

105TH CONGRESS
2D SESSION

S. 442

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 21, 1998

Referred to the Committee on the Judiciary, and in addition to the Committees on Commerce, Government Reform and Oversight, Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

AN ACT

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.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Internet Tax Freedom
5 Act”.

1 **TITLE I—MORATORIUM ON**
2 **CERTAIN TAXES**

3 **SEC. 101. MORATORIUM.**

4 (a) MORATORIUM.—No State or political subdivision
5 thereof shall impose any of the following taxes during the
6 period beginning on October 1, 1998, and ending 3 years
7 after the date of the enactment of this Act—

8 (1) taxes on Internet access, unless such tax
9 was generally imposed and actually enforced prior to
10 October 1, 1998; and

11 (2) multiple or discriminatory taxes on elec-
12 tronic commerce.

13 (b) PRESERVATION OF STATE AND LOCAL TAXING
14 AUTHORITY.—Except as provided in this section, nothing
15 in this Act shall be construed to modify, impair, or super-
16 sede, or authorize the modification, impairment, or super-
17 seding of, any State or local law pertaining to taxation
18 that is otherwise permissible by or under the Constitution
19 of the United States or other Federal law and in effect
20 on the date of enactment of this Act.

21 (c) LIABILITIES AND PENDING CASES.—Nothing in
22 this Act affects liability for taxes accrued and enforced
23 before the date of enactment of this Act, nor does this
24 Act affect ongoing litigation relating to such taxes.

1 (d) DEFINITION OF GENERALLY IMPOSED AND AC-
2 TUALY ENFORCED.—For purposes of this section, a tax
3 has been generally imposed and actually enforced prior to
4 October 1, 1998, if, before that date, the tax was author-
5 ized by statute and either—

6 (1) a provider of Internet access services had a
7 reasonable opportunity to know by virtue of a rule
8 or other public proclamation made by the appro-
9 priate administrative agency of the State or political
10 subdivision thereof, that such agency has interpreted
11 and applied such tax to Internet access services; or

12 (2) a State or political subdivision thereof gen-
13 erally collected such tax on charges for Internet ac-
14 cess.

15 (e) EXCEPTION TO MORATORIUM.—

16 (1) IN GENERAL.—Subsection (a) shall also not
17 apply in the case of any person or entity who in
18 interstate or foreign commerce is knowingly engaged
19 in the business of selling or transferring, by means
20 of the World Wide Web, material that is harmful to
21 minors unless such person or entity requires the use
22 of a verified credit card, debit account, adult access
23 code, or adult personal identification number, or
24 such other procedures as the Federal Communica-
25 tions Commission may prescribe, in order to restrict

1 access to such material by persons under 17 years
2 of age.

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

8 (A) a telecommunications carrier engaged
9 in the provision of a telecommunications serv-
10 ice;

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

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

16 (D) similarly engaged in the transmission,
17 storage, retrieval, hosting, formatting, or trans-
18 lation (or any combination thereof) of a com-
19 munication made by another person, without se-
20 lection or alteration of the communication.

21 (3) DEFINITIONS.—In this subsection:

22 (A) BY MEANS OF THE WORLD WIDE
23 WEB.—The term “by means of the World Wide
24 Web” means by placement of material in a
25 computer server-based file archive so that it is

1 publicly accessible, over the Internet, using
2 hypertext transfer protocol, file transfer proto-
3 col, or other similar protocols.

4 (B) ENGAGED IN THE BUSINESS.—The
5 term “engaged in the business” means that the
6 person who sells or transfers or offers to sell or
7 transfer, by means of the World Wide Web, ma-
8 terial that is harmful to minors devotes time,
9 attention, or labor to such activities, as a regu-
10 lar course of trade or business, with the objec-
11 tive of earning a profit, although it is not nec-
12 essary that the person make a profit or that the
13 selling or transferring or offering to sell or
14 transfer such material be the person’s sole or
15 principal business or source of income.

16 (C) INTERNET.—The term “Internet”
17 means collectively the myriad of computer and
18 telecommunications facilities, including equip-
19 ment and operating software, which comprise
20 the interconnected world-wide network of net-
21 works that employ the Transmission Control
22 Protocol/Internet Protocol, or any predecessor
23 or successor protocols to such protocol, to com-
24 municate information of all kinds by wire or
25 radio.

1 (D) INTERNET ACCESS SERVICE.—The
2 term “Internet access service” means a service
3 that enables users to access content, informa-
4 tion, electronic mail, or other services offered
5 over the Internet and may also include access
6 to proprietary content, information, and other
7 services as part of a package of services offered
8 to consumers. Such term does not include tele-
9 communications services.

10 (E) INTERNET INFORMATION LOCATION
11 TOOL.—The term “Internet information loca-
12 tion tool” means a service that refers or links
13 users to an online location on the World Wide
14 Web. Such term includes directories, indices,
15 references, pointers, and hypertext links.

16 (F) MATERIAL THAT IS HARMFUL TO MI-
17 NORS.—The term “material that is harmful to
18 minors” means any communication, picture,
19 image, graphic image file, article, recording,
20 writing, or other matter of any kind that—

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

24 (ii) depicts, describes, or represents,
25 in a patently offensive way with respect to

1 what is suitable for minors, an actual or
 2 simulated sexual act or sexual contact, ac-
 3 tual or simulated normal or perverted sex-
 4 ual acts, or a lewd exhibition of the geni-
 5 tals; and

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

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

13 (H) TELECOMMUNICATIONS CARRIER;
 14 TELECOMMUNICATIONS SERVICE.—The terms
 15 “telecommunications carrier” and “tele-
 16 communications service” have the meanings
 17 given such terms in section 3 of the Commu-
 18 nications Act of 1934 (47 U.S.C. 153).

19 (f) ADDITIONAL EXCEPTION TO MORATORIUM.—

20 (1) IN GENERAL.—Subsection (a) shall also not
 21 apply with respect to an Internet access provider,
 22 unless, at the time of entering into an agreement
 23 with a customer for the provision of Internet access
 24 services, such provider offers such customer (either
 25 for a fee or at no charge) screening software that is

1 designed to permit the customer to limit access to
2 material on the Internet that is harmful to minors.

3 (2) DEFINITIONS.—In this subsection:

4 (A) INTERNET ACCESS PROVIDER.—The
5 term ‘Internet access provider’ means a person
6 engaged in the business of providing a com-
7 puter and communications facility through
8 which a customer may obtain access to the
9 Internet, but does not include a common carrier
10 to the extent that it provides only telecommuni-
11 cations services.

12 (B) INTERNET ACCESS SERVICES.—The
13 term ‘Internet access services’ means the provi-
14 sion of computer and communications services
15 through which a customer using a computer
16 and a modem or other communications device
17 may obtain access to the Internet, but does not
18 include telecommunications services provided by
19 a common carrier.

20 (C) SCREENING SOFTWARE.—The term
21 “screening software” means software that is de-
22 signed to permit a person to limit access to ma-
23 terial on the Internet that is harmful to minors.

24 (3) APPLICABILITY.—Paragraph (1) shall apply
25 to agreements for the provision of Internet access

1 services entered into on or after the date that is 6
2 months after the date of enactment of this Act.

3 **SEC. 102. ADVISORY COMMISSION ON ELECTRONIC COM-**
4 **MERCE.**

5 (a) ESTABLISHMENT OF COMMISSION.—There is es-
6 tablished a commission to be known as the Advisory Com-
7 mission on Electronic Commerce (in this title referred to
8 as the “Commission”). The Commission shall—

9 (1) be composed of 19 members appointed in
10 accordance with subsection (b), including the chair-
11 person who shall be selected by the members of the
12 Commission from among themselves; and

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

15 (b) MEMBERSHIP.—

16 (1) IN GENERAL.—The Commissioners shall
17 serve for the life of the Commission. The member-
18 ship of the Commission shall be as follows:

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

24 (B) 8 representatives from State and local
25 governments (one such representative shall be

1 from a State or local government that does not
2 impose a sales tax and one representative shall
3 be from a State that does not impose an income
4 tax).

5 (C) 8 representatives of the electronic com-
6 merce industry (including small business), tele-
7 communications carriers, local retail businesses,
8 and consumer groups, comprised of—

9 (i) 5 individuals appointed by the Ma-
10 jority Leader of the Senate;

11 (ii) 3 individuals appointed by the Mi-
12 nority Leader of the Senate;

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

16 (iv) 3 individuals appointed by the Mi-
17 nority Leader of the House of Representa-
18 tives.

19 (2) APPOINTMENTS.—Appointments to the
20 Commission shall be made not later than 45 days
21 after the date of the enactment of this Act. The
22 chairperson shall be selected not later than 60 days
23 after the date of the enactment of this Act.

1 (3) VACANCIES.—Any vacancy in the Commis-
2 sion shall not affect its powers, but shall be filled in
3 the same manner as the original appointment.

