tax income to make additional voluntary contributions to their PRAs. So those who want to look ahead and even maybe plan for an early retirement, they can put even more money away, up to 20 percent of their income. That way, funds will be accumulated faster, making early retirement possible. And, since this would be an after-tax contribution within the current income limit, it would not provide a tax shelter for the rich. I do not know about you, but I am hard-pressed to think of a better way to encourage savings, to allow workers to better control their retirement finances.

One of the key components and most important parts of my plan is to ensure that a safety net will be there at all times for disadvantaged and unfortunate individuals. This can be done without any Government guarantees of investments or overly strict regulation of investment options. Under this legislation, a safety net would be set up and would be involved with a guaranteed minimum level: 150 percent of the poverty level. When a worker retires, if his or her PRA fails to provide the minimum retirement benefits, and for whatever reason, the Government then would make up the difference. It would fill the glass to the top. The same applies to survivor and disability benefits. If a worker dies or becomes disabled and his or her PRA doesn't accumulate sufficient funds in order to provide the minimum survivor and disability benefits, the Government would match those shortfalls.

The simple safety net is necessary, and the minimum benefit would guarantee that no one, no one in our society would be left impoverished in retirement while still allowing workers to enjoy the freedom and prosperity achievable under a marketed-based retirement system.

Some of my colleagues may be concerned about the Government financing this type of subsidy. Since the likely performance of the personalized retirement system would be far better than today's, Government spending for this minimum benefit is likely to be quite modest. In fact, the reform overall would probably allow us to reduce Government income assistance spending by far more than we would spend subsidizing the minimum benefit.

Let me say that again. If this would work out and allow the Government to help subsidize the minimum benefit, to make sure no one retires into poverty—in fact retirement benefits would be 150 percent of poverty—that would reduce Government income assistance spending by far more than we would spend to subsidize the minimum benefit. Because workers would retire with far higher benefits through the personalized retirement system, they would need less Government assistance than they need today. So, again, there would be savings in the system that would help to pay for this subsidy.

Unlike all other existing proposals, workers under my legislation could retire at any time. So, again, unlike all the other existing plans that are out there, workers under my proposal could retire any time they choose and withdraw funds from their PRAs as long as the minimum retirement benefit could be guaranteed by the account. So what we are doing is giving control of not only the fund, but also the future plans of the retired individual. When he wants to retire, rather than the Government saying you have to retire at 65, under my plan you could retire at 55 if you had the money set aside to meet those minimum benefits. Or if you wanted to continue working, you could stop paying into the account and you could work until you are 75 and invest in other avenues or other financial instruments.

Once workers reach the minimum retirement benefit level they can continue to contribute to the PRAs, but they would not be required to do so. They could then choose to retire, continue working and invest that portion of income in other accounts, or they could just plain choose to spend their money as they wanted to. The rationale for this is simple. When workers accumulate enough funds for their retirement, they are no longer in danger of becoming a burden on society and they should therefore be allowed to retire at any age they choose without the Government telling them when.

Why should the Government tell you when you can retire or penalize those who choose to continue working or retire even earlier? Over time, early retirements will surely reduce the ratio of workers per beneficiaries. But because this is a fully funded system, demographic changes will have no effect—they will have no effect—on the solvency of the system. A generation would pay for its own retirement. It will not be held hostage to the next generation. And the word ''independence'' fits right here.

Under this plan, workers could use the accumulated funds upon retirement to buy an annuity paying promised benefits for the rest of the worker's life. Annuities would be structured to provide benefits not just over the worker's life, but also over the life of their spouse. Unlike today, widows would not have to live in poverty. The benefits would not be reduced when one or the other would die. Or the workers could make regular, periodic withdrawals or a lump sum withdrawal of the money not needed to buy the annuity to provide the minimum benefits.

The bottom line is that these withdrawal options would allow workers to basically sit down, to design their own retirement income so they will not be forced to buy an annuity when the market is temporarily down upon their retirement. And what is more, all the withdrawals will be tax free and smart retirement planning will help maximize the benefits.

One of the major criticisms of a market-based personal retirement account system is that it inherently is volatile, and again subject to the whims of investors, exposing a worker's retirement income to unnecessary risks. My plan has specifically addressed this concern by requiring the approved investment firms and financial institutions that would be there to manage personal retirement accounts to have insurance against any investment loss. By approximating the role of the FDIC, we ensure that every PRA would generate a minimum rate of return of at least 2.5 percent to provide no less than the minimum retirement benefits.

Regardless of the ups and downs of the markets, workers would still do better under this system than under the current Social Security system. So even under the minimum benefit of 2.5 percent minimum, that is still better than the current system of Social Security today paying 1 percent or even less. This is another safety net built into the plan to give the American people peace of mind when it comes to their retirement investment. Further, to reduce risks to a worker's PRA, my legislation also requires that rules, regulations and restrictions similar to those governing IRA's would apply to personal retirement accounts as well. PRA's must be properly structured and they must follow strict, sensible guidelines set forth by the independent Federal board that will be set up to oversee the system.

To choose qualified investment firms and financial institutions that will be there to manage the PRAs, the oversight board would be responsible for examining the credibility and ability of the companies and approve them as PRA managers accordingly.

As workers choose the new worker retirement system, this legislation requires the Government to issue also what we call recognition bonds. That is, to help compensate them for past taxes that they have already paid into Social Security so that you would not lose any money that you have already paid into the existing Social Security system. The bonds would be credited with real interest for workers over the age of 50. The bonds for workers below 50 and above 30 would be credited with an inflation adjustment. So since younger workers would benefit most from the reform, workers under the age of 30 would not get recognition bonds.

Another important element of the plan is to ensure that a worker's PRA remains his or her private property, and also that the holder has the right, as I have said before, to pass it on. So it becomes part of the estate for their family or heirs, not for the Government. When he or she dies, the remaining funds would be transferred to any person or persons designated by the holder. Their heirs would not pay any estate tax on the inheritance as well.

So, Mr. President, a major legitimate concern about PRAs is the transition cost. Obviously, this is the most difficult part of every PRA plan. Every PRA plan has had to struggle with this. Social Security, however, has accumulated to date over $20 trillion in unfunded liabilities. So, in other words, we have made promises—Congress, the Government—has made promises to Americans saying we are going to pay X amount of benefits to retirees. If you put that into dollars—we have underfunded; we have made promises but with no money to back it up yet—$20 trillion in unfunded liabilities.

The transition from the current system to a personal and fully funded retirement system will also be costly. However, my point is we should not focus too much on this issue at the expense of resolving the coming Social Security crisis because if we do not make the tough choices, the trust fund is going to go broke.

So we have $20 trillion in unfunded liabilities. The estimates are, to transition to a personal retirement account system would take maybe about $13 trillion.

We believe it is going to be a less costly, more secure future and providing better benefits if we step up to the plate and make the decisions we need to make. No matter how much we pay for the transition, it is still much cheaper to finance the transition than it is to watch Social Security go broke, because once our plan is fully solvent, Social Security will still be facing some of the biggest problems or even greater problems in funding.

Having said that, Mr. President, we should also be sensible about the transition costs. We shouldn't increase the overall tax burden or incur huge debt to finance the transition. Again, we shouldn't be out there increasing the overall tax burden. We shouldn't be out there building a huge debt to finance this transition. And since the unfunded liability is enormous, we need to find some innovative ways to help pay for them, not through tax hikes, not to

burden Americans with more taxes, but to find innovative ways to help make the transition.

As you know, when a family faces financial trouble, every member of the family pitches in. It first cuts its spending, it won't go to the movies, or it might not eat out as often as it has and will delay purchasing big household items. The Government needs to take the same type of approach. A family, when it is facing a financial crisis, needs to pitch in and make financial sacrifices to make it through. The Government has to do the same thing.

My plan proposes to help cut Government spending to help finance the transition. We require capping mandatory Government spending by allowing only new spending for new beneficiaries who meet the same criteria for benefits under the law. This would prohibit the expansion of these programs during the transition, but it would still cover those entitled to the current benefits.

In addition, we propose a 5-percent across-the-board budget cut for every Federal agency, plus a 15-percent reduction in Government overhead.

Mr. President, in the long run, my plan will balance itself because as workers opt for the personalized retirement system, they will receive fewer benefits from the old Social Security system as a result. Again, remember the statement made by the President and many others, and that statement is: Save Social Security first. That takes money, not just good intentions; not slogans, but actual action.

Since the plan is designed to spread its transition costs across generations, the system will start off relatively slowly. It will grow over time and, therefore, offer other financial mechanisms that will be needed, particularly during the start-off period.

One of these mechanisms is to ask workers who opt out of the Social Security system to continue to pay, as I said before, the 2.4 percent of their FICA tax to help with the transition. Right now, we pay 12.4 percent of income into Social Security. Under this plan, 2.4 percent would go to transition costs. The other 10 percent would go into the individual retirement fund.

The plan also proposes using the majority of the general revenue budget surplus, again with the notion, ''Save Social Security first.'' If there is a surplus, the majority of our budget surplus should go to helping reduce the transition costs of Social Security.

To cover a portion of the transition deficit, we would sell the $700 billion in Government bonds that have accumulated in the Social Security trust fund. If we still fall short in financing the gap, my plan calls for issuing new Government bonds to the public in order to help raise money. This would be done over a period of time, and, again, this stretches the financing of the transition over generations, not one generation having to pay for the mistakes the system has made, but many generations will have to help cover the costs.

These bonds would not involve new Government debt. This is important—no new debt. We are not talking about issuing new bonds to create new debt but to, in other words, put into focus the $20 trillion in unfunded liability. What we are doing is saying we are now going to recognize that and put into place bonds that are going to help cover this. Again, this is not new debt but only explicit recognition of the implicit debt that the Government already owes through the unfunded liabilities of Social Security.

These are the promises that we have already made, and they need to be paid for. It is the cost of hanging on to this system too long, and it will cost even more if we wait.

Mr. President, the advocates of the status quo are using the recent stock market adjustment in an attempt to scare the American people away from a market-based retirement system. In my view, it is highly improper to use market cycles as the reason to deny exploring a viable solution to the coming Social Security crisis.

Historical data recognizes market cycles, and the long-term prospects for the stock market have always been bullish. William Shipman, one of the country's leading pension management experts, has studied the worst performances of the market. He finds that in the past 70 years—and this includes the period of the Great Depression—on only 10 occasions have stocks fallen by 18 percent in 1 quarter or 14 percent in 1 month or 8 percent in 1 day. Even if the market would drop 89 percent on the day that a worker entered retirement, that worker would still have more in their retirement account than they would have available under Social Security.

If you look at the numbers, Mr. President, again, even if the market would happen to drop 89 percent of its value in just 1 day, and it happened to be on the day the worker retired, the worker would still have more in their retirement account than they would have available under Social Security. That would be a worst-case scenario.

We know that better planning and looking ahead would mean the worker would lose very little, if any, no matter how the market cycle would go with good financial planning. So the scare tactics that many are using are just that, scare tactics in order to help support their current Social Security system. We need to give the American people the information they need so they can make a very educated choice. We don't need scare tactics from either side. We need just to lay out the information, show them the truth, and then allow Americans to help us make this change.

Let me repeat, even if the market dropped 89 percent on the day a worker entered retirement, that worker would still have more in their retirement account than they would have available under Social Security.

Mr. President, there are also many safeguards in this plan that a worker would not have to draw retirement money on that day, that there could be moneys taken out so he could wait a while or also do many things leading up to his retirement so he wouldn't have to worry what was going to happen on that last day. There are many choices and options to maximize retirement benefits, but many are going to use any fluctuations in the market to try to scare people. Again, we need to just give the American people the information they need to help them make the choice.

As you know, our entire economy is based on a capitalistic market. If the market drops at this rate, even Social Security won't be immune from any downturn. We will have to borrow against future workers to pay any benefits. A market-based retirement plan is a long-term investment, not short-term speculation, and that is a key distinction that I urge all my colleagues to acknowledge in considering this plan.

The market-based retirement plan is a long-term investment, not a short-term speculation. When you are in it for 40 years, you can ride out those cycles, but, again, over the last 70 years the market has paid 7.56 percent in interest, not the 1 percent or less than we now see in Social Security.

The entire debate over how to reform Social Security boils down to a few simple questions: Do you trust the Government to provide retirement security, or would you rather rely on yourself and would you rather have more control over your own resources? Do you want the Government to be your financial adviser? Is it necessarily true that what is good for Washington is good for you? I don't think so. To me and many Americans, the choice is very clear.

In conclusion, I turn to the words of President Franklin D. Roosevelt on June 8, 1934, and that is the day he proposed to Congress the establishment of the Federal Social Security system. He wrote this:

> This seeking for a greater measure of welfare and happiness does not indicate a change in values. It is rather a return to values lost in the course of our economic development and expansion.

Mr. President, 63 years later, after six decades of economic development and expansion that dwarf what the world had known in 1934, we began to stray from the values that helped found this great Nation. We have strayed from the words of President Franklin Roosevelt as he signed Social Security into law.

In 1998, Americans choose to turn, not to the Government to provide that ''greater measure of welfare and happiness,'' but to the individual, to ourselves; not to look to Washington, but to look to our families. The Government cannot be there to provide the ''greater measure of welfare and happiness.''

Mr. President, the Personal Security and Wealth in Retirement Act acknowledges that to achieve the fullest

measure of security and individual liberty, the individual must be free from the inherent constraints of Government. It restores those values from which we have drifted, and it offers every American the opportunity to achieve real personal wealth—not with the Government telling you what you are going to get in retirement, not with the Government telling you you have to retire, not with the Government telling you what benefits that you are going to get—but America will be offered the opportunity to achieve real personal wealth and the dignity and the freedom and the security that it affords in retirement.

Thank you very much, Mr. President.

Mr. GRAMS addressed the Chair.

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

MORNING BUSINESS

Mr. GRAMS. 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.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business Friday, October 2, 1998, the federal debt stood at $5,525,136,204,444.24 (Five trillion, five hundred twenty-five billion, one hundred thirty-six million, two hundred four thousand, four hundred forty-four dollars and twenty-four cents).

One year ago, October 2, 1997, the federal debt stood at $5,387,382,000,000 (Five trillion, three hundred eighty-seven billion, three hundred eighty-two million).

Twenty-five years ago, October 2, 1973, the federal debt stood at $461,744,000,000 (Four hundred sixty-one billion, seven hundred forty-four million) which reflects a debt increase of more than $5 trillion—$5,063,392,204,444.24 (Five trillion, sixty-three billion, three hundred ninety-two million, two hundred four thousand, four hundred forty-four dollars and twenty-four cents) during the past 25 years.

FOURTEEN LITTLE LEAGUERS—THE PRIDE OF ALL OF US

Mr. HELMS. Mr. President, when one pauses to ponder the implications of it all, 1998 has been a remarkable year in terms of there having been a sort of rebirth of (I still contend) America's great national pastime—baseball.

And as an old (very) former sports writer, I have never pretended that baseball has not always been my favorite sport. I like all of them, I hasten to say, but baseball is, to this good day, Number One with me.

So what, you may inquire, has made this year all that great? Let us begin by recounting the drama of Mark McGwire and Sammy Sosa, each of whom broke the 37-year-old home run record of Roger Maris—and then kept on breaking their own records.

I had meant, Mr. President, to pay my respects long ago to 14 very special youngsters from Greenville, North Carolina, who made hearts beat faster and faster as the team made their way to the national championship game of the Little League World Series.

Greenville is the hometown of a lot of good things and good people. East Carolina University is there, including its splendid medical school. It is a colorful city (56,000) which understands and practices the free enterprise system. And you better believe that everybody in the area around Greenville was proud of those 14 young Little Leaguers who made it to the championship game.

The young guys from Greenville lost that championship game to the team from Toms River, New Jersey, but they were winners big time just the same because they did win the consolation game with the excellent Canadian team. Look at it this way, Mr. President—the Little League team from Greenville ranks third in the world.

I have a hunch that they know that they are Number One in the hearts of all of us who watched them on television, night after night, cheering them on.

I should mention, by the way, that these comments were prompted by a fine young member of the Helms Senate Family, Josh Royster, who kept track of those fantastic youngsters from Greenville who made all of us proud.

Josh was impressed with the manner in which coaches and parents and countless other folks sacrificed to support their team. They traveled across the country for the better part of six weeks, rooting for the Greenville Fourteen. That's what morale and role modeling and love and good citizenship are all about. And then when the 14 young guys arrived home, Josh says that 2,000 people turned out to greet them and cheer them on.

A long time ago, when I was a lot younger than the Little Leaguers of 1998, Dad told me something that I have never forgotten: ''Son,'' he said, ''the Lord doesn't require you to win. He just expects you to try.''

Those 14 young guys did try and I suspect they won a lot more than they now realize. For one thing, there's a Senator up here who's hoping that Greenville's Little Leaguers will be in the championship game again next season. I am not alone in my feeling that those youngsters will be glad they did.

THE HONORABLE THOMAS J. HARRELSON'S JULY 1, 1998, ADDRESS TO NEW CITIZENS

Mr. HELMS. Mr. President, during the past weekend in going through a file folder, I ran across a letter somehow placed there inadvertently this past July just before my surgery to replace my worn-out 1921–Model knees with new 1998–Models.

The letter was from a longtime friend, Jim Lofton, well-known in Congress for his years as a highly respected assistant to the distinguished then-Congressman, Jim Broyhill, of North Carolina. (Jim subsequently served North Carolina's Governor Jim Martin who also had been a Congressman from North Carolina).

Jim Lofton, now president of the North Carolina Association of Financial Institutions, had written to share the text of an address by another distinguished North Carolinian, Thomas J. Harrelson, who on July 1 had delivered an inspiring address to an audience of several hundred people, including 41 new U.S. citizens whose naturalization occurred at the ceremony in Southport at which Mr. Harrelson spoke. Mr. Lofton decided, quite correctly, that I might want to share Tommy Harrelson's remarks at Southport by inserting the text into the CONGRESSIONAL RECORD.

Mr. President, with gratitude to Mr. Lofton and Mr. Harrelson, I ask unanimous consent that the text of Mr. Harrelson's address be printed in the RECORD.

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

ADDRESS BY THE HONORABLE THOMAS J. HARRELSON

It is a great honor for me to participate in this ceremony and share this moment with you, your family, and friends.

We are gathered here in this patriotic time in a setting very appropriate to the occasion. This site on which we are standing, Fort Johnston, was built between 1748 and 1754 and was burned to the ground in 1776 by the Patriots who were tired of royal rule. It was rebuilt around 1812 and figured in other efforts to secure our freedom and independence. After all, the Cape Fear river was the super highway of the pre-colonial and colonial era, bringing some of the early European settlers to our shores.

One can imagine the native Americans, who must have come here often for the bounty of the river and the ocean, seeing the strange vessels and the pale skinned passengers in foreign dress. How exciting and fearsome it must have been to them and to the early settlers to come to terms with learning to live side by side without the benefit of a common language or an understanding of each other's cultures.

Yet these early settlers were just the first of the immigrants who made the United States the powerful yet diverse country that it is. Just as this river and others like it roll relentlessly to the ocean, so a reverse stream of immigrants moved up these same rivers and streams to populate the early eastern seaboard settlements, and finally to take the expansion to our Pacific coast, and even to Alaska and Hawaii.

In that early time in our history, water travel was the quickest, and in some cases, the only mode of transportation; the expansion of knowledge was just beginning to speed up, and communications depended almost entirely on the same mode of transportation. Now, people have exceptional mobility, the body of knowledge is doubling at an

ever-increasingly rapid pace, and the internet, satellites and television make communication both instantaneous and very personal. But one thing has been constant over the years: every immigrant group has brought new vitality and vigor to our society.

We who are already citizens of the United States gather during this time to attest our loyalty and patriotism. It is also a time to reflect upon the suffering and sacrifice we have faced to get this far. How brave the people were in 1776 to rise up in defense of liberty and confront a powerful empire. Five of the signers of the Declaration of Independence were captured by the British and tortured as traitors. Nine fought in the War for Independence and died from their wounds or hardships they suffered. Two lost their sons in the Continental Army. Another had sons captured and at least a dozen of the fifty six had their homes pillaged and burned.

I am sure we have with us men and women who have served in our armed forces in defense of our liberty, or family members who have lost loved ones in this cause. I am also sure that some of those of you who will soon be our fellow citizens have stories of personal sacrifice and hardship to arrive at this point.

We later fought a civil war in which it was determined that we would remain one nation and that all people, regardless of race, would be free and have the rights and responsibilities of citizenship. Earlier this year, a local historian discovered that two of our black citizens had fought on the side of the Union. How brave they must have been to take that step!

There was bravery and courage on both sides of that sad conflict. We were a divided society back then and remained divided for generations, separated by fear and mistrust. It speaks volumes about the positive changes in our attitudes that the entire community of Southport joined recently to celebrate these two unsung heroes.

If we fought a civil war in which we determined that all who are Americans would be free, we have also fought a series of wars both hot and cold, to defend our own liberty and expand freedom to other peoples. We live in a marvelous age, having seen the collapse of Soviet communism and the freeing of millions of people from its cruel oppression. This happened because we and our allies remained firm and strong in our beliefs and stalwart in the defense of liberty. We as Americans have an awesome responsibility to the world. We have made great scarifies to ensure fairness and equality at home to extend democratic ideals and freedoms to others throughout the world.

The world will never be truly safe until all peoples have a sense of fellowship and common interests. As the civil rights leader, and U.S. Congressman, John Lewis, recently said, ''to achieve the beloved community, we must teach not only tolerance, but acceptance and love. We must recognize the wonderful opportunity our nation's diversity presents. Every culture in our society offers its own contributions of art, industry and experience.''

This sentiment needs to be embraced at home and in our dealings abroad. To be an American is to have responsibility to the world and to our neighbor at home.

We who are here together, the citizens and the citizens to be, have much in common. We are either the descendants of immigrants or immigrants ourselves. We or our ancestors came here to be free from hunger, free from fear, free from oppression, or free from slavery or servitude. When our framers of the Declaration of Independence put those words on paper, they became part of our culture and were also written in our hearts and souls.

Our system of government is important, but what really is more important is the fact that liberty lies in the hearts of men and women. As the great jurist, Learned Hand said in a 4th of July speech toward the end of World War II, ''When it dies there, no constitution, no law, no court can save it; no constitution, no law, no court can even do much to help it. While it lies there, it needs no constitution, no law, no court to save it. And what is this liberty which must lie in the hearts of men and women? It is not the ruthless, the unbridled will; it is not freedom to do as one likes. That is the denial of liberty and leads straight to its overthrow. A society in which men recognize no check upon their freedom soon becomes a society where freedom is the possession of only a savage few—as we have learned to our sorrow.''

Mr. Justice Hank went on to describe his own faith in liberty. ''The spirit of liberty is the spirit which is not too sure that it is right; the spirit of liberty is the spirit which seeks to understand the minds of other men and women: the spirit of liberty is the spirit which weighs their interests alongside its own without bias; the spirit of liberty remembers that not even a sparrow falls to earth unheeded; the spirit of liberty is the spirit of him who, near two thousand years ago, taught mankind a lesson that it has never learned, but has never quite forgotten—that there may be a kingdom where the least shall be heard and considered side by side with the greatest.''

Before I close, let me take the opportunity of passing on some advice to our new citizens. In the past, the children of immigrants were often ashamed of their heritage and deliberately turned away from both their ancestral culture and language. I will agree that it is important to embrace and understand the culture of your new country and to be fluent in English. However, with the growing importance of international relations and the globalization of the economy, your children should be encouraged to appreciate your culture and learn your native tongue, and to use them as a springboard to understand other cultures and learn still other tongues.

It used to be that we were fairly isolated in the United States. That is no longer the case. Some counsel to our current citizens is in order too. We are seeing an increase in immigration from all over the world. I predict that, despite the fears of some, these new immigrants, much like all who came before them, will contribute to an ever improving quality of life in our country. And as United States citizens, new and old, we should never be satisfied until freedom—political, religious, and economic—is enjoyed by all the people of the world.

In a few moments, we will join together, new citizens and old, to recite our pledge of allegiance. In so doing, I hope you will recall with me the words of another famous American, who challenged our country to greatness and helped bring about freedom for the peoples of Eastern Europe, former President Ronald Reagan:

''The poet called Miss Liberty's torch, 'the lamp beside the golden door.' Well, that was the entrance to America, and it is. And now you know why we're here tonight. The glistening hope of that lamp is still ours. Every promise, every opportunity is still golden in this land. And through that golden door our children can walk into tomorrow with the knowledge that no one can be denied the promise that is America. Her heart is full; her torch is still golden, her future bright. She has arms big enough and strong enough to support, for the strength in her arms is the strength of her people. She will carry on unafraid, unashamed, and unsurpassed.''

(On Friday, October 2, 1998, two statements were inadvertently omitted from the Morning Business section of the RECORD. The permanent RECORD will be corrected to include the following:)

TRIBUTE TO DAVE ROSE

Mr. STEVENS. Mr. President, I take a moment to honor Dave Rose, an Alaskan who has dedicated his life to public service. This weekend the American Diabetes Association (Alaska area) is honoring Dave for his leadership in raising funds to combat this disease. He will be the first recipient of the ''Golden Rose Award'' honoring his commitment in the fight against diabetes.

Dave has diabetes, but he hasn't let the disease slow him down. Even with impaired vision and regular dialysis treatments, he has been a tireless fund raiser, spokesman, and volunteer organizer. When Dave isn't working to help combat diabetes he lends his time to a whole host of causes including the Anchorage Concert Association Foundation, the Alaska Pacific University Foundation, the Alaska Federation of Natives Sobriety Foundation, and the Alaska Community Foundation. Dave and his wife Fran also have their own foundation which distributes funds to arts, health, and higher education programs.

Dave's leadership in Alaska goes beyond the philanthropic. After a distinguished career in the Army, he spent many years on the Anchorage Assembly. He also shepherded Alaska's permanent fund from a fledgling portfolio to the multi-billion dollar account which stands as a rainy day fund for the time when Alaska's oil revenues decline dramatically.

Dave's optimism, his love of people, and his willingness to share his talents for the betterment of others deserves our recognition. Alaska is a better place for Dave's dedication and commitment.

Mr. President, I ask unanimous consent that an article about Dave Rose entitled ''Golden Attitude'' be printed in the RECORD.

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

[From the Anchorage Daily News, Sept. 29, 1998]

GOLDEN ATTITUDE

(By Susan Morgan)

All was quiet in Dave Rose's offices at Alaska Permanent Capital Management Co. one morning last week, so he figured the stock market was doing well.

''I'd hear screaming'' if there was trouble, said Rose, the company's chairman.

Rose, first director of the Alaska Permanent Fund Corp., knows the signs. Since retiring in 1992—the fund grew to $13.5 billion from $3.8 billion and earned more than $8 billion in cash during the 10 years he was there—he's been running his own money management company, now investing about $1.5 billion dollars for Alaska clients.

As during his tenure with the Permanent Fund, business is quietly successful.

''We are always classified as dull and boring. We hit a lot of singles (return rates),'' Rose explained. ''If we hit a double, we're euphoric.''

This is a man who unabashedly loves his work. ''They pay me to do this, which is fun.''

That appreciation for the good things in life has been made sweeter by Rose's recent struggles to maintain his health. While many of those with diabetes suffer eye, heart or kidney problems, Rose—diagnosed 15 years ago—has been hit hard by all three.

Now 61, he is dependent on daily shots of insulin, has no vision in his left eye, underwent quadruple bypass heart surgery this year and endures three hours of dialysis—losing 7 pounds of fluid each time—three times a week while he awaits a kidney transplant.

Dialysis is an arduous process in which Rose's blood is removed from his body via a needle in an artery, then ''dewatered'' and cleaned of toxins—work normally done by healthy kidneys. The blood is returned through another needle inserted in a vein. Rose's arm shows a long line of scars from the process.

''I have nails in my workshop that are smaller than those needles,'' he says.

But Rose, who calls himself ''basically an optimist,'' hasn't taken to his sickbed. He's been known to dress up in costumes for the amusement of others during dialysis and has added to an already jampacked personal schedule.

In addition to owning several local businesses, running his investment firm and serving as finance director for Gov. Tony Knowles' current campaign, Rose has added the American Diabetes Association to the already lengthy list of charitable organizations to which he volunteers time and his prodigious fund-raising energy.

Crediting a ''good Rolodex'' for his success, Rose has led a small group of local bicyclists to national championships in the Tour De Cure, a fund-raising event for the American Diabetes Association. For three years in a row, until this year, ''Rose's Riders'' raised more money than any other team in the United States—more than $80,000 in four years.

Because of those efforts, the Alaska office of the association has created the Golden Rose Award. In a ceremony Saturday, Rose will be its first recipient.

''We wish to honor Dave for his generosity, as well as his commitment . . . to improve the lives of people with diabetes and to find a cure,'' district manager Connie Weel wrote in a press release.

Meanwhile, Rose looks for the best in his situation. With just one arm to use during dialysis, he can't manage both a book and the now-necessary magnifying glass, so he listens to books on tape—especially his favorite ''trashy mysteries.''

He even gets a kick out of a conversation with his doctor about whether he should get a Seeing Eye dog.

''He said to get a Lab, If I do, because in Alaska, if you're blind you can get a free hunting license.''

Rose urges Alaskans to get a test to show if they're among the millions of Americans with undiagnosed diabetes—''You can deal with it if you catch it early enough''—and emphasizes the importance of becoming an organ donor.

Most important to him seems to be not letting diabetes limit his life. He and his wife, Fran—they married in 1959 and she's now ''my eyes and driver''—dote on their Maine Coon Kitten, two grown sons and gardens.

''I'm trying to live a normal life and fit everything in,'' Rose says.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Thursday, October 1, 1998, the federal debt stood at $5,540,570,493,226.32 (Five trillion, five hundred forty billion, five hundred seventy million, four hundred ninety-three thousand, two hundred twenty-six dollars and thirty-two cents).

One year ago, October 1, 1997, the federal debt stood at $5,420,506,000,000 (Five trillion, four hundred twenty billion, five hundred six million).

Five years ago, October 1, 1993, the federal debt stood at $4,406,340,000,000 (Four trillion, four hundred six billion, three hundred forty million).

Twenty-five years ago, October 1, 1973, the federal debt stood at $460,589,000,000 (Four hundred sixty billion, five hundred eighty-nine million) which reflects a debt increase of more than $5 trillion—$5,079,981,493,226.32 (Five trillion, seventy-nine billion, nine hundred eighty-one million, four hundred ninety-three thousand, two hundred twenty-six dollars and thirty-two cents) during the past 25 years.

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 MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting two withdrawals and 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

ENROLLED BILL SIGNED

At 3:07 p.m., a message from the House of Representatives, delivered by Mr. Hanrahan, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3616. An act to authorize appropriations for fiscal year 1999 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strength for fiscal year for the Armed Forces, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. THURMOND).

MEASURE READ THE FIRST TIME

The following bill was read the first time:

An act to amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products.

REPORTS OF COMMITTEES

The following reports of committee 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. 105–365).

Mr. CHAFEE, from the Committee on Environment and Public Works, with an amendment:

H.R. 2863: A bill to amend the Migratory Bird Treaty Act to clarify restrictions under that Act on baiting, to facilitate acquisition of migratory bird habitat, and for other purposes (Rept. No. 105–366).

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. JEFFORDS (for himself and Mr. LEAHY):

S. 2548. A bill to redesignate the Marsh-Billings National Historical Park in the State of Vermont as the ''Marsh-Billings-Rockefeller National Historical Park''; to the Committee on Energy and Natural Resources.

By Mr. D'AMATO:

S. 2549. A bill to provide that no Federal income tax shall be imposed on amounts received by Holocaust victims; to the Committee on Finance.

By Mr. INOUYE (for himself and Mr. AKAKA):

S. 2550. A bill for the relief of the State of Hawaii; to the Committee on Finance.

By Mr. D'AMATO:

S. 2551. A bill to amend title XVIII of the Social Security Act to permit the replacement of health insurance policies for certain disabled medicare beneficiaries notwithstanding that the replacement policies may duplicate medicare benefits; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR:

S. Res. 285. A resolution expressing the sense of the Senate that all necessary steps should be taken to ensure the elections to be held in Gabon in December of 1998 are free and fair; to the Committee on Foreign Relations.

By Mr. MACK:

S. Res. 286. A resolution expressing the Sense of the Senate that Mark McGwire and Sammy Sosa should be commended for their accomplishments; considered and agreed to.

By Mr. LOTT (for himself and Mr. DASCHLE):

S. Res. 287. A resolution to authorize representation by Senate Legal Counsel; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. D'AMATO:

S. 2549. A bill to provide that no Federal income tax shall be imposed on amounts received by Holocaust victims; to the Committee on Finance.

HOLOCAUST ASSETS TAX EXCLUSION ACT OF 1998

• Mr. D'AMATO. Mr. President, today I introduce the ''Holocaust Assets Tax Exclusion Act of 1998.'' This act will make all income received by Holocaust

survivors or their heirs from any settlement or adjudication in their favor, non-taxable. This legislation is now very much needed because survivors of the Holocaust who had assets withheld from them by Swiss banks or others have finally received justice in the form of a settlement between the banks and the survivors' attorneys in August 1998. The settlement was for $1.25 billion for survivors worldwide. We must remember, one-third of all Holocaust survivors live in the United States. This is why this legislation is so needed.

In addition to these recipients, survivors who are needy, will be receiving one-time payments from the Swiss Humanitarian Fund established by the Swiss government in 1997. In both cases, payments from the Swiss banks and other sources like this should be excluded from taxation because they are receiving back what was rightfully theirs to begin with. The sum total of payments coming to the needy Holocaust survivors in the United States from this fund will be $31.4 million. It would be a travesty if the IRS were to decide that these funds would be taxable.

Mr. President, it is necessary to understand that the survivors who sued the banks and settled in August 1998 did so because this was the only avenue left open to them to seek justice. Deprived of their assets, or those of their families for over 50 years, survivors fought unsuccessfully until now to receive what rightfully belonged to them.

With the average age of Holocaust survivors at 80, there is little time for debate over these payments which will ease life for the survivors in their final years. To tax them for the long overdue receipt of assets would be wrong. This is why I am offering this legislation. The survivors of man's greatest inhumanity to man deserve justice. After escaping death at the hands of the Nazis, they were again victimized by the Swiss bankers. Now that they have received some measure of justice, let us not take their assets from them again.

Mr. President, I urge my colleagues to support me in this legislation and urge its speedy passage.