4 (c) ACCEPTANCE OF GIFTS AND GRANTS.—The Com-
5 mission may accept, use, and dispose of gifts or grants
6 of services or property, both real and personal, for pur-
7 poses of aiding or facilitating the work of the Commission.
8 Gifts or grants not used at the expiration of the Commis-
9 sion shall be returned to the donor or grantor.

10 (d) OTHER RESOURCES.—The Commission shall
11 have reasonable access to materials, resources, data, and
12 other information from the Department of Justice, the
13 Department of Commerce, the Department of State, the
14 Department of the Treasury, and the Office of the United
15 States Trade Representative. The Commission shall also
16 have reasonable access to use the facilities of any such
17 Department or Office for purposes of conducting meet-
18 ings.

19 (e) SUNSET.—The Commission shall terminate 18
20 months after the date of the enactment of this Act.

21 (f) RULES OF THE COMMISSION.—

22 (1) QUORUM.—Nine members of the Commis-
23 sion shall constitute a quorum for conducting the
24 business of the Commission.

1 (2) MEETINGS.—Any meetings held by the
2 Commission shall be duly noticed at least 14 days in
3 advance and shall be open to the public.

4 (3) OPPORTUNITIES TO TESTIFY.—The Com-
5 mission shall provide opportunities for representa-
6 tives of the general public, taxpayer groups, con-
7 sumer groups, and State and local government offi-
8 cials to testify.

9 (4) ADDITIONAL RULES.—The Commission may
10 adopt other rules as needed.

11 (g) DUTIES OF THE COMMISSION.—

12 (1) IN GENERAL.—The Commission shall con-
13 duct a thorough study of Federal, State and local,
14 and international taxation and tariff treatment of
15 transactions using the Internet and Internet access
16 and other comparable intrastate, interstate or inter-
17 national sales activities.

18 (2) ISSUES TO BE STUDIED.—The Commission
19 may include in the study under subsection (a)—

20 (A) an examination of—

21 (i) barriers imposed in foreign mar-
22 kets on United States providers of prop-
23 erty, goods, services, or information en-
24 gaged in electronic commerce and on

1 United States providers of telecommuni-
2 cations services; and

3 (ii) how the imposition of such bar-
4 riers will affect United States consumers,
5 the competitiveness of United States citi-
6 zens providing property, goods, services, or
7 information in foreign markets, and the
8 growth and maturing of the Internet;

9 (B) an examination of the collection and
10 administration of consumption taxes on elec-
11 tronic commerce in other countries and the
12 United States, and the impact of such collection
13 on the global economy, including an examina-
14 tion of the relationship between the collection
15 and administration of such taxes when the
16 transaction uses the Internet and when it does
17 not;

18 (C) an examination of the impact of the
19 Internet and Internet access (particularly voice
20 transmission) on the revenue base for taxes im-
21 posed under section 4251 of the Internal Reve-
22 nue Code of 1986;

23 (D) an examination of model State legisla-
24 tion that—

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

5 (ii) would ensure that Internet access
6 services, online services, and communica-
7 tions and transactions using the Internet,
8 Internet access service, or online services
9 would be treated in a tax and techno-
10 logically neutral manner relative to other
11 forms of remote sales;

12 (E) an examination of the effects of tax-
13 ation, including the absence of taxation, on all
14 interstate sales transactions, including trans-
15 actions using the Internet, on retail businesses
16 and on State and local governments, which ex-
17 amination may include a review of the efforts of
18 State and local governments to collect sales and
19 use taxes owed on in-State purchases from out-
20 of-State sellers; and

21 (F) the examination of ways to simplify
22 Federal and State and local taxes imposed on
23 the provision of telecommunications services.

24 (3) EFFECT ON THE COMMUNICATIONS ACT OF
25 1934.—Nothing in this section shall include an ex-

1 amination of any fees or charges imposed by the
2 Federal Communications Commission or States re-
3 lated to—

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

6 (B) the implementation of the Tele-
7 communications Act of 1996 (or of amendments
8 made by that Act).

9 (h) NATIONAL TAX ASSOCIATION COMMUNICATIONS
10 AND ELECTRONIC COMMERCE TAX PROJECT.—The Com-
11 mission shall, to the extent possible, ensure that its work
12 does not undermine the efforts of the National Tax Asso-
13 ciation Communications and Electronic Commerce Tax
14 Project.

15 **SEC. 103. REPORT.**

16 Not later than 18 months after the date of the enact-
17 ment of this Act, the Commission shall transmit to Con-
18 gress for its consideration a report reflecting the results,
19 including such legislative recommendations as required to
20 address the findings of the Commission's study under this
21 title. Any recommendation agreed to by the Commission
22 shall be tax and technologically neutral and apply to all
23 forms of remote commerce. No finding or recommendation
24 shall be included in the report unless agreed to by at least

1 two-thirds of the members of the Commission serving at
2 the time the finding or recommendation is made.

3 **SEC. 104. DEFINITIONS.**

4 For the purposes of this title:

5 (1) BIT TAX.—The term “bit tax” means any
6 tax on electronic commerce expressly imposed on or
7 measured by the volume of digital information trans-
8 mitted electronically, or the volume of digital infor-
9 mation per unit of time transmitted electronically,
10 but does not include taxes imposed on the provision
11 of telecommunications services.

12 (2) DISCRIMINATORY TAX.—The term “dis-
13 criminatory tax” means—

14 (A) any tax imposed by a State or political
15 subdivision thereof on electronic commerce
16 that—

17 (i) is not generally imposed and le-
18 gally collectible by such State or such polit-
19 ical subdivision on transactions involving
20 similar property, goods, services, or infor-
21 mation accomplished through other means;

22 (ii) is not generally imposed and le-
23 gally collectible at the same rate by such
24 State or such political subdivision on
25 transactions involving similar property,

1 goods, services, or information accom-
2 plished through other means, unless the
3 rate is lower as part of a phase-out of the
4 tax over not more than a 5-year period;

5 (iii) imposes an obligation to collect or
6 pay the tax on a different person or entity
7 than in the case of transactions involving
8 similar property, goods, services, or infor-
9 mation accomplished through other means;

10 (iv) establishes a classification of
11 Internet access service providers or online
12 service providers for purposes of establish-
13 ing a higher tax rate to be imposed on
14 such providers than the tax rate generally
15 applied to providers of similar information
16 services delivered through other means; or

17 (B) any tax imposed by a State or political
18 subdivision thereof, if—

19 (i) except with respect to a tax (on
20 Internet access) that was generally im-
21 posed and actually enforced prior to Octo-
22 ber 1, 1998, the sole ability to access a site
23 on a remote seller's out-of-State computer
24 server is considered a factor in determining

1 a remote seller's tax collection obligation;
2 or

3 (ii) a provider of Internet access serv-
4 ice or online services is deemed to be the
5 agent of a remote seller for determining
6 tax collection obligations solely as a result
7 of—

8 (I) the display of a remote sell-
9 er's information or content on the
10 out-of-State computer server of a pro-
11 vider of Internet access service or on-
12 line services; or

13 (II) the processing of orders
14 through the out-of-State computer
15 server of a provider of Internet access
16 service or online services.

17 (3) ELECTRONIC COMMERCE.—The term “elec-
18 tronic commerce” means any transaction conducted
19 over the Internet or through Internet access, com-
20 prising the sale, lease, license, offer, or delivery of
21 property, goods, services, or information, whether or
22 not for consideration, and includes the provision of
23 Internet access.

24 (4) INTERNET.—The term “Internet” means
25 collectively the myriad of computer and tele-

1 communications facilities, including equipment and
2 operating software, which comprise the inter-
3 connected world-wide network of networks that em-
4 ploy the Transmission Control Protocol/Internet
5 Protocol, or any predecessor or successor protocols
6 to such protocol, to communicate information of all
7 kinds by wire or radio.

8 (5) INTERNET ACCESS.—The term “Internet
9 access” means a service that enables users to access
10 content, information, electronic mail, or other serv-
11 ices offered over the Internet, and may also include
12 access to proprietary content, information, and other
13 services as part of a package of services offered to
14 users. Such term does not include telecommuni-
15 cations services.

16 (6) MULTIPLE TAX.—

17 (A) IN GENERAL.—The term “multiple
18 tax” means any tax that is imposed by one
19 State or political subdivision thereof on the
20 same or essentially the same electronic com-
21 merce that is also subject to another tax im-
22 posed by another State or political subdivision
23 thereof (whether or not at the same rate or on
24 the same basis), without a credit (for example,

1 a resale exemption certificate) for taxes paid in
2 other jurisdictions.

3 (B) EXCEPTION.—Such term shall not in-
4 clude a sales or use tax imposed by a State and
5 1 or more political subdivisions thereof on the
6 same electronic commerce or a tax on persons
7 engaged in electronic commerce which also may
8 have been subject to a sales or use tax thereon.