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. 2549

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

SECTION 1. NO TAX ON AMOUNTS RECEIVED BY HOLOCAUST VICTIMS.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986, gross income shall not include any amount received by an individual from any person as a result of a settlement or adjudication in the individual's favor arising out of any moral or legal injustice experienced by the individual as a Holocaust victim, including any amount received from the Swiss Humanitarian Fund established by the Government of Switzerland.

(b) EFFECTIVE DATE.—This section shall apply to amounts received in taxable years beginning before, on, or after the date of the enactment of this Act.●

By Mr. D'AMATO:

S. 2551. A bill to amend title XVIII of the Social Security Act to permit the replacement of health insurance policies for certain disabled medicare beneficiaries notwithstanding that the replacement policies may duplicate medicare benefits; to the Committee on Finance.

MEDICARE ANTI-DUPLICATION AMENDMENT

Mr. D'AMATO. Mr. President, I rise today to introduce S. 2551, the Medicare anti-duplication bill. This important reform legislation is a necessary step in improving the rights and choices that face New Yorkers. This amendment will in fact correct the language of title XVIII of the Social Security Act to correct an unintended consequence of the Federal Medicare anti-duplication law and permits disabled persons to take full advantage of the full range of choices in the health insurance market that are currently available for other New York State citizens. The very narrow legislative change I am proposing will allow several hundred chronically ill New York residents to choose from a variety of health care plans which offer identical health care coverage at lower prices.

In 1995, New York enacted a ''Point of Service'' law requiring all HMO's in the state to offer standardized health care benefits to any individual who purchases coverage directly from the plan. However, some individuals that the New York law was intended to help were unable to purchases this coverage.

The Federal Medicare anti-duplication statue prohibits insurers from selling coverage, other than Medicare supplement coverage, which duplicate benefits available under Medicare. In New York, individuals who were receiving Medicare benefits due to disabilities, were permitted to elect continued coverage of private insurance which were purchased prior to enrolling in Medicare. Prior to 1996 these individuals' choices were limited, and were essentially forced to continue their very expensive Commercial policies. After the ''Point of Service'' law was enacted, there were numerous policies available which provided identical benefits to the Empire policy, at more affordable prices.

Those disabled Medicare subscribers enrolled in the Empire policy, however, were prohibited from purchasing these other less expensive policies as a result of the Federal anti-duplication law because the time to elect to continue private coverage had expired. These Disabled individuals numbering between 400–500, were left with essentially one choice, continuing a very expensive commercial policy.

My anti-duplication amendment will ensure that the disabled New Yorker enrolled in medicare is available to afford a managed care product, and that these purchases will not be considered a ''duplicate'' of Medicare health benefits. My bill has been drafted specifically to help those several hundred chronically sick individuals in New York, who, prior to 1996, did not have the choice to select one of the many policies which were subsequently required by State Law.

ADDITIONAL COSPONSORS

S. 1286

At the request of Mr. JEFFORDS, the name of the Senator from Utah (Mr. HATCH) 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. 1529

At the request of Mr. KENNEDY, the names of the Senator from Nebraska (Mr. KERREY) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 1529, a bill to enhance Federal enforcement of hate crimes, and for other purposes.

S. 1720

At the request of Mr. LEAHY, the name of the Senator from Nebraska (Mr. KERREY) 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. 1868

At the request of Mr. NICKLES, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 1868, a bill to express United States foreign policy with respect to, and to strengthen United States advocacy on behalf of, individuals persecuted for their faith worldwide; to authorize United States actions in response to religious persecution worldwide; to establish an Ambassador at Large on International Religious Freedom within the Department of State, a Commission on International Religious Persecution, and a Special Adviser on International Religious Freedom within the National Security Council; and for other purposes.

S. 2180

At the request of Mr. LOTT, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor 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. 2196

At the request of Mr. GORTON, the name of the Senator from Virginia (Mr. ROBB) was added as a cosponsor of S. 2196, a bill to amend the Public Health Service Act to provide for establishment at the National Heart, Lung, and Blood Institute of a program regarding lifesaving interventions for individuals who experience cardiac arrest, and for other purposes.

S. 2217

At the request of Mr. FRIST, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 2217, a bill to provide for continuation of the Federal research investment in a fiscally sustainable way, and for other purposes.

S. 2233

At the request of Mr. CONRAD, the name of the Senator from Kentucky (Mr. FORD) was added as a cosponsor of S. 2233, a bill to amend section 29 of the Internal Revenue Code of 1986 to extend the placed in service date for biomass and coal facilities.

S. 2364

At the request of Mr. CHAFEE, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from Alaska (Mr. MURKOWSKI) 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. 2418

At the request of Mr. JEFFORDS, the names of the Senator from California (Mrs. BOXER), and the Senator from Illinois (Ms. MOSELEY-BRAUN) were added as cosponsors of S. 2418, a bill to establish rural opportunity communities, and for other purposes.

S. 2507

At the request of Mr. MCCAIN, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2507, a bill to stimulate increased domestic cruise ship opportunities for the American cruising public by temporarily reducing barriers for entry into the domestic cruise ship trade.

S. 2520

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of S. 2520, a bill to exclude from Federal taxation any portion of any reward paid to David R. Kaczynski and Linda E. Patrik which is donated to the victims in the Unabomber case or their families or which is used to pay Mr. Kaczynski's and Ms. Patrik's attorneys' fees.

S. 2522

At the request of Mr. DEWINE, the name of the Senator from Alabama (Mr. SHELBY) was added as a cosponsor of S. 2522, a bill to support enhanced drug interdiction efforts in the major transit countries and support a comprehensive supply eradication and crop substitution program in source countries.

SENATE JOINT RESOLUTION 56

At the request of Mr. GRASSLEY, the names of the Senator from Delaware (Mr. BIDEN), the Senator from Washington (Mr. GORTON), and the Senator from Florida (Mr. MACK) were added as cosponsors of Senate Joint Resolution 56, a joint resolution expressing the sense of Congress in support of the existing Federal legal process for determining the safety and efficacy of drugs, including marijuana and other Schedule I drugs, for medicinal use.

SENATE CONCURRENT RESOLUTION 121

At the request of Mr. SPECTER, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from North Dakota (Mr. DORGAN) 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 257

At the request of Mr. MURKOWSKI, the names of the Senator from New Mexico (Mr. DOMENICI) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors 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 260

At the request of Mr. GRAHAM, the names of the Senator from California (Mrs. FEINSTEIN), the Senator from Utah (Mr. HATCH), the Senator from Idaho (Mr. CRAIG), the Senator from Colorado (Mr. CAMPBELL), the Senator from Montana (Mr. BURNS), the Senator from New Mexico (Mr. DOMENICI), and the Senator from Massachusetts (Mr. KENNEDY) were added as cosponsors of Senate Resolution 260, a resolution expressing the sense of the Senate that October 11, 1998, should be designated as ''National Children's Day.''

SENATE RESOLUTION 285—EXPRESSING THE SENSE OF THE SENATE THAT ALL NECESSARY STEPS SHOULD BE TAKEN TO ENSURE THE ELECTIONS TO BE HELD IN GABON ARE FREE AND FAIR

Mr. LUGAR submitted the following resolution; which was referred to the Committee on Foreign Relations.

S. RES. 285

Whereas Gabon is a heavily forested and oil-rich country on central Africa's west coast;

Whereas Gabon gained independence from France in 1960;

Whereas Gabon is scheduled to hold national elections in December 1998 for the purpose of electing a President;

Whereas the Government of Gabon has been subject to single-party rule for a significant period of its recent history and only 1 person has held the office of the President since 1967;

Whereas the Freedom House Survey of World Freedom, 1997–1998, determined that ''Gabon's citizens have never been able to exercise their constitutional right to change their government democratically'';

Whereas the International Foundation for Election Systems (IFES) and the National Democratic Institute (NDI) served as observers during the organization of the 1993 Presidential and legislative elections in Garbon and found widespread electoral irregularities;

Whereas the Government of Gabon is a signatory to the ''Paris Accords'' of 1994, approved by national referendum in July 1995, which were to have provided for a State of law guaranteeing basic individual freedoms and the organization of free and fair elections under a new independent national election commission;

Whereas the people of Gabon have demonstrated their support for the democratic process through the formation of numerous political parties since 1990 and their strong participation in prior elections; and

Whereas it is in the interest of the United States to promote political and economic freedom in Africa and throughout the world: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes and commends those Gabonese who have demonstrated their love for free and fair elections;

(2) commends the Gabonese Government for inviting the International Foundation for Election Systems to perform a pre-election assessment study;

(3) calls on the Gabonese Government—

(A) to take measures to help ensure a credible election and to ensure that the election commission remains independent and impartial; and

(B) to invite the International Foundation for Election Systems, the National Democratic Institute, the International Republic Institute, and other appropriate international non-governmental organizations to aid the organization of, and supervise the December 1998 Presidential election in Gabon, in an effort to ensure that these elections in Gabon are free and fair;

(4) urges the Government of Gabon to take all necessary and lawful steps toward conducting free and fair elections;

(5) calls on the international community to join the United States in offering their assistance toward free and fair elections;

(6) urges the United States Government to provide support directly and through appropriate non-governmental organizations to aid the organization of free and fair elections in Gabon;

(7) calls on the United States Government to work with the international community in urging the Government of Gabon to create the conditions necessary to guarantee free and fair elections; and

(8) urges the United States Government and the international community to continue to encourage the Government of Gabon to ensure a lasting and committed transition to democracy.

● Mr. LUGAR. Mr. President, I submit a resolution calling for free and transparent presidential elections in the African country of Gabon. A similar measure was introduced in the House of Representatives, and I applaud the work of those Members of the House who are bringing attention to democratic development in this democracy.

This resolution expresses support for the promotion of transparent elections at a crucial time in Gabon's political development. Although ostensibly a democracy since 1961, Gabon has been ruled by the same individual—Omar Bongo—since 1967. In 1968, President Bongo declared Gabon a one-party state and has since then won four consecutive presidential elections.

A political easing in 1990 led to the strengthening of individual rights and the establishment of multi-party elections. However, there have been reports that disorganization and a lack of transparency marred President Bongo's most recent election in December 1993.

According to the Freedom House Survey of the World Freedom, Bongo was declared the winner before many voters were counted and after a campaign that included extensive use of state resources and state media. Further, widespread irregularities were reported by the International Foundation for Election Systems (IFES) and the National Democratic Institute (NDI), which served as observers during the Gabonese presidential and legislative elections in 1993.

The electoral victory by President Bongo led to several months of civil unrest and violent repression. Some observers in Gabon believe more civil unrest will occur if the presidential elections this December are considered illegitimate. A free and fair electoral system would further democracy and stability in Gabon and set an example for other African nations.

Mr. President, this resolution calls on the Gabonese government to take measures to help ensure credible presidential elections. The measure calls on the government to invite IFES, the NDI, the International Republican Institute (IRI), the Center for Democracy or other appropriate non-governmental organizations to aid or observe the December 1998 Gabonese presidential elections.

The resolution also urges the United States and the international community to offer assistance for fair elections in Gabon and to encourage movement toward a stable democracy.

Gabon is at a turning point. It enjoys a per capita income of $4,700, a high literacy rate (69 percent), and a billion dollar oil industry. The United States Senate would be aiding Gabon in the establishment of a stronger democracy that can help bring stability to a volatile region of Africa.

I urge my colleagues to consider the benefits of free and fair elections in Gabon and to support this resolution.●

SENATE RESOLUTION 286—EXPRESSING THE SENSE OF THE SENATE THAT MARK McGWIRE AND SAMMY SOSA SHOULD BE COMMENDED FOR THEIR ACCOMPLISHMENTS

Mr. MACK submitted the following resolution; which was considered and agreed to.

S. RES. 286

Whereas the recent conclusion of the regular baseball season marked the end of an unprecedented home run race between the St. Louis Cardinals' Mark McGwire and the Chicago Cubs' Sammy Sosa;

Whereas both broke Roger Maris' home run record that many thought would stand untouched as indeed it has since Maris passed the ''Babe'' by one home run when he hit his 61st some 37 years ago;

Whereas ''Mighty Mac'' rounded out his record setting season by sending two more over the fence in the team's final game to finish the year with 70 home runs while ''Slammin' Sammy'' finished close behind with 66;

Whereas McGwire and Sosa brought to the game much more than a new record for the books, even though they are both great competitors, they showed the nation how competitors can show mutual respect and appreciation toward each other and to the game;

Whereas Mark McGwire is surely an ideal role model for tomorrow's baseball stars as evidenced by his quiet dignity, love of the game and respect for his competitors which was clearly demonstrated the night he broke the home run record—from his triumphant jog around the bases, to hugging his son at home plate, to saluting Sammy Sosa, and then finally spending a few moments in the stands with the family of Roger Maris;

Whereas Sammy Sosa who stayed on McGwire's heels throughout the home run chase is also a role model who, as a native from the Dominican Republic, rose from near poverty to be one of the greatest home run hitters in the history of the game, and is a hero in his home country where he continues to share his success by funding special programs for its underprivileged children;

Whereas the nation witnessed this year a flashback to an earlier time when the fans felt a connection to the players and the players gave their all for the fans;

Whereas baseball is a game of magic moments, like a perfect game or a triple play—or watching the ball fly over the fence for a home run, and, this year, McGwire and Sosa brought the nation plenty of those magic moments; and

Whereas through class and character Mark McGwire and Sammy Sosa are modern day heroes who brought out the best in baseball and reminded us all why baseball is the great American past time: Now, therefore, be it

Resolved, Mark McGwire and Sammy Sosa are to be commended for their record achievement, for reinvigorating the game of baseball, for their decency, and for giving our children sports heroes worthy of that status.

Mr. MACK. Mr. President, this morning I have sent a resolution to the desk commending Mark McGwire and Sammy Sosa for a remarkable baseball season. I suspect that many of our colleagues in the Senate, and the entire Nation, for that matter, were focused on that last couple of weeks, the contest between those two individuals.

I think, at least from my perspective as I watched events unfold, there were times people would come up to me and ask, Who do you want to win? My reaction was—like, I suspect, many others'—it would have been great if it was a tie.

The way the two individuals interacted with each other and their attitude about the game were just, I think, a remarkable statement.

SENATE RESOLUTION 287—TO AUTHORIZE REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. LOTT (for himself and Mr. DASCHLE) submitted the following resolution; which considered and agreed to:

S. RES. 287

Whereas, Senator Daniel K. Inouye has been named as a defendant in the case of *O'Leary* v. *Fujikawa, et al.*, Case No. 98–16439, now pending in the United States Court of Appeals for the Ninth Circuit;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.C.S. §§288b(a) and 288c(a)(1), the Senate may direct its counsel to represent Members 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 Senator Daniel K. Inouye in the case of *O'Leary* v. *Fujikawa, et al.*

AMENDMENTS SUBMITTED

INTERNET TAX FREEDOM ACT

SHELBY AMENDMENTS NOS. 3685–3694

(Ordered to lie on the table.)

Mr. SHELBY submitted 10 amendments intended to be proposed by him 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. 3685

On page 14, line 8, strike ''2 years'' and insert ''21 months''.

AMENDMENT NO. 3686

On page 14, line 8, strike ''2 years'' and insert ''24 months''.

AMENDMENT NO. 3687

On page 14, line 8, strike ''2 years'' and insert ''27 months''.

AMENDMENT NO. 3688

On page 14, line 8, strike ''2 years'' and insert ''30 months''.

AMENDMENT NO. 3689

On page 14, line 8, strike ''2 years'' and insert ''33 months''.

AMENDMENT NO. 3690

On page 10, line 22, strike ''January 1, 2004,'' and insert ''January 1, 2005,''.

AMENDMENT NO. 3691

On page 10, line 22, strike ''January 1, 2004,'' and insert ''January 1, 2006,''.

AMENDMENT NO. 3692

On page 10, line 22, strike ''January 1, 2004,'' and insert ''January 1, 2007,''.

AMENDMENT NO. 3693

On page 10, line 22, strike ''January 1, 2004,'' and insert ''January 1, 2008,''.

AMENDMENT NO. 3694

On page 10, line 22, strike ''January 1, 2004,'' and insert ''January 1, 2009,''.

COATS AMENDMENT NO. 3695

(Ordered to lie on the table.)

Mr. COATS submitted an amendment intended to be proposed by him to the bill, S. 442, supra; 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 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).

GRAMM AMENDMENTS NOS. 3696–3704

(Ordered to lie on the table.)

Mr. GRAMM submitted nine amendments intended to be proposed by him to the bill, S. 442, supra; as follows:

AMENDMENT NO. 3696

Beginning on page 20, line 1, strike all and insert in lieu thereof the following:

Selected not later than 70 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. 3697

Beginning on page 19, strike line 24 and all that follows and insert in lieu thereof the following:

than 90 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.

AMENDMENT NO. 3698

Beginning on page 19, strike line 7 and all that follows and insert in lieu thereof the following:

(C) Ten representatives of the electronic industry and consumer groups comprised of—

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

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

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

(iv) two representatives 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.

AMENDMENT NO. 3699

Beginning on page 18, strike line 17 and all that follows and insert in lieu thereof the following:

(B) Ten representatives from State and local governments comprised of—

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

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

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

(iv) two representatives 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.

AMENDMENT NO. 3700

Beginning on page 18, strike line 10 and all that follows and insert in lieu thereof the following:

(A) Five representatives from the Federal Government comprised of the Secretary of Defense, 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.

AMENDMENT NO. 3701

Beginning on page 18, strike line 7 and all that follows and insert in lieu thereof the following:

shall serve for twelve months. 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 servvices.

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. 3702

Beginning on page 18, strike line 1 and all that follows and insert in lieu thereof the following:

selected by the Speaker of the House of Representatives and the Majority Leader of the Senate; 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.

AMENDMENT NO. 3703

Beginning on page 17, strike line 23 and all that follows, and insert in lieu thereof the following:

(1) be composed of 24 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) Ten representatives from State and local governments comprised of—

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

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

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

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

(C) Ten representatives of the electronic industry and consumer groups comprised of—

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

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

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

(iv) two representatives 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 0other 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. 3704

Beginning on page 17, strike line 19 and all that follows and insert in lieu thereof the following:

is established a commission (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—

(ii) 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.

DORGAN AMENDMENTS NOS. 3705–3709

(Ordered to lie on the table.)

Mr. DORGAN submitted five amendments intended to be proposed by him to the bill, S. 442, supra; as follows:

AMENDMENT NO. 3705

At the appropriate place, insert the following—

''Notwithstanding any other provision of law, nothing in this Act shall preempt any tax that was generally imposed and actually enforced prior to the date of enactment of this Act.''

AMENDMENT NO. 3706

Beginning on page 16, strike line 22 through line 15 on page 17.

AMENDMENT NO. 3707

Between lines 15 and 16 on page 17, insert the following—

(c) 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 supercession 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.

(d) Liabilities and Pending Cases.—Nothing in this Act shall affect liabilities for taxes accrued and enforced prior to the date of enactment of this Act nor does this Act affect ongoing litigation relating to such assessments.

AMENDMENT NO. 3708

After the word ''entity'' on page 29, line 25, insert the following: ''for the purpose of generating revenues for governmental purposes, and is not a fee imposed for a specific privilege, service, or benefit conferred''.

AMENDMENT NO. 3709

Between lines 6 and 7 on page 25, add 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 related to—

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

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

McCAIN (AND WYDEN AMENDMENTS NOS. 3710–3719

(Ordered to lie on the table.)

Mr. McCAIN (for himself and Mr. WYDEN) submitted 10 amendments to be proposed by them to the bill, S. 442, supra; as follows:

AMENDMET NO. 3710

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

AMENDMENT NO. 3711

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 accomlished through other means;

(iv) imposes the obligation to collect or pay the tax on any provider of products or services made available and obtained digitally where the location, business, or residence address of the recipient is not provided as part of the transaction or otherwise is unknown to the provider; or

(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 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.

AMENDMENT NO. 3712

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. 3713

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

AMENDMENT NO. 3714

On page 17, line 2, strike ''2'' and insert ''5''.

AMENDMENT NO. 3715

On page 17, line 2, strike ''2'' and insert ''6''.

AMENDMENT NO. 3716

On page 17, line 2, strike ''2'' and insert ''4''.

AMENDMENT NO. 3717

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. 3718

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. 572, 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(46)) 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.

AMENDMENT NO. 3719

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 July 29, 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.

McCAIN AMENDMENT NO. 3720

(Ordered to lie on the table.)

Mr. McCAIN submitted an amendment intended to be proposed by him to the bill, S. 442, supra; as follows:

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 July 29, 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, assessed or 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.

McCAIN (AND WYDEN) AMENDMENT NO. 3721

(Ordered to lie on the table.)

Mr. McCAIN (for himself and Mr. WYDEN) submitted an amendment to be proposed by them to the bill, S. 442, supra; 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, 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.

McCAIN AMENDMENTS NOS. 3722–3723

(Ordered to lie on the table.)

Mr. McCAIN submitted two amendments intended to be proposed by him to the bill, S. 442, supra; as follows:

AMENDMENT NO. 3722

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 servcie, or online services would be treated in a tax and technologically neutral manner relative to other forms of remote sales; and''.

AMENDMENT NO. 3723

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 COMMISSION ON UNIFORM STATE LEGISLATION.—The Commission shall, to the extent possible, ensure that its work does not undermine the efforts of the National Commission on Uniform State Legislation.

GRAMM AMENDMENT NO. 3742

(Ordered to lie on the table.)

Mr. GRAMM submitted an amendment intended to be proposed by him to the bill, S. 442, supra; as follows:

Beginning on page 17, strike line 20 and all that follows and insert in lieu thereof the following:

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 servvices.

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.

HUTCHINSON AMENDMENTS NOS. 3725–3726

(Ordered to lie on the table.)

Mr. HUTCHINSON submitted two amendments intended to be proposed by him to the bill, S. 442, supra; as follows:

AMENDMENT NO. 3725

On page 25, strike line 6 and insert the following:

communications services; and

(F) an examination of the effects of taxation, including the absence of taxation, on all remote sales transactions, including transactions using the Internet, on local retail businesses and on State and local governments.

AMENDMENT NO. 3726

On page 25, strike line 6 and insert the following:

communications services; and

(F) an examination of the effects of taxation, including the absence of taxation, on all remote 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.

ENZI AMENDMENTS NOS. 3727–3728

(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. 3727

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 finings''.

AMENDMENT NO. 3728

On page 17, line 16, before sec. 102, insert the following:

(c) 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.

(d) 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.

GRAHAM AMENDMENTS NOS. 3729–3734

(Ordered to lie on the table.)

Mr. GRAHAM submitted six amendments intended to be proposed by him to the bill, S. 442, supra; as follows:

AMENDMENT NO. 3729

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

(c) POINT OF ORDER.—It shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, amendment, or conference report if such bill, resolution, amendment, or conference report would extend the moratorium under subsection (a). This point of order may only be waived or suspended by a vote of three-fifths of the Members, duly chosen and sworn.

AMENDMENT NO. 3730

On page 18, lines 12 and 13, strike ''the Secretary of State,''.

AMENDMENT NO. 3731

On page 30, between lines 19 and 20, insert:

(10) REMOTE COMMERCE.—The term ''remote commerce'' means the sale, lease, license, offer, or delivery of property, goods, services, or information by a seller in 1 State to a purchaser in another State.

AMENDMENT NO. 3732

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

AMENDMENT NO. 3733

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.''.

AMENDMENT NO. 3734

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.

BRYAN AMENDMENT NO. 3735

(Ordered to lie on the table.)

Mr. BRYAN submitted an amendment intended to be proposed by him to the bill, S. 442, supra; as follows:

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

MCCAIN (AND WYDEN) AMENDMENTS NOS. 3736–3737

(Ordered to lie on the table.)

Mr. MCCAIN (for himself and Mr. WYDEN) submitted two amendments intended to be proposed by them to the bill, S. 442, supra; as follows:

AMENDMENT NO. 3736

On page 2, after line 25, insert the following:

(11) 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 prior 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.

AMENDMENT NO. 3737

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 prior 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.

VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998

SPECTER AMENDMENT NO. 3738

Mr. GRAMS (for Mr. SPECTER) proposed an amendment to the bill (S. 1021) to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, and for other purposes; as follows:

On page 31, between lines 3 and 4, insert the following:

SEC. 2. ACCESS FOR VETERANS.

Section 3304 of title 5, United States Code, is amended by adding at the end the following:

''(f)(1) Preference eligibles or veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service may not be denied the opportunity to compete for vacant positions for which the agency making the announcement will accept applications from individuals outside its own workforce under merit promotion procedures.

''(2) This subsection shall not be construed to confer an entitlement to veterans' preference that is not otherwise required by law.

''(3) The area of consideration for all merit promotion announcements which include consideration of individuals of the Federal workforce shall indicate that preference eligibles and veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service are eligible to apply. The announcements shall be publicized in accordance with section 3327.

''(4) The Office of Personnel and Management shall establish an appointing authority to appoint such preference eligibles and veterans.''.

On page 31, line 4, strike out ''**SEC. 2.**'' and insert in lieu thereof ''**SEC. 3.**''.

On page 36, line 14, strike out ''**SEC. 3.**'' and insert in lieu thereof ''**SEC. 4.**''.

On page 43, line 4, strike out ''**SEC. 4.**'' and insert in lieu thereof ''**SEC. 5.**''.

On page 43, line 17, strike out ''**SEC. 5.**'' and insert in lieu thereof ''**SEC. 6.**''.

On page 46, line 18, strike out ''**SEC. 6.**'' and insert in lieu thereof ''**SEC. 7.**''.

On page 46, strike out line 23 and all that follows through page 47, line 20, and insert in lieu thereof the following:

(1) in subsection (a)—

(A) by striking out ''$10,000'' and inserting in lieu thereof ''$25,000''; and

(B) by striking out ''special disabled veterans and veterans of the Vietnam era'' and inserting in lieu thereof ''special disabled veterans, veterans of the Vietnam era, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized'';

(2) in subsection (b), by striking out ''special disabled veteran or veteran of the Vietnam era'' and inserting in lieu thereof ''veteran covered by the first sentence of subsection (a)''; and

(3) in subsection (d)(1), by striking out ''veterans of the Vietnam era or special disabled veterans'' both places it appears and inserting in lieu thereof ''special disabled veterans, veterans of the Vietnam era, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized''.

On page 48, strike out lines 15 through 17 and insert in lieu thereof the following:

''(b) The Secretary of Labor shall make available in a database a list of the contractors that have complied with the provisions of such section 4212(d).''.

On page 49, line 1, strike out ''**SEC. 7.**'' and insert in lieu thereof ''**SEC. 8.**''.

On page 49, line 5, strike out ''6(a)(3)'' and insert in lieu thereof ''section 7(a)(3) of this Act''.

BORDER SMOG REDUCTION ACT OF 1998

CHAFEE AMENDMENT NO. 3739

Mr. GRAMS (for Mr. CHAFEE) proposed an amendment to the bill (H.R. 8) to amend the Clean Air Act to deny entry into the United States of certain foreign motor vehicles that do not comply with State laws governing motor vehicles emissions, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Border Smog Reduction Act of 1998''.

SEC. 2. AMENDMENT OF CLEAN AIR ACT.

Section 183 of the Clean Air Act (42 U.S.C. 7511b) is amended by adding at the end the following:

''(h) VEHICLES ENTERING OZONE NONATTAINMENT AREAS.—

''(1) AUTHORITY REGARDING OZONE INSPECTION AND MAINTENANCE TESTING.—

''(A) IN GENERAL.—No noncommercial motor vehicle registered in a foreign country and operated by a United States citizen or by an alien who is a permanent resident of the United States, or who holds a visa for the purposes of employment or educational study in the United States, may enter a covered ozone nonattainment area from a foreign country bordering the United States and contiguous to the nonattainment area more than twice in a single calendar-month period, if State law has requirements for the inspection and maintenance of such vehicles under the applicable implementation plan in the nonattainment area.

''(B) APPLICABILITY.—Subparagraph (A) shall not apply if the operator presents documentation at the United States border entry point establishing that the vehicle has complied with such inspection and maintenance requirements as are in effect and are applicable to motor vehicles of the same type and model year.

''(2) SANCTIONS FOR VIOLATIONS.—The President may impose and collect from the operator of any motor vehicle who violates, or attempts to violate, paragraph (1) a civil penalty of not more than $200 for the second violation or attempted violation and $400 for the third and each subsequent violation or attempted violation.

''(3) STATE ELECTION.—The prohibition set forth in paragraph (1) shall not apply in any State that elects to be exempt from the prohibition. Such an election shall take effect upon the President's receipt of written notice from the Governor of the State notifying the President of such election.

''(4) ALTERNATIVE APPROACH.—The prohibition set forth in paragraph (1) shall not apply in a State, and the President may implement an alternative approach, if—

''(A) the Governor of the State submits to the President a written description of an alternative approach to facilitate the compliance, by some or all foreign-registered motor vehicles, with the motor vehicle inspection and maintenance requirements that are—

''(i) related to emissions of air pollutants;

''(ii) in effect under the applicable implementation plan in the covered ozone nonattainment area; and

''(iii) applicable to motor vehicles of the same types and model years as the foreign-registered motor vehicles; and

''(B) the President approves the alternative approach as facilitating compliance with the motor vehicle inspection and maintenance requirements referred to in subparagraph (A).

''(5) DEFINITION OF COVERED OZONE NONATTAINMENT AREA.—In this section, the term 'covered ozone nonattainment area' means a Serious Area, as classified under section 181 as of the date of enactment of this subsection.''.

SEC. 3. GENERAL PROVISIONS.

(a) IN GENERAL.—The amendment made by section 2 takes effect 180 days after the date of enactment of this Act. Nothing in that amendment shall require action that is inconsistent with the obligations of the United States under any international agreement.

(b) INFORMATION.—As soon as practicable after the date of enactment of this Act, the appropriate agency of the United States shall distribute information to publicize the prohibition set forth in the amendment made by section 2.

SEC. 4. STUDY BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the impact of the amendment made by section 2.

(b) CONTENTS OF STUDY.—The study under subsection (a) shall compare—

(1) the potential impact of the amendment made by section 2 on air quality in ozone nonattainment areas affected by the amendment; with

(2) the impact on air quality in those areas caused by the increase in the number of vehicles engaged in commerce operating in the United States and registered in, or operated from, Mexico, as a result of the implementation of the North American Free Trade Agreement.

(c) REPORT.—Not later than July 1, 1999, the Comptroller General of the United States shall submit to the Committee on Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the findings of the study under subsection (a).

AUTHORITY FOR COMMITTEE TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. GRAMM. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, October 5, 1998, at 2 p.m. to hold a hearing.

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

ADDITIONAL STATEMENTS

NATIONAL SALVAGE MOTOR VEHICLE CONSUMER PROTECTION ACT

● Mr. LEVIN. Mr. President, I am pleased Senators LOTT and GORTON have accepted my amendment to the substitute to S. 852, the National Salvage Motor Vehicle Consumer Protection Act of 1998. Senators FEINSTEIN and BRYAN have joined me in offering this amendment which will remedy concerns that the substitute bill would have preempted state laws that provide greater consumer protection with regard to the titling of salvage vehicles.

My colleagues may have heard from the state attorneys general about their opposition to the state preemption impact of the substitute bill. Mr. President, I have worked with the state attorneys general to address their concern. Simply put, my amendment will allow states with higher standards to keep them.

S. 852 without my amendment would establish national titling standards that act as a ceiling rather than a floor because, except for a few narrow exceptions, the legislation would have preempted existing tougher state standards for when a vehicle must be declared salvage, rebuilt salvage, non-repairable or flood damaged.

For example, Michigan has a stronger consumer protection standard for when a vehicle must be declared ''non-repairable'' which would be preempted by S. 852. In Michigan, if a vehicle is damaged 91 percent or more of its value, its title must be branded ''scrap'' or non-repairable.

S. 852 defines non-repairable as a vehicle which has no resale value except as a source of parts or scrap and it excludes flood vehicles. That is considered a weaker and more subjective definition than Michigan's, but under the substitute to S. 852 without my amendment, Michigan must accept the lower or weaker national standard.

In addition, Michigan's salvage definition includes motorcycles, motor homes, and flood vehicles and S. 852 exempts them. Again, the substitute legislation would force Michigan to abide by a standard that excludes these types of vehicles. My amendment would allow Michigan to retain these provisions of its vehicle titling code.

To avoid the preemption of state laws providing greater vehicle titling protection to consumers, my amendment would establish a national or federal standard for when a vehicle's title must be branded with the term ''salvage'', ''rebuilt salvage'', ''non-repairable'', and ''flood'' damaged. Under my amendment, the federally required standard would become a floor because no state opting in would be allowed to have a lower standard. However, my amendment would allow states that choose to provide more protection to consumers to retain or enact standards that may be considered more stringent.

Therefore, under the substitute, with my amendment, consumers would be protected against unscrupulous people who take the title of a vehicle that has been in a wreck to a state with lower standards in order to give the vehicle a clean title to hide the fact that it was damaged. There will now be a national standard that each participating state will have to meet. But it will be a national floor rather than a ceiling because states can retain or enact tougher standards if they so wish. Establishing a federal standard leaves state salvage law intact and not preempted.

I view this legislation, as amended, as a big step forward in protecting the consumer from the unscrupulous practice known as ''title washing'' because it gives us a relatively high national standard that did not previously exist. At the same time, it is not watering down any state standard that may be even more protective of the consumer than the federal standard established by this legislation.

I would have preferred that the federal standard contain a tougher measurement for when a damaged vehicle would be declared ''salvage''. However, the majority of states that have a percentage based salvage definition use the 75% number contained in this legislation and it is appropriate we go with the definition of the majority of states.

This legislation, as amended, does not preempt state law and the national standard that it sets is where the majority of states are, in terms of the percentage used in the definition of ''salvage'' vehicle.

Mr. President, few would dispute the need to stop the current practice of selling rebuilt wrecks to unsuspecting buyers. The objective of this legislation is to make it more difficult for the unscrupulous seller to conceal the fact that a vehicle has been in an accident by transferring the vehicle's title in a state with lower standards then where the vehicle is ultimately sold. This legislation, as amended, accomplishes this objective and with my amendment, it represents important consumer protection.●

● Mrs. FEINSTEIN. Mr. President, I rise in support of the Salvage Motor Vehicle legislation as it has been amended by the Levin/Feinstein amendment.

The sale of rebuilt vehicles that have been wrecked in accidents has become a major national problem. According to the National Association of Independent Insurers, about 2.5 million vehicles are involved in accidents so severe that they are declared a total loss. Yet, more than a million of these vehicles are rebuilt and put back on the road.

In many cases, ''totaled'' cars are sold at auction, refurbished to conceal prior damage, and resold to consumers without disclosure of the previous condition of the car. The structural integrity of these vehicles has been so severely weakened that the potential for serious injury in an accident is greatly increased.

This bill seeks to address the problem by requiring vehicle owners to disclose that the car has been salvaged if it has sustained damage valued at more than 75% of its retail value. The problem with this approach is that it sets a ceiling rather than a floor for consumer protection. States who may already have stronger definitions of salvage vehicles would be preempted.

The amendment that I have offered with the senior Senator from Michigan will eliminate this flaw in the bill. Our amendment says specifically that nothing in this bill will effect a state law that provides more stringent consumer protection relating to the inspection, titling or any other action dealing with salvage vehicles. We believe that this is the best possible outcome. A minimum level of consumer protection will be set at the federal level, but the bill now authorizes states to provide greater or more comprehensive protection if they wish.

Protection for consumers in my state of California will be greatly enhanced by the Levin/Feinstein amendment. California law does not set a percentage value for salvage vehicles. Instead it says that a vehicle is salvaged when the owners determines that repairing the vehicle is ''uneconomical''. Our amendment will allow California to maintain that definition as well as states with other protections. California law is also more comprehensive in terms of what vehicles are covered. California's law covers all vehicles including large trucks, motorcycles, and motor homes which would not be covered under the federal law.

I believe we now have a good bill. By setting a federal level of consumer protection that is a floor rather than a ceiling, we will achieve the goal of protecting consumers from fraud while at the same time giving states the flexibility to implement a stricter definition for salvage vehicles.

I want to thank the Senator from Michigan. Together we have crafted an amendment that will protect the residents of our states and many others. I also want to thank the Majority Leader for his willingness to work with us to improve the bill.●

TRIBUTE TO COMMANDER LILIA L. RAMIREZ, US NAVY

● Mr. D'AMATO. Mr. President, I welcome this opportunity to pay tribute to Commander Lilia L. Ramirez, U.S. Navy, who is retiring after eighteen

years of distinguished service to this nation. She stands out as a pioneer, a leader and an outstanding role model for young people in uniform.

Lilia's United States Navy career is testament to a true American success story. She was born in Bogota, Colombia, and emigrated to the U.S. when she was just five years old. Her parents, Alvaro and Ana Ramirez, were fleeing violence in the Colombian countryside in the early 1960's and sought a new life of security and promise for their children in America. Al and Ana settled in Bayshore, New York, and starting with little more than a confident spirit, went on to raise five extraordinary citizens through hard work, a determination to succeed, and a deep commitment to family.

Lilia is the eldest of the five children. She spoke only Spanish when she arrived in New York as a five-year-old. But Lilia excelled throughout her public education career, graduating with distinction from Brentwood High School and accepting an appointment to the U.S. Naval Academy as a member of the class of 1981, only the second class to have admitted women at Annapolis.

As a brand new Ensign, Lilia set sail for the Naval Communications Area Master Station Western Pacific in Guam, the first of three overseas assignments. While in Guam, Lilia deployed to the Indian Ocean aboard the submarine tender USS PROTEUS. One of just a handful of women aboard PROTEUS, she crossed the Equator with the ship and was proudly and courageously initiated as a Trusty Shellback in that time-honored sea faring ceremony.

Assignments in Europe followed, first in England as a Navy-Air Force Liaison Officer at RAF Mildenhall, where one evening on liberty she and two other Annapolis classmates saved the life of an elderly Briton they had come upon who had collapsed from a heart attack. Next she served at the U.S. European Command in Stuttgart, Germany, as the Officer-in-Charge of the Navy-Marine Corps Element in the headquarters' manpower and personnel directorate. While in Stuttgart, Lilia provided crucial after-action reporting and personnel support in the wake of a terrorist murder of our Naval Attache in Greece and the U.S. Marine Barracks bombing in Beirut.

After five years overseas, Lilia returned to the Washington, DC area to serve in several assignments, including the Navy Telecommunications Center at Crystal City, at the time the Navy's largest message center; the Navy's Bureau of Personnel, where she was personally involved in assigning a record number of women officers to pursue advanced technical degrees at the Naval Postgraduate School; and the Joint Staff's Command, Control and Communications Systems Directorate. On the Joint Staff, she coordinated the installation of command and control systems in the field offices of Customs, DEA and the North American Air Defense Command as part of our national anti-drug policy.

In 1990 Lilia was assigned as Officer-in-Charge of the Personnel Support Detachment at Naval Air Station Whidbey Island, in the state of Washington. In this tour she was responsible for the pay, travel and career advancement matters of 8,000 service members and their families. Lilia returned to the Washington, DC area again in 1992 where she served as base commander of Naval Communications Unit Cheltenham, a 230-acre facility in rural Maryland. At Cheltenham she was responsible for 300 personnel, 19 tenant commands, and environmentally protected wetlands at her base, where she also played host to the local Boys Scouts Troop.

In 1994 Lilia began a tour in the Secretary of the Navy's Office of Legislative Affairs. Lilia was responsible for representing command, control, communications and tactical intelligence programs to the defense and intelligence committees of both the House and Senate. In addition to numerous informative visits to Naval communications and intelligence facilities throughout the U.S., Europe and Japan, Lilia also escorted congressional delegations to the refugee camps at Guantanamo Bay, Cuba, and to witness national elections in Nicaragua. In 1997 she was part of a team from the U.S. Naval Academy sent to Peru to advise the Peruvian Navy on integrating women into their naval academy.

Lilia was also a student at the Inter-American Defense College, where she again blazed a trail as the first U.S. Navy woman to attend that institution. She was an impressive ambassador of the U.S. Navy to her Latin American counterparts, where she was able to combine her native Spanish fluency and breadth of experience in national security affairs to forge lasting relationships with key civilian and military leaders of Latin America. She left them with enduring, positive impressions of women as military professionals.

Lilia's personal decorations include the Defense Meritorious Service Medal, the Meritorious Service Medal, the Joint Service Commendation Medal, and the Navy Commendation Medal (three awards).

The Nation owes a debt of gratitude to Lilia Ramirez, whose example will inspire women and Hispanics to seek public service and whose work will continue to have a lasting impact on our armed forces for years to come. While we will miss her distinguished career in uniform, we will no doubt continue to enjoy her commitment to community and nation. I wish to recognize her entire family, including father Alvaro, mother Ana (whom we lost just this year to cancer), brothers Michael and Henry, and sisters Angela and Ana Tulita, all great American success stories in their own right. Best wishes to Lilia, husband Randall Lovdahl (Commander, U.S. Navy), and children Bianca and Beau as they mark this special milestone.●

STRUCTURED SETTLEMENT PROTECTION ACT

● Mr. BAUCUS. Mr. President, I am pleased to join today with Senator CHAFEE and a bipartisan group of our colleagues from the Finance Committee including Ms. CAROL MOSLEY-BRAUN in introducing the Structured Settlement Protection Act.

Companion legislation has been introduced in the House (H.R. 4314) by Representatives CLAY SHAW and PETE STARK. The House legislation is cosponsored by a broad bipartisan group of Members of the House Ways and Means Committee.

The Treasury Department supports this bipartisan legislation.

I speak today as the original Senate sponsor of the structured settlement tax rules that Congress enacted in 1982. I rise because of my very grave concern that the recent emergence of structured settlement factoring transactions—in which factoring companies buy up the structured settlement payments from injured victims in return for a deeply-discounted lump sum—completely undermines what Congress intended when we enacted these structured settlement tax rules.

In introducing the original 1982 legislation, I pointed to the concern over the premature dissipation of lump sum recoveries by seriously-injured victims and their families:

> In the past, these awards have typically been paid by defendants to successful plaintiffs in the form of a single payment settlement. This approach has proven unsatisfactory, however, in many cases because it assumes that injured parties will wisely manage large sums of money so as to provide for their lifetime needs. In fact, many of these successful litigants, particularly minors, have dissipated their awards in a few years and are then without means of support.—CONGRESSIONAL RECORD (daily ed.) 12/10/81, at S15005.

I introduced the original legislation to encourage structured settlements because they provide a better approach, as I said at the time: ''Periodic payment settlements, on the other hand, provide plaintiffs with a steady income over a long period of time and insulate them from pressures to squander their awards.'' (Id.)

Thus, our focus in enacting these tax rules in sections 104(a)(2) and 130 of the Internal Revenue Code was to encourage and govern the use of structured settlements in order to provide long-term financial security to seriously-injured victims and their families and to insulate them from pressures to squander their awards.

Over the almost two decades since we enacted these tax rules, structured settlements have proven to be a very effective means of providing long-term financial protection to persons with serious, long-term physical injuries through an assured stream of payments

designed to meet the victim's ongoing expenses for medical care, living, and family support. Structured settlements are voluntary agreements reached between the parties that are negotiated by counsel and tailored to meet the specific medical and living needs of the victim and his or her family, often with the aid of economic experts. This process may be overseen by the court, particularly in minor's cases. Often, the structured settlement payment stream is for the rest of the victim's life to ensure that future medical expenses and the family's basic living needs will be met and that the victim will not outlive his or her compensation.

I now find that all of this careful planning and long-term financial security for the victim and his or her family can be unraveled in an instant by a factoring company offering quick cash at a steep discount. What happens next month or next year when the lump sum from the factoring company is gone, and the stream of payments for future financial support is no longer coming in? These structured settlement factoring transactions place the injured victim in the very predicament that the structured settlement was intended to avoid.

Court records show that across the country factoring companies are buying up future structured settlement payments from persons who are quadriplegic, paraplegic, have traumatic brain injuries or other grave injuries. That is why the National Spinal Cord Injury Association and the American Association of Persons With Disabilities (AAPD) actively support the legislation we are introducing today. The National Spinal Cord Injury Association stated in a recent letter to Chairman ROTH of the Finance Committee that the Spinal Cord Injury Association is ''deeply concerned about the emergence of companies that purchase payments intended for disabled persons at drastic discount. This strikes at the heart of the security Congress intended when it created structured settlements.''

As a long-time supporter of structured settlements and an architect of the Congressional policy embodied in the structured settlement tax rules, I cannot stand by as this structured settlement factoring problem continues to mushroom across the country, leaving injured victims without financial means for the future and forcing the injured victims onto the social safety net—precisely the result that we were seeking to avoid when we enacted the structured settlement tax rules.

Accordingly, I am pleased to join with Senator CHAFEE in introducing the Structured Settlement Protection Act. The legislation would impose a substantial penalty tax on a factoring company that purchases structured settlement payments from an injured victim. There is ample precedent throughout the Internal Revenue Code, such as the tax-exempt organization area, for the use of penalties to discourage transactions that undermine existing provisions of the Code. I would stress that this is a penalty, not a tax increase—the factoring company only pays the penalty if it undertakes the factoring transaction that Congress is seeking to discourage because the transaction thwarts a clear Congressional policy. Under the Act, the imposition of the penalty would be subject to an exception for court-approved hardship cases to protect the limited instances of true hardship of the victim.

I urge my colleagues that the time to act is now, to stem as quickly as possible these harsh consequences that structured settlement factoring transactions visit upon seriously-injured victims and their families.●

TRIBUTE IN HONOR OF NATIONAL 4–H WEEK

● Mr. GRAMS. Mr. President, I rise today as a former 4–Her to pay tribute to the participants and volunteers of 4–H, in honor of National 4–H Week, which takes place October 4–10.

Although it is not known exactly when or where the 4–H program began, Minnesota was one of its originators. The 4–H program, initially known as the Boys and Girls Clubs, was founded sometime around the turn of the Twentieth Century by representatives of a wide range of community interests; specifically, farm families, agricultural scientists, school teachers, administrators and concerned citizens. The instrumental founder of 4–H in Minnesota was Theodore A. ''Dad'' Erickson, a Douglas County School Superintendent.

During its formative years, a three-leaf clover was used as the symbol of the Boys and Girls Clubs representing three ''H's'': head, heart and hands. In 1924, Mr. O.H. Benson used the four-leaf clover symbol in Iowa; in his design the fourth leaf represents health. Today, 4–H emphasizes projects that improve the four ''H's'': head, heart, hands, and health.

4–H evolved from an organization which first focussed on advancing agricultural technology for young men and home economics skills for young women, into a program which helped develop self-confidence and a sense of community responsibility for all youth participants. Today, 4–Hers not only continue to be involved in vegetable gardening, bread baking and sewing, which have been around since the program's inception, but have branched out into new areas to keep in tune with today's ever-changing world, such as computer, bicycle and electrical projects. Ultimately, 4–H continues to expand upon its primary goal: the development of young people.

Nationwide, there are 6,009,997 members between the ages of five and twenty-one and 624,967 volunteers who participate in the 4–H program. As for Minnesota, 4–H is the largest youth organization in the state and consists of over 250,000 members and 14,000 volunteers. In addition, there are more than 4,000 4–H clubs in the state of Minnesota.

There are many activities that 4–Hers and their clubs undertake, such as cleaning up trash in their communities, helping in literacy projects, and delivering food to hospice patients. 4–Hers participate in local county and state fairs, showing off months of hard work by presenting vegetables they have grown in their gardens, various shop projects they have built or refurnished, and recipes they have perfected. They also show various animals ranging from domestic pets to livestock they have trained and groomed for competition. 4–Hers have the opportunity to attend various camps, state 4–H youth gatherings, national 4–H Congress, national 4–H Conference, and International 4–H youth exchange.

Mr. President, 4–H would not work without the commitment from America's youth and the dedication of the volunteers who continue to make 4–H an ever-expanding success on a local, state, national and global level. Again, as a former 4–H member, I believe 4–H provides our youth of today the skills necessary to survive in our evolving world. I commend all of those involved for their hard work, service, and their pledge to honor to follow the 4–H motto: ''To make the best better!''●

ONE GUN A MONTH FORUM

● Mr. LAUTENBERG. Mr. President, on September 2, I convened a forum on gun trafficking. Across America, it is simply too easy for criminals, particularly gangs, to purchase and distribute large numbers of guns. And more guns in the wrong hands means more murder and mayhem on our streets.

Because we must move more aggressively to stop this deadly crime, I introduced S. 466, the Anti-Gun Trafficking Act. The testimony I heard at the forum has made me even more determined to pass this sensible legislation and help stop gun traffickers.

In order to share the insights of the witnesses at the forum with my colleagues and the public, I am submitting the testimony presented for inclusion in the CONGRESSIONAL RECORD. Last week, I submitted the testimony of Mayor Edward Rendell. Today, I am submitting the testimony of James and Sarah Brady. Through their tireless efforts with The Center to Prevent Handgun Violence and Handgun Control, they have helped reduce gun violence across our country and it was an honor to have them at the forum.

I am also submitting the testimony from several young people who were kind enough to testify at the forum. John Schuler, Kenisha Green and Quanita Favorite live in communities where gun violence is an everyday occurrence, and they have experienced the pain and misery that results. We must do more to help them and the

other children who live in the crime-ridden neighborhoods of our nation.

Mr. President, I ask that the testimony of James Brady and Sarah Brady, along with excerpts from the testimony of John Schuler, Kenisha Green, and Quanita Favorite, be printed in the RECORD.

The material follows:

JOHN SCHULER—21 YEARS OLD—RESIDENT OF BENNING TERRACE IN SE WASHINGTON DC

I live in a neighborhood that guns are always going off. You hear them late at night or early in the morning hours. It sometimes feels like a war zone. The bad part about it is that you never feel safe. You always have this fear that it could be you that gets shot today. That's no way for children to grow up.

Nobody is willing to do anything about it. Guns are sold all the time and its like—you can get one anytime you want one. The people who sell em' don't even live in the neighborhood. It's like a business you know. All the time, somebody needs a pistol to protect themselves or because they got to get somebody before they get taken out themselves.

I've seen friends get shot or killed sometimes for no reason at all. Or because they were in the wrong place at the wrong time. You can get what ever you need, gloc, special or what ever, you can get it if you got the cash.

KENISHA GREEN—20 YEARS OLD—RESIDENT OF PARK MORTON, WASHINGTON, DC

I've got so much to say and it just doesn't seem to be enough time to explain how I feel. I've seen guns sold in and around my neighborhood, to my friends and to my enemies. The fact of the matter is that nobody wins. Every time a gun is sold or stolen and ends up on the streets, you can just scratch off somebody's baby being dead. We are killing each other at alarming rates and its like nobody cares because they say—''they're poor, or they're just dope dealers, or they're just not worth it.'' It's not fair. Other kids get to go to college and we get to go to funerals. These people who sell guns are the real predators. They feed off of our pain and make it seem like we be the animals. Any kind of weapon you want, if you got the cash its available.

QUANITA FAVORITE—18 YEARS OLD—RESIDENT KENNEDY STREET NW WASHINGTON, DC

Just like they sell crack in neighborhood guns are sold all the time in my community. Just last week outside my apartment I could hear a man and woman arguing in the alley. He pulled out a pistol and started firing at her. It's like Dodge City . . . everybody seems to be carrying. Not long ago my uncle was shot and killed on Capital Hill. I still have nightmares. Why are guns so easy to get in our neighborhood? Why do people sell guns like candy and make the victims the guilty parties. We are suffering in our neighborhood and nobody really cares.

I work for the Advocates for Youth here in Washington. My job is helping other young people understand the violence and that they can do something about it. Almost every person who we come in contact with, throughout the Nation's Capital has been touched by gun violence. Either a close loved one or a friend at school. When people can purchase guns from other states and easily bring them to sell on the streets of Washington, we've got a real problem.

I don't want to die or raise children in an environment where walking down my street could be a life or death situation. people have got to understand that we need drastic measures to curb the illegal sales and purchases of weapons or we all will become victims.

TESTIMONY OF SARAH BRADY, CHAIR, HANDGUN CONTROL, INC., SEPTEMBER 2, 1998

Good morning. I'm Sarah Brady, chair of Handgun Control, Inc. and the Center to Prevent Handgun Violence.

For too many years, the ladies and gentlemen of the United States Congress have heard strenuous objections from the NRA and its allies to reasonable gun control measures. The Brady Bill, the assault weapon ban, and the currently pending Childrens' Gun Violence Prevention Act of 1998 . . . all were characterized by the gun lobby as an assault of the rights of gunowners that would do nothing to stop the trafficking and use of firearms by criminals.

The gun lobby was and is wrong about those measures, but I'm particularly curious to hear what they have to say about the proposal we are discussing today that would limit handgun purchases to one a month. You see, the whole point of this proposal is to make it extremely difficult for straw purchasers to buy multiple firearms and resell them to the criminal market. As every major law enforcement group in the nation will tell you, these multiple sales are the easiest and most efficient way for legal guns to transform themselves into the tools of robbery, rape and homicide.

But you don't have to take my word for it. In 1993, the same year this federal legislation was first introduced by Senator Lautenberg, Virginia reacted to its reputation as the number one gun trafficking state in the northeast by passing its own one-handgun-a-month law. As our research demonstrated three years later, Virginia's law successfully disrupted the gun trafficking pattern from that state to the rest of the northeast. For crime guns purchased after implementation to the new law that were recovered in the Northeast, Virginina's share fell by 54%. Even more dramatically, the percentage of guns traced back to Virginia gun dealers fell by 61% for guns recovered in New York, 67% for guns recovered in Massachusetts, and 38% for guns recovered in New Jersey. Quite simply, the one-gun-a-month law curtailed Virginia's role as the arms supplier for the eastern seaboard.

Maryland's one-gun-a-month law took effect in October, 1996. Last year I joined Governor Glendenning in applauding the law's effects—in 1997, not one Maryland handgun bought in a multiple sale was traced from a crime in the District of Columbia. And, the state not only showed an overall drop in crime in 1997, but as of last November, Baltimore police recovered 623 handguns, as opposed to 934 in the year before the law went into effect.

But as effective as one-gun-a-month laws are at the state level, a national law would do so much more to curb interstate gun trafficking. The same tracing data that demonstrates that Maryland and Virginia are no longer the main suppliers for gun traffickers demonstrates that Georgia, Florida and other states with weak gun laws have to some degree taken over the business. If even one state allows straw purchasers to walk out of gun stores with ten semiautomatic pistols in a bag, we will all suffer when those guns make their way to the streets and alleys of neighboring communities. Just last spring, Philadelphia law enforcement officials cited the multiple sales of weapons to concealed-carry licensees as one of the most important sources of that city's continually high rate of gun violence.

We need to stop pretending, after all this time, that the gun problem and the crime problem exist independently of each other. New research by the Center to Prevent Handgun Violence demonstrates that the more guns sold per transaction, the more likely that those guns will be recovered in another state in connection with a criminal investigation. The Center studied data involving 1,173 guns that were traced by ATF as part of a criminal investigation and which were later discovered to have been purchased as part of a multiple sale transaction.

The Center's study showed a clear link between multiple sales and interstate gun running. Guns that were purchased as part of a sale involving 3 or more guns were trice as likely as other guns to be recovered in another state.

The research also showed that a gun purchased as part of a multiple sale is far more likely to be a junk gun, or Saturday Night Special. A gun that is purchased as part of a sale involving more than three guns is three times more likely to be a Saturday Night Special. It doesn't take much imagination to see what is happening here: interstate gun traffickers are acquiring Saturday night specials at the bulk rate in one state and selling them in another.

These conclusions bear out what our common sense tells us. Gun dealers know that the guy with the hundred dollar bills buying 10 Lorcins at a time is not giving them out as party favors to his buddies. Law enforcement knows that the drug dealer's girlfriend buying five Tec-9 assault pistols is not using them to decorate her living room. Prosecutors know that the straw purchaser with the technically clean record who is fronting for violent criminals is as dangerous as a drug-dealer—but much harder to catch and put away. Jim and I know that the Brady Law's background checks and waiting periods cannot prevent a buyer with a clear record from supplying half the gangsters in his neighborhood with guns at a hefty profit. And the public knows that criminals will still take the easiest route to a gun—and right now, that route is the illegal gun trafficker who buys 20, 30 or 40 guns a month.

Five years ago, during the debate over Virginia's proposed law, NRA Executive Director Wayne LaPierre acknowledged that ''not many law-abiding Virginians purchase more than one gun a month.'' Well, of course they don't, Wayne. Given the high cost of a quality firearm, most people don't want or need to buy more than one gun a month—it's like buying four or five televisions or refrigerators in a month. Twelve guns a year is more than enough to give any law-abiding sportsman the arsenal of his dreams—and to prevent those with other objectives from getting the firepower they need to rob, to rape and to murder.

We have waited long enough for a sensible solution to this nation's crime and gun problem to be implemented. Let's start preventing some of the crimes we are spending hundreds of millions of dollars to punish. Let's make this Congress pass a real and common-sense achievement for our nation's well-being and public safety, and pass this long-overdue anti-gun trafficking measure.

Thank you.

TESTIMONY OF JAMES BRADY, SEPTEMBER 2, 1998

As a life-long Republican, I have always been a champion of small business. But there is one small businessman that should be put out of business and that's the professional gun trafficker. Professional gun traffickers, like other businessmen, have to make a living, and you don't make a living by selling just one handgun per month. If you are a professional gun trafficker, you have to buy and sell in volume.

Let me give you a few examples:

In December 1997, three police officers were shot with one of the many guns supplied by Michael Cartier, who pleaded guilty to firearms trafficking in a federal court on August

5, 1998. Cartier admitted that he bought 11 guns in one day in Alabama, to be sold in Rochester, New York. He also admitted that he dealt firearms in Western New York without a license between June 20, 1997 and February 14, 1998, and that he purchased 28 other firearms before February 14.

In March 1996, Bronx police officer Kevin Gillespie was fatally shot while attempting to intercept a carjacking. An investigation of four handguns found at the scene uncovered a nationwide gun trafficking ring reaching from Houston, Texas to Columbus, Ohio, to Rocky Mount, North Carolina. The New York Times reported that 14 high-powered handguns sold by the smugglers were purchased from one Ohio gun store during a three-month period. Many of those guns were recovered by police in drug dens and at other crime scenes.

In April of 1995, a notorious gang member attempted to murder a Los Angeles police detective. The handgun he used was traced to a gun-trafficking ring that had purchased at least 1,000 firearms in Phoenix and sold them to Los Angeles-area gangs.

By passing a law limiting handgun purchases to one handgun a month, you will be putting professional gun traffickers, like those I just mentioned, out of business. With all due respect to you, Senator Lautenberg, I think you should choose a different name for this legislation. I would suggest you call it, ''The Gun Trafficker's Unemployment Act of 1998.'' Take it from me: this is one business we don't need.

Thank you for this opportunity to testify.●

REAUTHORIZATION OF THE OLDER AMERICAN'S ACT OF 1965

● Mr. ABRAHAM. Mr. President, I rise today in support of Senate Bill 2295. Senator JOHN MCCAIN introduced this bill to reauthorize the Older American's Act of 1965. This legislation will extend authorization for three years for America's senior citizen population.

Today's seniors face issues and problems that will eventually effect every American. I watched my parents confront life as seniors, and I too am concerned about my life after retirement. Taxes, health care, Social Security, Medicare, Medicaid, and quality of life issues are just a few of the areas in which our seniors face difficult challenges.

The number of people 65 years of age and older is expected to grow more than three times as fast as the total population through the next thirty years. I believe the Older Americans Act provides essential programs for this growing population. The Older Americans Act includes senior programs such as the senior nutrition program, senior employment services, and the foster grandparent program, among others. Area Agencies on Aging throughout Michigan and the nation conduct various social and health related programs for seniors through the Older American's Act. These programs, when run effectively and efficiently, are a great service to our elderly population.

The Older American's Act has been without reauthorization for too long. I supported this straight reauthorization to provide some stability to these important programs. I believe congress must take steps to ensure the health and well-being of the growing elderly population. For these reasons, I am proud to join my colleagues in cosponsoring this important legislation.●

THE DEATH OF MAYOR TOM BRADLEY

● Mrs. FEINSTEIN. Mr. President, I rise in memory of Mayor Tom Bradley, who is being laid to rest in Los Angeles today. I join with all Angelenos, and indeed all Californians, in mourning this kind, gentle, and wonderful man who led one of the world's great cities with such skill for so many years.

For nine years during my tenure as Mayor of San Francisco, I had the pleasure of working with Mayor Bradley on state and national issues and together we offered a loud drumbeat that the cities of our nation need attention. As cities go, so goes the nation, we often said. Through and through, I saw Tom Bradley as mayor who earned the respect of his peers while he demanded attention for his city.

First elected Mayor in 1973, Mayor Bradley paved the way for many other leaders on the local and national level. Although he made history as the first African-American mayor of a major city, Tom Bradley ran and won a campaign where he pledged to be a mayor who represented the entire city. He was true to his word, and for a record-setting five terms, he served all the millions of people who call Los Angeles home—from every racial, cultural, and religious group.

Born into a sharecropper's family, Tom Bradley was seven years old when he and his family headed to California to start a new life. When he arrived in Los Angeles in 1924, Tom Bradley remembered that ''reaching California was like reaching the promised land.''

A product of the Los Angeles public school system, his academic abilities enabled him to parlay his high school athletic prowess into a university education. Bradley received a scholarship to attend UCLA, where he soon distinguished himself as a track star.

Prompted by a desire to serve the city, Tom Bradley joined the Los Angeles Police Department in 1940. In May 1941, he married the former Ethel Arnold. They had two daughters, Lorraine and Phyllis.

As an early example of his enormous capacity for hard work that marked his years as mayor, Tom Bradley worked full-time as a police officer and went to law school at night. he graduated from Southwestern University in 1956 and passed the California Bar Exam.

After 21 years of service, he retired from the LAPD with the rank of Lieutenant in 1961 and began to practice law. Urged by community leaders, he decided in 1963 to run for a seat on the Los Angeles City Council. He became one of the first African-Americans ever to serve on the Council, and held his seat for 10 years before becoming the city's 37th Mayor in 1973. He ran for Governor of California twice, in 1982 and 1986, and nearly became the first African-American governor of the largest state in the Union. I think he would have made an outstanding governor.

Mayor Bradley once said, ''My guiding philosophy as mayor has been and will continue to be, to paraphrase the Athenian Oath, to transmit this city * * * not as a lesser * * * but as a greater, better and more beautiful city than it was transmitted to me. This philosophy continues to be my inspiration.''

Mayor Bradley did so much for the city he loved so well. He attracted businesses to the city and established policies that resulted in the dramatic resurgence of the downtown Los Angeles economic center. The impressive skyline that graces Los Angeles' downtown is the realization of his vision. He turned the city's Harbor and Airports into top-of-the-line businesses, expanding the number of people employed and the city's ability to compete in the world market. Today, when people fly into the Los Angeles airport from abroad, they land at the Tom Bradley International Terminal: a fitting tribute to the man who expanded the airport into the second-busiest in the country.

Mayor Bradley secured the 1984 Summer Olympic Games during a time when many predicted economic gloom. Instead, his signature approach of uniting the private and public sectors behind a common goal produced the most successful Olympic Games in modern history. The Games boosted economic activity in Southern California by $3.3 billion, created 68,000 jobs, and ended with a $215 million surplus. Just as important, the Games made all of us proud to be Americans. When we think of Carl Lewis winning his four gold medals, or Mary Lou Retton vaulting her way into the country's heart, we have Mayor Bradley to thank.

Mayor Bradley focused economic opportunities both on the inner city, with such community revitalization projects as the Baldwin Hills-Crenshaw and Vermont-Slauson shopping centers, and on the entire city, where he put forward affordable housing and fair planning policies.

Mayor Bradley also led a long and hard battle to bring rail transportation to the city of Los Angeles. There were many times it would have been easy to give up, to say the will simply was not there. Yet he was determined, came to the halls in Washington, D.C. often to appeal for funding, and never gave up. Today the Metro Blue Line carries passengers from Long Beach to downtown Los Angeles, and the Metro Red Line carries passengers from downtown to MacArthur Park. Construction is now underway to extend the Red Line to North Hollywood.

Finally, to reinforce his strong emphasis on education and to shield Los Angeles youth from drug peddlers and street gangs, Mayor Bradley initiated an ambitious plan, called L.A's BEST

(Better Educated Students for Tomorrow), to provide computer training, tutorial assistance, and other enrichment activities to students in Los Angeles' low income neighborhoods. Under the program, parents are able to voluntarily keep their children at school from 2:30 p.m. to 6:00 p.m. each school day to learn and play. Today L.A.'s Best serves over 5,000 children each day, and has shown dramatic results in boosting students' academic achievement and self-esteem.

Mayor Tom Bradley shaped Los Angeles. He guided the City through enormous growth and change. His 20 years were marked by too many triumphs to count, and even in the bad times, during the devastating civil unrest that took place after the Rodney King verdict, his strong leadership and gentle demeanor brought Angelenos together to work for the common good. For many Angelenos, Mayor Bradley was a father figure: physically imposing at six-foot-four, and intellectually imposing as the sharp-minded, politically astute big city mayor, but always so warm and gentle that you instantly felt at ease when you talked with him. He was a great leader, but more than that, he was a great person. There are simply not enough people like him in politics.

Mr. President, I know that Tom Bradley will be remembered as one of the city's greatest and most beloved mayors. His loss is a blow to the City of Los Angeles. I know that I join all Angelenos today in sending my thoughts and prayers to his wife and daughters.●

SKIERNIEWICE, POLAND

● Mr. LEAHY. Mr. President, five years ago, Mr. Irving Gross of Londonderry, Vermont returned to his father's birthplace, Skierniewice, Poland for the first time. During his trip he visited the city's Jewish cemetery. Like many other Jewish cemeteries in Poland, Skierniewice's had been destroyed by the Nazis and ravaged by time. The grounds were unkempt and monuments and headstones were broken, overturned or missing completely.

Today, through the efforts of Mr. Gross, Mr. Tadeusz Zwierzchowski, a former member of the Polish underground and a Skierniewice resident, and local Skierniewice authorities, the cemetery has been rehabilitated. It now stands as a memorial to the Polish Jews who perished under Nazi persecution and serves as a powerful reminder to the residents of Skierniewice of the vibrant Jewish culture that once enriched their city and their lives.

Mr. President, I would like to recognize all those who participated in this important effort to commemorate the role of the Jewish people in Polish culture and their plight during the Holocaust. In bearing witness to the past, the residents of Skierniewice have made a valuable contribution to their city's future.●

ACTON INSTITUTE FOR THE STUDY OF RELIGION AND LIBERTY

● Mr. ABRAHAM. Mr. President, I rise today to recognize a very important organization the state of Michigan. The Acton Institute for the Study of Religion and Liberty is a unique resource dedicated to prosperity and progress and based in the virtues of religious liberty, economic freedom, and personal moral responsibility. The Acton Institute works hand in hand with church leadership, educational institutions, and individuals in business and the ministry, both in the United States and abroad, to promote an understanding of market principles and to encourage the economic freedom that creates opportunity for all.

This organization has assisted both elected officials and scholars alike with its well written policy papers and newsletters. My colleagues and I truly appreciate their insight and dedication to the free market. The Acton Institute will be celebrating their eighth anniversary today, October 5, 1998 with their Annual Dinner Gala in Grand Rapids. The Institute's Board of Directors and the Eighth Anniversary Host Committee has a wonderful evening planned. It will undoubtedly be a great success.

I extend my best wishes and congratulations to Father Robert A. Sirico, and everyone involved in making the organization a tremendous success. I wish the Acton Institute continued prosperity.●

TRIBUTE FOR NATIONAL FIRE PREVENTION WEEK

● Mr. GRAMS. Mr. President, I rise today to pay tribute to more than 25,000 Minnesota fire fighters in their dedicated efforts to reduce the dangers of fire and the impact it has upon our society. Fire fighters play an integral role in the communities of Minnesota each day, but their dedication will be highlighted October 4–10, as we recognize National Fire Prevention Week.

Fire Prevention Week is the result of efforts by the Fire Marshals Association of North America, under the nonprofit organization, the National Fire Protection Association (NFPA). The remembrance of the Great Chicago Fire of October 9, 1871 sparked the NFPA into action to increase public awareness of fire safety. It was not until 49 years later that President Woodrow Wilson issued an official proclamation declaring October 9 as National Fire Prevention Day. In 1922, President Warren Harding signed a proclamation pronouncing the Sunday—Saturday period in which October 9 falls a national observance.