9 (C) SALES OR USE TAX.—For purposes of
10 subparagraph (B), the term “sales or use tax”
11 means a tax that is imposed on or incident to
12 the sale, purchase, storage, consumption, dis-
13 tribution, or other use of tangible personal
14 property or services as may be defined by laws
15 imposing such tax and which is measured by
16 the amount of the sales price or other charge
17 for such property or service.

18 (7) STATE.—The term “State” means any of
19 the several States, the District of Columbia, or any
20 commonwealth, territory, or possession of the United
21 States.

22 (8) TAX.—

23 (A) IN GENERAL.— The term “tax”
24 means—

1 (i) any charge imposed by any govern-
2 mental entity for the purpose of generating
3 revenues for governmental purposes, and is
4 not a fee imposed for a specific privilege,
5 service, or benefit conferred; or

6 (ii) the imposition on a seller of an
7 obligation to collect and to remit to a gov-
8 ernmental entity any sales or use tax im-
9 posed on a buyer by a governmental entity.

10 (B) EXCEPTION.—Such term does not in-
11 clude any franchise fee or similar fee imposed
12 by a State or local franchising authority, pursu-
13 ant to section 622 or 653 of the Communica-
14 tions Act of 1934 (47 U.S.C. 542, 573), or any
15 other fee related to obligations or telecommuni-
16 cations carriers under the Communications Act
17 of 1934 (47 U.S.C. 151 et seq.).

18 (9) TELECOMMUNICATIONS SERVICE.—The
19 term “telecommunications service” has the meaning
20 given such term in section 3(46) of the Communica-
21 tions Act of 1934 (47 U.S.C. 153(46)) and includes
22 communications services (as defined in section 4251
23 of the Internal Revenue Code of 1986).

24 (10) TAX ON INTERNET ACCESS.—The term
25 “tax on Internet access” means a tax on Internet

1 access, including the enforcement or application of
2 any new or preexisting tax on the sale or use of
3 Internet services unless such tax was generally im-
4 posed and actually enforced prior to October 1,
5 1998.

6 **TITLE II—OTHER PROVISIONS**

7 **SEC. 201. DECLARATION THAT INTERNET SHOULD BE FREE** 8 **OF NEW FEDERAL TAXES.**

9 It is the sense of Congress that no new Federal taxes
10 similar to the taxes described in section 101(a) should be
11 enacted with respect to the Internet and Internet access
12 during the moratorium provided in such section.

13 **SEC. 202. NATIONAL TRADE ESTIMATE.**

14 Section 181 of the Trade Act of 1974 (19 U.S.C.
15 2241) is amended—

16 (1) in subsection (a)(1)—

17 (A) in subparagraph (A)—

18 (i) by striking “and” at the end of
19 clause (i);

20 (ii) by inserting “and” at the end of
21 clause (ii); and

22 (iii) by inserting after clause (ii) the
23 following new clause:

24 “(iii) United States electronic com-
25 merce,”; and

1 (B) in subparagraph (C)—

2 (i) by striking “and” at the end of
3 clause (i);

4 (ii) by inserting “and” at the end of
5 clause (ii);

6 (iii) by inserting after clause (ii) the
7 following new clause:

8 “(iii) the value of additional United
9 States electronic commerce,”; and

10 (iv) by inserting “or transacted with,”
11 after “or invested in”;

12 (2) in subsection (a)(2)(E)—

13 (A) by striking “and” at the end of clause
14 (i);

15 (B) by inserting “and” at the end of clause
16 (ii); and

17 (C) by inserting after clause (ii) the follow-
18 ing new clause:

19 “(iii) the value of electronic commerce
20 transacted with,”; and

21 (3) by adding at the end the following new sub-
22 section:

23 “(d) ELECTRONIC COMMERCE.—For purposes of this
24 section, the term ‘electronic commerce’ has the meaning

1 given that term in section 104(3) of the Internet Tax
2 Freedom Act.”.

3 **SEC. 203. DECLARATION THAT THE INTERNET SHOULD BE**
4 **FREE OF FOREIGN TARIFFS, TRADE BAR-**
5 **RIERS, AND OTHER RESTRICTIONS.**

6 (a) IN GENERAL.— It is the sense of Congress that
7 the President should seek bilateral, regional, and multilat-
8 eral agreements to remove barriers to global electronic
9 commerce through the World Trade Organization, the Or-
10 ganization for Economic Cooperation and Development,
11 the Trans-Atlantic Economic Partnership, the Asia Pacific
12 Economic Cooperation forum, the Free Trade Area of the
13 America, the North American Free Trade Agreement, and
14 other appropriate venues.

15 (b) NEGOTIATING OBJECTIVES.—The negotiating ob-
16 jectives of the United States shall be—

17 (1) to assure that electronic commerce is free
18 from—

19 (A) tariff and nontariff barriers;

20 (B) burdensome and discriminatory regula-
21 tion and standards; and

22 (C) discriminatory taxation; and

23 (2) to accelerate the growth of electronic com-
24 merce by expanding market access opportunities
25 for—

1 (A) the development of telecommunications
2 infrastructure;

3 (B) the procurement of telecommunications
4 equipment;

5 (C) the provision of Internet access and
6 telecommunications services; and

7 (D) the exchange of goods, services, and
8 digitalized information.

9 (c) ELECTRONIC COMMERCE.—For purposes of this
10 section, the term “electronic commerce” has the meaning
11 given that term in section 104(3).

12 **SEC. 204. NO EXPANSION OF TAX AUTHORITY.**

13 Nothing in this Act shall be construed to expand the
14 duty of any person to collect or pay taxes beyond that
15 which existed immediately before the date of the enact-
16 ment of this Act.

17 **SEC. 205. PRESERVATION OF AUTHORITY.**

18 Nothing in this Act shall limit or otherwise affect the
19 implementation of the Telecommunications Act of 1996
20 (Public Law 104–104) or the amendments made by such
21 Act.

22 **SEC. 206. SEVERABILITY.**

23 If any provision of this Act, or any amendment made
24 by this Act, or the application of that provision to any
25 person or circumstance, is held by a court of competent

1 jurisdiction to violate any provision of the Constitution of
2 the United States, then the other provisions of that sec-
3 tion, and the application of that provision to other persons
4 and circumstances, shall not be affected.

5 **TITLE III—GOVERNMENT**
6 **PAPERWORK ELIMINATION ACT**

7 **SEC. 301. SHORT TITLE.**

8 This title may be cited as the “Government Paper-
9 work Elimination Act”.

10 **SEC. 302. AUTHORITY OF OMB TO PROVIDE FOR ACQUISI-**
11 **TION AND USE OF ALTERNATIVE INFORMA-**
12 **TION TECHNOLOGIES BY EXECUTIVE AGEN-**
13 **CIES.**

14 Section 3504(a)(1)(B)(vi) of title 44, United States
15 Code, is amended to read as follows:

16 “(vi) the acquisition and use of infor-
17 mation technology, including alternative in-
18 formation technologies that provide for
19 electronic submission, maintenance, or dis-
20 closure of information as a substitute for
21 paper and for the use and acceptance of
22 electronic signatures.”.

1 **SEC. 303. PROCEDURES FOR USE AND ACCEPTANCE OF**
2 **ELECTRONIC SIGNATURES BY EXECUTIVE**
3 **AGENCIES.**

4 (a) **IN GENERAL.**—In order to fulfill the responsibil-
5 ity to administer the functions assigned under chapter 35
6 of title 44, United States Code, the provisions of the
7 Clinger-Cohen Act of 1996 (divisions D and E of Public
8 Law 104–106) and the amendments made by that Act,
9 and the provisions of this title, the Director of the Office
10 of Management and Budget shall, in consultation with the
11 National Telecommunications and Information Adminis-
12 tration and not later than 18 months after the date of
13 enactment of this Act, develop procedures for the use and
14 acceptance of electronic signatures by Executive agencies.

15 (b) **REQUIREMENTS FOR PROCEDURES.**—(1) The
16 procedures developed under subsection (a)—

17 (A) shall be compatible with standards and
18 technology for electronic signatures that are gen-
19 erally used in commerce and industry and by State
20 governments;

21 (B) may not inappropriately favor one industry
22 or technology;

23 (C) shall ensure that electronic signatures are
24 as reliable as is appropriate for the purpose in ques-
25 tion and keep intact the information submitted;

1 (D) shall provide for the electronic acknowledg-
2 ment of electronic forms that are successfully sub-
3 mitted; and

4 (E) shall, to the extent feasible and appro-
5 priate, require an Executive agency that anticipates
6 receipt by electronic means of 50,000 or more sub-
7 mittals of a particular form to take all steps nec-
8 essary to ensure that multiple methods of electronic
9 signatures are available for the submittal of such
10 form.

11 (2) The Director shall ensure the compatibility of the
12 procedures under paragraph (1)(A) in consultation with
13 appropriate private bodies and State government entities
14 that set standards for the use and acceptance of electronic
15 signatures.