Today, the goal of National Fire Prevention Week is to bring an awareness to the public to take an active role in fire prevention. Minnesota's dollar loss to fire last year totaled more than $141 million. Experts tell us a commitment to prevent fires before they occur is the only way to stop the significant loss of life and property from fire. For more than 70 years the NFPA has developed a theme motivating the public to actively participate in public education and fire prevention efforts. The theme for 1998 is ''Fire Drills: The Great Escape.''

Minnesota is working in conjunction with the NFPA and fire departments throughout the United States and Canada to implement the first-ever North American fire drill—''The Great Escape'' on October 7. The Great Escape theme hopes to encourage citizens throughout North America to become actively involved in fire safety, specifically home escape planning and practice. Home fire escape planning and practice ensures that everyone in the household will know how to use what is often a small window of opportunity effectively and get out alive.

The 794 fire departments in Minnesota have been preparing for Fire Prevention Week by educating the public with guidelines and a map grid to help them design an escape plan. This awareness ''Toolbox'' has been distributed to schools and can be found at your local fire department. Their hope is to motivate people to think about fire safety in a positive, proactive way, and to start practicing their home escape plans regularly, at least twice a year.

School programs to teach children fire safety have always been an integral part of fire prevention. Minnesota will debut a Juvenile Firesetter Intervention Program this month. The program will provide training to identify, educate, bring to justice, and offer avenues for referral and restitution to the juvenile firesetters in Minnesota's communities. This will be supported through regional task forces across the state. In addition to these activities, the Minnesota State Fire Marshal Division, in conjunction with Tandy Corporation (Radio Shack), has developed a ''Free Smoke Detector Program.'' To aid in the detection of fires, 5,000 smoke detectors have been donated for installation in homes of at-risk individuals.

Mr. President, our fire departments have shown the highest level of dedication and service to protecting our homes and places of work from fire. I truly appreciate their unabated commitment to the safety of our communities and am honored today to pay tribute to the men and women of fire prevention.●

INTERNET TAX FREEDOM ACT

● Mr. FAIRCLOTH. Mr. President, I rise today in support of the Internet Tax Freedom Act. In recent years, Internet use has exploded, creating unprecedented opportunities for individuals and businesses. We must not allow a complicated patchwork of taxes to impede future opportunities.

Growth of the Internet has presented individuals with quick access to unlimited information. With an estimated 100 million users connected by year's end, its popularity is unmistakable.

Logically, entrepreneurs are catering to this growth through online sales. We are now seeing the online sale of books, airline tickets, and computer software. New companies are being created and old companies are adapting to provide products and services via the Internet. Companies such as Amazon.com and Dell computers are leading the way. Of course, large numbers of small businesses are focusing on Internet sales as well. Electronic Commerce generated an estimated $8 billion last year and is projected to generate over $300 billion in 2002.

Mr. President, we must not underestimate the benefits of such growth. It leads to the creation of new businesses and jobs. And while companies that do this well will reap tremendous rewards, consumers will be the ultimate winners. They will benefit from the convenience and efficiency of electronic commerce. Furthermore, growth in Internet sales will lead to increased competition, bringing consumer choice and lower prices. I, therefore, believe it's vital that we protect this emerging industry.

By placing a two-year moratorium on Internet access tax and discriminatory taxes on electronic commerce, the Internet Tax Freedom Act is a strong step in the right direction. I understand that many businesses may not have the resources or may choose not to engage in Internet sales. This bill doesn't discriminate against these companies by creating a tax haven for their competitors. It applies only to those taxes which specifically target the Internet. It, in effect, prevents discrimination against companies engaged in Internet sales.

Mr. President, the Internet Tax Freedom Act is a bipartisan bill which will ensure the vitality of our nation's electronic commerce. Today, I offer my full support for this commonsense legislation.●

STUDENT LOAN FLEXIBILITY

● Mr. GREGG. Mr. President, if I could have the attention of the distinguished chairman of the Committee, Senator JEFFORDS, I would like to engage him in a brief discussion of a proposal that was raised during Senate consideration of the higher education reauthorization bill.

As the chairman will recall, the managers' amendment offered during Senate consideration included sense-of-the-Senate language regarding the need for greater flexibility in federal student loan programs. Specifically, there were some of us interested in increasing the annual limits on unsubsidized loans while maintaining the aggregate limits, so that students could take greater advantage of federal loans available at lower interest rates. Unfortunately, a substantive amendment to advance that proposal was scored by the Congressional Budget Office (CBO) as increasing mandatory spending, and adequate offsets could not be found.

My purpose in raising this matter again today is to elicit from the chairman an indication of his support for this loan flexibility proposal on a substantive policy basis, in the hope that, if we can ever find the additional resources necessary to cover its costs, we might enjoy the chairman's support in pressing for its enactment.

Mr. JEFFORDS. Mr. President, I agree with the Senator from New Hampshire that one of the main obstacles to the adoption of the loan flexibility proposal was the cost implications raised by CBO. In fact, budget considerations prevented us from making a number of beneficial changes in the Act which I know members would have liked to have provided. I am favorably disposed to the loan flexibility proposal on a substantive policy basis, and I am willing to continue to work with the Senator from New Hampshire and other interested parties to gain its enactment.

Mr. GREGG. Mr. President, I very much appreciate the chairman's comments and his support and look forward to our continued work together.●

300TH ANNIVERSARY OF THE CITY OF PENSACOLA, FL

● Mr. MACK. Mr. President, I rise today in honor of the 300th anniversary of the City of Pensacola, Florida. Although November 21, 1998 will mark the 300th anniversary of the continuous settlement of Pensacola, the origins of Pensacola are much older.

In 1559, Don Tristán de Luna y Arellano led the first authorized attempt to colonize what eventually became known as Pensacola. The first attempt at colonization failed, however, and the Spanish were forced to withdraw in 1561. The Spanish did not attempt to colonize the area again until 1698.

Since 1698, Pensacola has flown the Spanish flag, the French flag, the British flag, the Confederate flag, and the American flag over the City. Each flag left its mark upon the City and their historical presence is still evident today. Pensacola honors its heritage each year with the Fiesta of Five Flags celebration.

The presence of the United States Navy has also had an impact upon Pensacola. In the 1820s, a Navy Yard was established in Pensacola. The Navy Yard was closed in 1911, but in a few short years Pensacola was selected as the site of a ''Naval flying school.'' Today, pilots still seek flight training at the Pensacola Naval Air Station which has been called the ''Cradle of Naval Aviation.''

Pensacola's deep and sheltered bay, sugar white beaches, friendly residents, and Southern hospitality continues to charm visitors today. Over the past three hundred years, the community has hosted such visitors as General Andrew Jackson and entertainer Bob Hope.

On November 21, 1998, Pensacola will celebrate its 300th anniversary at the site of the former Spanish settlement which today is part of the Pensacola Naval Air Station. This historic event will be commemorated with a celebration which will include a parade and fireworks.

As a United States Senator from the State of Florida, it gives me great pleasure to wish the City of Pensacola a happy 300th anniversary. I wish the City of Pensacola all the best for a fun-filled celebration.●

COSPONSORSHIP OF S. 2426, THE UNIFORMED SERVICES FILING FAIRNESS ACT OF 1998

● Mr. ABRAHAM. Mr. President, I rise today to voice my support for Senate Bill 2426, ''The Uniformed Services Filing Fairness Act of 1998.'' I believe this legislation will work to give much assistance to our men and women abroad in uniform. As we continue to ask for increased responsibilities from our servicemembers, let us not punish these same stewards with unfair tax return deadlines. Due to the remote deployment of many in the uniformed service, these tax deadlines become nearly impossible to meet. In my view, this presents the Senate with an opportunity to provide a measure of relief to servicemembers already stretched to their limits by those repeated and remote deployments.

In my view, this needed legislation is both fair-minded and fiscally responsible. I urge my colleagues to join me in cosponsoring this bill.●

SUBMITTING CHANGES TO THE APPROPRIATIONS COMMITTEE ALLOCATION

● Mr. DOMENICI. Mr. President, section 314(b)(1) of the Congressional Budget Act, as amended, requires the Chairman of the Senate Budget Committee to adjust the appropriate budgetary aggregates and the allocation for the Appropriations Committee to reflect an amount provided and designated as an emergency requirement pursuant to 251(b)(2)(A) of the Balanced Budget and Emergency Deficit Control Act.

I hereby submit revisions to the 1999 Senate Appropriations Committee allocation, pursuant to section 302 of the Congressional Budget Act, in the following amounts:

	Budget authority	Outlays
Current Allocation:		
Defense discretionary	271,570,000,000	266,635,000,000
Nondefense discretionary	255,634,000,000	265,414,000,000
Violent Crime reduction fund	5,800,000,000	4,953,000,000
Highways		21,885,000,000
Mass transit		4,401,000,000
Mandatory	299,159,000,000	291,731,000,000
Total	832,163,000,000	855,019,000,000

	Budget authority	Outlays
Adjustments:		
Defense discretionary		
Nondefense discretionary	+4,258,000,000	+4,071,000,000
Violent Crime reduction fund		
Highways		
Mass transit		
Mandatory		
Total	+4,258,000,000	+4,071,000,000
Revised Allocation:		
Defense discretionary	271,570,000,000	266,635,000,000
Nondefense discretionary	259,892,000,000	269,485,000,000
Violent Crime reduction fund	5,800,000,000	4,953,000,000
Highways		21,885,000,000
Mass transit		4,401,000,000
Mandatory	299,159,000,000	291,731,000,000
Total	836,421,000,000	859,090,000,000•

FEDERAL EMPLOYEES LIFE INSURANCE IMPROVEMENT ACT

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 590, H.R. 2675.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2675) to require that the Office of Personnel Management submit proposed legislation under which group universal life insurance and group variable universal life insurance would be available under chapter 87 of title 5, United States Code, 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 Governmental Affairs, 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 ''Federal Employees Life Insurance Improvement Act''.

SEC. 2. STUDY AND REPORT ON CERTAIN LIFE INSURANCE OPTIONS OFFERED TO FEDERAL EMPLOYEES.

(a) IN GENERAL.—Not later than July 31, 1998, the Office of Personnel Management shall conduct a study on life insurance options for Federal employees described under subsection (b) and submit a report to Congress.

(b) STUDY AND REPORT.—The study and report referred to under subsection (a) shall—

(1) survey and ascertain the interest of Federal employees in an offering under chapter 87 of title 5, United States Code, of insurance coverage options relating to—

(A) group universal life insurance;

(B) group variable universal life insurance; and

(C) additional voluntary accidental death and dismemberment insurance; and

(2) include any comments, analysis, and recommendations of the Office of Personnel Management relating to such options.

SEC. 3. REPEAL OF MAXIMUM LIMITATION ON EMPLOYEE INSURANCE.

Chapter 87 of title 5, United States Code, is amended—

(1) in section 8701(c), in the first sentence, by striking the comma immediately following ''$10,000'' and all that follows and inserting a period; and

(2) in section 8714b(b), in the first sentence, by striking ''except'' and all that follows and inserting a period.

SEC. 4. FOSTER CHILD COVERAGE.

Section 8701(d)(1)(B) of title 5, United States Code, is amended by inserting ''or foster child'' after ''stepchild'' both places it appears.

SEC. 5. INCONTESTABILITY OF ERRONEOUS COVERAGE.

Section 8706 of title 5, United States Code, as amended by section 5(2), is further amended by adding at the end the following new subsection:

''(g) The insurance of an employee under a policy purchased under section 8709 shall not be invalidated based on a finding that the employee erroneously became insured, or erroneously continued insurance upon retirement or entitlement to compensation under subchapter I of chapter 81 of this title, if such finding occurs after the erroneous insurance and applicable withholdings have been in force for 2 years during the employee's lifetime.''.

SEC. 6. DIRECT PAYMENT OF INSURANCE CONTRIBUTIONS.

Chapter 87 of title 5, United States Code, is amended—

(1) in section 8707—

(A) in subsection (a), by striking ''(a) During'' and inserting ''(a) Subject to subsection (c)(2), during'';

(B) in subsection (b), by striking ''(b)(1) Whenever'' and inserting ''(b)(1) Subject to subsection (c)(2), whenever''; and

(C) in subsection (c), by inserting ''(1)'' immediately after ''(c)'' and by adding at the end the following new paragraph:

''(2) An employee who is subject to withholdings under this section and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue insurance if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system that administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this section.'';

(2) in section 8714a(d), by adding at the end the following new paragraph:

''(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue optional insurance if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system which administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection.'';

(3) in section 8714b(d), by adding at the end the following new paragraph:

''(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue additional optional insurance if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system which administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection.''; and

(4) in section 8714c(d), by adding at the end the following new paragraph:

''(3) Notwithstanding paragraph (1), an employee who is subject to withholdings under this subsection and whose pay, annuity, or compensation is insufficient to cover such withholdings may nevertheless continue optional life insurance on family members if the employee arranges to pay currently into the Employees' Life Insurance Fund, through the agency or retirement system that administers pay, annuity, or compensation, an amount equal to the withholdings that would otherwise be required under this subsection.''.

SEC. 7. ADDITIONAL OPTIONAL LIFE INSURANCE CONTINUATION AND PORTABILITY.

(a) IN GENERAL.—Section 8714b of title 5, United States Code, is amended—

(1) in subsection (c)—

(A) by striking the last 2 sentences of paragraph (2); and

(B) by adding at the end the following:

''(3) The amount of additional optional insurance continued under paragraph (2) shall be continued, with or without reduction, in accordance with the employee's written election at the time eligibility to continue insurance during retirement or receipt of compensation arises, as follows:

''(A) The employee may elect to have withholdings cease in accordance with subsection (d), in which case—

''(i) the amount of additional optional insurance continued under paragraph (2) shall be reduced each month by 2 percent effective at the beginning of the second calendar month after the date the employee becomes 65 years of age and is retired or is in receipt of compensation; and

''(ii) the reduction under clause (i) shall continue for 50 months at which time the insurance shall stop.

''(B) The employee may, instead of the option under subparagraph (A), elect to have the full cost of additional optional insurance continue to be withheld from such employee's annuity or compensation on and after the date such withholdings would otherwise cease pursuant to an election under subparagraph (A), in which case the amount of additional optional insurance continued under paragraph (2) shall not be reduced, subject to paragraph (4).

''(C) An employee who does not make any election under the preceding provisions of this paragraph shall be treated as if such employee had made an election under subparagraph (A).

''(4) If an employee makes an election under paragraph (3)(B), that individual may subsequently cancel such election, in which case additional optional insurance shall be determined as if the individual had originally made an election under paragraph (3)(A).

''(5)(A) An employee whose additional optional insurance under this section would otherwise stop in accordance with paragraph (1) and who is not eligible to continue insurance under paragraph (2) may elect, under conditions prescribed by the Office of Personnel Management, to continue all or a portion of so much of the additional optional insurance as has been in force for not less than—

''(i) the 5 years of service immediately preceding the date of the event which would cause insurance to stop under paragraph (1); or

''(ii) the full period or periods of service during which the insurance was available to the employee, if fewer than 5 years,

at group rates established for purposes of this section, in lieu of conversion to an individual policy. The amount of insurance continued under this paragraph shall be reduced by 50 percent effective at the beginning of the second calendar month after the date the employee or former employee attains age 70 and shall stop at the beginning of the second calendar month after attainment of age 80, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office. Alternatively, insurance continued under this paragraph may be reduced or stopped at any time the employee or former employee elects.

''(B) When an employee or former employee elects to continue additional optional insurance under this paragraph following separation from service or 12 months without pay, the insured individual shall submit timely payment of the full cost thereof, plus any amount the Office determines necessary to cover associated administrative expenses, in such manner as the Office shall prescribe by regulation. Amounts required under this subparagraph shall be deposited, used, and invested as provided under section 8714 and shall be reported and accounted for together with amounts withheld under section 8714a(d).

''(C)(i) Subject to clause (ii), no election to continue additional optional insurance may be made under this paragraph 3 years after the effective date of this paragraph.

''(ii) On and after the date on which an election may not be made under clause (i), all additional optional insurance under this paragraph for former employees shall terminate, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Office.''; and

(2) in the second sentence of subsection (d)(1) by inserting ''if insurance is continued as provided under subsection (c)(3)(A),'' after ''except that,''.

(b) REPORT.—Not later than 3 years after the date of enactment of this Act, the Office of Personnel Management shall submit a report to Congress on additional optional insurance provided under section 8714b(c)(5) of title 5, United States Code (as added by subsection (a) of this section). Such report shall include recommendations on whether continuation for such additional optional insurance should terminate as provided under such section, be extended, or be made permanent.

(c) TECHNICAL AMENDMENT.—The last sentence of section 8714b(d)(1) of title 5, United States Code, is amended by inserting ''(and any amounts withheld as provided in subsection (c)(3)(B))'' after ''Amounts so withheld''.

SEC. 8. IMPROVED OPTIONAL LIFE INSURANCE ON FAMILY MEMBERS.

(a) IN GENERAL.—Section 8714c(b) of title 5, United States Code, is amended to read as follows:

''(b)(1) The optional life insurance on family members provided under this section shall be made available to each eligible employee who has elected coverage under this section, under conditions the Office shall prescribe, in multiples, at the employee's election, of 1, 2, 3, 4, or 5 times—

''(A) $5,000 for a spouse; and

''(B) $2,500 for each child described under section 8701(d).

''(2) An employee may reduce or stop coverage elected pursuant to this section at any time.''.

(b) TECHNICAL AND CONFORMING AMENDMENTS.—Section 8714c of title 5, United States Code, is amended—

(1) in subsection (c)(2), by striking ''section 8714b(c)(2) of this title'' and inserting ''section 8714b(c) (2) through (4)''; and

(2) in subsection (d)(1), by inserting before the last sentence the following: ''Notwithstanding the preceding sentence, the full cost shall be continued after the calendar month in which the former employee becomes 65 years of age if, and for so long as, an election under this section corresponding to that described in section 8714b(c)(3)(B) remains in effect with respect to such former employee.''.

SEC. 9. OPEN SEASON.

Beginning not later than 180 days after the date of enactment of this Act, the Office of Personnel Management shall conduct an open enrollment opportunity for purposes of chapter 87 of title 5, United States Code, over a period of not less than 8 weeks. During this period, an employee (as defined under section 8701(a) of such title)—

(1) may, if the employee previously declined or voluntarily terminated any coverage under chapter 87 of such title, elect to begin, resume, or increase group life insurance (and acquire applicable accidental death and dismemberment insurance) under all sections of such chapter without submitting evidence of insurability; and

(2) may, if currently insured for optional life insurance on family members, elect an amount above the minimum insurance on a spouse.

SEC. 10. MERIT SYSTEM JUDICIAL REVIEW.

(a) IN GENERAL.—Section 7703 of title 5, United States Code, is amended—

(1) in subsection (b)(1) by striking ''within 30 days'' and inserting ''within 60 days''; and

(2) in subsection (d) in the first sentence, by inserting after ''filing'' the following: '', within 60 days after the date the Director received notice of the final order or decision of the Board,''.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act, and apply to any suit, action, or other administrative or judicial proceeding pending on such date or commenced on or after such date.

SEC. 11. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) MAXIMUM LIMITATION ON EMPLOYEE INSURANCE.—Section 3 shall take effect on the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

(c) ERRONEOUS COVERAGE.—Section 5 shall be effective in any case in which a finding of erroneous insurance coverage is made on or after the date of enactment of this Act.

(d) DIRECT PAYMENT OF INSURANCE CONTRIBUTIONS.—Section 6 shall take effect on the first day of the first applicable pay period beginning on or after the date of enactment of this Act.

(e) ADDITIONAL OPTIONAL LIFE INSURANCE.—

(1) IN GENERAL.—Section 7 shall take effect on the first day of the first pay period that begins on or after the 180th day following the date of enactment of this Act, or on any earlier date that the Office of Personnel Management may prescribe that is at least 60 days after the date of enactment of this Act.

(2) REGULATIONS.—The Office shall prescribe regulations under which an employee may elect to continue additional optional insurance that remains in force on such effective date without subsequent reduction and with the full cost withheld from annuity or compensation on and after such effective date if that employee—

(A) separated from service before such effective date due to retirement or entitlement to compensation under subchapter I of chapter 81 of title 5, United States Code; and

(B) continued additional optional insurance pursuant to section 8714b(c)(2) as in effect immediately before such effective date.

(f) IMPROVED OPTIONAL LIFE INSURANCE ON FAMILY MEMBERS.—The amendments made by section 8 shall take effect on the first day of the first pay period which begins on or after the 180th day following the date of enactment of this Act or on any earlier date that the Office of Personnel Management may prescribe.

(g) OPEN SEASON.—Any election made by an employee under section 9, and applicable withholdings, shall be effective on the first day of the first applicable pay period that—

(1) begins on or after the date occurring 365 days after the first day of the election period authorized under section 9; and

(2) follows a pay period in which the employee was in a pay and duty status.

Amend the title so as to read:

An Act to provide for the Office of Personnel Management to conduct a study and submit a report to Congress on the provision of certain options for universal life insurance coverage and additional death and dismemberment insurance under chapter 87 of title 5, United States Code, to improve the administration of such chapter, and for other purposes.

Mr. GRAMS. I ask unanimous consent that the committee substitute be agreed, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, the amendment to the title and the title, as amended, be agreed to, and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The committee substitute amendment was agreed to.

The bill (H.R. 2675), as amended, was considered read the third time, and passed.

The title was amended so as to read:

An Act to provide for the Office of Personnel Management to conduct a study and submit a report to Congress on the provision of certain options for universal life insurance coverage and additional death and dismemberment insurance under chapter 87 of title 5, United States Code, to improve the administration of such chapter, and for other purposes.

VETERANS EMPLOYMENT OPPORTUNITIES ACT OF 1998

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of calendar No. 592, S. 1021.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1021) to amend title 5, United States Code, to provide that consideration may not be denied to preference eligibles applying for certain positions in the competitive service, 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 Veterans' Affairs, 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 ''Veterans Employment Opportunities Act of 1998''.

SEC. 2. IMPROVED REDRESS FOR PREFERENCE ELIGIBLES.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

''§ 3330a. Preference eligibles; administrative redress

''(a)(1) A preference eligible who alleges that an agency has violated such individual's rights under any statute or regulation relating to veterans' preference may file a complaint with the Secretary of Labor.

''(2)(A) A complaint under this subsection must be filed within 60 days after the date of the alleged violation.

''(B) Such complaint shall be in writing, be in such form as the Secretary may prescribe, specify the agency against which the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

''(3) The Secretary shall, upon request, provide technical assistance to a potential complainant with respect to a complaint under this subsection.

''(b)(1) The Secretary of Labor shall investigate each complaint under subsection (a).

''(2) In carrying out any investigation under this subsection, the Secretary's duly authorized representatives shall, at all reasonable times, have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or agency that the Secretary considers relevant to the investigation.

''(3) In carrying out any investigation under this subsection, the Secretary may require by

subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the subpoena.

''(4) Upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or agency to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this subsection and the district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court.

''(c)(1)(A) If the Secretary of Labor determines as a result of an investigation under subsection (b) that the action alleged in a complaint under subsection (a) occurred, the Secretary shall attempt to resolve the complaint by making reasonable efforts to ensure that the agency specified in the complaint complies with applicable provisions of statute or regulation relating to veterans' preference.

''(B) The Secretary of Labor shall make determinations referred to in subparagraph (A) based on a preponderance of the evidence.

''(2) If the efforts of the Secretary under subsection (b) with respect to a complaint under subsection (a) do not result in the resolution of the complaint, the Secretary shall notify the person who submitted the complaint, in writing, of the results of the Secretary's investigation under subsection (b).

''(d)(1) If the Secretary of Labor is unable to resolve a complaint under subsection (a) within 60 days after the date on which it is filed, the complainant may elect to appeal the alleged violation to the Merit Systems Protection Board in accordance with such procedures as the Merit Systems Protection Board shall prescribe, except that in no event may any such appeal be brought—

''(A) before the 61st day after the date on which the complaint is filed; or

''(B) later than 15 days after the date on which the complainant receives written notification from the Secretary under subsection (c)(2).

''(2) An appeal under this subsection may not be brought unless—

''(A) the complainant first provides written notification to the Secretary of such complainant's intention to bring such appeal; and

''(B) appropriate evidence of compliance with subparagraph (A) is included (in such form and manner as the Merit Systems Protection Board may prescribe) with the notice of appeal under this subsection.

''(3) Upon receiving notification under paragraph (2)(A), the Secretary shall not continue to investigate or further attempt to resolve the complaint to which the notification relates.

''(e)(1) This section shall not be construed to prohibit a preference eligible from appealing directly to the Merit Systems Protection Board from any action which is appealable to the Board under any other law, rule, or regulation, in lieu of administrative redress under this section.

''(2) A preference eligible may not pursue redress for an alleged violation described in subsection (a) under this section at the same time the preference eligible pursues redress for such violation under any other law, rule, or regulation.

''§ 3330b. Preference eligibles; judicial redress

''(a) In lieu of continuing the administrative redress procedure provided under section 3330a(d), a preference eligible may elect, in accordance with this section, to terminate those administrative proceedings and file an action with the appropriate United States district court not later than 60 days after the date of the election.

''(b) An election under this section may not be made—

''(1) before the 121st day after the date on which the appeal is filed with the Merit Systems Protection Board under section 3330a(d); or

''(2) after the Merit Systems Protection Board has issued a judicially reviewable decision on the merits of the appeal.

''(c) An election under this section shall be made, in writing, in such form and manner as the Merit Systems Protection Board shall by regulation prescribe. The election shall be effective as of the date on which it is received, and the administrative proceeding to which it relates shall terminate immediately upon the receipt of such election.

''§ 3330c. Preference eligibles; remedy

''(a) If the Merit Systems Protection Board (in a proceeding under section 3330a) or a court (in a proceeding under section 3330b) determines that an agency has violated a right described in section 3330a, the Board or court (as the case may be) shall order the agency to comply with such provisions and award compensation for any loss of wages or benefits suffered by the individual by reason of the violation involved. If the Board or court determines that such violation was willful, it shall award an amount equal to backpay as liquidated damages.

''(b) A preference eligible who prevails in an action under section 3330a or 3330b shall be awarded reasonable attorney fees, expert witness fees, and other litigation expenses.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of title 5, United States Code, is amended by adding after the item relating to section 3330 the following:

''3330a. Preference eligibles; administrative redress.
''3330b. Preference eligibles; judicial redress.
''3330c. Preference eligibles; remedy.''.

SEC. 3. EXTENSION OF VETERANS' PREFERENCE.

(a) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Paragraph (3) of section 2108 of title 5, United States Code, is amended by striking ''the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or the General Accounting Office;'' and inserting ''or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;''.

(b) AMENDMENTS TO TITLE 3, UNITED STATES CODE.—

(1) IN GENERAL.—Chapter 2 of title 3, United States Code, is amended by adding at the end the following:

''§ 115. Veterans' preference

''(a) Subject to subsection (b), appointments under sections 105, 106, and 107 shall be made in accordance with section 2108, and sections 3309 through 3312, of title 5.

''(b) Subsection (a) shall not apply to any appointment to a position the rate of basic pay for which is at least equal to the minimum rate established for positions in the Senior Executive Service under section 5382 of title 5 and the duties of which are comparable to those described in section 3132(a)(2) of such title or to any other position if, with respect to such position, the President makes certification—

''(1) that such position is—

''(A) a confidential or policy-making position; or

''(B) a position for which political affiliation or political philosophy is otherwise an important qualification; and

''(2) that any individual selected for such position is expected to vacate the position at or before the end of the President's term (or terms) of office.

Each individual appointed to a position described in the preceding sentence as to which the expectation described in paragraph (2) applies shall be notified as to such expectation, in writing, at the time of appointment to such position.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 3, United States Code, is amended by adding at the end the following:

''115. Veterans' preference.''.

(c) LEGISLATIVE BRANCH APPOINTMENTS.—

(1) DEFINITIONS.—For the purposes of this subsection, the terms ''covered employee'' and ''Board'' shall each have the meaning given such term by section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301).

(2) RIGHTS AND PROTECTIONS.—The rights and protections established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code, shall apply to covered employees.

(3) REMEDIES.—

(A) IN GENERAL.—The remedy for a violation of paragraph (2) shall be such remedy as would be appropriate if awarded under applicable provisions of title 5, United States Code, in the case of a violation of the relevant corresponding provision (referred to in paragraph (2)) of such title.

(B) PROCEDURE.—The procedure for consideration of alleged violations of paragraph (2) shall be the same as apply under section 401 of the Congressional Accountability Act of 1995 (and the provisions of law referred to therein) in the case of an alleged violation of part A of title II of such Act.

(4) REGULATIONS TO IMPLEMENT SUBSECTION.—

(A) IN GENERAL.—The Board shall, pursuant to section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), issue regulations to implement this subsection.

(B) AGENCY REGULATIONS.—The regulations issued under subparagraph (A) shall be the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this subsection.

(C) COORDINATION.—The regulations issued under subparagraph (A) shall be consistent with section 225 of the Congressional Accountability Act of 1995 (2 U.S.C. 1361).

(5) APPLICABILITY.—Notwithstanding any other provision of this subsection, the term ''covered employee'' shall not, for purposes of this subsection, include an employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or

(C) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

(6) EFFECTIVE DATE.—Paragraphs (2) and (3) shall be effective as of the effective date of the regulations under paragraph (4).

(d) JUDICIAL BRANCH APPOINTMENTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Judicial Conference of the United States shall prescribe procedures to provide for—

(A) veterans' preference in the consideration of applicants for employment, and in the conduct of any reductions in force, within the judicial branch; and

(B) redress for alleged violations of any rights provided for under subparagraph (A).

(2) PROCEDURES.—Under the procedures, a preference eligible (as defined by section 2108 of title 5, United States Code) shall be afforded preferences in a manner and to the extent consistent with preferences afforded to preference eligibles in the executive branch.

(3) EXCLUSIONS.—Nothing in the procedures shall apply with respect to an applicant or employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is as a judicial officer;

(C) whose appointment is required by statute to be made by or with the approval of a court or judicial officer; or

(D) whose appointment is to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

(4) DEFINITIONS.—For purposes of this subsection, the term ''judicial officer'' means a justice, judge, or magistrate judge listed in subparagraph (A), (B), (F), or (G) of section 376(a)(1) of title 28, United States Code.

(5) SUBMISSION TO CONGRESS; EFFECTIVE DATE.—

(A) SUBMISSION TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States shall submit a copy of the procedures prescribed under this subsection to the Committee on Government Reform and Oversight and the Committee on the Judiciary of the House of Representatives and the Committee on Governmental Affairs and the Committee on the Judiciary of the Senate.

(B) EFFECTIVE DATE.—The procedures prescribed under this subsection shall take effect 13 months after the date of enactment of this Act.

SEC. 4. VETERANS' PREFERENCE REQUIRED FOR REDUCTIONS IN FORCE IN THE FEDERAL AVIATION ADMINISTRATION.

Section 347(b) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (109 Stat. 460) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting ''; and''; and

(3) by adding at the end the following:

''(8) sections 3501–3504, as such sections relate to veterans' preference.''.

SEC. 5. FAILURE TO COMPLY WITH VETERANS' PREFERENCE REQUIREMENTS TO BE TREATED AS A PROHIBITED PERSONNEL PRACTICE FOR CERTAIN PURPOSES.

(a) IN GENERAL.—Subsection (b) of section 2302 of title 5, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (10);

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10) the following:

''(11)(A) knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans' preference requirement; or

''(B) knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement; or''.

(b) DEFINITION; LIMITATION.—Section 2302 of title 5, United States Code, is amended by adding at the end the following:

''(e)(1) For the purpose of this section, the term 'veterans' preference requirement' means any of the following provisions of law:

''(A) Sections 2108, 3305(b), 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317(b), 3318, 3320, 3351, 3352, 3363, 3501, 3502(b), 3504, and 4303(e) and (with respect to a preference eligible referred to in section 7511(a)(1)(B)) subchapter II of chapter 75 and section 7701.

''(B) Sections 943(c)(2) and 1784(c) of title 10.

''(C) Section 1308(b) of the Alaska National Interest Lands Conservation Act.

''(D) Section 301(c) of the Foreign Service Act of 1980.

''(E) Sections 106(f), 7281(e), and 7802(5) of title 38.

''(F) Section 1005(a) of title 39.

''(G) Any other provision of law that the Director of the Office of Personnel Management designates in regulations as being a veterans' preference requirement for the purposes of this subsection.

''(H) Any regulation prescribed under subsection (b) or (c) of section 1302 and any other regulation that implements a provision of law referred to in any of the preceding subparagraphs.

''(2) Notwithstanding any other provision of this title, no authority to order corrective action shall be available in connection with a prohibited personnel practice described in subsection (b)(11). Nothing in this paragraph shall be considered to affect any authority under section 1215 (relating to disciplinary action).''.

(c) REPEALS.—

(1) SECTION 1599c OF TITLE 10, UNITED STATES CODE.—

(A) REPEAL.—Section 1599c of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 1599c.

(2) SECTION 2302(a)(1) OF TITLE 5, UNITED STATES CODE.—Subsection (a)(1) of section 2302 of title 5, United States Code, is amended to read as follows:

''(a)(1) For the purpose of this title, 'prohibited personnel practice' means any action described in subsection (b).''.

(d) SAVINGS PROVISION.—This section shall be treated as if it had never been enacted for purposes of any personnel action (within the meaning of section 2302 of title 5, United States Code) preceding the date of enactment of this Act.

SEC. 6. EXPANSION AND IMPROVEMENT OF VETERANS' EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS.

(a) COVERED VETERANS.—Section 4212 of title 38, United States Code, is amended—

(1) in subsection (a), by striking out ''special disabled veterans and veterans of the Vietnam era'' and inserting in lieu thereof ''special disabled veterans, veterans of the Vietnam era, and covered veterans of the Persian Gulf War'';

(2) in subsection (b), by striking out ''special disabled veteran or veteran of the Vietnam era'' and inserting in lieu thereof ''special disabled veteran, veteran of the Vietnam era, or covered veteran of the Persian Gulf War'';

(3) in subsection (d)(1), by striking out ''veterans of the Vietnam era or special disabled veterans'' both places it appears and inserting in lieu thereof ''special disabled veterans, veterans of the Vietnam era, or covered veterans of the Persian Gulf War''; and

(4) by adding at the end the following:

''(e) For purposes of this section, the term 'covered veteran of the Persian Gulf War' means any veteran who served in the active military, naval, or air service in the Southwest Asia theater of operations during the period beginning on August 2, 1990, and ending on January 2, 1992.''.

(b) PROHIBITION ON CONTRACTING WITH ENTITIES NOT MEETING REPORTING REQUIREMENTS.—(1) Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following:

''§ 1354. Limitation on use of appropriated funds for contracts with entities not meeting veterans' employment reporting requirements

''(a)(1) Subject to paragraph (2), no agency may obligate or expend funds appropriated for the agency for a fiscal year to enter into a contract described in section 4212(a) of title 38 with a contractor from which a report was required under section 4212(d) of that title with respect to the preceding fiscal year if such contractor did not submit such report.

''(2) Paragraph (1) shall cease to apply with respect to a contractor otherwise covered by that paragraph on the date on which the contractor submits the report required by such section 4212(d) for the fiscal year concerned.

''(b) The Secretary of Labor shall take appropriate actions to notify agencies in a timely manner of the contractors covered by subsection (a).''.

(2) The table of sections at the beginning of chapter 13 of such title is amended by adding at the end the following:

''1354. Limitation on use of appropriated funds for contracts with entities not meeting veterans' employment reporting requirements.''.

SEC. 7. REQUIREMENT FOR ADDITIONAL INFORMATION IN ANNUAL REPORTS FROM FEDERAL CONTRACTORS ON VETERANS EMPLOYMENT.

Section 4212(d)(1) of title 38, United States Code, as amended by 6(a)(3), is further amended—

(1) by striking out ''and'' at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ''; and''; and

(3) by adding at the end the following:

''(C) the maximum number and the minimum number of employees of such contractor during the period covered by the report.''.

AMENDMENT NO. 3738

(Purpose: To improve the bill.)

Mr. GRAMS. Mr. President, Senator SPECTER has an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. GRAMS] for Mr. SPECTER, proposes an amendment numbered 3738.

Mr. GRAMS. 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 31, between lines 3 and 4, insert the following:

SEC. 2. ACCESS FOR VETERANS.

Section 3304 of title 5, United States Code, is amended by adding at the end the following:

''(f)(1) Preference eligibles or veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service may not be denied the opportunity to compete for vacant positions for which the agency making the announcement will accept applications from individuals outside its own workforce under merit promotion procedures.

''(2) This subsection shall not be construed to confer an entitlement to veterans' preference that is not otherwise required by law.

''(3) The area of consideration for all merit promotion announcements which include consideration of individuals of the Federal workforce shall indicate that preference eligibles and veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service are eligible to apply. The announcements shall be publicized in accordance with section 3327.

''(4) The Office of Personnel and Management shall establish an appointing authority to appoint such preference eligibles and veterans.''.

On page 31, line 4, strike out ''**SEC. 2.**'' and insert in lieu thereof ''**SEC. 3.**''.

On page 36, line 14, strike out ''**SEC. 3.**'' and insert in lieu thereof ''**SEC. 4.**''.

On page 43, line 4, strike out ''**SEC. 4.**'' and insert in lieu thereof ''**SEC. 5.**''.

On page 43, line 17, strike out ''**SEC. 5.**'' and insert in lieu thereof ''**SEC. 6.**''.

On page 46, line 18, strike out ''**SEC. 6.**'' and insert in lieu thereof ''**SEC. 7.**''.

On page 46, strike out line 23 and all that follows through page 47, line 20, and insert in lieu thereof the following:

(1) in subsection (a)—

(A) by striking out ''$10,000'' and inserting in lieu thereof ''$25,000''; and

(B) by striking out ''special disabled veterans and veterans of the Vietnam era'' and inserting in lieu thereof ''special disabled veterans, veterans of the Vietnam era, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized'';

(2) in subsection (b), by striking out ''special disabled veteran or veteran of the Vietnam era'' and inserting in lieu thereof ''veteran covered by the first sentence of subsection (a)''; and

(3) in subsection (d)(1), by striking out ''veterans of the Vietnam era or special disabled veterans'' both places it appears and inserting in lieu thereof ''special disabled veterans, veterans of the Vietnam era, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized''.

On page 48, strike out lines 15 through 17 and insert in lieu thereof the following:

''(b) The Secretary of Labor shall make available in a database a list of the contractors that have complied with the provisions of such section 4212(d).''.

On page 49, line 1, strike out ''**SEC. 7.**'' and insert in lieu thereof ''**SEC. 8.**''.

On page 49, line 5, strike out ''6(a)(3)'' and insert in lieu thereof ''section 7(a)(3) of this Act''.

Mr. GRAMS. Mr. President, I ask unanimous consent that the amendment be agreed to.

The amendment (No. 3738) was agreed to.

Mr. GRAMS. I ask unanimous consent that the committee amendment, as amended, be agreed to, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill appear at the appropriate place in the RECORD.

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

The committee amendment, as amended, was agreed to.

The bill (S. 1021), as amended, was considered read the third time and passed, as follows:

S. 1021

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 ''Veterans Employment Opportunities Act of 1998''.

SEC. 2. ACCESS FOR VETERANS.

Section 3304 of title 5, United States Code, is amended by adding at the end the following:

''(f)(1) Preference eligibles or veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service may not be denied the opportunity to compete for vacant positions for which the agency making the announcement will accept applications from individuals outside its own workforce under merit promotion procedures.

''(2) This subsection shall not be construed to confer an entitlement to veterans' preference that is not otherwise required by law.

''(3) The area of consideration for all merit promotion announcements which include consideration of individuals of the Federal workforce shall indicate that preference eligibles and veterans who have been separated from the armed forces under honorable conditions after 3 years or more of active service are eligible to apply. The announcements shall be publicized in accordance with section 3327.

''(4) The Office of Personnel and Management shall establish an appointing authority to appoint such preference eligibles and veterans.''.

SEC. 3. IMPROVED REDRESS FOR PREFERENCE ELIGIBLES.

(a) IN GENERAL.—Subchapter I of chapter 33 of title 5, United States Code, is amended by adding at the end the following:

''§ 3330a. Preference eligibles; administrative redress

''(a)(1) A preference eligible who alleges that an agency has violated such individual's rights under any statute or regulation relating to veterans' preference may file a complaint with the Secretary of Labor.

''(2)(A) A complaint under this subsection must be filed within 60 days after the date of the alleged violation.

''(B) Such complaint shall be in writing, be in such form as the Secretary may prescribe, specify the agency against which the complaint is filed, and contain a summary of the allegations that form the basis for the complaint.

''(3) The Secretary shall, upon request, provide technical assistance to a potential complainant with respect to a complaint under this subsection.

''(b)(1) The Secretary of Labor shall investigate each complaint under subsection (a).

''(2) In carrying out any investigation under this subsection, the Secretary's duly authorized representatives shall, at all reasonable times, have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or agency that the Secretary considers relevant to the investigation.

''(3) In carrying out any investigation under this subsection, the Secretary may require by subpoena the attendance and testimony of witnesses and the production of documents relating to any matter under investigation. In case of disobedience of the subpoena or contumacy and on request of the Secretary, the Attorney General may apply to any district court of the United States in whose jurisdiction such disobedience or contumacy occurs for an order enforcing the subpoena.

''(4) Upon application, the district courts of the United States shall have jurisdiction to issue writs commanding any person or agency to comply with the subpoena of the Secretary or to comply with any order of the Secretary made pursuant to a lawful investigation under this subsection and the district courts shall have jurisdiction to punish failure to obey a subpoena or other lawful order of the Secretary as a contempt of court.

''(c)(1)(A) If the Secretary of Labor determines as a result of an investigation under subsection (b) that the action alleged in a complaint under subsection (a) occurred, the Secretary shall attempt to resolve the complaint by making reasonable efforts to ensure that the agency specified in the complaint complies with applicable provisions of statute or regulation relating to veterans' preference.

''(B) The Secretary of Labor shall make determinations referred to in subparagraph (A) based on a preponderance of the evidence.

''(2) If the efforts of the Secretary under subsection (b) with respect to a complaint under subsection (a) do not result in the resolution of the complaint, the Secretary shall notify the person who submitted the complaint, in writing, of the results of the Secretary's investigation under subsection (b).

''(d)(1) If the Secretary of Labor is unable to resolve a complaint under subsection (a) within 60 days after the date on which it is filed, the complainant may elect to appeal the alleged violation to the Merit Systems Protection Board in accordance with such procedures as the Merit Systems Protection Board shall prescribe, except that in no event may any such appeal be brought—

''(A) before the 61st day after the date on which the complaint is filed; or

''(B) later than 15 days after the date on which the complainant receives written notification from the Secretary under subsection (c)(2).

''(2) An appeal under this subsection may not be brought unless—

''(A) the complainant first provides written notification to the Secretary of such complainant's intention to bring such appeal; and

''(B) appropriate evidence of compliance with subparagraph (A) is included (in such form and manner as the Merit Systems Protection Board may prescribe) with the notice of appeal under this subsection.

''(3) Upon receiving notification under paragraph (2)(A), the Secretary shall not continue to investigate or further attempt to resolve the complaint to which the notification relates.

''(e)(1) This section shall not be construed to prohibit a preference eligible from appealing directly to the Merit Systems Protection Board from any action which is appealable to the Board under any other law, rule, or regulation, in lieu of administrative redress under this section.

''(2) A preference eligible may not pursue redress for an alleged violation described in subsection (a) under this section at the same time the preference eligible pursues redress for such violation under any other law, rule, or regulation.

''§ 3330b. Preference eligibles; judicial redress

''(a) In lieu of continuing the administrative redress procedure provided under section 3330a(d), a preference eligible may elect, in accordance with this section, to terminate those administrative proceedings and file an action with the appropriate United States district court not later than 60 days after the date of the election.

''(b) An election under this section may not be made—

''(1) before the 121st day after the date on which the appeal is filed with the Merit Systems Protection Board under section 3330a(d); or

''(2) after the Merit Systems Protection Board has issued a judicially reviewable decision on the merits of the appeal.

''(c) An election under this section shall be made, in writing, in such form and manner as the Merit Systems Protection Board shall by regulation prescribe. The election shall be effective as of the date on which it is received, and the administrative proceeding to which it relates shall terminate immediately upon the receipt of such election.

''§ 3330c. Preference eligibles; remedy

''(a) If the Merit Systems Protection Board (in a proceeding under section 3330a) or a court (in a proceeding under section 3330b) determines that an agency has violated a right described in section 3330a, the Board or court (as the case may be) shall order the agency to comply with such provisions and award compensation for any loss of wages or benefits suffered by the individual by reason of the violation involved. If the Board or court determines that such violation was willful, it shall award an amount equal to backpay as liquidated damages.

''(b) A preference eligible who prevails in an action under section 3330a or 3330b shall be awarded reasonable attorney fees, expert witness fees, and other litigation expenses.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 33 of title 5, United States Code, is amended by adding after the item relating to section 3330 the following:

''3330a. Preference eligibles; administrative redress.
''3330b. Preference eligibles; judicial redress.
''3330c. Preference eligibles; remedy.''.

SEC. 4. EXTENSION OF VETERANS' PREFERENCE.

(a) AMENDMENT TO TITLE 5, UNITED STATES CODE.—Paragraph (3) of section 2108 of title 5, United States Code, is amended by striking ''the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or the General Accounting Office;'' and inserting ''or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;''.

(b) AMENDMENTS TO TITLE 3, UNITED STATES CODE.—

(1) IN GENERAL.—Chapter 2 of title 3, United States Code, is amended by adding at the end the following:

''§ 115. Veterans' preference

''(a) Subject to subsection (b), appointments under sections 105, 106, and 107 shall be made in accordance with section 2108, and sections 3309 through 3312, of title 5.

''(b) Subsection (a) shall not apply to any appointment to a position the rate of basic pay for which is at least equal to the minimum rate established for positions in the Senior Executive Service under section 5382 of title 5 and the duties of which are comparable to those described in section 3132(a)(2) of such title or to any other position if, with respect to such position, the President makes certification—

''(1) that such position is—

''(A) a confidential or policy-making position; or

''(B) a position for which political affiliation or political philosophy is otherwise an important qualification; and

''(2) that any individual selected for such position is expected to vacate the position at or before the end of the President's term (or terms) of office.

Each individual appointed to a position described in the preceding sentence as to which the expectation described in paragraph (2) applies shall be notified as to such expectation, in writing, at the time of appointment to such position.''.

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 3, United States Code, is amended by adding at the end the following:

''115. Veterans' preference.''.

(c) LEGISLATIVE BRANCH APPOINTMENTS.—

(1) DEFINITIONS.—For the purposes of this subsection, the terms ''covered employee'' and ''Board'' shall each have the meaning given such term by section 101 of the Congressional Accountability Act of 1995 (2 U.S.C. 1301).

(2) RIGHTS AND PROTECTIONS.—The rights and protections established under section 2108, sections 3309 through 3312, and subchapter I of chapter 35, of title 5, United States Code, shall apply to covered employees.

(3) REMEDIES.—

(A) IN GENERAL.—The remedy for a violation of paragraph (2) shall be such remedy as would be appropriate if awarded under applicable provisions of title 5, United States Code, in the case of a violation of the relevant corresponding provision (referred to in paragraph (2)) of such title.

(B) PROCEDURE.—The procedure for consideration of alleged violations of paragraph (2) shall be the same as apply under section 401 of the Congressional Accountability Act of 1995 (and the provisions of law referred to therein) in the case of an alleged violation of part A of title II of such Act.

(4) REGULATIONS TO IMPLEMENT SUBSECTION.—

(A) IN GENERAL.—The Board shall, pursuant to section 304 of the Congressional Accountability Act of 1995 (2 U.S.C. 1384), issue regulations to implement this subsection.

(B) AGENCY REGULATIONS.—The regulations issued under subparagraph (A) shall be the same as the most relevant substantive regulations (applicable with respect to the executive branch) promulgated to implement the statutory provisions referred to in paragraph (2) except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulations would be more effective for the implementation of the rights and protections under this subsection.

(C) COORDINATION.—The regulations issued under subparagraph (A) shall be consistent with section 225 of the Congressional Accountability Act of 1995 (2 U.S.C. 1361).

(5) APPLICABILITY.—Notwithstanding any other provision of this subsection, the term ''covered employee'' shall not, for purposes of this subsection, include an employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is made by a Member of Congress or by a committee or subcommittee of either House of Congress; or

(C) who is appointed to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

(6) EFFECTIVE DATE.—Paragraphs (2) and (3) shall be effective as of the effective date of the regulations under paragraph (4).

(d) JUDICIAL BRANCH APPOINTMENTS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Judicial Conference of the United States shall prescribe procedures to provide for—

(A) veterans' preference in the consideration of applicants for employment, and in the conduct of any reductions in force, within the judicial branch; and

(B) redress for alleged violations of any rights provided for under subparagraph (A).

(2) PROCEDURES.—Under the procedures, a preference eligible (as defined by section 2108 of title 5, United States Code) shall be afforded preferences in a manner and to the extent consistent with preferences afforded to preference eligibles in the executive branch.

(3) EXCLUSIONS.—Nothing in the procedures shall apply with respect to an applicant or employee—

(A) whose appointment is made by the President with the advice and consent of the Senate;

(B) whose appointment is as a judicial officer;

(C) whose appointment is required by statute to be made by or with the approval of a court or judicial officer; or

(D) whose appointment is to a position, the duties of which are equivalent to those of a Senior Executive Service position (within the meaning of section 3132(a)(2) of title 5, United States Code).

(4) DEFINITIONS.—For purposes of this subsection, the term ''judicial officer'' means a justice, judge, or magistrate judge listed in subparagraph (A), (B), (F), or (G) of section 376(a)(1) of title 28, United States Code.

(5) SUBMISSION TO CONGRESS; EFFECTIVE DATE.—

(A) SUBMISSION TO CONGRESS.—Not later than 12 months after the date of enactment of this Act, the Judicial Conference of the United States shall submit a copy of the procedures prescribed under this subsection to the Committee on Government Reform and Oversight and the Committee on the Judiciary of the House of Representatives and the Committee on Governmental Affairs and the Committee on the Judiciary of the Senate.

(B) EFFECTIVE DATE.—The procedures prescribed under this subsection shall take effect 13 months after the date of enactment of this Act.

SEC. 5. VETERANS' PREFERENCE REQUIRED FOR REDUCTIONS IN FORCE IN THE FEDERAL AVIATION ADMINISTRATION.

Section 347(b) of the Department of Transportation and Related Agencies Appropriations Act, 1996 (109 Stat. 460) is amended—

(1) by striking ''and'' at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting ''; and''; and

(3) by adding at the end the following:

''(8) sections 3501–3504, as such sections relate to veterans' preference.''.

SEC. 6. FAILURE TO COMPLY WITH VETERANS' PREFERENCE REQUIREMENTS TO BE TREATED AS A PROHIBITED PERSONNEL PRACTICE FOR CERTAIN PURPOSES.

(a) IN GENERAL.—Subsection (b) of section 2302 of title 5, United States Code, is amended—

(1) by striking ''or'' at the end of paragraph (10);

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting after paragraph (10) the following:

''(11)(A) knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans' preference requirement; or

''(B) knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement; or''.

(b) DEFINITION; LIMITATION.—Section 2302 of title 5, United States Code, is amended by adding at the end the following:

''(e)(1) For the purpose of this section, the term 'veterans' preference requirement' means any of the following provisions of law:

''(A) Sections 2108, 3305(b), 3309, 3310, 3311, 3312, 3313, 3314, 3315, 3316, 3317(b), 3318, 3320, 3351, 3352, 3363, 3501, 3502(b), 3504, and 4303(e) and (with respect to a preference eligible referred to in section 7511(a)(1)(B)) subchapter II of chapter 75 and section 7701.

''(B) Sections 943(c)(2) and 1784(c) of title 10.

''(C) Section 1308(b) of the Alaska National Interest Lands Conservation Act.

''(D) Section 301(c) of the Foreign Service Act of 1980.

''(E) Sections 106(f), 7281(e), and 7802(5) of title 38.

''(F) Section 1005(a) of title 39.

''(G) Any other provision of law that the Director of the Office of Personnel Management designates in regulations as being a veterans' preference requirement for the purposes of this subsection.

''(H) Any regulation prescribed under subsection (b) or (c) of section 1302 and any other regulation that implements a provision of law referred to in any of the preceding subparagraphs.

''(2) Notwithstanding any other provision of this title, no authority to order corrective action shall be available in connection with a prohibited personnel practice described in subsection (b)(11). Nothing in this paragraph shall be considered to affect any authority under section 1215 (relating to disciplinary action).''.

(c) REPEALS.—

(1) SECTION 1599c OF TITLE 10, UNITED STATES CODE.—

(A) REPEAL.—Section 1599c of title 10, United States Code, is repealed.

(B) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 81 of such title is amended by striking out the item relating to section 1599c.

(2) SECTION 2302(a)(1) OF TITLE 5, UNITED STATES CODE.—Subsection (a)(1) of section 2302 of title 5, United States Code, is amended to read as follows:

''(a)(1) For the purpose of this title, 'prohibited personnel practice' means any action described in subsection (b).''.

(d) SAVINGS PROVISION.—This section shall be treated as if it had never been enacted for purposes of any personnel action (within the meaning of section 2302 of title 5, United States Code) preceding the date of enactment of this Act.

SEC. 7. EXPANSION AND IMPROVEMENT OF VETERANS' EMPLOYMENT EMPHASIS UNDER FEDERAL CONTRACTS.

(a) COVERED VETERANS.—Section 4212 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out ''$10,000'' and inserting in lieu thereof ''$25,000''; and

(B) by striking out ''special disabled veterans and veterans of the Vietnam era'' and inserting in lieu thereof ''special disabled veterans, veterans of the Vietnam era, and any other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized'';

(2) in subsection (b), by striking out ''special disabled veteran or veteran of the Vietnam era'' and inserting in lieu thereof ''veteran covered by the first sentence of subsection (a)''; and

(3) in subsection (d)(1), by striking out ''veterans of the Vietnam era or special disabled veterans'' both places it appears and inserting in lieu thereof ''special disabled veterans, veterans of the Vietnam era, or other veterans who served on active duty during a war or in a campaign or expedition for which a campaign badge has been authorized''.

(b) PROHIBITION ON CONTRACTING WITH ENTITIES NOT MEETING REPORTING REQUIREMENTS.—(1) Subchapter III of chapter 13 of title 31, United States Code, is amended by adding at the end the following:

''§ 1354. Limitation on use of appropriated funds for contracts with entities not meeting veterans' employment reporting requirements

''(a)(1) Subject to paragraph (2), no agency may obligate or expend funds appropriated for the agency for a fiscal year to enter into a contract described in section 4212(a) of title 38 with a contractor from which a report was required under section 4212(d) of that title with respect to the preceding fiscal year if such contractor did not submit such report.

''(2) Paragraph (1) shall cease to apply with respect to a contractor otherwise covered by that paragraph on the date on which the contractor submits the report required by such section 4212(d) for the fiscal year concerned.

''(b) The Secretary of Labor shall make available in a database a list of the contractors that have complied with the provisions of such section 4212(d).''.

(2) The table of sections at the beginning of chapter 13 of such title is amended by adding at the end the following:

''1354. Limitation on use of appropriated funds for contracts with entities not meeting veterans' employment reporting requirements.''.

SEC. 8. REQUIREMENT FOR ADDITIONAL INFORMATION IN ANNUAL REPORTS FROM FEDERAL CONTRACTORS ON VETERANS EMPLOYMENT.

Section 4212(d)(1) of title 38, United States Code, as amended by section 7(a)(3) of this Act, is further amended—

(1) by striking out ''and'' at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ''; and''; and

(3) by adding at the end the following:

''(C) the maximum number and the minimum number of employees of such contractor during the period covered by the report.''.

CONVEYANCE OF TUNNISON LAB HAGERMAN FIELD STATION IN GOODING COUNTY, IDAHO

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 663, S. 2505.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2505) to direct the Secretary of the Interior to convey title to the Tunnison Lab Hagerman Field Station in Gooding County, Idaho, to the University of Idaho.

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 Environment and Public Works, 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. 2505

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

SECTION 1. CONVEYANCE OF TUNNISON LAB HAGERMAN FIELD STATION, HAGERMAN, IDAHO, TO THE UNIVERSITY OF IDAHO.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior shall convey to the University of Idaho, without reimbursement, all right, title, and interest of the United States in and to the property described in subsection (b) for use by the University of Idaho for fish research.

(b) DESCRIPTION OF PROPERTY.—

[(1) IN GENERAL.—The property referred to in subsection (a) consists of approximately 4 acres of land housing the Tunnison Lab Hagerman Field Station in Gooding County, Idaho, and all improvements and related personal property, excluding water rights vested in the United States.

[(2) SURVEY.—The exact acreage and legal description of the property described under paragraph (1), and a description of necessary access and utility easements and rights-of-way, shall be determined by a survey that is satisfactory to the Secretary.**]**

(1) IN GENERAL.—The property referred to in subsection (a) consists of approximately 4 acres of land, the Tunnison Lab Hagerman Field Station in Gooding County, Idaho, located thereon, and all improvements and related personal property, excluding water rights vested in the United States and necessary access and utility easements and rights-of-way.

(2) SURVEY.—The exact acreage and legal description of the property described under paragraph (1) shall be determined by a survey that is satisfactory to the Secretary.

(c) REVERSIONARY INTEREST IN THE UNITED STATES.—

(1) REQUIREMENT.—If any property conveyed to the University of Idaho under this section is used for any purpose other than the use authorized under subsection (a), all right, title, and interest in and to all property conveyed under this section shall revert to the United States.

(2) CONDITION OF PROPERTY ON REVERSION.—In the case of a reversion of property under paragraph (1), the University of Idaho shall ensure that all property reverting to the United States under this subsection is in substantially the same condition as, or in better condition than, on the date of conveyance under subsection (a).

(d) COMPLIANCE WITH OTHER LAWS.—In connection with property conveyed under this section, the University of Idaho shall—

(1) comply with the National Historic Preservation Act (16 U.S.C. 470 et seq.) for all ground disturbing activities, with special emphases on compliance with sections 106, 110, and 112 (16 U.S.C. 470f, 470h–2, 470h–4); and

(2) protect prehistoric and historic resources in accordance with the Archaeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.).

(e) LIABILITY.—

(1) IN GENERAL.—Except as provided in paragraph (2), as a condition of the conveyance of property under this section, the University of Idaho shall hold the United States harmless, and shall indemnify the United States, for all claims, costs, damages, and judgments arising out of any act or omission relating to the property conveyed under this section.

(2) EXCEPTIONS.—Paragraph (1) shall not apply to a claim, cost, damage, or judgment arising from an act of negligence committed by the United States, or by an employee, agent, or contractor of the United States, prior to the date of the conveyance under this section, for which the United States is found liable under chapter 171 of title 28, United States Code.

Mr. GRAMS. I ask unanimous consent that the committee 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 placed at the appropriate place in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 2505), as amended, was considered read the third time and passed.

BORDER SMOG REDUCTION ACT OF 1998

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 664, H.R. 8.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 8) to amend the Clean Air Act to deny entry into the United States of certain foreign motor vehicles that do not comply with State laws governing motor vehicle emissions, 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.

AMENDMENT NO. 3739

(Purpose: To make a manager's amendment.)

Mr. GRAMS. Mr. President, Senator CHAFEE has a manager's amendment at the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Minnesota [Mr. GRAMS] for Mr. CHAFEE, proposes an amendment numbered 3739.

Mr. GRAMS. 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:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Border Smog Reduction Act of 1998''.

SEC. 2. AMENDMENT OF CLEAN AIR ACT.

Section 183 of the Clean Air Act (42 U.S.C. 7511b) is amended by adding at the end the following:

''(h) VEHICLES ENTERING OZONE NONATTAINMENT AREAS.—

''(1) AUTHORITY REGARDING OZONE INSPECTION AND MAINTENANCE TESTING.—

''(A) IN GENERAL.—No noncommercial motor vehicle registered in a foreign country and operated by a United States citizen or by an alien who is a permanent resident of the United States, or who holds a visa for the purposes of employment or educational study in the United States, may enter a covered ozone nonattainment area from a foreign country bordering the United States and contiguous to the nonattainment area more than twice in a single calendar-month period, if State law has requirements for the inspection and maintenance of such vehicles under the applicable implementation plan in the nonattainment area.

''(B) APPLICABILITY.—Subparagraph (A) shall not apply if the operator presents documentation at the United States border entry point establishing that the vehicle has complied with such inspection and maintenance requirements as are in effect and are applicable to motor vehicles of the same type and model year.

''(2) SANCTIONS FOR VIOLATIONS.—The President may impose and collect from the operator of any motor vehicle who violates, or attempts to violate, paragraph (1) a civil penalty of not more than $200 for the second violation or attempted violation and $400 for the third and each subsequent violation or attempted violation.

''(3) STATE ELECTION.—The prohibition set forth in paragraph (1) shall not apply in any State that elects to be exempt from the prohibition. Such an election shall take effect upon the President's receipt of written notice from the Governor of the State notifying the President of such election.

''(4) ALTERNATIVE APPROACH.—The prohibition set forth in paragraph (1) shall not apply in a State, and the President may implement an alternative approach, if—

''(A) the Governor of the State submits to the President a written description of an alternative approach to facilitate the compliance, by some or all foreign-registered motor vehicles, with the motor vehicle inspection and maintenance requirements that are—

''(i) related to emissions of air pollutants;

''(ii) in effect under the applicable implementation plan in the covered ozone nonattainment area; and

''(iii) applicable to motor vehicles of the same types and model years as the foreign-registered motor vehicles; and

''(B) the President approves the alternative approach as facilitating compliance with the motor vehicle inspection and maintenance requirements referred to in subparagraph (A).

''(5) DEFINITION OF COVERED OZONE NONATTAINMENT AREA.—In this section, the term 'covered ozone nonattainment area' means a Serious Area, as classified under section 181 as of the date of enactment of this subsection.''.

SEC. 3. GENERAL PROVISIONS.

(a) IN GENERAL.—The amendment made by section 2 takes effect 180 days after the date of enactment of this Act. Nothing in that amendment shall require action that is inconsistent with the obligations of the United States under any international agreement.

(b) INFORMATION.—As soon as practicable after the date of enactment of this Act, the appropriate agency of the United States shall distribute information to publicize the prohibition set forth in the amendment made by section 2.

SEC. 4. STUDY BY GENERAL ACCOUNTING OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the impact of the amendment made by section 2.

(b) CONTENTS OF STUDY.—The study under subsection (a) shall compare—

(1) the potential impact of the amendment made by section 2 on air quality in ozone nonattainment areas affected by the amendment; with

(2) the impact on air quality in those areas caused by the increase in the number of vehicles engaged in commerce operating in the United States and registered in, or operated from, Mexico, as a result of the implementation of the North American Free Trade Agreement.

(c) REPORT.—Not later than July 1, 1999, the Comptroller General of the United States shall submit to the Committee on Commerce of the House of Representatives and the Committee on Environment and Public Works of the Senate a report describing the findings of the study under subsection (a).

Mr. CHAFEE. Mr. President, I have sent to the desk a manager's amendment to H.R. 8, a bill that was reported out of the Environment and Public Works Committee on a voice vote. Mr. President, H.R. 8 was developed to address part of the air pollution in southern California that has proven difficult to control. The pollution source in question is emissions from cars and trucks crossing into the San Diego area from Mexico. Those of us who work on the problems of air pollution are well aware of the strict auto emissions standards California has put in place in an effort to meet national air quality standards. Many of the cars crossing the border from Mexico greatly exceed the standards that California cars are expected to meet.

California has an extremely difficult task in trying to improve its air quality. The State is working to reduce emissions from nearly every conceivable source. The excess emissions from cross-border traffic is estimated to be 13 percent of the excess pollution from cars and trucks in the San Diego area.

So, H.R. 8 was written to allow cars to be checked as they come across the border to ensure that those cars coming into the U.S. on a regular basis comply with State emission standards. California State law already requires this, but without a border check, the law has been impossible to enforce.

This matter has been widely recognized as one that H.R. 8 can be helpful in addressing, and as I have said, the bill was approved by a voice vote in the committee.

Today, I am submitting a manager's amendment to remedy some concerns raised by a few Senators about how the bill might apply to other states. The amendment will ensure that this bill is neutral with respect to all parts of the U.S. border with Mexico or Canada except the California-Mexico border, where the real problem is. Another change made by the amendment will focus the bill more narrowly on regular commuters as opposed to the occasional visitor on a shopping trip.

Mr. President, it is my understanding that this amendment has already been reviewed and approved by the minority. These changes also have been cleared by both the majority and minority on the House Commerce Committee, as well as by Congressman BILBRAY, the bill's sponsor.

I would urge my colleagues to adopt this amendment and pass H.R. 8.

Mr. GRAMS. Mr. President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 3739) was agreed to.

Mr. GRAMS. I ask unanimous consent that the bill, as amended, 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 placed at the appropriate place in the RECORD.

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

The bill (H.R. 8), as amended, was considered read the third time and passed.

RELIEF OF RICHARD M. BARLOW

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 585, Senate Resolution 256.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 256) to refer S. 2274 entitled ''A bill for the relief of Richard M. Barlow of Santa Fe, New Mexico'' to the chief judge of the United States Courts of Federal Claims for a report thereon.

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. GRAMS. Mr. President, I ask unanimous consent that the resolution be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the resolution appear in the RECORD.

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

The resolution (S. Res. 256) was agreed to.

The resolution reads as follows:

S. RES. 256

Resolved, That (a) S. 2274 entitled ''A bill for the relief of Richard M. Barlow of Santa Fe, New Mexico'' now pending in the Senate, together with all the accompanying papers, is referred to the chief judge of the United States Court of Federal Claims.

(b) The chief judge shall—

(1) proceed according to the provisions of sections 1492 and 2509 of title 28, United States Code; and

(2) report back to the Senate, at the earliest practicable date, providing—

(A) such findings of fact and conclusions that are sufficient to inform the Congress of the nature, extent, and character of the claim for compensation referred to in such bill as a legal or equitable claim against the United States or a gratuity; and

(B) the amount, if any, legally or equitably due from the United States to Mr. Richard M. Barlow of Santa Fe, New Mexico.

COMMENDING MARK MCGWIRE AND SAMMY SOSA

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 286, submitted earlier by Senator MACK.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 286) expressing the sense of the Senate that Mark McGwire and Sammy Sosa should be commended for their accomplishments.

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. GRAMS. Mr. President, 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 that any statements relating to the resolution appear in the RECORD.

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

The resolution (S. Res. 286) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 286

Whereas the recent conclusion of the regular baseball season marked the end of an unprecedented home run race between the St. Louis Cardinals' Mark McGwire and the Chicago Cubs' Sammy Sosa;

Whereas both broke Roger Maris' home run record that many thought would stand untouched as indeed it has since Maris passed the ''Babe'' by one home run when he hit his 61st some 37 years ago;

Whereas ''Mighty Mac'' rounded out his record setting season by sending two more over the fence in the team's final game to finish the year with 70 homes runs while ''Slammin' Sammy'' finished close behind with 66;

Whereas McGwire and Sosa brought to the game much more than a new record for the books, even though they are both great competitors, they showed the nation how competitors can show mutual respect and appreciation toward each other and to the game;

Whereas Mark McGwire is surely an ideal role model for tomorrow's baseball stars as evidenced by his quiet dignity, love of the game and respect for his competitors which was clearly demonstrated the night he broke the home run record—from his triumphant jog around the bases, to hugging his son at home plate, to saluting Sammy Sosa, and then finally spending a few moments in the stands with the family of Roger Maris;

Whereas Sammy Sosa who stayed on McGwire's heels throughout the home run chase is also a role model who, as a native from the Dominican Republic, rose from near poverty to be one of the greatest home run hitters in the history of the game, and is a hero in his home country where he continues to share his success by funding special programs for its underprivileged children;

Whereas the nation witnessed this year a flashback to an earlier time when the fans felt a connection to the players and the players gave their all for the fans;

Whereas baseball is a game for magic moments, like a perfect game or a triple play—or watching the ball fly over the fence for a home run, and, this year, McGwire and Sosa brought the nation plenty of those magic moments; and

Whereas through class and character Mark McGwire and Sammy Sosa are modern day heroes who brought out the best in baseball and reminded us all why baseball is the great American past time: Now, therefore, be it

Resolved, Mark McGwire and Sammy Sosa are to be commended for their record achievement, for reinvigorating the game of baseball, for their decency, and for giving our children sports heroes worthy of that status.