16 **SEC. 304. DEADLINE FOR IMPLEMENTATION BY EXECUTIVE**
17 **AGENCIES OF PROCEDURES FOR USE AND**
18 **ACCEPTANCE OF ELECTRONIC SIGNATURES.**

19 In order to fulfill the responsibility to administer the
20 functions assigned under chapter 35 of title 44, United
21 States Code, the provisions of the Clinger-Cohen Act of
22 1996 (divisions D and E of Public Law 104–106) and the
23 amendments made by that Act, and the provisions of this
24 title, the Director of the Office of Management and Budg-
25 et shall ensure that, commencing not later than five years

1 after the date of enactment of this Act, Executive agencies
2 provide—

3 (1) for the option of the electronic maintenance,
4 submission, or disclosure of information, when prac-
5 ticable as a substitute for paper; and

6 (2) for the use and acceptance of electronic sig-
7 natures, when practicable.

8 **SEC. 305. ELECTRONIC STORAGE AND FILING OF EMPLOY-**
9 **MENT FORMS.**

10 In order to fulfill the responsibility to administer the
11 functions assigned under chapter 35 of title 44, United
12 States Code, the provisions of the Clinger-Cohen Act of
13 1996 (divisions D and E of Public Law 104–106) and the
14 amendments made by that Act, and the provisions of this
15 title, the Director of the Office of Management and Budg-
16 et shall, not later than 18 months after the date of enact-
17 ment of this Act, develop procedures to permit private em-
18 ployers to store and file electronically with Executive agen-
19 cies forms containing information pertaining to the em-
20 ployees of such employers.

21 **SEC. 306. STUDY ON USE OF ELECTRONIC SIGNATURES.**

22 (a) ONGOING STUDY REQUIRED.—In order to fulfill
23 the responsibility to administer the functions assigned
24 under chapter 35 of title 44, United States Code, the pro-
25 visions of the Clinger-Cohen Act of 1996 (divisions D and

1 E of Public Law 104–106) and the amendments made by
2 that Act, and the provisions of this title, the Director of
3 the Office of Management and Budget shall, in coopera-
4 tion with the National Telecommunications and Informa-
5 tion Administration, conduct an ongoing study of the use
6 of electronic signatures under this title on—

7 (1) paperwork reduction and electronic com-
8 merce;

9 (2) individual privacy; and

10 (3) the security and authenticity of trans-
11 actions.

12 (b) REPORTS.—The Director shall submit to Con-
13 gress on a periodic basis a report describing the results
14 of the study carried out under subsection (a).

15 **SEC. 307. ENFORCEABILITY AND LEGAL EFFECT OF ELEC-**
16 **TRONIC RECORDS.**

17 Electronic records submitted or maintained in ac-
18 cordance with procedures developed under this title, or
19 electronic signatures or other forms of electronic authen-
20 tication used in accordance with such procedures, shall not
21 be denied legal effect, validity, or enforceability because
22 such records are in electronic form.

23 **SEC. 308. DISCLOSURE OF INFORMATION.**

24 Except as provided by law, information collected in
25 the provision of electronic signature services for commu-

1 nications with an executive agency, as provided by this
2 title, shall only be used or disclosed by persons who obtain,
3 collect, or maintain such information as a business or gov-
4 ernment practice, for the purpose of facilitating such com-
5 munications, or with the prior affirmative consent of the
6 person about whom the information pertains.

7 **SEC. 309. APPLICATION WITH INTERNAL REVENUE LAWS.**

8 No provision of this title shall apply to the Depart-
9 ment of the Treasury or the Internal Revenue Service to
10 the extent that such provision—

11 (1) involves the administration of the internal
12 revenue laws; or

13 (2) conflicts with any provision of the Internal
14 Revenue Service Restructuring and Reform Act of
15 1998 or the Internal Revenue Code of 1986.

16 **SEC. 310. DEFINITIONS.**

17 For purposes of this title:

18 (1) **ELECTRONIC SIGNATURE.**—The term “elec-
19 tronic signature” means a method of signing an
20 electronic message that—

21 (A) identifies and authenticates a particu-
22 lar person as the source of the electronic mes-
23 sage; and

24 (B) indicates such person’s approval of the
25 information contained in the electronic message.

1 (2) EXECUTIVE AGENCY.—The term “Executive
2 agency” has the meaning given that term in section
3 105 of title 5, United States Code.

4 **TITLE IV—CHILDREN’S ONLINE**
5 **PRIVACY PROTECTION**

6 **SEC. 401. SHORT TITLE.**

7 This title may be cited as the “Children’s Online Pri-
8 vacy Protection Act of 1998”.

9 **SEC. 402. DEFINITIONS.**

10 In this title:

11 (1) CHILD.—The term “child” means an indi-
12 vidual under the age of 13.

13 (2) OPERATOR.—The term “operator”—

14 (A) means any person who operates a
15 website located on the Internet or an online
16 service and who collects or maintains personal
17 information from or about the users of or visi-
18 tors to such website or online service, or on
19 whose behalf such information is collected or
20 maintained, where such website or online serv-
21 ice is operated for commercial purposes, includ-
22 ing any person offering products or services for
23 sale through that website or online service, in-
24 volving commerce—

1 (i) among the several States or with 1
2 or more foreign nations;

3 (ii) in any territory of the United
4 States or in the District of Columbia, or
5 between any such territory and—

6 (I) another such territory; or

7 (II) any State or foreign nation;

8 or

9 (iii) between the District of Columbia
10 and any State, territory, or foreign nation;

11 but

12 (B) does not include any nonprofit entity
13 that would otherwise be exempt from coverage
14 under section 5 of the Federal Trade Commis-
15 sion Act (15 U.S.C. 45).

16 (3) COMMISSION.—The term “Commission”
17 means the Federal Trade Commission.

18 (4) DISCLOSURE.—The term “disclosure”
19 means, with respect to personal information—

20 (A) the release of personal information col-
21 lected from a child in identifiable form by an
22 operator for any purpose, except where such in-
23 formation is provided to a person other than
24 the operator who provides support for the inter-
25 nal operations of the website and does not dis-

1 close or use that information for any other pur-
2 pose; and

3 (B) making personal information collected
4 from a child by a website or online service di-
5 rected to children or with actual knowledge that
6 such information was collected from a child,
7 publicly available in identifiable form, by any
8 means including by a public posting, through
9 the Internet, or through—

- 10 (i) a home page of a website;
11 (ii) a pen pal service;
12 (iii) an electronic mail service;
13 (iv) a message board; or
14 (v) a chat room.

15 (5) FEDERAL AGENCY.—The term “Federal
16 agency” means an agency, as that term is defined
17 in section 551(1) of title 5, United States Code.

18 (6) INTERNET.—The term “Internet” means
19 collectively the myriad of computer and tele-
20 communications facilities, including equipment and
21 operating software, which comprise the inter-
22 connected world-wide network of networks that em-
23 ploy the Transmission Control Protocol/Internet
24 Protocol, or any predecessor or successor protocols

1 to such protocol, to communicate information of all
2 kinds by wire or radio.

3 (7) PARENT.—The term “parent” includes a
4 legal guardian.

5 (8) PERSONAL INFORMATION.—The term “per-
6 sonal information” means individually identifiable
7 information about an individual collected online,
8 including—

9 (A) a first and last name;

10 (B) a home or other physical address in-
11 cluding street name and name of a city or town;

12 (C) an e-mail address;

13 (D) a telephone number;

14 (E) a Social Security number;

15 (F) any other identifier that the Commis-
16 sion determines permits the physical or online
17 contacting of a specific individual; or

18 (G) information concerning the child or the
19 parents of that child that the website collects
20 online from the child and combines with an
21 identifier described in this paragraph.

22 (9) VERIFIABLE PARENTAL CONSENT.—The
23 term “verifiable parental consent” means any rea-
24 sonable effort (taking into consideration available
25 technology), including a request for authorization for

1 future collection, use, and disclosure described in the
2 notice, to ensure that a parent of a child receives no-
3 tice of the operator’s personal information collection,
4 use, and disclosure practices, and authorizes the col-
5 lection, use, and disclosure, as applicable, of per-
6 sonal information and the subsequent use of that in-
7 formation before that information is collected from
8 that child.

9 (10) WEBSITE OR ONLINE SERVICE DIRECTED
10 TO CHILDREN.—

11 (A) IN GENERAL.—The term “website or
12 online service directed to children” means—

13 (i) a commercial website or online
14 service that is targeted to children; or

15 (ii) that portion of a commercial
16 website or online service that is targeted to
17 children.

18 (B) LIMITATION.—A commercial website
19 or online service, or a portion of a commercial
20 website or online service, shall not be deemed
21 directed to children solely for referring or link-
22 ing to a commercial website or online service di-
23 rected to children by using information location
24 tools, including a directory, index, reference,
25 pointer, or hypertext link.

1 (11) PERSON.—The term “person” means any
2 individual, partnership, corporation, trust, estate, co-
3 operative, association, or other entity.

4 (12) ONLINE CONTACT INFORMATION.—The
5 term “online contact information” means an e-mail
6 address or another substantially similar identifier
7 that permits direct contact with a person online.