AUTHORIZING REPRESENTATION BY SENATE LEGAL COUNSEL

Mr. GRAMS. Mr. President, I now ask unanimous consent that the Senate proceed to the immediate consideration of Senate Resolution 287, submitted earlier by Senators LOTT and DASCHLE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 287) 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 United States District Court for the District of Hawaii in July 1998. The action sought to appeal a 1993 court order in another case. The complaint named Senator INOUYE as one of two defendants, apparently because of the plaintiff's dissatisfaction with Senator INOUYE's casework assistance regarding certain state law violations that Hawaii harbors officials charged against the plaintiff. Shortly after the complaint was filed, and before either Senator INOUYE or the other defendant had been served with the complaint, the district court dismissed the action sua sponte. The plaintiff has now appealed the dismissal to the Ninth Circuit.

This resolution would authorize the Senate Legal Counsel to represent Senator INOUYE in this matter to move the Ninth Circuit to affirm the judgment of the district court.

Mr. GRAMS. 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 that any statements relating to the resolution appear in the RECORD.

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

The resolution (S. Res. 287) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 287

Whereas, Senator Daniel K. Inouye has been named as a defendant in the case of *O'Leary* v. *Fujikawa, et al.*, Case No. 98–16439, now pending in the United States Court of Appeals for the Ninth Circuit;

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 in civil actions with respect to their official responsibilities: Now, therefore, be it *Resolved,* That the Senate Legal Counsel is authorized to represent Senator Daniel K. Inouye in the case of *O'Leary* v. *Fujikawa, et al.*

ASSISTIVE TECHNOLOGY ACT OF 1998

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 577, S. 2432.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2432) to support programs of grants to States to address the assistive technology needs of individuals with disabilities, 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 Labor and Human Resources, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Assistive Technology Act of 1998''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) Disability is a natural part of the human experience and in no way diminishes the right of individuals to—

(A) live independently;

(B) enjoy self-determination and make choices;

(C) benefit from an education;

(D) pursue meaningful careers; and

(E) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of society in the United States.

(2) Technology has become 1 of the primary engines for economic activity, education, and innovation in the Nation, and throughout the world. The commitment of the United States to the development and utilization of technology is 1 of the main factors underlying the strength and vibrancy of the economy of the United States.

(3) As technology has come to play an increasingly important role in the lives of all persons in the United States, in the conduct of business, in the functioning of government, in the fostering of communication, in the conduct of commerce, and in the provision of education, its impact upon the lives of the more than 50,000,000 individuals with disabilities in the United States has been comparable to its impact upon the remainder of the citizens of the United States. Any development in mainstream technology would have profound implications for individuals with disabilities in the United States.

(4) Substantial progress has been made in the development of assistive technology devices, including adaptations to existing devices that facilitate activities of daily living, that significantly benefit individuals with disabilities of all ages. Such devices and adaptations increase the involvement of such individuals in, and reduce expenditures associated with, programs and activities such as early intervention, education, rehabilitation and training, employment, residential living, independent living, and recreation programs and activities, and other aspects of daily living.

(5) All States have comprehensive statewide programs of technology-related assistance. Federal support for such programs should continue, strengthening the capacity of each State to assist individuals with disabilities of all ages with their assistive technology needs.

(6) Notwithstanding the efforts of such State programs, there is still a lack of—

(A) resources to pay for assistive technology devices and assistive technology services;

(B) trained personnel to assist individuals with disabilities to use such devices and services;

(C) information among targeted individuals about the availability and potential benefit of technology for individuals with disabilities;

(D) outreach to underrepresented populations and rural populations;

(E) systems that ensure timely acquisition and delivery of assistive technology devices and assistive technology services;

(F) coordination among State human services programs, and between such programs and private entities, particularly with respect to transitions between such programs and entities; and

(G) capacity in such programs to provide the necessary technology-related assistance.

(7) In the current technological environment, the line of demarcation between assistive technology and mainstream technology is becoming ever more difficult to draw.

(8) Many individuals with disabilities cannot access existing telecommunications and information technologies and are at risk of not being able to access developing technologies. The failure of Federal and State governments, hardware manufacturers, software designers, information systems managers, and telecommunications service providers to account for the specific needs of individuals with disabilities in the design, manufacture, and procurement of telecommunications and information technologies results in the exclusion of such individuals from the use of telecommunications and information technologies and results in unnecessary costs associated with the retrofitting of devices and product systems.

(9) There are insufficient incentives for Federal contractors and other manufacturers of technology to address the application of technology advances to meet the needs of individuals with disabilities of all ages for assistive technology devices and assistive technology services.

(10) The use of universal design principles reduces the need for many specific kinds of assistive technology devices and assistive technology services by building in accommodations for individuals with disabilities before rather than after production. The use of universal design principles also increases the likelihood that products (including services) will be compatible with existing assistive technologies. These principles are increasingly important to enhance access to information technology, telecommunications, transportation, physical structures, and consumer products. There are insufficient incentives for commercial manufacturers to incorporate universal design principles into the design and manufacturing of technology products, including devices of daily living, that could expand their immediate use by individuals with disabilities of all ages.

(11) There are insufficient incentives for commercial pursuit of the application of technology devices to meet the needs of individuals with disabilities, because of the perception that such individuals constitute a limited market.

(12) At the Federal level, the Federal Laboratories, the National Aeronautics and Space Administration, and other similar entities do not recognize the value of, or commit resources on an ongoing basis to, technology transfer initiatives that would benefit, and especially increase the independence of, individuals with disabilities.

(13) At the Federal level, there is a lack of coordination among agencies that provide or pay for the provision of assistive technology devices and assistive technology services. In addition, the Federal Government does not provide adequate assistance and information with respect to the quality and use of assistive technology devices and assistive technology services to targeted individuals.

(14) There are changes in the delivery of assistive technology devices and assistive technology services, including—

(A) the impact of the increased prevalence of managed care entities as payors for assistive technology devices and assistive technology services;

(B) an increased focus on universal design;

(C) the increased importance of assistive technology in employment, as more individuals with disabilities move from public assistance to work through training and on-the-job accommodations;

(D) the role and impact that new technologies have on how individuals with disabilities will learn about, access, and participate in programs or services that will affect their lives; and

(E) the increased role that telecommunications play in education, employment, health care, and social activities.

(b) PURPOSES.—The purposes of this Act are—

(1) to provide financial assistance to States to undertake activities that assist each State in maintaining and strengthening a permanent comprehensive statewide program of technology-related assistance, for individuals with disabilities of all ages, that is designed to—

(A) increase the availability of, funding for, access to, and provision of, assistive technology devices and assistive technology services;

(B) increase the active involvement of individuals with disabilities and their family members, guardians, advocates, and authorized representatives, in the maintenance, improvement, and evaluation of such a program;

(C) increase the involvement of individuals with disabilities and, if appropriate, their family members, guardians, advocates, and authorized representatives, in decisions related to the provision of assistive technology devices and assistive technology services;

(D) increase the provision of outreach to underrepresented populations and rural populations, to enable the 2 populations to enjoy the benefits of activities carried out under this Act to the same extent as other populations;

(E) increase and promote coordination among State agencies, between State and local agencies, among local agencies, and between State and local agencies and private entities (such as managed care providers), that are involved or are eligible to be involved in carrying out activities under this Act;

(F)(i) increase the awareness of laws, regulations, policies, practices, procedures, and organizational structures, that facilitate the availability or provision of assistive technology devices and assistive technology services; and

(ii) facilitate the change of laws, regulations, policies, practices, procedures, and organizational structures, to obtain increased availability or provision of assistive technology devices and assistive technology services;

(G) increase the probability that individuals with disabilities of all ages will, to the extent appropriate, be able to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by human service agencies or between settings of daily living (for example, between home and work);

(H) enhance the skills and competencies of individuals involved in providing assistive technology devices and assistive technology services;

(I) increase awareness and knowledge of the benefits of assistive technology devices and assistive technology services among targeted individuals;

(J) increase the awareness of the needs of individuals with disabilities of all ages for assistive technology devices and for assistive technology services; and

(K) increase the capacity of public agencies and private entities to provide and pay for assistive technology devices and assistive technology services on a statewide basis for individuals with disabilities of all ages;

(2) to identify Federal policies that facilitate payment for assistive technology devices and assistive technology services, to identify those Federal policies that impede such payment, and to eliminate inappropriate barriers to such payment; and

(3) to enhance the ability of the Federal Government to—

(A) provide States with financial assistance that supports—

(i) information and public awareness programs relating to the provision of assistive technology devices and assistive technology services;

(ii) improved interagency and public-private coordination, especially through new and improved policies, that result in increased availability of assistive technology devices and assistive technology services; and

(iii) technical assistance and training in the provision or use of assistive technology devices and assistive technology services; and

(B) fund national, regional, State, and local targeted initiatives that promote understanding of and access to assistive technology devices and assistive technology services for targeted individuals.

SEC. 3. DEFINITIONS AND RULE.

(a) DEFINITIONS.—In this Act:

(1) ADVOCACY SERVICES.—The term ''advocacy services'', except as used as part of the term ''protection and advocacy services'', means services provided to assist individuals with disabilities and their family members, guardians, advocates, and authorized representatives in accessing assistive technology devices and assistive technology services.

(2) ASSISTIVE TECHNOLOGY.—The term ''assistive technology'' means technology designed to be utilized in an assistive technology device or assistive technology service.

(3) ASSISTIVE TECHNOLOGY DEVICE.—The term ''assistive technology device'' means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(4) ASSISTIVE TECHNOLOGY SERVICE.—The term ''assistive technology service'' means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the assistive technology needs of an individual with a disability, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the individual in the customary environment of the individual;

(B) services consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) services consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing assistive technology devices;

(D) coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family members, guardians, advocates, or authorized representatives of such an individual; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(5) CAPACITY BUILDING AND ADVOCACY ACTIVITIES.—The term ''capacity building and advocacy activities'' means efforts that—

(A) result in laws, regulations, policies, practices, procedures, or organizational structures that promote consumer-responsive programs or entities; and

(B) facilitate and increase access to, provision of, and funding for, assistive technology devices and assistive technology services,

in order to empower individuals with disabilities to achieve greater independence, productivity, and integration and inclusion within the community and the workforce.

(6) COMPREHENSIVE STATEWIDE PROGRAM OF TECHNOLOGY-RELATED ASSISTANCE.—The term ''comprehensive statewide program of technology-related assistance'' means a consumer-responsive program of technology-related assistance for individuals with disabilities, implemented by a State, and equally available to all individuals with disabilities residing in the State, regardless of their type of disability, age, income level, or location of residence in the State, or the type of assistive technology device or assistive technology service required.

(7) CONSUMER-RESPONSIVE.—The term ''consumer-responsive''—

(A) with regard to policies, means that the policies are consistent with the principles of—

(i) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

(ii) respect for the privacy, rights, and equal access (including the use of accessible formats) of such individuals;

(iii) inclusion, integration, and full participation of such individuals in society;

(iv) support for the involvement in decisions of a family member, a guardian, an advocate, or an authorized representative, if an individual with a disability requests, desires, or needs such involvement; and

(v) support for individual and systems advocacy and community involvement; and

(B) with respect to an entity, program, or activity, means that the entity, program, or activity—

(i) is easily accessible to, and usable by, individuals with disabilities and, when appropriate, their family members, guardians, advocates, or authorized representatives;

(ii) responds to the needs of individuals with disabilities in a timely and appropriate manner; and

(iii) facilitates the full and meaningful participation of individuals with disabilities (including individuals from underrepresented populations and rural populations) and their family members, guardians, advocates, and authorized representatives, in—

(I) decisions relating to the provision of assistive technology devices and assistive technology services to such individuals; and

(II) decisions related to the maintenance, improvement, and evaluation of the comprehensive statewide program of technology-related assistance, including decisions that affect advocacy, capacity building, and capacity building and advocacy activities.

(8) DISABILITY.—The term ''disability'' means a condition of an individual that is considered to be a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides.

(9) INDIVIDUAL WITH A DISABILITY; INDIVIDUALS WITH DISABILITIES.—

(A) INDIVIDUAL WITH A DISABILITY.—The term ''individual with a disability'' means any individual of any age, race, or ethnicity—

(i) who has a disability; and

(ii) who is or would be enabled by an assistive technology device or an assistive technology service to minimize deterioration in functioning, to maintain a level of functioning, or to achieve a greater level of functioning in any major life activity.

(B) INDIVIDUALS WITH DISABILITIES.—The term ''individuals with disabilities'' means more than 1 individual with a disability.

(10) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given such term in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)), and includes a community college receiving funding under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(11) PROTECTION AND ADVOCACY SERVICES.—The term ''protection and advocacy services'' means services that—

(A) are described in part C of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6041 et seq.), the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.), or section 509 of the Rehabilitation Act of 1973; and

(B) assist individuals with disabilities with respect to assistive technology devices and assistive technology services.

(12) SECRETARY.—The term ''Secretary'' means the Secretary of Education.

(13) STATE.—

(A) IN GENERAL.—Except as provided in subparagraph (B) and section 302, the term ''State'' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(B) OUTLYING AREAS.—In sections 101(c), 102(c), 103(d), and 104(b):

(i) OUTLYING AREA.—The term ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(ii) STATE.—The term ''State'' does not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(14) TARGETED INDIVIDUALS.—The term ''targeted individuals'' means—

(A) individuals with disabilities of all ages and their family members, guardians, advocates, and authorized representatives;

(B) individuals who work for public or private entities (including insurers or managed care providers), that have contact with individuals with disabilities;

(C) educators and related services personnel;

(D) technology experts (including engineers);

(E) health and allied health professionals;

(F) employers; and

(G) other appropriate individuals and entities.

(15) TECHNOLOGY-RELATED ASSISTANCE.—The term ''technology-related assistance'' means assistance provided through capacity building and advocacy activities that accomplish the purposes described in any of subparagraphs (A) through (K) of section 2(b)(1).

(16) UNDERREPRESENTED POPULATION.—The term ''underrepresented population'' means a population that is typically underrepresented in service provision, and includes populations such as persons who have low-incidence disabilities, persons who are minorities, poor persons, persons with limited-English proficiency, older individuals, or persons from rural areas.

(17) UNIVERSAL DESIGN.—The term ''universal design'' means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly usable (without requiring assistive technologies)

and products and services that are made usable with assistive technologies.

(b) REFERENCES.—References in this Act to a provision of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 shall be considered to be references to such provision as in effect on the day before the date of enactment of this Act.

TITLE I—STATE GRANT PROGRAMS

SEC. 101. CONTINUITY GRANTS FOR STATES THAT RECEIVED FUNDING FOR A LIMITED PERIOD FOR TECHNOLOGY-RELATED ASSISTANCE.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—The Secretary shall award grants, in accordance with this section, to eligible States to support capacity building and advocacy activities, designed to assist the States in maintaining permanent comprehensive statewide programs of technology-related assistance that accomplish the purposes described in section 2(b)(1).

(2) ELIGIBLE STATES.—To be eligible to receive a grant under this section a State shall be a State that received grants for less than 10 years under title I of the Technology-Related Assistance for Individuals With Disabilities Act of 1988.

(b) USE OF FUNDS.—

(1) IN GENERAL.—Any State that receives a grant under this section shall use the funds made available through the grant to carry out the activities described in paragraph (2) and may use the funds to carry out the activities described in paragraph (3).

(2) MANDATORY ACTIVITIES.—

(A) PUBLIC AWARENESS PROGRAM.—

(i) IN GENERAL.—The State shall support a public awareness program designed to provide information to targeted individuals relating to the availability and benefits of assistive technology devices and assistive technology services.

(ii) LINK.—Such a public awareness program shall have an electronic link to the National Public Internet Site authorized under section 106(c)(1).

(iii) CONTENTS.—The public awareness program may include—

(I) the development and dissemination of information relating to—

(aa) the nature of assistive technology devices and assistive technology services;

(bb) the appropriateness of, cost of, availability of, evaluation of, and access to, assistive technology devices and assistive technology services; and

(cc) the benefits of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities of all ages to perform activities of daily living;

(II) the development of procedures for providing direct communication between providers of assistive technology and targeted individuals; and

(III) the development and dissemination, to targeted individuals, of information about State efforts related to assistive technology.

(B) INTERAGENCY COORDINATION.—

(i) IN GENERAL.—The State shall develop and promote the adoption of policies that improve access to assistive technology devices and assistive technology services for individuals with disabilities of all ages in the State and that result in improved coordination among public and private entities that are responsible or have the authority to be responsible, for policies, procedures, or funding for, or the provision of assistive technology devices and assistive technology services to, such individuals.

(ii) APPOINTMENT TO CERTAIN INFORMATION TECHNOLOGY PANELS.—The State shall appoint the director of the lead agency described in subsection (d) or the designee of the director, to any committee, council, or similar organization created by the State to assist the State in the development of the information technology policy of the State.

(iii) COORDINATION ACTIVITIES.—The development and promotion described in clause (i) may include support for—

(I) policies that result in improved coordination, including coordination between public and private entities—

(aa) in the application of Federal and State policies;

(bb) in the use of resources and services relating to the provision of assistive technology devices and assistive technology services, including the use of interagency agreements; and

(cc) in the improvement of access to assistive technology devices and assistive technology services for individuals with disabilities of all ages in the State;

(II) convening interagency work groups, involving public and private entities, to identify, create, or expand funding options, and coordinate access to funding, for assistive technology devices and assistive technology services for individuals with disabilities of all ages; or

(III) documenting and disseminating information about interagency activities that promote coordination, including coordination between public and private entities, with respect to assistive technology devices and assistive technology services.

(C) TECHNICAL ASSISTANCE AND TRAINING.—The State shall carry out directly, or provide support to public or private entities to carry out, technical assistance and training activities for targeted individuals, including—

(i) the development and implementation of laws, regulations, policies, practices, procedures, or organizational structures that promote access to assistive technology devices and assistive technology services for individuals with disabilities in education, health care, employment, and community living contexts, and in other contexts such as leisure activities and the use of telecommunications;

(ii)(I) the development of training materials and the conduct of training in the use of assistive technology devices and assistive technology services; and

(II) the provision of technical assistance, including technical assistance concerning how—

(aa) to consider the needs of an individual with a disability for assistive technology devices and assistive technology services in developing any individualized plan or program authorized under Federal or State law;

(bb) the rights of targeted individuals to assistive technology devices and assistive technology services are addressed under laws other than this Act, to promote fuller independence, productivity, and inclusion in and integration into society of such individuals; or

(cc) to increase consumer participation in the identification, planning, use, delivery, and evaluation of assistive technology devices and assistive technology services; and

(iii)(I) the enhancement of the assistive technology skills and competencies of—

(aa) individuals who work for public or private entities (including insurers and managed care providers), who have contact with individuals with disabilities;

(bb) educators and related services personnel;

(cc) technology experts (including engineers);

(dd) health and allied health professionals;

(ee) employers; and

(ff) other appropriate personnel; and

(II) taking action to facilitate the development of standards, or, when appropriate, the application of such standards, to ensure the availability of qualified personnel.

(D) OUTREACH.—The State shall provide support to statewide and community-based organizations that provide assistive technology devices and assistive technology services to individuals with disabilities or that assist individuals with disabilities in using assistive technology devices and assistive technology services, including a focus on organizations assisting individuals from underrepresented populations and rural populations. Such support may include outreach to consumer organizations and groups in the State to coordinate efforts (including self-help, support group activities, and peer mentoring) to assist individuals with disabilities of all ages and their family members, guardians, advocates, or authorized representatives, to obtain funding for, access to, and information on evaluation of assistive technology devices and assistive technology services.

(3) DISCRETIONARY ACTIVITIES.—

(A) ALTERNATIVE STATE-FINANCED SYSTEMS.—The State may support activities to increase access to, and funding for, assistive technology devices and assistive technology services, including—

(i) the development of systems that provide assistive technology devices and assistive technology services to individuals with disabilities of all ages, and that pay for such devices and services, such as—

(I) the development of systems for the purchase, lease, other acquisition, or payment for the provision, of assistive technology devices and assistive technology services; or

(II) the establishment of alternative State or privately financed systems of subsidies for the provision of assistive technology devices and assistive technology services, such as—

(aa) a low-interest loan fund;

(bb) an interest buy-down program;

(cc) a revolving loan fund;

(dd) a loan guarantee or insurance program;

(ee) a program operated by a partnership among private entities for the purchase, lease, or other acquisition of assistive technology devices or assistive technology services; or

(ff) another mechanism that meets the requirements of title III and is approved by the Secretary;

(ii) the short-term loan of assistive technology devices to individuals, employers, public agencies, or public accommodations seeking strategies to comply with the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); or

(iii) the maintenance of information about, and recycling centers for, the redistribution of assistive technology devices and equipment, which may include redistribution through device and equipment loans, rentals, or gifts.

(B) DEMONSTRATIONS.—The State, in collaboration with other entities in established, recognized community settings (such as nonprofit organizations, libraries, schools, community-based employer organizations, churches, and entities operating senior citizen centers, shopping malls, and health clinics), may demonstrate assistive technology devices in settings where targeted individuals can see and try out assistive technology devices, and learn more about the devices from personnel who are familiar with such devices and their applications or can be referred to other entities who have information on the devices.

(C) OPTIONS FOR SECURING DEVICES AND SERVICES.—The State, through public agencies or nonprofit organizations, may support assistance to individuals with disabilities and their family members, guardians, advocates, and authorized representatives about options for securing assistive technology devices and assistive technology services that would meet individual needs for such assistive technology devices and assistive technology services. Such assistance shall not include direct payment for an assistive technology device.

(D) TECHNOLOGY-RELATED INFORMATION.—

(i) IN GENERAL.—The State may operate and expand a system for public access to information concerning an activity carried out under another paragraph of this subsection, including information about assistive technology devices and assistive technology services, funding sources and costs of such devices and services, and individuals, organizations, and agencies capable of carrying out such an activity for individuals with disabilities. The system shall be -

part of, and complement the information that is available through a link to, the National Public Internet Site described in section 106(c)(1).

(ii) ACCESS.—Access to the system may be provided through community-based locations, including public libraries, centers for independent living (as defined in section 702 of the Rehabilitation Act of 1973), locations of community rehabilitation programs (as defined in section 7 of such Act), schools, senior citizen centers, State vocational rehabilitation offices, other State workforce offices, and other locations frequented or used by the public.

(iii) INFORMATION COLLECTION AND PREPARATION.—In operating or expanding a system described in subparagraph (A), the State may—

(I) develop, compile, and categorize print, large print, braille, audio, and video materials, computer disks, compact discs (including compact discs formatted with read-only memory), information in alternative formats that can be used in telephone-based information systems, and materials using such other media as technological innovation may make appropriate;

(II) identify and classify funding sources for obtaining assistive technology devices and assistive technology services, and the conditions of and criteria for access to such sources, including any funding mechanisms or strategies developed by the State;

(III) identify support groups and systems designed to help individuals with disabilities make effective use of an activity carried out under another paragraph of this subsection, including groups that provide evaluations of assistive technology devices and assistive technology services; and

(IV) maintain a record of the extent to which citizens of the State use or make inquiries of the system established in clause (i), and of the nature of such inquiries.

(E) INTERSTATE ACTIVITIES.—

(i) IN GENERAL.—The State may enter into cooperative agreements with other States to expand the capacity of the States involved to assist individuals with disabilities of all ages to learn about, acquire, use, maintain, adapt, and upgrade assistive technology devices and assistive technology services that such individuals need at home, at school, at work, or in other environments that are part of daily living.

(ii) ELECTRONIC COMMUNICATION.—The State may operate or participate in an electronic information exchange through which the State may communicate with other States to gain technical assistance in a timely fashion and to avoid the duplication of efforts already undertaken in other States.

(F) PARTNERSHIPS AND COOPERATIVE INITIATIVES.—The State may support partnerships and cooperative initiatives between the public sector and the private sector to promote greater participation by business and industry in—

(i) the development, demonstration, and dissemination of assistive technology devices; and

(ii) the ongoing provision of information about new products to assist individuals with disabilities.

(G) EXPENSES.—The State may pay for expenses, including travel expenses, and services, including services of qualified interpreters, readers, and personal care assistants, that may be necessary to ensure access to the comprehensive statewide program of technology-related assistance by individuals with disabilities who are determined by the State to be in financial need and not eligible for such payments or services through another public agency or private entity.

(H) ADVOCACY SERVICES.—The State may provide advocacy services.

(c) AMOUNT OF FINANCIAL ASSISTANCE.—

(1) GRANTS TO OUTLYING AREAS.—From the funds appropriated under section 107(a) and reserved under clause (i) of subparagraph (A), (B), or (C) of section 107(b)(1) for any fiscal year for grants under this section, the Secretary shall make a grant in an amount of not more than $105,000 to each eligible outlying area.

(2) GRANTS TO STATES.—From the funds described in paragraph (1) that are not used to make grants under paragraph (1), the Secretary shall make grants to States in accordance with the requirements described in paragraph (3).

(3) CALCULATION OF STATE GRANTS.—

(A) CALCULATIONS FOR GRANTS IN THE SECOND OR THIRD YEAR OF A SECOND EXTENSION GRANT.—For any fiscal year, the Secretary shall calculate the amount of a grant under paragraph (2) for each eligible State that would be in the second or third year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, if that Act had been reauthorized for that fiscal year, in accordance with section 103(c)(2) of such Act.

(B) CALCULATIONS FOR GRANTS IN THE FOURTH OR FIFTH YEAR OF A SECOND EXTENSION GRANT.—

(i) FOURTH YEAR.—An eligible State that would have been in the fourth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 during a fiscal year, if that Act had been reauthorized for that fiscal year, shall receive under paragraph (2) a grant in an amount equal to 75 percent of the funding that the State received in the prior fiscal year under section 103 of that Act or under this section, as appropriate.

(ii) FIFTH YEAR.—An eligible State that would have been in the fifth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 during a fiscal year, if that Act had been reauthorized for that fiscal year, shall receive under paragraph (2) a grant in an amount equal to 66⅔ percent of the funding that the State received in the prior fiscal year under section 103 of that Act or under this section, as appropriate.

(C) ADDITIONAL STATES.—

(i) IN GENERAL.—For purposes of this paragraph, the Secretary shall treat a State described in clause (ii)—

(I) for fiscal years 1999 through 2001, as if the State were a State described in subparagraph (A); and

(II) for fiscal year 2002 or 2003, as if the State were a State described in clause (i) or (ii), respectively, of subparagraph (B).

(ii) STATE.—A State referred to in clause (i) shall be a State that—

(I) in fiscal year 1998, was in the second year of an initial extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988; and

(II) meets such terms and conditions as the Secretary shall determine to be appropriate.

(d) LEAD AGENCY.—

(1) IDENTIFICATION.—

(A) IN GENERAL.—To be eligible to receive a grant under this section, a State shall designate a lead agency to carry out appropriate State functions under this section. The lead agency shall be the current agency (as of the date of submission of the application supplement described in subsection (e)) administering the grant awarded to the State for fiscal year 1998 under title I of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, except as provided in subparagraph (B).

(B) CHANGE IN AGENCY.—The Governor may change the lead agency if the Governor shows good cause to the Secretary why the designated lead agency should be changed, in the application supplement described in subsection (e), and obtains approval of the supplement.

(2) DUTIES OF THE LEAD AGENCY.—The duties of the lead agency shall include—

(A) submitting the application supplement described in subsection (e) on behalf of the State;

(B) administering and supervising the use of amounts made available under the grant received by the State under this section;

(C)(i) coordinating efforts related to, and supervising the preparation of, the application supplement described in subsection (e);

(ii) continuing the coordination of the maintenance and evaluation of the comprehensive statewide program of technology-related assistance among public agencies and between public agencies and private entities, including coordinating efforts related to entering into interagency agreements; and

(iii) continuing the coordination of efforts, especially efforts carried out with entities that provide protection and advocacy services described in section 104, related to the active, timely, and meaningful participation by individuals with disabilities and their family members, guardians, advocates, or authorized representatives, and other appropriate individuals, with respect to activities carried out under the grant; and

(D) the delegation, in whole or in part, of any responsibilities described in subparagraph (A), (B), or (C) to 1 or more appropriate offices, agencies, entities, or individuals.

(e) APPLICATION SUPPLEMENT.—

(1) SUBMISSION.—Any State that desires to receive a grant under this section shall submit to the Secretary an application supplement to the application the State submitted under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, at such time, in such manner, and for such period as the Secretary may specify, that contains the following information:

(A) GOALS AND ACTIVITIES.—A description of—

(i) the goals the State has set, for addressing the assistive technology needs of individuals with disabilities in the State, including any related to—

(I) health care;

(II) education;

(III) employment, including goals involving the State vocational rehabilitation program carried out under title I of the Rehabilitation Act of 1973;

(IV) telecommunication and information technology; or

(V) community living, including participation in recreation; and

(ii) the activities the State will undertake to achieve such goals, in accordance with the requirements of subsection (b).

(B) MEASURES OF GOAL ACHIEVEMENT.—A description of how the State will measure whether the goals set by the State have been achieved.

(C) INVOLVEMENT OF INDIVIDUALS WITH DISABILITIES OF ALL AGES AND THEIR FAMILIES.—A description of how individuals with disabilities of all ages and their families—

(i) were involved in selecting—

(I) the goals;

(II) the activities to be undertaken in achieving the goals; and

(III) the measures to be used in judging if the goals have been achieved; and

(ii) will be involved in measuring whether the goals have been achieved.

(D) REDESIGNATION OF THE LEAD AGENCY.—If the Governor elects to change the lead agency, the following information:

(i) With regard to the original lead agency, evidence of—

(I) lack of progress in employment of qualified staff;

(II) lack of consumer-responsive activities;

(III) lack of resource allocation for systems change and advocacy activities;

(IV) lack of progress in meeting the assurances in the application submitted by the State under section 102(e) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988; or

(V) inadequate fiscal management.

(ii) With regard to the new lead agency, a description of—

(I) the capacity of the new lead agency to administer and conduct activities described in subsection (b) and this paragraph; and

(II) the procedures that the State will implement to avoid the deficiencies, described in clause (i), of the original lead agency.

(iii) Information identifying which agency prepared the application supplement.

(2) INTERIM STATUS OF STATE OBLIGATIONS.—Except as provided in subsection (f)(2), when the Secretary notifies a State that the State shall submit the application supplement to the application the State submitted under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, the Secretary shall specify in the notification the time period for which the application supplement shall apply, consistent with paragraph (4).

(3) CONTINUING OBLIGATIONS.—Each State that receives a grant under this section shall continue to abide by the assurances the State made in the application the State submitted under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 and continue to comply with reporting requirements under that Act.

(4) DURATION OF APPLICATION SUPPLEMENT.—

(A) DETERMINATION.—The Secretary shall determine and specify to the State the time period for which the application supplement shall apply, in accordance with subparagraph (B).

(B) LIMIT.—Such time period for any State shall not extend beyond the year that would have been the fifth year of a second extension grant made for that State under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, if the Act had been reauthorized through that year.

(f) OPTIONS RELATED TO FUNDING FOR FISCAL YEARS 1999 THROUGH 2004.—

(1) EXTENSIONS.—

(A) IN GENERAL.—In the case of a State that was in the fifth year of a second extension grant made under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 in fiscal year 1998, the Secretary may, in the discretion of the Secretary, award a 1-year extension of the grant received for fiscal year 1999 to such a State if the State submits an application supplement under subsection (e) and meets other related requirements for a State seeking a grant under this section.

(B) AMOUNT.—A State that receives a 1-year extension of a grant under subparagraph (A), shall receive through the grant, for fiscal year 1999, an amount equivalent to the amount the State received for fiscal year 1998 under section 103 of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, from funds appropriated under section 107(a) and reserved under clause (i) of subparagraph (A), (B), or (C) of section 107(b)(1) for grants under this section.

(2) CHALLENGE GRANTS.—For fiscal year 2000, any State eligible to receive funds under this section may elect to meet the requirements of and receive funds under section 102 instead of meeting the requirements of and receiving funds under this section. No State may receive funds under this section and section 102 for a fiscal year.

SEC. 102. STATE CHALLENGE GRANTS.

(a) GRANTS TO STATES.—The Secretary shall award grants to States to assist the States in maintaining and improving comprehensive statewide programs of technology-related assistance for individuals with disabilities in accordance with the provisions of this section. The Secretary shall provide assistance through such a grant to a State for 5 years.

(b) USE OF FUNDS.—

(1) IN GENERAL.—A State that receives a grant under this section shall use the funds made available through the grant to accomplish the purposes described in section 2(b)(1) by carrying out activities described in this subsection, based on an assessment of the needs for assistive technology devices and assistive technology services of individuals with disabilities in the State, as reported by such individuals, and through other means. The State shall, in appropriate cases, promote, consider, take into account, and incorporate the principles of universal design.

(2) MANDATORY ACTIVITIES.—

(A) INTERAGENCY COORDINATION.—The State shall develop and promote the adoption of policies that improve access to assistive technology devices and assistive technology services for individuals with disabilities of all ages in the State and that result in improved coordination among public and private entities that affect the provision of assistive technology devices and assistive technology services for such individuals. The State shall appoint the director of the State Assistive Technology Office designated under subsection (d)(1)(A) or the designee of the director, to any committee, council, or similar organization created by the State to assist the State in the development of the information technology policy of the State.

(B) ASSISTIVE TECHNOLOGY INFORMATION SYSTEM.—The State shall provide for the continuation and enhancement of a statewide information and referral system for individuals with disabilities and providers of services for individuals with disabilities. The system shall include an accessible Internet site with linkages to other appropriate sites, such as the National Public Internet Site described in section 106(c)(1). The system shall provide for public access to information about assistive technology devices and assistive technology services, including information on the evaluation of such devices and services and entities that provide such evaluations, and funding sources for and costs of obtaining such devices and services.

(C) PUBLIC AWARENESS PROGRAM.—The State shall support, in collaboration with targeted individuals, targeted public awareness campaigns designed to provide information to targeted individuals about the availability, through public and private sources, and benefits, of assistive technology devices and assistive technology services.

(D) CAPACITY BUILDING AND ADVOCACY ACTIVITIES; TECHNICAL ASSISTANCE AND TRAINING.—

(i) IN GENERAL.—The State shall support capacity building and advocacy activities that include—

(I) the development and implementation of laws, regulations, policies, practices, procedures, or organizational structures that promote access to assistive technology devices and assistive technology services for individuals with disabilities in education, health care, employment, and community living contexts, and in other contexts such as leisure activities and the use of telecommunications; and

(II) the training and preparation of personnel to design, build, provide instruction on the use of, repair, and recycle assistive technology devices and to provide assistive technology services.