8 **SEC. 403. REGULATION OF UNFAIR AND DECEPTIVE ACTS**
9 **AND PRACTICES IN CONNECTION WITH THE**
10 **COLLECTION AND USE OF PERSONAL INFOR-**
11 **MATION FROM AND ABOUT CHILDREN ON**
12 **THE INTERNET.**

13 (a) ACTS PROHIBITED.—

14 (1) IN GENERAL.—It is unlawful for an opera-
15 tor of a website or online service directed to chil-
16 dren, or any operator that has actual knowledge that
17 it is collecting personal information from a child, to
18 collect personal information from a child in a man-
19 ner that violates the regulations prescribed under
20 subsection (b).

21 (2) DISCLOSURE TO PARENT PROTECTED.—
22 Notwithstanding paragraph (1), neither an operator
23 of such a website or online service nor the operator’s
24 agent shall be held to be liable under any Federal
25 or State law for any disclosure made in good faith

1 and following reasonable procedures in responding to
2 a request for disclosure of personal information
3 under subsection (b)(1)(B)(iii) to the parent of a
4 child.

5 (b) REGULATIONS.—

6 (1) IN GENERAL.—Not later than 1 year after
7 the date of the enactment of this Act, the Commis-
8 sion shall promulgate under section 553 of title 5,
9 United States Code, regulations that—

10 (A) require the operator of any website or
11 online service directed to children that collects
12 personal information from children or the oper-
13 ator of a website or online service that has ac-
14 tual knowledge that it is collecting personal in-
15 formation from a child—

16 (i) to provide notice on the website of
17 what information is collected from children
18 by the operator, how the operator uses
19 such information, and the operator’s dis-
20 closure practices for such information; and

21 (ii) to obtain verifiable parental con-
22 sent for the collection, use, or disclosure of
23 personal information from children;

24 (B) require the operator to provide, upon
25 request of a parent under this subparagraph

1 whose child has provided personal information
2 to that website or online service, upon proper
3 identification of that parent, to such parent—

4 (i) a description of the specific types
5 of personal information collected from the
6 child by that operator;

7 (ii) the opportunity at any time to
8 refuse to permit the operator's further use
9 or maintenance in retrievable form, or fu-
10 ture online collection, of personal informa-
11 tion from that child; and

12 (iii) notwithstanding any other provi-
13 sion of law, a means that is reasonable
14 under the circumstances for the parent to
15 obtain any personal information collected
16 from that child;

17 (C) prohibit conditioning a child's partici-
18 pation in a game, the offering of a prize, or an-
19 other activity on the child disclosing more per-
20 sonal information than is reasonably necessary
21 to participate in such activity; and

22 (D) require the operator of such a website
23 or online service to establish and maintain rea-
24 sonable procedures to protect the confidential-

1 ity, security, and integrity of personal informa-
2 tion collected from children.

3 (2) WHEN CONSENT NOT REQUIRED.—The reg-
4 ulations shall provide that verifiable parental consent
5 under paragraph (1)(A)(ii) is not required in the
6 case of—

7 (A) online contact information collected
8 from a child that is used only to respond di-
9 rectly on a one-time basis to a specific request
10 from the child and is not used to recontact the
11 child and is not maintained in retrievable form
12 by the operator;

13 (B) a request for the name or online con-
14 tact information of a parent or child that is
15 used for the sole purpose of obtaining parental
16 consent or providing notice under this section
17 and where such information is not maintained
18 in retrievable form by the operator if parental
19 consent is not obtained after a reasonable time;

20 (C) online contact information collected
21 from a child that is used only to respond more
22 than once directly to a specific request from the
23 child and is not used to recontact the child be-
24 yond the scope of that request—

1 (i) if, before any additional response
2 after the initial response to the child, the
3 operator uses reasonable efforts to provide
4 a parent notice of the online contact infor-
5 mation collected from the child, the pur-
6 poses for which it is to be used, and an op-
7 portunity for the parent to request that the
8 operator make no further use of the infor-
9 mation and that it not be maintained in re-
10 trievable form; or

11 (ii) without notice to the parent in
12 such circumstances as the Commission
13 may determine are appropriate, taking into
14 consideration the benefits to the child of
15 access to information and services, and
16 risks to the security and privacy of the
17 child, in regulations promulgated under
18 this subsection;

19 (D) the name of the child and online con-
20 tact information (to the extent reasonably nec-
21 essary to protect the safety of a child partici-
22 pant on the site)—

23 (i) used only for the purpose of pro-
24 tecting such safety;

1 (ii) not used to recontact the child or
2 for any other purpose; and

3 (iii) not disclosed on the site,
4 if the operator uses reasonable efforts to pro-
5 vide a parent notice of the name and online
6 contact information collected from the child, the
7 purposes for which it is to be used, and an op-
8 portunity for the parent to request that the op-
9 erator make no further use of the information
10 and that it not be maintained in retrievable
11 form; or

12 (E) the collection, use, or dissemination of
13 such information by the operator of such a
14 website or online service necessary—

15 (i) to protect the security or integrity
16 of its website;

17 (ii) to take precautions against liabil-
18 ity;

19 (iii) to respond to judicial process; or

20 (iv) to the extent permitted under
21 other provisions of law, to provide informa-
22 tion to law enforcement agencies or for an
23 investigation on a matter related to public
24 safety.

1 (3) **TERMINATION OF SERVICE.**—The regula-
2 tions shall permit the operator of a website or an on-
3 line service to terminate service provided to a child
4 whose parent has refused, under the regulations pre-
5 scribed under paragraph (1)(B)(ii), to permit the op-
6 erator’s further use or maintenance in retrievable
7 form, or future online collection, of personal infor-
8 mation from that child.

9 (c) **ENFORCEMENT.**—Subject to sections 404 and
10 406, a violation of a regulation prescribed under sub-
11 section (a) shall be treated as a violation of a rule defining
12 an unfair or deceptive act or practice prescribed under sec-
13 tion 18(a)(1)(B) of the Federal Trade Commission Act
14 (15 U.S.C. 57a(a)(1)(B)).

15 (d) **INCONSISTENT STATE LAW.**—No State or local
16 government may impose any liability for commercial ac-
17 tivities or actions by operators in interstate or foreign
18 commerce in connection with an activity or action de-
19 scribed in this title that is inconsistent with the treatment
20 of those activities or actions under this section.

21 **SEC. 404. SAFE HARBORS.**

22 (a) **GUIDELINES.**—An operator may satisfy the re-
23 quirements of regulations issued under section 403(b) by
24 following a set of self-regulatory guidelines, issued by rep-

1 representatives of the marketing or online industries, or by
2 other persons, approved under subsection (b).

3 (b) INCENTIVES.—

4 (1) SELF-REGULATORY INCENTIVES.—In pre-
5 scribing regulations under section 403, the Commis-
6 sion shall provide incentives for self-regulation by
7 operators to implement the protections afforded chil-
8 dren under the regulatory requirements described in
9 subsection (b) of that section.

10 (2) DEEMED COMPLIANCE.—Such incentives
11 shall include provisions for ensuring that a person
12 will be deemed to be in compliance with the require-
13 ments of the regulations under section 403 if that
14 person complies with guidelines that, after notice
15 and comment, are approved by the Commission upon
16 making a determination that the guidelines meet the
17 requirements of the regulations issued under section
18 403.

19 (3) EXPEDITED RESPONSE TO REQUESTS.—The
20 Commission shall act upon requests for safe harbor
21 treatment within 180 days of the filing of the re-
22 quest, and shall set forth in writing its conclusions
23 with regard to such requests.

24 (c) APPEALS.—Final action by the Commission on a
25 request for approval of guidelines, or the failure to act

1 within 180 days on a request for approval of guidelines,
2 submitted under subsection (b) may be appealed to a dis-
3 trict court of the United States of appropriate jurisdiction
4 as provided for in section 706 of title 5, United States
5 Code.

6 **SEC. 405. ACTIONS BY STATES.**

7 (a) IN GENERAL.—

8 (1) CIVIL ACTIONS.—In any case in which the
9 attorney general of a State has reason to believe
10 that an interest of the residents of that State has
11 been or is threatened or adversely affected by the
12 engagement of any person in a practice that violates
13 any regulation of the Commission prescribed under
14 section 403(b), the State, as *parens patriae*, may
15 bring a civil action on behalf of the residents of the
16 State in a district court of the United States of ap-
17 propriate jurisdiction to—

18 (A) enjoin that practice;

19 (B) enforce compliance with the regulation;

20 (C) obtain damage, restitution, or other
21 compensation on behalf of residents of the
22 State; or

23 (D) obtain such other relief as the court
24 may consider to be appropriate.

25 (2) NOTICE.—

1 (A) IN GENERAL.—Before filing an action
2 under paragraph (1), the attorney general of
3 the State involved shall provide to the
4 Commission—

- 5 (i) written notice of that action; and
6 (ii) a copy of the complaint for that
7 action.