(ii) TARGETED TECHNICAL ASSISTANCE AND TRAINING.—The State shall also support public or private entities to carry out targeted technical assistance and training activities.

(E) OUTREACH.—The State shall provide support to statewide and community-based organizations that provide assistive technology devices and assistive technology services to individuals with disabilities or that assist individuals with disabilities in using assistive technology devices and assistive technology services, including a focus on organizations assisting individuals from underrepresented populations and rural populations. Such support may include outreach to consumer organizations and groups in the State to coordinate efforts (including self-help, support group activities, and peer mentoring) to assist individuals with disabilities of all ages and their family members, guardians, advocates, or authorized representatives, to obtain funding for, access to, and information on evaluation of assistive technology devices and assistive technology services.

(3) DISCRETIONARY ACTIVITIES.—A State that receives a grant under this section may use the funds made available through the grant to carry out additional activities that were authorized under the Technology-Related Assistance for Individuals With Disabilities Act of 1988, or other activities identified by the Secretary or the State, to which the Secretary gives approval.

(c) AMOUNT OF FINANCIAL ASSISTANCE.—

(1) GRANTS TO OUTLYING AREAS.—From the funds appropriated under section 107(a) and reserved under clause (i) of subparagraph (A), (B), or (C) of section 107(b)(1) for any fiscal year for grants under this section, the Secretary shall make a grant in an amount of not more than $105,000 to each eligible outlying area.

(2) GRANTS TO STATES.—From the funds described in paragraph (1) that are not used to make grants under paragraph (1), the Secretary shall make grants to States from allotments made in accordance with the requirements described in paragraph (3).

(3) ALLOTMENTS.—From the funds described in paragraph (1) that are not used to make grants under paragraph (1)—

(A) the Secretary shall allot $500,000 to each State; and

(B) from the remainder of the funds—

(i) the Secretary shall allot to each State an amount that bears the same ratio to 80 percent of the remainder as the population of the State bears to the population of all States; and

(ii) the Secretary shall allot to each State with a population density that is not more than 10 percent greater than the population density of the United States (according to the most recently available census data) an equal share from 20 percent of the remainder.

(d) STATE TECHNOLOGY PLAN.—Any State that desires to receive a grant under this section shall submit to the Secretary a plan, at such time, in such manner, and for such period as the Secretary may specify, that contains the following information and assurances:

(1) DESIGNATION OF PUBLIC AGENCY AND STATE ASSISTIVE TECHNOLOGY OFFICE.—

(A) IN GENERAL.—Information identifying, and a description of, the public agency designated by the Governor to control and administer the funds made available through the grant awarded to the State under this section, and information identifying the entity designated by the Governor to be the State Assistive Technology Office (which shall carry out State activities under this section), if such entity is different than the designated public agency. In designating the entity to be the State Assistive Technology Office, the Governor may designate—

(i) a commission, council, or other official body appointed by the Governor;

(ii) a public-private partnership or consortium;

(iii) a public agency, including the immediate office of the Governor of the State, a State oversight office, a State agency, a public institution of higher education, a university-affiliated program, or another public entity;

(iv) a council established under Federal or State law; or

(v) another appropriate office, agency, entity, or individual.

(B) EXPERTISE, EXPERIENCE, AND ABILITY OF STATE ASSISTIVE TECHNOLOGY OFFICE.—A description demonstrating that the entity designated as the State Assistive Technology Office has the expertise, experience, and ability to—

(i) provide leadership in developing State policy related to assistive technology, including policy relating to the procurement of accessible electronic and information technology by State agencies and the incorporation of principles of universal design in the State infrastructure;

(ii) respond to assistive technology needs of individuals with disabilities with the full range of disabilities and of all ages;

(iii) promote availability throughout the State of assistive technology devices and assistive technology services;

(iv) promote and implement system improvement and policy advocacy activities pertaining to assistive technology devices and assistive technology services;

(v) work proactively and collaboratively with State agencies and private entities involved in funding and delivering assistive technology devices and assistive technology services;

(vi) provide technical assistance for capacity building and advocacy activities and training relating to assistive technology devices and assistive technology services, and enhancement of access to funding for assistive technology, across all State agencies;

(vii) promote and develop public-private partnerships related to assistive technology devices and assistive technology services;

(viii) exercise leadership in identifying and responding to the technology needs of individuals with disabilities and their family members, guardians, advocates, and authorized representatives; and

(ix) promote consumer confidence, responsiveness, and advocacy related to assistive technology devices and assistive technology services.

(2) INVOLVEMENT OF ENTITIES AND TARGETED INDIVIDUALS IN THE DEVELOPMENT OF THE PLAN AND IMPLEMENTATION OF THE ACTIVITIES.—

(A) ENTITIES.—A description of how various public and private entities were involved in the development of the plan and will be involved in the planned implementation of the activities to be carried out under the grant, including a description of the nature and extent of each type of involvement.

(B) TARGETED INDIVIDUALS.—A description of how targeted individuals, especially individuals with disabilities who use assistive technology, were involved in the development of the plan and will be involved in the planned implementation of the activities, including a description of the nature and extent of each type of involvement.

(3) ADVISORY GROUP.—A description of an advisory group of targeted individuals, a majority of whom are individuals with disabilities and parents of such individuals, who will assist the State Assistive Technology Office in identifying the unmet assistive technology needs of individuals with disabilities and assist the Office in deciding how the assistive technology needs of such individuals will be addressed by the State.

(4) NEEDS ASSESSMENT.—A description and the results of a needs assessment from which the goals described in paragraph (7) were derived.

(5) STATE RESOURCES.—A description of State resources and other resources that are available to commit to the maintenance of the comprehensive statewide program of technology-related assistance.

(6) ELECTRONIC AND INFORMATION TECHNOLOGY.—An assurance that the State, and any recipient of funds made available to the State under this section, not later than fiscal year 2001, will have procurement policies and procedures in effect that are consistent with the objectives, complaint procedures, and standards of section 508 of the Rehabilitation Act of 1973.

(7) GOALS AND ACTIVITIES.—

(A) IN GENERAL.—A description of—

(i) the goals the State has set, for addressing the assistive technology needs of individuals with disabilities in the State, including any goals related to—

(I) health care;

(II) education;

(III) employment, including goals involving the State vocational rehabilitation program carried out under title I of the Rehabilitation Act of 1973;

(IV) telecommunication and information technology; or

(V) community living, including participation in recreation; and

(ii) the activities the State will undertake to achieve such goals, in accordance with the requirements of subsection (b).

(B) MEASURES OF GOAL ACHIEVEMENT.—A description of how the State will measure whether the goals set by the State have been achieved.

(C) INVOLVEMENT OF INDIVIDUALS WITH DISABILITIES OF ALL AGES AND THEIR FAMILIES.—A description of how individuals with disabilities of all ages and their families—

(i) were involved in selecting—

(I) the goals;

(II) the activities to be undertaken in achieving the goals; and

(III) the measures to be used in judging if the goals have been achieved; and

(ii) will be involved in measuring whether the goals have been achieved.

(8) ANNUAL ASSESSMENT.—An assurance that the State will conduct an annual assessment of the comprehensive statewide program of technology-related assistance, in order to determine—

(A) the extent to which the goals described in paragraph (7) have been achieved; and

(B) the areas of need that require attention in the next year.

(9) DATA COLLECTION.—A description of the data collection system used for compiling information on the program, which shall be consistent with any standardized data collection requirements specified by the Secretary.

(10) USE OF GRANT FUNDS.—An assurance that funds received through the grant will be expended in accordance with the provisions of this section and of the State technology plan.

(11) SUPPLEMENT OTHER FUNDS.—An assurance that funds received through the grant—

(A) will be used to supplement, and not supplant, funds available from other sources for technology-related assistance, including the provision of assistive technology devices and assistive technology services; and

(B) will not be used to pay a financial obligation for technology-related assistance (including the provision of assistive technology devices or assistive technology services) that would have been paid with amounts available from other sources if funds made available through the grant had not been available.

(12) CONTROL OF FUNDS AND PROPERTY.—An assurance that—

(A) the designated public agency shall control and administer funds made available through the grant;

(B) the designated public agency shall hold title to and administer property purchased with such funds; and

(C) an individual with a disability may control and use such property.

(13) REPORTS.—An assurance that the State will—

(A) prepare reports to the Secretary at such time, in such manner, and containing such information as the Secretary may require to carry out the functions of the Secretary under this section or section 105; and

(B) keep such records and allow access to such records as the Secretary may require to ensure the correctness and verification of information provided to the Secretary under this paragraph.

(14) COMMINGLING OF FUNDS.—

(A) IN GENERAL.—An assurance that funds received through the grant will not be commingled with State or other funds.

(B) CONSTRUCTION.—Subparagraph (A) shall not be construed to prevent, subject to such requirements as the Secretary may establish concerning documentation satisfactory to the Secretary, pooling of funds received through the grant with other public or private funds to achieve a goal specified in the grant application involved, as approved by the Secretary.

(15) FISCAL CONTROL AND ACCOUNTING PROCEDURES.—An assurance that the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds received through the grant.

(16) AVAILABILITY OF INFORMATION.—An assurance that the State will make available to individuals with disabilities and their family members, guardians, advocates, or authorized representatives information concerning technology-related assistance in a form that will allow such persons to effectively use such information.

(17) AUTHORITY TO USE FUNDS.—An assurance that the State Assistive Technology Office will have the authority to use funds made available through a grant awarded under this section.

(18) TRAINING ACTIVITIES.—An assurance that the State will develop and implement strategies for including personnel training regarding assistive technology within other federally funded and State funded training initiatives to enhance the assistive technology skills and competencies of personnel.

(19) LIMIT ON INDIRECT COSTS.—An assurance that the percentage of the funds made available under the grant that is used for indirect costs shall not exceed 10 percent.

(20) COORDINATION WITH STATE COUNCILS.—An assurance that the State Assistive Technology Office will coordinate the activities funded through the grant made under this section with the activities carried out by other councils within the State, including—

(A) any council or commission specified in the State plan provision provided by the State in accordance with section 101(a)(21) of the Rehabilitation Act of 1973;

(B) the Statewide Independent Living Council established under section 705 of the Rehabilitation Act of 1973;

(C) the advisory panel established under section 612(a)(21) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(21));

(D) the State Interagency Coordinating Council established under section 641 of the Individuals with Disabilities Education Act (20 U.S.C. 1441);

(E) the State Developmental Disabilities Council established under section 124 of the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6024);

(F) the State mental health planning council established under section 1914 of the Public Health Service Act (42 U.S.C. 300x–4); and

(G) any council established under section 204, 206(g)(2)(A), or 712(a)(3)(H) of the Older Americans Act of 1965 (42 U.S.C. 3015, 3017(g)(2)(A), or 3058g(a)(3)(H)).

(21) OTHER INFORMATION AND ASSURANCES.—Such other information and assurances as the Secretary may reasonably require.

(e) PROGRESS REPORTS.—Each State that receives a grant under this section shall annually prepare and submit to the Secretary a report that documents progress in meeting the goals described in subsection (d)(7) and maintaining a comprehensive statewide program of technology-related assistance, including—

(1) the results of the annual assessment described in subsection (d)(8);

(2) to the extent not addressed through the measurement and assessment conducted under paragraph (7) or (8) of subsection (d), a description of the capacity building and advocacy activities carried out by the State, including a description of any written policies and procedures that the State has developed and implemented regarding access to, provision of, and funding for, assistive technology devices and assistive technology services, particularly policies and procedures regarding access to, provision of, and funding for, such devices and services under education (including special education), vocational rehabilitation, and medical assistance programs;

(3) if not addressed under paragraph (1) or (2), a description of the degree of involvement of various State agencies and private entities, especially agencies and entities involved in providing health insurance and education, in the development, implementation, and evaluation of the program, including a description of any interagency agreements that the State has developed and implemented regarding access to, provision of, and funding for, assistive technology devices and assistive technology services, such as agreements that identify available resources for assistive technology devices and assistive technology services and the responsibility of each such agency or entity for paying for such devices and services; and

(4) any other information the Secretary may reasonably require.

SEC. 103. SUPPLEMENTARY MILLENNIUM GRANTS TO STATES FOR STATE AND LOCAL CAPACITY BUILDING.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—The Secretary shall award supplementary grants, on a competitive basis—

(A) to States, to carry out 1 or more of the targeted activities described in subsection (b) to expand the capacity of the States to address the unmet assistive technology needs of individuals with disabilities; or

(B) to States, to provide funds to local entities on a competitive basis, through subgrants or any other mechanism, to enable each such local entity to carry out 1 of the targeted activities described in subsection (c) to expand the capacity of the local entities to address the unmet needs of individuals with disabilities for assistive technology and assistive technology services, especially the unmet needs of underrepresented populations.

(2) PERIOD.—The Secretary shall award the grants for periods of not more than 5 years.

(3) ELIGIBLE STATES.—To be eligible to receive a grant under this section, a State shall have received a grant under section 102.

(b) STATEWIDE CAPACITY BUILDING ACTIVITIES.—The State may use funds made available through a grant described in subsection (a)(1)(A) to carry out 1 or more of the following activities:

(1) Obtaining, under State law or through other equivalent means, the compliance of all public agencies in the State with section 508 of the Rehabilitation Act of 1973, which shall include establishing a mechanism for informing individuals with disabilities of their rights with regard to such section 508, addressing their complaints, and establishing a lead agency to monitor and enforce compliance with such section 508.

(2) Developing and implementing, documenting, and reviewing a plan for enhancing the participation of all individuals with disabilities in the State, in education, employment, transportation, and communication, and enhancing general access of the individuals, in ways that complement and exceed the requirements for public and private entities under the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), through—

(A) incorporating concepts of universal design in physical structures, products, and services; or

(B) providing fiscal-related incentives to public and private telecommunication ventures.

(3) Developing and implementing activities for incorporating the principles of universal design in the construction and renovation of facilities, information technology and telecommunications, and other products and services such as transportation.

(4) Planning and adopting State personnel standards or professional certification procedures that apply to individuals who, or entities that, provide assistive technology services.

(5) Conducting evaluations of assistive technology devices and assistive technology services, including computer software, for the purpose of evaluating and documenting the effectiveness, benefits, and compatibility of the devices or services with other technologies, for individuals with disabilities.

(6) Engaging in another activity, pursuant to a priority mechanism announced by the Secretary, that will have a statewide impact and address the unmet assistive technology needs of individuals with disabilities.

(c) LOCAL CAPACITY BUILDING ACTIVITIES.—The State may use funds made available through a grant described in subsection (a)(1)(B) to provide funds to local entities that submit acceptable plans, to enable each such local entity to carry out 1 of the following activities:

(1) Developing and implementing micro-loan and alternative financing programs.

(2) Planning and carrying out equipment demonstrations in community settings frequented by the public.

(3) Developing and implementing an equipment loan program involving long-term and short-term loans.

(4) Developing and implementing an equipment recycling program.

(5) Developing and implementing outreach activities and training, especially empowerment training, for individuals with disabilities, teachers and parents of individuals with disabilities, and underserved populations.

(6) Carrying out other initiatives, including model innovative initiatives, that meet an unmet local need related to assistive technology.

(d) AMOUNTS OF SUPPLEMENTARY GRANTS.—

(1) PAYMENTS TO STATES.—The Secretary shall make payments to States and to outlying areas that successfully compete for supplementary grants awarded under this section, in accordance with the requirements of this section.

(2) OBLIGATION AND EXPENDITURE.—A State that receives a grant under this section may obligate and expend the funds made available through the grant during the period of the grant.

(3) MATCHING REQUIREMENT.—A State that receives a grant under this section in an amount that exceeds $250,000 shall make available non-Federal contributions in an amount not less than $1 for every $2 of the amount that exceeds $250,000.

(e) APPLICATIONS.—Any State that desires to receive a grant under this section shall submit to the Secretary an application, at such time, and in such manner, as the Secretary may require, that contains the following information and assurances:

(1) PARTNERS.—

(A) STATE ASSISTIVE TECHNOLOGY OFFICE.—An assurance that the State Assistive Technology Office designated under section 102(d)(1)(A) participated in the development of the application and will participate in the implementation of the activities to be carried out under the grant, even if the State Assistive Technology Office is not the grant applicant under this section.

(B) PARTNERS.—A description of the partners of the State involved in carrying out statewide activities under the grant, including—

(i) the identity of each partner;

(ii) the role of each partner in the development of the application;

(iii) the capacity of each partner to contribute to the grant activities; and

(iv) the contribution of each partner to the grant activities.

(2) TARGETED INDIVIDUALS.—A description of how targeted individuals, especially individuals with disabilities who use assistive technology, were involved in the development of the application and will be involved in the implementation of the activities to be carried out under the grant.

(3) DATA.—Data that affected the selection of the activities to be carried out under the grant.

(4) RESOURCES.—A description of State resources and other resources that have been committed to carry out the activities.

(5) GOALS AND ACTIVITIES.—

(A) IN GENERAL.—A description of—

(i) the goals the State has set for the supplementary grant; and

(ii) the activities the State will undertake to achieve such goals, in accordance with the requirements of subsections (b) and (c).

(B) MEASURES OF GOAL ACHIEVEMENT.—A description of how the State will measure whether the goals set by the State have been achieved.

(C) INVOLVEMENT OF INDIVIDUALS WITH DISABILITIES OF ALL AGES AND THEIR FAMILIES.—A description of how individuals with disabilities of all ages and their families—

(i) were involved in selecting—

(I) the goals;

(II) the activities to be undertaken in achieving the goals; and

(III) the measures to be used in judging if the goals have been achieved; and

(ii) will be involved in measuring whether the goals have been achieved.

(6) ANNUAL ASSESSMENT.—An assurance that the State will conduct an annual assessment of the activities carried out under the grant, in order to determine—

(A) the extent to which the goals described in paragraph (5) have been achieved; and

(B) the areas of need that require attention in the next year.

(7) USE OF FUNDS.—An assurance that funds received through the grant will be expended in accordance with the provisions of this section and of the application.

(8) SUPPLEMENT OTHER FUNDS.—An assurance that funds received through the grant will be used to supplement, and not supplant, funds available from other sources for any activity carried out under the grant.

(9) REPORTS.—An assurance that the State will, or will ensure that a recipient of assistance through the grant will—

(A) prepare reports to the Secretary at such time, in such manner, and containing such information as the Secretary may require to carry out the functions of the Secretary under this section or section 105; and

(B) keep such records and allow access to such records as the Secretary may require to ensure the correctness and verification of information provided to the Secretary under this paragraph.

(10) COMMINGLING OF FUNDS.—

(A) IN GENERAL.—An assurance that funds received through the grant will not be commingled with State or other funds.

(B) CONSTRUCTION.—Subparagraph (A) shall not be construed to prevent, subject to such requirements as the Secretary may establish concerning documentation satisfactory to the Secretary, pooling of funds received through the grant with other public or private funds to achieve a goal specified in the grant application involved, as approved by the Secretary.

(11) FISCAL CONTROL AND ACCOUNTING PROCEDURES.—An assurance that the State will adopt, and will ensure that a recipient of assistance through the grant will adopt, such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for funds received through the grant.

(12) AUTHORITY TO USE FUNDS.—An assurance that, the partners described in paragraph (1)(B) will have the authority to use funds made available through a grant awarded under this section.

(13) LIMIT ON INDIRECT COSTS.—An assurance that the percentage of the funds made available under the grant that is used for indirect costs shall not exceed 10 percent.

(14) OTHER INFORMATION AND ASSURANCES.—Such other information and assurances as the Secretary may reasonably require.

(f) SUBMISSION.—

(1) JOINT SUBMISSION.—When a State submits the State technology plan for the State under section 102(d), the State may jointly submit an application described in subsection (e) for funding activities under this section.

(2) SEPARATE INFORMATION.—In making such a joint submission the State shall distinguish between activities to be carried out under a grant awarded under section 102 and activities to be carried out under a grant awarded under this section, and include a budget that separately reflects proposed expenditures for the 2 types of grant activities for each fiscal year involved.

(g) PROGRESS REPORTS.—Each State that receives a grant under this section, and any other entity that receives assistance through a grant awarded under this section, shall annually prepare and submit to the Secretary a report that documents the progress of the State or entity in meeting the goals described in subsection (e)(5), and any other information the Secretary may reasonably require.

SEC. 104. STATE GRANTS FOR PROTECTION AND ADVOCACY RELATED TO ASSISTIVE TECHNOLOGY.

(a) GRANTS TO STATES.—

(1) IN GENERAL.—On the appropriation of funds under section 107, the Secretary shall make a grant to an entity in each State to support protection and advocacy services through the systems established to provide protection and advocacy services under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.) for the purposes of assisting in the acquisition, utilization, or maintenance of assistive technology or assistive technology services for individuals with disabilities.

(2) CERTAIN STATES.—Notwithstanding paragraph (1), for a State that, on the day before the date of enactment of this Act, was described in section 102(f)(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, the Secretary shall make the grant to the lead agency designated under section 101(d) or the State Assistive Technology Office designated under section 102(d)(1)(A) in that State, whichever is appropriate. The lead agency or office shall determine how the funds made available under this section shall be divided among the entities that were providing protection and advocacy services in that State on that day, and distribute the funds to the entities. In distributing the funds, the lead agency or office shall not establish any further eligibility or procedural requirements for an entity in that State that supports protection and advocacy services through the systems established to provide protection and advocacy services under the Developmental Disabilities Assistance and Bill of Rights Act (42 U.S.C. 6000 et seq.). Such an entity shall comply with the same requirements (including reporting and enforcement requirements) as any other entity that receives funding under paragraph (1).

(3) PERIODS.—The Secretary shall provide assistance through such a grant to a State for 6 years.

(b) AMOUNT OF FINANCIAL ASSISTANCE.—

(1) GRANTS TO OUTLYING AREAS.—From the funds appropriated under section 107(a) and reserved under clause (ii) of subparagraph (A), (B), or (C) of section 107(b)(1) for any fiscal year, the Secretary shall make a grant in an amount of not more than $30,000 to each eligible system within an outlying area.

(2) GRANTS TO STATES.—For any fiscal year, after reserving funds to make grants under paragraph (1), the Secretary shall make allotments from the remainder of the funds described in paragraph (1) in accordance with paragraph (3) to eligible systems within States to support protection and advocacy services as described in subsection (a). The Secretary shall make grants to the eligible systems from the allotments.

(3) SYSTEMS WITHIN STATES.—

(A) POPULATION BASIS.—Except as provided in subparagraph (B), from such remainder for each fiscal year, the Secretary shall make an allotment to the eligible system within a State of an amount bearing the same ratio to such remainder as the population of the State bears to the population of all States.

(B) MINIMUMS.—Subject to the availability of appropriations to carry out this section, the allotment to any system under subparagraph (A) shall be not less than $50,000, and the allotment to any system under this paragraph for any fiscal year that is less than $50,000 shall be increased to $50,000.

(4) ADJUSTMENT FOR INFLATION.—For any fiscal year, beginning in fiscal year 2000, in which the total amount appropriated and reserved as described in paragraph (1) exceeds the total amount so appropriated and reserved for the preceding fiscal year, the Secretary shall increase each of the minimum allotments under paragraph (3)(B) by a percentage that shall not exceed the percentage increase in the total amount so appropriated and reserved between the preceding fiscal year and the fiscal year involved.

(5) PROPORTIONAL REDUCTION.—To provide minimum allotments to systems within States (as increased under paragraph (4)) under paragraph (3)(B), the Secretary shall proportionately reduce the allotments of the remaining systems within States under paragraph (3), with such adjustments as may be necessary to prevent the allotment of any such remaining system within a State from being reduced to less than the minimum allotment for a system within a State (as increased under paragraph (4)) under paragraph (3)(B).

(6) REALLOTMENT.—Whenever the Secretary determines that any amount of an allotment under paragraph (3) to a system within a State for any fiscal year will not be expended by such system in carrying out the provisions of this section, the Secretary shall make such amount available for carrying out the provisions of this section to 1 or more of the systems that the Secretary determines will be able to use additional amounts during such year for carrying out such provisions. Any amount made available to a system for any fiscal year pursuant to the preceding sentence shall, for the purposes of this section, be regarded as an increase in the allotment of the system (as determined under the preceding provisions of this section) for such year.

(c) REPORT TO SECRETARY.—An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report that contains such information as the Secretary may require, including documentation of the progress of the entity in—

(1) conducting consumer-responsive activities, including activities that will lead to increased access, for individuals with disabilities, to funding for assistive technology devices and assistive technology services;

(2) engaging in informal advocacy to assist in securing assistive technology and assistive technology services for individuals with disabilities;

(3) engaging in formal representation for individuals with disabilities to secure systems change, and in advocacy activities to secure assistive technology and assistive technology services for individuals with disabilities;

(4) developing and implementing strategies to enhance the long-term abilities of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to advocate the provision of assistive technology devices and assistive technology services to which the individuals with disabilities are entitled under law other than this Act; and

(5) coordinating activities with protection and advocacy services funded through sources other than this title, and coordinating activities with the capacity building and advocacy activities carried out by the lead agency or State Assistive Technology Office, as appropriate.

(d) REPORTS AND UPDATES TO STATE AGENCIES.—An entity that receives a grant under this section shall prepare and submit to the State Assistive Technology Office the report described in subsection (c) and quarterly updates concerning the activities described in subsection (c).

(e) COORDINATION.—On making a grant under this section to an entity in a State, the Secretary shall solicit and consider the opinions of the lead agency of the State designated under section 101(d), or the State Assistive Technology Office, whichever is appropriate, with respect to efforts at coordination, collaboration, and promoting outcomes between the lead agency or the State Assistive Technology Office, as appropriate, and the entity that receives the grant under this section.

SEC. 105. ADMINISTRATIVE PROVISIONS.

(a) REVIEW OF PARTICIPATING ENTITIES.—

(1) IN GENERAL.—The Secretary shall assess the extent to which entities that receive grants pursuant to this title are complying with the applicable requirements of this title and achieving the goals that are consistent with the requirements of the grant programs under which the entities applied for the grants.

(2) ONSITE VISITS OF STATES RECEIVING CERTAIN GRANTS.—

(A) IN GENERAL.—The Secretary shall conduct an onsite visit—

(i) for each State that receives a grant under section 101 and that would have been in the third or fourth year of a second extension grant under the Technology-Related Assistance for Individuals With Disabilities Act of 1988 if that Act had been reauthorized for that fiscal year, prior to the end of that year; and

(ii) for each State that receives a grant under section 102, prior to the end of the fourth year of that grant.

(B) UNNECESSARY VISITS.—The Secretary shall not be required to conduct a visit of a State described in clause (i) or (ii) of subparagraph (A) if the Secretary determines that the visit is not necessary to assess whether the State is making significant progress toward development and implementation of a comprehensive statewide program of technology-related assistance.

(3) ADVANCE PUBLIC NOTICE.—The Secretary shall provide advance public notice of an onsite visit conducted under paragraph (2) and solicit public comment through such notice from targeted individuals, regarding State goals and related activities to achieve such goals funded through a grant made under section 101 or 102, as appropriate.

(4) MINIMUM REQUIREMENTS.—At a minimum, the visit shall allow the Secretary to determine the extent to which the State is making progress in meeting State goals and maintaining a comprehensive statewide program of technology-related assistance consistent with the purposes described in section 2(b)(1).

(5) PROVISION OF INFORMATION.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information.

(b) CORRECTIVE ACTION AND SANCTIONS.—

(1) CORRECTIVE ACTION.—If the Secretary determines that an entity fails to substantially comply with the requirements of this title with respect to a grant program, the Secretary shall assist the entity through a technical assistance center funded under section 106 or other means, within 90 days after such determination, to develop a corrective action plan.

(2) SANCTIONS.—An entity that fails to develop and comply with a corrective action plan as described in paragraph (1) during a fiscal year shall be subject to 1 of the following corrective actions selected by the Secretary:

(A) Partial or complete fund termination under the grant program.

(B) Ineligibility to participate in the grant program in the following year.

(C) Reduction in funding for the following year under the grant program.

(D) Required redesignation of the lead agency designated under section 101(d) or an entity responsible for administering the grant program.

(3) APPEALS PROCEDURES.—The Secretary shall establish appeals procedures for entities that are found to be in noncompliance with the requirements of this title.

(c) ANNUAL REPORT.—

(1) IN GENERAL.—Not later than December 31 of each year, the Secretary shall prepare, and submit to the President and to Congress, a report on the activities funded under this Act, to improve the access of individuals with disabilities to assistive technology devices and assistive technology services.

(2) CONTENTS.—Such report shall include information on—

(A) the demonstrated successes of the funded activities in improving interagency coordination relating to assistive technology, streamlining access to funding for assistive technology, and producing beneficial outcomes for users of assistive technology;

(B) the demonstration activities carried out through the funded activities to—

(i) promote access to such funding in public programs that were in existence on the date of

the initiation of the demonstration activities; and

(ii) establish additional options for obtaining such funding;

(C) the education and training activities carried out through the funded activities to educate and train targeted individuals about assistive technology, including increasing awareness of funding through public programs for assistive technology;

(D) the research activities carried out through the funded activities to improve understanding of the costs and benefits of access to assistive technology for individuals with disabilities who represent a variety of ages and types of disabilities;

(E) the program outreach activities to rural and inner-city areas that are carried out through the funded activities;

(F) the activities carried out through the funded activities that are targeted to reach underrepresented populations and rural populations; and

(G) the consumer involvement activities carried out through the funded activities.

(3) AVAILABILITY OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES.—As soon as practicable, the Secretary shall include in the annual report required by this subsection information on the availability of assistive technology devices and assistive technology services. If the Secretary develops an assistive technology taxonomy under section 216, after the date of the development the Secretary shall present such information in the report in a manner consistent with such taxonomy.

(d) EFFECT ON OTHER ASSISTANCE.—This title may not be construed as authorizing a Federal or a State agency to reduce medical or other assistance available, or to alter eligibility for a benefit or service, under any other Federal law.

SEC. 106. TECHNICAL ASSISTANCE PROGRAM.

(a) IN GENERAL.—Through grants, contracts, or cooperative agreements, awarded on a competitive basis, the Secretary is authorized to fund a technical assistance program to provide technical assistance to entities, principally entities funded under any of sections 101 through 104.

(b) INPUT.—In designing the program to be funded under this section, and in deciding the differences in function between national and regionally based technical assistance efforts carried out through the program, the Secretary shall consider the input of the directors of comprehensive statewide programs of technology-related assistance and other individuals the Secretary determines to be appropriate, especially—

(1) individuals with disabilities who use assistive technology and understand the barriers to the acquisition of such technology and assistive technology services;

(2) family members, guardians, advocates, and authorized representatives of such individuals; and

(3) individuals employed by protection and advocacy systems funded under section 104.

(c) SCOPE OF TECHNICAL ASSISTANCE.—

(1) NATIONAL PUBLIC INTERNET SITE.—

(A) ESTABLISHMENT OF INTERNET SITE.—The Secretary shall fund the establishment and maintenance of a National Public Internet Site for the purposes of providing to individuals with disabilities and the general public technical assistance and information on increased access to assistive technology devices, assistive technology services, and other disability-related resources.

(B) ELIGIBLE ENTITY.—To be eligible to receive a grant or enter into a contract or cooperative agreement under subsection (a) to establish and maintain the Internet site, an entity shall be an institution of higher education that emphasizes research and engineering, has a multidisciplinary research center, and has demonstrated expertise in—

(i) working with assistive technology and intelligent agent interactive information dissemination systems;

(ii) managing libraries of assistive technology and disability-related resources;

(iii) delivering education, information, and referral services to individuals with disabilities, including technology-based curriculum development services for adults with low-level reading skills;

(iv) developing cooperative partnerships with the private sector, particularly with private sector computer software, hardware, and Internet services entities; and

(v) developing and designing advanced Internet sites.

(C) FEATURES OF INTERNET SITE.—The National Public Internet Site described in subparagraph (A) shall contain the following features:

(i) AVAILABILITY OF INFORMATION AT ANY TIME.—The site shall be designed so that any member of the public may obtain information posted on the site at any time.

(ii) INNOVATIVE AUTOMATED INTELLIGENT AGENT.—The site shall be constructed with an innovative automated intelligent agent that is a diagnostic tool for assisting users in problem definition and the selection of appropriate assistive technology devices and assistive technology services resources.

(iii) RESOURCES.—

(I) LIBRARY ON ASSISTIVE TECHNOLOGY.—The site shall include access to a comprehensive working library on assistive technology for all environments, including home, workplace, transportation, and other environments.

(II) RESOURCES FOR A NUMBER OF DISABILITIES.—The site shall include resources relating to the largest possible number of disabilities, including resources relating to low-level reading skills.

(iv) LINKS TO PRIVATE SECTOR RESOURCES AND INFORMATION.—To the extent feasible, the site shall be linked to relevant private sector resources and information, under agreements developed between the institution of higher education and cooperating private sector entities.

(D) MINIMUM LIBRARY COMPONENTS.—At a minimum, the Internet site shall maintain updated information on—

(i) how to plan, develop, implement, and evaluate activities to further extend comprehensive statewide programs of technology-related assistance, including the development and replication of effective approaches to—

(I) providing information and referral services;

(II) promoting interagency coordination of training and service delivery among public and private entities;

(III) conducting outreach to underrepresented populations and rural populations;

(IV) mounting successful public awareness activities;

(V) improving capacity building in service delivery;

(VI) training personnel from a variety of disciplines; and

(VII) improving evaluation strategies, research, and data collection;

(ii) effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of, assistive technology devices and assistive technology services;

(iii) successful approaches to increasing the availability of public and private funding for and access to the provision of assistive technology devices and assistive technology services by appropriate State agencies; and

(iv) demonstration sites where individuals may try out assistive technology.

(2) TECHNICAL ASSISTANCE EFFORTS.—In carrying out the technical assistance program, taking into account the input required under subsection (b), the Secretary shall ensure that entities—

(A) address State-specific information requests concerning assistive technology from other entities funded under this title and public entities not funded under this title, including—

(i) requests for state-of-the-art, or model, Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services;

(ii) requests for examples of policies, practices, procedures, regulations, administrative hearing decisions, or legal actions, that have enhanced or may enhance access to funding for assistive technology devices and assistive technology services for individuals with disabilities;

(iii) requests for information on effective approaches to Federal-State coordination of programs for individuals with disabilities, related to improving funding for or access to assistive technology devices and assistive technology services for individuals with disabilities of all ages;

(iv) requests for information on effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of, assistive technology devices and assistive technology services, including information on the identification and description of mechanisms and means that successfully support self-help and peer mentoring groups for individuals with disabilities;

(v) other requests for technical assistance from other entities funded under this title and public entities not funded under this title; and

(vi) other assignments specified by the Secretary, including assisting entities described in section 105(b) to develop corrective action plans; and

(B) assist targeted individuals by disseminating information about—

(i) Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services, to promote fuller independence, productivity, and inclusion in society for individuals with disabilities of all ages; and

(ii) technical assistance activities undertaken under subparagraph (A).

(d) ELIGIBLE ENTITIES.—To be eligible to compete for grants, contracts, and cooperative agreements under this section, entities shall have documented experience with and expertise in assistive technology service delivery or systems, interagency coordination, and capacity building and advocacy activities.

(e) APPLICATION.—To be eligible to receive a grant, contract, or cooperative agreement under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

SEC. 107. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $36,000,000 for fiscal year 1999 and such sums as may be necessary for fiscal years 2000 through 2004.

(b) RESERVATIONS OF FUNDS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) through (4)—

(A) if the amount appropriated under subsection (a) for a fiscal year is less than $33,000,000—

(i) 87.5 percent of the amount shall be reserved to fund grants under sections 101 and 102;

(ii) 7.9 percent shall be reserved to fund grants under section 104; and

(iii) 4.6 percent shall be reserved for activities funded under section 106;

(B) if the amount appropriated under subsection (a) for a fiscal year is not less than $33,000,000 and is less than $36,000,000—

(i) 85 percent of the amount shall be reserved to fund grants under sections 101 and 102;

(ii) 11 percent shall be reserved to fund grants under section 104; and

(iii) 4 percent shall be reserved for activities funded under section 106; and

(C) if the amount appropriated under subsection (a) for a fiscal year is not less than $36,000,000—

(i) 80 percent of the amount shall be reserved to fund grants under sections 101, 102, and (to the extent provided in paragraph (2)) 103;

(ii) 15 percent shall be reserved to fund grants under section 104; and

(iii) 5 percent shall be reserved for activities funded under section 106.

(2) CONDITION APPLICABLE TO SUPPLEMENTARY GRANTS.—Beginning in fiscal year 2000, if the amount appropriated under subsection (a) for a fiscal year is not less than $40,000,000, the Secretary may reserve not more than 5 percent of the amount to fund grants under section 103.

(3) RESERVATION FOR CONTINUATION OF TECHNICAL ASSISTANCE INITIATIVES.—For fiscal year 1999, the Secretary may use funds reserved under clause (iii) of subparagraph (A), (B), or (C) of paragraph (1) to continue funding technical assistance initiatives that were funded in fiscal year 1998 under the Technology-Related Assistance for Individuals With Disabilities Act of 1988.

(4) RESERVATION FOR ONSITE VISITS.—The Secretary may reserve, from the amount appropriated under subsection (a) for any fiscal year, such sums as the Secretary considers to be necessary for the purposes of conducting onsite visits as required by section 105(a)(2).

TITLE II—NATIONAL ACTIVITIES

Subtitle A—Rehabilitation Act of 1973

SEC. 201. COORDINATION OF FEDERAL RESEARCH EFFORTS.

Section 203 of the Rehabilitation Act of 1973 (as amended by section 405 of the Workforce Investment Act of 1988) is amended—

(1) in subsection (a)(1), by inserting after ''programs,'' insert ''including programs relating to assistive technology research and research that incorporates the principles of universal design,'';

(2) in subsection (b)—

(A) by inserting ''(1)'' before ''After receiving'';

(B) by striking ''from individuals with disabilities and the individuals' representatives'' and inserting ''from targeted individuals'';

(C) by inserting after ''research'' the following: (including assistive technology research and research that incorporates the principles of universal design)''; and

(D) by adding at the end the following:

''(2) In carrying out its duties with respect to the conduct of Federal research (including assistive technology research and research that incorporates the principles of universal design) related to rehabilitation of individuals with disabilities, the Committee shall—

''(A) share information regarding the range of assistive technology research, and research that incorporates the principles of universal design, that is being carried out by members of the Committee and other Federal departments and organizations;

''(B) identify, and make efforts to address, gaps in assistive technology research and research that incorporates the principles of universal design that are not being adequately addressed;

''(C) identify, and establish, clear research priorities related to assistive technology research and research that incorporates the principles of universal design for the Federal Government;

''(D) promote interagency collaboration and joint research activities relating to assistive technology research and research that incorporates the principles of universal design at the Federal level, and reduce unnecessary duplication of effort regarding these types of research within the Federal Government; and

''(E) optimize the productivity of Committee members through resource sharing and other cost-saving activities, related to assistive technology research and research that incorporates the principles of universal design.'';

(3) by striking subsection (c) and inserting the following:

''(c) Not later than December 31 of each year, the Committee shall prepare and submit, to the President and to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that—

''(1) describes the progress of the Committee in fulfilling the duties described in subsection (b);

''(2) makes such recommendations as the Committee determines to be appropriate with respect to coordination of policy and development of objectives and priorities for all Federal programs relating to the conduct of research (including assistive technology research and research that incorporates the principles of universal design) related to rehabilitation of individuals with disabilities; and

''(3) describes the activities that the Committee recommended to be funded through grants, contracts, cooperative agreements, and other mechanisms, for assistive technology research and development and research and development that incorporates the principles of universal design.''; and

(4) by adding at the end the following:

''(d)(1) In order to promote coordination and cooperation among Federal departments and agencies conducting assistive technology research programs, to reduce duplication of effort among the programs, and to increase the availability of assistive technology for individuals with disabilities, the Committee may recommend activities to be funded through grants, contracts or cooperative agreements, or other mechanisms—

''(A) in joint research projects for assistive technology research and research that incorporates the principles of universal design; and

''(B) in other programs designed to promote a cohesive, strategic Federal program of research described in subparagraph (A).

''(2) The projects and programs described in paragraph (1) shall be jointly administered by at least 2 agencies or departments with representatives on the Committee.

''(3) In recommending activities to be funded in the projects and programs, the Committee shall obtain input from targeted individuals, and other organizations and individuals the Committee determines to be appropriate, concerning the availability and potential of technology for individuals with disabilities.

''(e) In this section, the terms 'assistive technology', 'targeted individuals', and 'universal design' have the meanings given the terms in section 3 of the Assistive Technology Act of 1998.''.

SEC. 202. NATIONAL COUNCIL ON DISABILITY.

Section 401 of the Rehabilitation Act of 1973 (as amended by section 407 of the Workforce Investment Act of 1998) is amended by adding at the end the following:

''(c)(1) Not later than December 31, 1999, the Council shall prepare a report describing the barriers in Federal assistive technology policy to increasing the availability of and access to assistive technology devices and assistive technology services for individuals with disabilities.

''(2) In preparing the report, the Council shall obtain input from the National Institute on Disability and Rehabilitation Research and the Association of Tech Act Projects, and from targeted individuals, as defined in section 3 of the Assistive Technology Act of 1998.

''(3) The Council shall submit the report, along with such recommendations as the Council determines to be appropriate, to the Committee on Labor and Human Resources of the Senate and the Committee on Education and the Workforce of the House of Representatives.''.

SEC. 203. ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.

(a) IN GENERAL.—Section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) is amended—

(1) by redesignating subsections (d) through (i) as subsections (e) through (j), respectively;

(2) by inserting after subsection (c) the following:

''(d) Beginning in fiscal year 2000, the Access Board, after consultation with the Secretary, representatives of such public and private entities as the Access Board determines to be appropriate (including the electronic and information technology industry), targeted individuals (as defined in section 3 of the Assistive Technology Act of 1998), and State information technology officers, shall provide training for Federal and State employees on any obligations related to section 508 of the Rehabilitation Act of 1973.''; and

(3) in the second sentence of paragraph (1) of subsection (e) (as redesignated in paragraph (1)), by striking ''subsection (e)'' and inserting ''subsection (f)''.

(b) CONFORMING AMENDMENT.—Section 506(c) of the Rehabilitation Act of 1973 (29 U.S.C. 794(c)) is amended by striking ''section 502(h)(1)'' and inserting ''section 502(i)(1)''.

Subtitle B—Other National Activities

SEC. 211. SMALL BUSINESS INCENTIVES.

(a) DEFINITION.—In this section, the term ''small business'' means a small-business concern, as described in section 3(a) of the Small Business Act (15 U.S.C. 632(a)).

(b) CONTRACTS FOR DESIGN, DEVELOPMENT, AND MARKETING.—

(1) IN GENERAL.—The Secretary may enter into contracts with small businesses, to assist such businesses to design, develop, and market assistive technology devices or assistive technology services. In entering into the contracts, the Secretary may give preference to businesses owned or operated by individuals with disabilities.

(2) SMALL BUSINESS INNOVATIVE RESEARCH PROGRAM.—Contracts entered into pursuant to paragraph (1) shall be administered in accordance with the contract administration requirements applicable to the Department of Education under the Small Business Innovative Research Program, as described in section 9(g) of the Small Business Act (15 U.S.C. 638(g)). Contracts entered into pursuant to paragraph (1) shall not be included in the calculation of the required expenditures of the Department under section 9(f) of such Act (15 U.S.C. 638(f)).

(c) GRANTS FOR EVALUATION AND DISSEMINATION OF INFORMATION ON EFFECTS OF TECHNOLOGY TRANSFER.—The Secretary may make grants to small businesses to enable such businesses—

(1) to work with any entity funded by the Secretary to evaluate and disseminate information on the effects of technology transfer on the lives of individuals with disabilities;

(2) to benefit from the experience and expertise of such entities, in conducting such evaluation and dissemination; and

(3) to utilize any technology transfer and market research services such entities provide, to bring new assistive technology devices and assistive technology services into commerce.

SEC. 212. TECHNOLOGY TRANSFER AND UNIVERSAL DESIGN.

(a) IN GENERAL.—The Director of the National Institute on Disability and Rehabilitation Research may collaborate with the Federal Laboratory Consortium for Technology Transfer established under section 11(e) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)), to promote technology transfer that will further development of assistive technology and products that incorporate the principles of universal design.

(b) COLLABORATION.—In promoting the technology transfer, the Director and the Consortium described in subsection (a) may collaborate—

(1) to enable the National Institute on Disability and Rehabilitation Research to work more effectively with the Consortium, and to enable the Consortium to fulfill the responsibilities of the Consortium to assist Federal agencies with technology transfer under the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq);

(2) to increase the awareness of staff members of the Federal Laboratories regarding assistive technology issues and the principles of universal design;

(3) to compile a compendium of current and projected Federal Laboratory technologies and projects that have or will have an intended or recognized impact on the available range of assistive technology for individuals with disabilities, including technologies and projects that incorporate the principles of universal design, as appropriate;

(4) to develop strategies for applying developments in assistive technology and universal design to mainstream technology, to improve economies of scale and commercial incentives for assistive technology; and

(5) to cultivate developments in assistive technology and universal design through demonstration projects and evaluations, conducted with assistive technology professionals and potential users of assistive technology.

(c) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Secretary may make grants to or enter into contracts or cooperative agreements with commercial, nonprofit, or other organizations, including institutions of higher education, to facilitate interaction with the Consortium to achieve the objectives of this section.

(d) RESPONSIBILITIES OF CONSORTIUM.—Section 11(e)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(e)(1)) is amended—

(1) in subparagraph (I), by striking ''; and'' and inserting a semicolon;

(2) in subparagraph (J), by striking the period and inserting ''; and''; and

(3) by adding at the end the following:

''(K) work with the Director of the National Institute on Disability and Rehabilitation Research to compile a compendium of current and projected Federal Laboratory technologies and projects that have or will have an intended or recognized impact on the available range of assistive technology for individuals with disabilities (as defined in section 3 of the Assistive Technology Act of 1998), including technologies and projects that incorporate the principles of universal design (as defined in section 3 of such Act), as appropriate.''.

SEC. 213. UNIVERSAL DESIGN IN PRODUCTS AND THE BUILT ENVIRONMENT.

The Secretary may make grants to commercial or other enterprises and institutions of higher education for the research and development of universal design concepts for products (including information technology) and the built environment. In making such grants, the Secretary shall give preference to enterprises and institutions that are owned or operated by individuals with disabilities. The Secretary shall define the term ''built environment'' for purposes of this section.

SEC. 214. OUTREACH.

(a) ASSISTIVE TECHNOLOGY IN RURAL OR IMPOVERISHED URBAN AREAS.—The Secretary may make grants, enter into cooperative agreements, or provide financial assistance through other mechanisms, for projects designed to increase the availability of assistive technology for rural and impoverished urban populations, by determining the unmet assistive technology needs of such populations, and designing and implementing programs to meet such needs.

(b) ASSISTIVE TECHNOLOGY FOR CHILDREN AND OLDER INDIVIDUALS.—The Secretary may make grants, enter into cooperative agreements, or provide financial assistance through other mechanisms, for projects designed to increase the availability of assistive technology for populations of children and older individuals, by determining the unmet assistive technology needs of such populations, and designing and implementing programs to meet such needs.

SEC. 215. TRAINING PERTAINING TO REHABILITATION ENGINEERS AND TECHNICIANS.

(a) GRANTS AND CONTRACTS.—The Secretary shall make grants, or enter into contracts with, public and private agencies and organizations, including institutions of higher education, to help prepare students, including students preparing to be rehabilitation technicians, and faculty working in the field of rehabilitation engineering, for careers related to the provision of assistive technology devices and assistive technology services.

(b) ACTIVITIES.—An agency or organization that receives a grant or contract under subsection (a) may use the funds made available through the grant or contract—

(1) to provide training programs for individuals employed or seeking employment in the field of rehabilitation engineering, including postsecondary education programs;

(2) to provide workshops, seminars, and conferences concerning rehabilitation engineering that relate to the use of assistive technology devices and assistive technology services to improve the lives of individuals with disabilities; and

(3) to design, develop, and disseminate curricular materials to be used in the training programs, workshops, seminars, and conferences described in paragraphs (1) and (2).

SEC. 216. ASSISTIVE TECHNOLOGY TAXONOMY.

(a) STUDY.—The Secretary may, directly or (if necessary) by entering into contracts or cooperative agreements with appropriate entities, conduct a study to determine the benefits of and obstacles to implementing throughout the Federal Government a single assistive technology taxonomy developed by the Secretary.

(b) REPORT.—Not later than December 31, 1999, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate a report that contains information detailing the benefits and obstacles described in subsection (a) and that contains such policy recommendations as the Secretary determines to be appropriate.

SEC. 217. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

(a) PROGRAMS.—The President's Committee on Employment of People With Disabilities (referred to in this section as ''the Committee'') may design, develop, and implement programs to increase the voluntary participation of the private sector in making information technology accessible to individuals with disabilities, including increasing the involvement of individuals with disabilities in the design, development, and manufacturing of information technology.

(b) ACTIVITIES.—The Committee may carry out activities through the programs that may include—

(1) the development and coordination of a task force, which—

(A) shall develop and disseminate information on voluntary best practices for universal accessibility in information technology; and

(B) shall consist of members of the public and private sectors, including—

(i) representatives of organizations representing individuals with disabilities; and

(ii) individuals with disabilities; and

(2) the design, development, and implementation of outreach programs to promote the adoption of best practices referred to in paragraph (1)(B).

(c) COORDINATION.—The Committee shall coordinate the activities of the Committee under this section, as appropriate, with the activities of the National Institute on Disability and Rehabilitation Research and the activities of the Department of Labor.

(d) TECHNICAL ASSISTANCE.—The Committee may provide technical assistance concerning the programs carried out under this section and may reserve such portion of the funds appropriated to carry out this section as the Committee determines to be necessary to provide the technical assistance.

(e) DEFINITION.—In this section, the term ''information technology'' means any equipment or interconnected system or subsystem of equipment, that is used in the automatic acquisition, storage, manipulation, management, movement, control, display, switching, interchange, transmission, or reception of data or information, including a computer, ancillary equipment, software, firmware and similar procedures, services (including support services), and related resources.

SEC. 218. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title and the provisions described in subsection (b)(1), $15,000,000 for fiscal year 1999, and such sums as may be necessary for each of fiscal years 2000 through 2004.

(b) RESERVATIONS.—Of the funds appropriated under subsection (a) for a fiscal year, the Secretary shall reserve not less than—

(1) 33 percent to carry out the provisions of section 203 of the Rehabilitation Act of 1973 that relate to research described in section 203(b)(2)(A) of such Act;

(2) 16 percent to carry out section 211;

(3) 4 percent to carry out section 212;

(4) 8 percent to carry out section 215; and

(5) 10 percent to carry out section 217.

(c) AVAILABILITY.—Amounts appropriated under subsection (a) for a fiscal year shall remain available for obligation for the following fiscal year.

TITLE III—ALTERNATIVE FINANCING MECHANISMS

SEC. 301. GENERAL AUTHORITY.

(a) IN GENERAL.—The Secretary shall award grants to States to pay for the Federal share of the cost of the establishment and administration of, or the expansion and administration of, an alternative financing program featuring 1 or more alternative financing mechanisms to allow individuals with disabilities and their family members, guardians, advocates, and authorized representatives to purchase assistive technology devices and assistive technology services (referred to individually in this title as an ''alternative financing mechanism'').

(b) MECHANISMS.—The alternative financing mechanisms may include—

(1) a low-interest loan fund;

(2) an interest buy-down program;

(3) a revolving loan fund;

(4) a loan guarantee or insurance program;

(5) a program operated by a partnership among private entities for the purchase, lease, or other acquisition of assistive technology devices or assistive technology services; or

(6) another mechanism that meets the requirements of this title and is approved by the Secretary.

(c) REQUIREMENTS.—

(1) PERIOD.—The Secretary may award grants under this title for periods of 1 year.

(2) LIMITATION.—No State may receive more than 1 grant under this title.

(d) FEDERAL SHARE.—The Federal share of the cost of the alternative financing program shall not be more than 50 percent.

(e) CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of a State to establish an alternative financing program under title I.

SEC. 302. AMOUNT OF GRANTS.

(a) IN GENERAL.—

(1) GRANTS TO OUTLYING AREAS.—From the funds appropriated under section 308 for any fiscal year that are not reserved under section 308(b), the Secretary shall make a grant in an amount of not more than $105,000 to each eligible outlying area.

(2) GRANTS TO STATES.—From the funds described in paragraph (1) that are not used to make grants under paragraph (1), the Secretary shall make grants to States from allotments made in accordance with the requirements described in paragraph (3).

(3) ALLOTMENTS.—From the funds described in paragraph (1) that are not used to make grants under paragraph (1)—

(A) the Secretary shall allot $500,000 to each State; and

(B) from the remainder of the funds—

(i) the Secretary shall allot to each State an amount that bears the same ratio to 80 percent of the remainder as the population of the State bears to the population of all States; and

(ii) the Secretary shall allot to each State with a population density that is not more than 10 percent greater than the population density of the United States (according to the most recently available census data) an equal share from 20 percent of the remainder.

(b) INSUFFICIENT FUNDS.—If the funds appropriated under this title for a fiscal year are insufficient to fund the activities described in the acceptable applications submitted under this title for such year, a State whose application was approved for such year but that did not receive a grant under this title may update the application for the succeeding fiscal year. Priority shall be given in such succeeding fiscal year to such updated applications, if acceptable.

(c) DEFINITIONS.—In subsection (a):

(1) OUTLYING AREA.—The term ''outlying area'' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(2) STATE.—The term ''State'' does not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

SEC. 303. APPLICATIONS AND PROCEDURES.

(a) ELIGIBILITY.—States that receive or have received grants under section 101 or 102 and comply with subsection (b) shall be eligible to compete for grants under this title.

(b) APPLICATION.—To be eligible to compete for a grant under this title, a State shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require, including—

(1) an assurance that the State will provide the non-Federal share of the cost of the alternative financing program in cash, from State, local, or private sources;

(2) an assurance that the alternative financing program will continue on a permanent basis;

(3) an assurance that, and information describing the manner in which, the alternative financing program will expand and emphasize consumer choice and control;

(4) an assurance that the funds made available through the grant to support the alternative financing program will be used to supplement and not supplant other Federal, State, and local public funds expended to provide alternative financing mechanisms;

(5) an assurance that the State will ensure that—

(A) all funds that support the alternative financing program, including funds repaid during the life of the program, will be placed in a permanent separate account and identified and accounted for separately from any other fund;

(B) if the organization administering the program invests funds within this account, the organization will invest the funds in low-risk securities in which a regulated insurance company may invest under the law of the State; and

(C) the organization will administer the funds with the same judgment and care that a person of prudence, discretion, and intelligence would exercise in the management of the financial affairs of such person;

(6) an assurance that—

(A) funds comprised of the principal and interest from the account described in paragraph (5) will be available to support the alternative financing program; and

(B) any interest or investment income that accrues on or derives from such funds after such funds have been placed under the control of the organization administering the alternative financing program, but before such funds are distributed for purposes of supporting the program, will be the property of the organization administering the program; and

(7) an assurance that the percentage of the funds made available through the grant that is used for indirect costs shall not exceed 10 percent.

(c) LIMIT.—The interest and income described in subsection (b)(6)(B) shall not be taken into account by any officer or employee of the Federal Government for purposes of determining eligibility for any Federal program.

SEC. 304. CONTRACTS WITH COMMUNITY-BASED ORGANIZATIONS.

(a) IN GENERAL.—A State that receives a grant under this title shall enter into a contract with a community-based organization (including a group of such organizations) that has individuals with disabilities involved in organizational decisionmaking at all organizational levels, to administer the alternative financing program.

(b) PROVISIONS.—The contract shall—

(1) include a provision requiring that the program funds, including the Federal and non-Federal shares of the cost of the program, be administered in a manner consistent with the provisions of this title;

(2) include any provision the Secretary requires concerning oversight and evaluation necessary to protect Federal financial interests; and

(3) require the community-based organization to enter into a contract, to expand opportunities under this title and facilitate administration of the alternative financing program, with—

(A) commercial lending institutions or organizations; or

(B) State financing agencies.

SEC. 305. GRANT ADMINISTRATION REQUIREMENTS.

A State that receives a grant under this title and any community-based organization that enters into a contract with the State under this title, shall submit to the Secretary, pursuant to a schedule established by the Secretary (or if the Secretary does not establish a schedule, within 12 months after the date that the State receives the grant), each of the following policies or procedures for administration of the alternative financing program:

(1) A procedure to review and process in a timely manner requests for financial assistance for immediate and potential technology needs, including consideration of methods to reduce paperwork and duplication of effort, particularly relating to need, eligibility, and determination of the specific assistive technology device or service to be financed through the program.

(2) A policy and procedure to assure that access to the alternative financing program shall be given to consumers regardless of type of disability, age, income level, location of residence in the State, or type of assistive technology device or assistive technology service for which financing is requested through the program.

(3) A procedure to assure consumer-controlled oversight of the program.

SEC. 306. INFORMATION AND TECHNICAL ASSISTANCE.

(a) IN GENERAL.—The Secretary shall provide information and technical assistance to States under this title, which shall include—

(1) providing assistance in preparing applications for grants under this title;

(2) assisting grant recipients under this title to develop and implement alternative financing programs; and

(3) providing any other information and technical assistance the Secretary determines to be appropriate to assist States to achieve the objectives of this title.

(b) GRANTS, CONTRACTS, AND COOPERATIVE AGREEMENTS.—The Secretary shall provide the information and technical assistance described in subsection (a) through grants, contracts, and cooperative agreements with public or private agencies and organizations, including institutions of higher education, with sufficient documented experience, expertise, and capacity to assist States in the development and implementation of the alternative financing programs carried out under this title.

SEC. 307. ANNUAL REPORT.

Not later than December 31 of each year, the Secretary shall submit a report to the Committee on Education and the Workforce of the House of Representatives and the Committee on Labor and Human Resources of the Senate describing the progress of each alternative financing program funded under this title toward achieving the objectives of this title. The report shall include information on—

(1) the number of grant applications received and approved by the Secretary under this title, and the amount of each grant awarded under this title;

(2) the ratio of funds provided by each State for the alternative financing program of the State to funds provided by the Federal Government for the program;

(3) the type of alternative financing mechanisms used by each State and the community-based organization with which each State entered into a contract, under the program; and

(4) the amount of assistance given to consumers through the program (who shall be classified by age, type of disability, type of assistive technology device or assistive technology service financed through the program, geographic distribution within the State, gender, and whether the consumers are part of an underrepresented population or rural population).

SEC. 308. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $25,000,000 for fiscal year 1999 and such sums as may be necessary for each of fiscal years 2000 through 2004.

(b) RESERVATION.—Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall reserve 2 percent for the purpose of providing information and technical assistance to States under section 306.

(c) AVAILABILITY.—Amounts appropriated under subsection (a) for a fiscal year shall remain available for obligation for the following fiscal year.

TITLE IV—REPEAL AND CONFORMING AMENDMENTS

SEC. 401. REPEAL.

The Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.) is repealed.

SEC. 402. CONFORMING AMENDMENTS.

(a) DEFINITIONS.—Section 6 of the Rehabilitation Act of 1973 (as amended by section 403 of the Workforce Investment Act of 1998) is amended—

(1) in paragraph (3), by striking ''section 3(2) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(2))'' and inserting ''section 6 of the Assistive Technology Act of 1998''; and

(2) in paragraph (4), by striking ''section 3(3) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2202(3))'' and inserting ''section 6 of the Assistive Technology Act of 1998''.

(b) RESEARCH AND OTHER COVERED ACTIVITIES.—Section 204(b)(3) of the Rehabilitation Act of 1973 (as amended by section 405 of the Workforce Investment Act of 1998) is amended—

(1) in subparagraph (C)(i), by striking ''the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.)'' and inserting ''the Assistive Technology Act of 1998''; and

(2) in subparagraph (G)(i), by striking ''the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (29 U.S.C. 2201 et seq.)'' and inserting ''the Assistive Technology Act of 1998''.

(c) PROTECTION AND ADVOCACY.—Section 509(a)(2) of the Rehabilitation Act of 1973 (as

amended by section 408 of the Workforce Investment Act of 1998) is amended by striking ''the Technology-Related Assistance for Individuals With Disabilities Act of 1988 (42 U.S.C. 2201 et seq.)'' and inserting ''the Assistive Technology Act of 1998''.

Mr. GRAMS. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill be considered read the third time and passed, the motion to reconsider be laid upon the table, and that any statements related to the bill appear in the RECORD.

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

The committee amendment was agreed to.

The bill (S. 2432), as amended, was read the third time and passed.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate immediately proceed to executive session to consider the following nominations on the executive calendar: No. 863, No. 864, all nominations placed on the Secretary's desk in the Coast Guard. I further ask consent that 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:

COAST GUARD

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C., section 271:

To be rear admiral (lower half)

Capt. Robert C. Olsen, Jr., 0000
Capt. Robert D. Sirois, 0000
Capt. Patrick M. Stillman, 0000
Capt. Ronald F. Silva, 0000
Capt. David R. Nicholson, 0000

The following named officers for appointment in the United States Coast Guard to the grade indicated under title 14, U.S.C., section 271:

To be rear admiral

Rear Adm. (lh) Thomas J. Barrett, 0000
Rear Adm. (lh) James D. Hull, 0000
Rear Adm. (lh) George N. Naccara, 0000
Rear Adm. (lh) Terry M. Cross, 0000

IN THE COAST GUARD

Coast Guard nomination of Joseph E. Vorbach, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of September 3, 1998.

Coast Guard nominations beginning John H. Siemens, and ending David H. Illuminate, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of September 16, 1998.

Coast Guard nomination of Richelle L. Johnson, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of September 29, 1998.

Coast Guard nominations beginning Robert J. Fuller, and ending John B. Mcdermott, which was received by the Senate and appeared in the CONGRESSIONAL RECORD of September 29, 1998.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will now return to legislative session.

MEASURE READ THE FIRST TIME—H.R. 4257

Mr. GRAMS. Mr. President, I understand that H.R. 4257 has arrived from the House, and I ask now for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for the first time.

The legislative clerk read as follows:

A bill (H.R. 4257) to amend the Fair Labor Standards Act of 1938 to permit certain youth to perform certain work with wood products.

Mr. GRAMS. I now ask for its second reading and would object to my own request.

The PRESIDING OFFICER. Objection is heard.

ORDERS FOR TUESDAY, OCTOBER 6, 1998

Mr. GRAMS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9:30 a.m. on Tuesday, October 6. I further ask that the time for the two leaders be reserved.

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

Mr. GRAMS. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business until 10 a.m., with Senators permitted to speak therein for up to 5 minutes each, with the following exceptions: Senator DEWINE for 10 minutes.

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

Mr. GRAMS. Mr. President, I ask unanimous consent that the Senate stand in recess between the hours of 12:30 p.m. and 2:15 p.m. to allow the weekly party caucuses to meet.

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

Mr. GRAMS. Mr. President, I ask unanimous consent that at 11:30 a.m. on Tuesday the Senate resume consideration of the Agriculture Appropriations conference report, with the time between 11:30 a.m. and 12:30 p.m., and additionally the between 2:15 p.m. and 3:15 p.m., equally divided for debate only on the conference report; further, that at 3:15 p.m. the Senate proceed to vote on adoption of the conference report.

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

Mr. GRAMS. Mr. President, I ask unanimous consent that following the vote on adoption of the Agriculture Conference report, the Senate resume consideration of S. 442, the Internet Tax Bill.

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

PROGRAM

The PRESIDING OFFICER. For the information of all Senators, on Tuesday, there will be a period of morning business until 10 a.m. Following morning business, the Senate may consider any cleared executive nominations or legislation regarding judicial anti-nepotism. At 11:30 a.m., the Senate will resume consideration of the Agriculture Appropriations conference report, with a vote occurring on adoption of that report at 3:15 p.m. Following that vote, the Senate will resume consideration of S. 442, the Internet Tax Bill. Amendments are expected to be offered and debated in relation to the Internet Tax, and therefore Members should expect rollcall votes into the evening during Tuesday's session.

Members are reminded that the cloture vote on the Internet Tax Bill will occur at 10 a.m. on Wednesday. Therefore, I ask unanimous consent that Members have until the vote occurs to file second-degree amendments to the Internet Tax Bill.

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

RECESS UNTIL 9:30 A.M. TOMORROW

Mr. GRAMS. Mr. President, if there is no further business to come before the Senate, I ask that the Senate stand in recess under the previous order.

There being no objection, the Senate, at 8:19 p.m., recessed until Tuesday, October 6, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 5, 1998:

GENERAL ACCOUNTING OFFICE

DAVID M. WALKER, OF GEORGIA, TO BE COMPTROLLER GENERAL OF THE UNITED STATES FOR A TERM OF FIFTEEN YEARS, VICE CHARLES A. BOWSHER, TERM EXPIRED.

FEDERAL MARITIME COMMISSION

JOHN A. MORAN, OF VIRGINIA, TO BE A FEDERAL MARITIME COMMISSIONER FOR THE TERM EXPIRING JUNE 30, 2001, VICE MING HSU, TERM EXPIRED.

CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD

ANDREA KIDD TAYLOR, OF MICHIGAN, TO BE A MEMBER OF THE CHEMICAL SAFETY AND HAZARD INVESTIGATION BOARD FOR A TERM OF FIVE YEARS. (NEW POSITION)

UNITED STATES POSTAL SERVICE

JOHN F. WALSH, OF CONNECTICUT, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE FOR A TERM EXPIRING DECEMBER 8, 2006, VICE BERT H. MACKIE, TERM EXPIRED.

THE JUDICIARY

NORMAN A. MORDUE, OF NEW YORK, TO BE UNITED STATES DISTRICT JUDGE FOR THE NORTHERN DISTRICT OF NEW YORK VICE ROSEMARY S. POOLER, ELEVATED.

UNITED STATES INSTITUTE OF PEACE

STEPHEN HADLEY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 1999, VICE MARY LOUISE SMITH, TERM EXPIRED.

STEPHEN HADLEY, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2003. (REAPPOINTMENT)

ZALMAY KHALIZAD, OF MARYLAND, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE UNITED STATES INSTITUTE OF PEACE FOR A TERM EXPIRING JANUARY 19, 2001, VICE CHRISTOPHER H. PHILLIPS, RESIGNED.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 5, 1998:

IN THE COAST GUARD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral (lower half)

CAPT. ROBERT C. OLSEN, JR., 0000.
CAPT. ROBERT D. SIROIS, 0000.
CAPT. PATRICK M. STILLMAN, 0000.
CAPT. RONALD F. SILVA, 0000.
CAPT. DAVID R. NICHOLSON, 0000.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES COAST GUARD TO THE GRADE INDICATED UNDER TITLE 14, U.S.C., SECTION 271:

To be rear admiral

REAR ADM. (LH) THOMAS J. BARRETT, 0000.
REAR ADM. (LH) JAMES D. HULL, 0000.
REAR ADM. (LH) GEORGE N. NACCARA, 0000.
REAR ADM. (LH) TERRY M. CROSS, 0000.

COAST GUARD NOMINATION OF JOSEPH E. VORBACH, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 3, 1998.

COAST GUARD NOMINATIONS BEGINNING JOHN H. SIEMENS, AND ENDING DAVID M. ILLUMINATE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 16, 1998.

COAST GUARD NOMINATION OF RICHELLE L. JOHNSON, WHICH WAS RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD OF SEPTEMBER 29, 1998.

COAST GUARD NOMINATIONS BEGINNING ROBERT J. FULLER, AND ENDING JOHN B. MCDERMOTT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 29, 1998.

WITHDRAWALS

Executive messages transmitted by the President to the Senate on October 5, 1998, withdrawing from further Senate consideration the following nominations:

DEPARTMENT OF TRANSPORTATION

GUS A. OWEN, OF CALIFORNIA, TO BE A MEMBER OF THE SURFACE TRANSPORTATION BOARD FOR A TERM EXPIRING DECEMBER 31, 2002 (REAPPOINTMENT), WHICH WAS SENT TO THE SENATE ON FEBRUARY 2, 1998.

DEPARTMENT OF STATE

MARI CARMEN APONTE, OF PUERTO RICO, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE DOMINICAN REPUBLIC, WHICH WAS SENT TO THE SENATE ON APRIL 28, 1998.