8 (B) EXEMPTION.—

9 (i) IN GENERAL.—Subparagraph (A)
10 shall not apply with respect to the filing of
11 an action by an attorney general of a State
12 under this subsection, if the attorney gen-
13 eral determines that it is not feasible to
14 provide the notice described in that sub-
15 paragraph before the filing of the action.

16 (ii) NOTIFICATION.—In an action de-
17 scribed in clause (i), the attorney general
18 of a State shall provide notice and a copy
19 of the complaint to the Commission at the
20 same time as the attorney general files the
21 action.

22 (b) INTERVENTION.—

23 (1) IN GENERAL.—On receiving notice under
24 subsection (a)(2), the Commission shall have the

1 right to intervene in the action that is the subject
2 of the notice.

3 (2) EFFECT OF INTERVENTION.—If the Com-
4 mission intervenes in an action under subsection (a),
5 it shall have the right—

6 (A) to be heard with respect to any matter
7 that arises in that action; and

8 (B) to file a petition for appeal.

9 (3) AMICUS CURIAE.—Upon application to the
10 court, a person whose self-regulatory guidelines have
11 been approved by the Commission and are relied
12 upon as a defense by any defendant to a proceeding
13 under this section may file amicus curiae in that
14 proceeding.

15 (c) CONSTRUCTION.—For purposes of bringing any
16 civil action under subsection (a), nothing in this title shall
17 be construed to prevent an attorney general of a State
18 from exercising the powers conferred on the attorney gen-
19 eral by the laws of that State to—

20 (1) conduct investigations;

21 (2) administer oaths or affirmations; or

22 (3) compel the attendance of witnesses or the
23 production of documentary and other evidence.

24 (d) ACTIONS BY THE COMMISSION.—In any case in
25 which an action is instituted by or on behalf of the Com-

1 mission for violation of any regulation prescribed under
2 section 403, no State may, during the pendency of that
3 action, institute an action under subsection (a) against
4 any defendant named in the complaint in that action for
5 violation of that regulation.

6 (e) VENUE; SERVICE OF PROCESS.—

7 (1) VENUE.—Any action brought under sub-
8 section (a) may be brought in the district court of
9 the United States that meets applicable require-
10 ments relating to venue under section 1391 of title
11 28, United States Code.

12 (2) SERVICE OF PROCESS.—In an action
13 brought under subsection (a), process may be served
14 in any district in which the defendant—

15 (A) is an inhabitant; or

16 (B) may be found.

17 **SEC. 406. ADMINISTRATION AND APPLICABILITY OF ACT.**

18 (a) IN GENERAL.—Except as otherwise provided, this
19 title shall be enforced by the Commission under the Fed-
20 eral Trade Commission Act (15 U.S.C. 41 et seq.).

21 (b) PROVISIONS.—Compliance with the requirements
22 imposed under this title shall be enforced under—

23 (1) section 8 of the Federal Deposit Insurance
24 Act (12 U.S.C. 1818), in the case of—

1 (A) national banks, and Federal branches
2 and Federal agencies of foreign banks, by the
3 Office of the Comptroller of the Currency;

4 (B) member banks of the Federal Reserve
5 System (other than national banks), branches
6 and agencies of foreign banks (other than Fed-
7 eral branches, Federal agencies, and insured
8 State branches of foreign banks), commercial
9 lending companies owned or controlled by for-
10 eign banks, and organizations operating under
11 section 25 or 25(a) of the Federal Reserve Act
12 (12 U.S.C. 601 et seq. and 611 et. seq.), by the
13 Board; and

14 (C) banks insured by the Federal Deposit
15 Insurance Corporation (other than members of
16 the Federal Reserve System) and insured State
17 branches of foreign banks, by the Board of Di-
18 rectors of the Federal Deposit Insurance Cor-
19 poration;

20 (2) section 8 of the Federal Deposit Insurance
21 Act (12 U.S.C. 1818), by the Director of the Office
22 of Thrift Supervision, in the case of a savings asso-
23 ciation the deposits of which are insured by the Fed-
24 eral Deposit Insurance Corporation;

1 (3) the Federal Credit Union Act (12 U.S.C.
2 1751 et seq.) by the National Credit Union Adminis-
3 tration Board with respect to any Federal credit
4 union;

5 (4) part A of subtitle VII of title 49, United
6 States Code, by the Secretary of Transportation
7 with respect to any air carrier or foreign air carrier
8 subject to that part;

9 (5) the Packers and Stockyards Act, 1921 (7
10 U.S.C. 181 et. seq.) (except as provided in section
11 406 of that Act (7 U.S.C. 226, 227)), by the Sec-
12 retary of Agriculture with respect to any activities
13 subject to that Act; and

14 (6) the Farm Credit Act of 1971 (12 U.S.C.
15 2001 et seq.) by the Farm Credit Administration
16 with respect to any Federal land bank, Federal land
17 bank association, Federal intermediate credit bank,
18 or production credit association.

19 (c) EXERCISE OF CERTAIN POWERS.—For the pur-
20 pose of the exercise by any agency referred to in sub-
21 section (a) of its powers under any Act referred to in that
22 subsection, a violation of any requirement imposed under
23 this title shall be deemed to be a violation of a requirement
24 imposed under that Act. In addition to its powers under
25 any provision of law specifically referred to in subsection

1 (a), each of the agencies referred to in that subsection may
2 exercise, for the purpose of enforcing compliance with any
3 requirement imposed under this title, any other authority
4 conferred on it by law.

5 (d) ACTIONS BY THE COMMISSION.—The Commis-
6 sion shall prevent any person from violating a rule of the
7 Commission under section 403 in the same manner, by
8 the same means, and with the same jurisdiction, powers,
9 and duties as though all applicable terms and provisions
10 of the Federal Trade Commission Act (15 U.S.C. 41 et
11 seq.) were incorporated into and made a part of this title.
12 Any entity that violates such rule shall be subject to the
13 penalties and entitled to the privileges and immunities
14 provided in the Federal Trade Commission Act in the
15 same manner, by the same means, and with the same ju-
16 risdiction, power, and duties as though all applicable terms
17 and provisions of the Federal Trade Commission Act were
18 incorporated into and made a part of this title.

19 (e) EFFECT ON OTHER LAWS.—Nothing contained in
20 the Act shall be construed to limit the authority of the
21 Commission under any other provisions of law.

22 **SEC. 407. REVIEW.**

23 Not later than 5 years after the effective date of the
24 regulations initially issued under section 403, the Commis-
25 sion shall—

1 (1) review the implementation of this title, in-
2 cluding the effect of the implementation of this title
3 on practices relating to the collection and disclosure
4 of information relating to children, children’s ability
5 to obtain access to information of their choice online,
6 and on the availability of websites directed to chil-
7 dren; and

8 (2) prepare and submit to Congress a report on
9 the results of the review under paragraph (1).

10 **SEC. 408. EFFECTIVE DATE.**

11 Sections 403(a), 405, and 406 of this title take effect
12 on the later of—

13 (1) the date that is 18 months after the date
14 of enactment of this Act; or

15 (2) the date on which the Commission rules on
16 the first application filed for safe harbor treatment
17 under section 404 if the Commission does not rule
18 on the first such application within one year after
19 the date of enactment of this Act, but in no case
20 later than the date that is 30 months after the date
21 of enactment of this Act.

1 **TITLE V—OREGON INSTITUTE**
 2 **OF PUBLIC SERVICE AND**
 3 **CONSTITUTIONAL STUDIES**

4 **SEC. 501. DEFINITIONS.**

5 In this title:

6 (1) **ENDOWMENT FUND.**—The term “endow-
 7 ment fund” means a fund established by Portland
 8 State University for the purpose of generating in-
 9 come for the support of the Institute.

10 (2) **INSTITUTE.**—The term “Institute” means
 11 the Oregon Institute of Public Service and Constitu-
 12 tional Studies established under this title.

13 (3) **SECRETARY.**—The term “Secretary” means
 14 the Secretary of Education.

15 **SEC. 502. OREGON INSTITUTE OF PUBLIC SERVICE AND**
 16 **CONSTITUTIONAL STUDIES.**

17 From the funds appropriated under section 506, the
 18 Secretary is authorized to award a grant to Portland State
 19 University at Portland, Oregon, for the establishment of
 20 an endowment fund to support the Oregon Institute of
 21 Public Service and Constitutional Studies at the Mark O.
 22 Hatfield School of Government at Portland State Univer-
 23 sity.

1 **SEC. 503. DUTIES.**

2 In order to receive a grant under this title the Port-
3 land State University shall establish the Institute. The In-
4 stitute shall have the following duties:

5 (1) To generate resources, improve teaching,
6 enhance curriculum development, and further the
7 knowledge and understanding of students of all ages
8 about public service, the United States Government,
9 and the Constitution of the United States of Amer-
10 ica.

11 (2) To increase the awareness of the impor-
12 tance of public service, to foster among the youth of
13 the United States greater recognition of the role of
14 public service in the development of the United
15 States, and to promote public service as a career
16 choice.

17 (3) To establish a Mark O. Hatfield Fellows
18 program for students of government, public policy,
19 public health, education, or law who have dem-
20 onstrated a commitment to public service through
21 volunteer activities, research projects, or employ-
22 ment.

23 (4) To create library and research facilities for
24 the collection and compilation of research materials
25 for use in carrying out programs of the Institute.

1 (5) To support the professional development of
2 elected officials at all levels of government.

3 **SEC. 504. ADMINISTRATION.**

4 (a) LEADERSHIP COUNCIL.—

5 (1) IN GENERAL.—In order to receive a grant
6 under this title Portland State University shall en-
7 sure that the Institute operates under the direction
8 of a Leadership Council (in this title referred to as
9 the “Leadership Council”) that—

10 “(A) consists of 15 individuals appointed
11 by the President of Portland State University;
12 and

13 “(B) is established in accordance with this
14 section.

15 (2) APPOINTMENTS.—Of the individuals ap-
16 pointed under paragraph (1)(A)—

17 (A) Portland State University, Willamette
18 University, the Constitution Project, George
19 Fox University, Warner Pacific University, and
20 Oregon Health Sciences University shall each
21 have a representative;

22 (B) at least 1 shall represent Mark O.
23 Hatfield, his family, or a designee thereof;

1 (C) at least 1 shall have expertise in ele-
2 mentary and secondary school social sciences or
3 governmental studies;

4 (D) at least 2 shall be representative of
5 business or government and reside outside of
6 Oregon;

7 (E) at least 1 shall be an elected official;
8 and

9 (F) at least 3 shall be leaders in the pri-
10 vate sector.

11 (3) EX-OFFICIO MEMBER.—The Director of the
12 Mark O. Hatfield School of Government at Portland
13 State University shall serve as an ex officio member
14 of the Leadership Council.

15 (b) CHAIRPERSON.—

16 (1) IN GENERAL.—The President of Portland
17 State University shall designate 1 of the individuals
18 first appointed to the Leadership Council under sub-
19 section (a) as the Chairperson of the Leadership
20 Council. The individual so designated shall serve as
21 Chairperson for 1 year.

22 (2) REQUIREMENT.—Upon the expiration of the
23 term of the Chairperson of the individual designated
24 as Chairperson under paragraph (1), or the term of
25 the Chairperson elected under this paragraph, the

1 members of the Leadership Council shall elect a
2 Chairperson of the Leadership Council from among
3 the members of the Leadership Council.

4 **SEC. 505. ENDOWMENT FUND.**

5 (a) MANAGEMENT.—The endowment fund shall be
6 managed in accordance with the standard endowment poli-
7 cies established by the Oregon University System.

8 (b) USE OF INTEREST AND INVESTMENT INCOME.—
9 Interest and other investment income earned (on or after
10 the date of enactment of this subsection) from the endow-
11 ment fund may be used to carry out the duties of the Insti-
12 tute under section 503.

13 (c) DISTRIBUTION OF INTEREST AND INVESTMENT
14 INCOME.—Funds realized from interest and other invest-
15 ment income earned (on or after the date of enactment
16 of this subsection) shall be spent by Portland State Uni-
17 versity in collaboration with Willamette University, George
18 Fox University, the Constitution Project, Warner Pacific
19 University, Oregon Health Sciences University, and other
20 appropriate educational institutions or community-based
21 organizations. In expending such funds, the Leadership
22 Council shall encourage programs to establish partner-
23 ships, to leverage private funds, and to match expendi-
24 tures from the endowment fund.

1 **SEC. 506. AUTHORIZATION OF APPROPRIATIONS.**

2 There is authorized to be appropriated to carry out
3 this title \$3,000,000 for fiscal year 1999.

4 **TITLE VI—PAUL SIMON PUBLIC**
5 **POLICY INSTITUTE**

6 **SEC. 601. DEFINITIONS.**

7 In this title:

8 (1) **ENDOWMENT FUND.**—The term “endow-
9 ment fund” means a fund established by the Univer-
10 sity for the purpose of generating income for the
11 support of the Institute.

12 (2) **ENDOWMENT FUND CORPUS.**—The term
13 “endowment fund corpus” means an amount equal
14 to the grant or grants awarded under this title plus
15 an amount equal to the matching funds required
16 under section 602(d).

17 (3) **ENDOWMENT FUND INCOME.**—The term
18 “endowment fund income” means an amount equal
19 to the total value of the endowment fund minus the
20 endowment fund corpus.

21 (4) **INSTITUTE.**—The term “Institute” means
22 the Paul Simon Public Policy Institute described in
23 section 602.

24 (5) **SECRETARY.**—The term “Secretary” means
25 the Secretary of Education.

1 (6) UNIVERSITY.—The term “University”
2 means Southern Illinois University at Carbondale,
3 Illinois.

4 **SEC. 602. PROGRAM AUTHORIZED.**

5 (a) GRANTS.—From the funds appropriated under
6 section 606, the Secretary is authorized to award a grant
7 to Southern Illinois University for the establishment of an
8 endowment fund to support the Paul Simon Public Policy
9 Institute. The Secretary may enter into agreements with
10 the University and include in any agreement made pursu-
11 ant to this title such provisions as are determined nec-
12 essary by the Secretary to carry out this title.

13 (b) DUTIES.—In order to receive a grant under this
14 title, the University shall establish the Institute. The Insti-
15 tute, in addition to recognizing more than 40 years of pub-
16 lic service to Illinois, to the Nation, and to the world, shall
17 engage in research, analysis, debate, and policy rec-
18 ommendations affecting world hunger, mass media, for-
19 eign policy, education, and employment.

20 (c) DEPOSIT INTO ENDOWMENT FUND.—The Uni-
21 versity shall deposit the proceeds of any grant received
22 under this section into the endowment fund.

23 (d) MATCHING FUNDS REQUIREMENT.—The Univer-
24 sity may receive a grant under this section only if the Uni-
25 versity has deposited in the endowment fund established

1 under this title an amount equal to one-third of such grant
2 and has provided adequate assurances to the Secretary
3 that the University will administer the endowment fund
4 in accordance with the requirements of this title. The
5 source of the funds for the University match shall be de-
6 rived from State, private foundation, corporate, or individ-
7 ual gifts or bequests, but may not include Federal funds
8 or funds derived from any other federally supported fund.

9 (e) DURATION; CORPUS RULE.—The period of any
10 grant awarded under this section shall not exceed 20
11 years, and during such period the University shall not
12 withdraw or expend any of the endowment fund corpus.
13 Upon expiration of the grant period, the University may
14 use the endowment fund corpus, plus any endowment fund
15 income for any educational purpose of the University.

16 **SEC. 603. INVESTMENTS.**

17 (a) IN GENERAL.—The University shall invest the
18 endowment fund corpus and endowment fund income in
19 those low-risk instruments and securities in which a regu-
20 lated insurance company may invest under the laws of the
21 State of Illinois, such as federally insured bank savings
22 accounts or comparable interest bearing accounts, certifi-
23 cates of deposit, money market funds, or obligations of
24 the United States.

1 (b) JUDGMENT AND CARE.—The University, in in-
2 vesting the endowment fund corpus and endowment fund
3 income, shall exercise the judgment and care, under cir-
4 cumstances then prevailing, which a person of prudence,
5 discretion, and intelligence would exercise in the manage-
6 ment of the person's own business affairs.

7 **SEC. 604. WITHDRAWALS AND EXPENDITURES.**

8 (a) IN GENERAL.—The University may withdraw and
9 expend the endowment fund income to defray any ex-
10 penses necessary to the operation of the Institute, includ-
11 ing expenses of operations and maintenance, administra-
12 tion, academic and support personnel, construction and
13 renovation, community and student services programs,
14 technical assistance, and research. No endowment fund in-
15 come or endowment fund corpus may be used for any type
16 of support of the executive officers of the University or
17 for any commercial enterprise or endeavor. Except as pro-
18 vided in subsection (b), the University shall not, in the
19 aggregate, withdraw or expend more than 50 percent of
20 the total aggregate endowment fund income earned prior
21 to the time of withdrawal or expenditure.

22 (b) SPECIAL RULE.—The Secretary is authorized to
23 permit the University to withdraw or expend more than
24 50 percent of the total aggregate endowment fund income

1 whenever the University demonstrates such withdrawal or
2 expenditure is necessary because of—

3 (1) a financial emergency, such as a pending in-
4 solvency or temporary liquidity problem;

5 (2) a life-threatening situation occasioned by a
6 natural disaster or arson; or

7 (3) another unusual occurrence or exigent cir-
8 cumstance.

9 (c) REPAYMENT.—

10 (1) INCOME.—If the University withdraws or
11 expends more than the endowment fund income au-
12 thorized by this section, the University shall repay
13 the Secretary an amount equal to one-third of the
14 amount improperly expended (representing the Fed-
15 eral share thereof).

16 (2) CORPUS.—Except as provided in section
17 602(e)—

18 (A) the University shall not withdraw or
19 expend any endowment fund corpus; and

20 (B) if the University withdraws or expends
21 any endowment fund corpus, the University
22 shall repay the Secretary an amount equal to
23 one-third of the amount withdrawn or expended
24 (representing the Federal share thereof) plus
25 any endowment fund income earned thereon.

1 **SEC. 605. ENFORCEMENT.**

2 (a) **IN GENERAL.**—After notice and an opportunity
3 for a hearing, the Secretary is authorized to terminate a
4 grant and recover any grant funds awarded under this sec-
5 tion if the University—

6 (1) withdraws or expends any endowment fund
7 corpus, or any endowment fund income in excess of
8 the amount authorized by section 604, except as
9 provided in section 602(e);

10 (2) fails to invest the endowment fund corpus
11 or endowment fund income in accordance with the
12 investment requirements described in section 603; or

13 (3) fails to account properly to the Secretary,
14 or the General Accounting Office if properly des-
15 ignated by the Secretary to conduct an audit of
16 funds made available under this title, pursuant to
17 such rules and regulations as may be proscribed by
18 the Comptroller General of the United States, con-
19 cerning investments and expenditures of the endow-
20 ment fund corpus or endowment fund income.

21 (b) **TERMINATION.**—If the Secretary terminates a
22 grant under subsection (a), the University shall return to
23 the Treasury of the United States an amount equal to the
24 sum of the original grant or grants under this title, plus
25 any endowment fund income earned thereon. The Sec-
26 retary may direct the University to take such other appro-

1 priate measures to remedy any violation of this title and
2 to protect the financial interest of the United States.

3 **SEC. 606. AUTHORIZATION OF APPROPRIATIONS.**

4 There is authorized to be appropriated to carry out
5 this title \$3,000,000 for fiscal year 1999. Funds appro-
6 priated under this section shall remain available until ex-
7 pended.

8 **TITLE VII—HOWARD BAKER**
9 **SCHOOL OF GOVERNMENT**

10 **SEC. 701. DEFINITIONS.**

11 In this title:

12 (1) BOARD.—The term “Board” means the
13 Board of Advisors established under section 704.

14 (2) ENDOWMENT FUND.—The term “endow-
15 ment fund” means a fund established by the Univer-
16 sity of Tennessee in Knoxville, Tennessee, for the
17 purpose of generating income for the support of the
18 School.

19 (3) SCHOOL.—The term “School” means the
20 Howard Baker School of Government established
21 under this title.

22 (4) SECRETARY.—The term “Secretary” means
23 the Secretary of Education.

1 (5) UNIVERSITY.—The term “University”
2 means the University of Tennessee in Knoxville,
3 Tennessee.

4 **SEC. 702. HOWARD BAKER SCHOOL OF GOVERNMENT.**

5 From the funds authorized to be appropriated under
6 section 706, the Secretary is authorized to award a grant
7 to the University for the establishment of an endowment
8 fund to support the Howard Baker School of Government
9 at the University of Tennessee in Knoxville, Tennessee.

10 **SEC. 703. DUTIES.**

11 In order to receive a grant under this title, the Uni-
12 versity shall establish the School. The School shall have
13 the following duties:

14 (1) To establish a professorship to improve
15 teaching and research related to, enhance the cur-
16 riculum of, and further the knowledge and under-
17 standing of, the study of democratic institutions, in-
18 cluding aspects of regional planning, public adminis-
19 tration, and public policy.

20 (2) To establish a lecture series to increase the
21 knowledge and awareness of the major public issues
22 of the day in order to enhance informed citizen par-
23 ticipation in public affairs.

24 (3) To establish a fellowship program for stu-
25 dents of government, planning, public administra-

1 tion, or public policy who have demonstrated a com-
2 mitment and an interest in pursuing a career in
3 public affairs.

4 (4) To provide appropriate library materials
5 and appropriate research and instructional equip-
6 ment for use in carrying out academic and public
7 service programs, and to enhance the existing
8 United States Presidential and public official manu-
9 script collections.

10 (5) To support the professional development of
11 elected officials at all levels of government.

12 **SEC. 704. ADMINISTRATION.**

13 (a) BOARD OF ADVISORS.—

14 (1) IN GENERAL.—The School shall operate
15 with the advice and guidance of a Board of Advisors
16 consisting of 13 individuals appointed by the Vice
17 Chancellor for Academic Affairs of the University.

18 (2) APPOINTMENTS.—Of the individuals ap-
19 pointed under paragraph (1)—

20 (A) 5 shall represent the University;

21 (B) 2 shall represent Howard Baker, his
22 family, or a designee thereof;

23 (C) 5 shall be representative of business or
24 government; and

1 (D) 1 shall be the Governor of Tennessee,
2 or the Governor's designee.

3 (3) EX OFFICIO MEMBERS.—The Vice Chan-
4 cellor for Academic Affairs and the Dean of the Col-
5 lege of Arts and Sciences at the University shall
6 serve as an ex officio member of the Board.

7 (b) CHAIRPERSON.—

8 (1) IN GENERAL.—The Chancellor, with the
9 concurrence of the Vice Chancellor for Academic Af-
10 fairs, of the University shall designate 1 of the indi-
11 viduals first appointed to the Board under sub-
12 section (a) as the Chairperson of the Board. The in-
13 dividual so designated shall serve as Chairperson for
14 1 year.

15 (2) REQUIREMENTS.—Upon the expiration of
16 the term of the Chairperson of the individual des-
17 ignated as Chairperson under paragraph (1) or the
18 term of the Chairperson elected under this para-
19 graph, the members of the Board shall elect a Chair-
20 person of the Board from among the members of the
21 Board.

22 **SEC. 705. ENDOWMENT FUND.**

23 (a) MANAGEMENT.—The endowment fund shall be
24 managed in accordance with the standard endowment poli-
25 cies established by the University of Tennessee System.

1 (b) USE OF INTEREST AND INVESTMENT INCOME.—
 2 Interest and other investment income earned (on or after
 3 the date of enactment of this subsection) from the endow-
 4 ment fund may be used to carry out the duties of the
 5 School under section 703.

6 (c) DISTRIBUTION OF INTEREST AND INVESTMENT
 7 INCOME.—Funds realized from interest and other invest-
 8 ment income earned (on or after the date of enactment
 9 of this subsection) shall be available for expenditure by
 10 the University for purposes consistent with section 703,
 11 as recommended by the Board. The Board shall encourage
 12 programs to establish partnerships, to leverage private
 13 funds, and to match expenditures from the endowment
 14 fund.

15 **SEC. 706. AUTHORIZATION OF APPROPRIATIONS.**

16 There is authorized to be appropriated to carry out
 17 this title \$10,000,000 for fiscal year 2000.

18 **TITLE VIII—JOHN GLENN INSTI-**
 19 **TUTE FOR PUBLIC SERVICE**
 20 **AND PUBLIC POLICY**

21 **SEC. 801. DEFINITIONS.**

22 In this title:

23 (1) ENDOWMENT FUND.—The term “endow-
 24 ment fund” means a fund established by the Univer-

1 sity for the purpose of generating income for the
2 support of the Institute.

3 (2) ENDOWMENT FUND CORPUS.—The term
4 “endowment fund corpus” means an amount equal
5 to the grant or grants awarded under this title plus
6 an amount equal to the matching funds required
7 under section 802(d).

8 (3) ENDOWMENT FUND INCOME.—The term
9 “endowment fund income” means an amount equal
10 to the total value of the endowment fund minus the
11 endowment fund corpus.

12 (4) INSTITUTE.—The term “Institute” means
13 the John Glenn Institute for Public Service and
14 Public Policy described in section 802.

15 (5) SECRETARY.—The term “Secretary” means
16 the Secretary of Education.

17 (6) UNIVERSITY.—The term “University”
18 means the Ohio State University at Columbus, Ohio.

19 **SEC. 802. PROGRAM AUTHORIZED.**

20 (a) GRANTS.—From the funds appropriated under
21 section 806, the Secretary is authorized to award a grant
22 to the Ohio State University for the establishment of an
23 endowment fund to support the John Glenn Institute for
24 Public Service and Public Policy. The Secretary may enter
25 into agreements with the University and include in any

1 agreement made pursuant to this title such provisions as
2 are determined necessary by the Secretary to carry out
3 this title.

4 (b) PURPOSES.—The Institute shall have the follow-
5 ing purposes:

6 (1) To sponsor classes, internships, community
7 service activities, and research projects to stimulate
8 student participation in public service, in order to
9 foster America's next generation of leaders.

10 (2) To conduct scholarly research in conjunc-
11 tion with public officials on significant issues facing
12 society and to share the results of such research
13 with decisionmakers and legislators as the decision-
14 makers and legislators address such issues.

15 (3) To offer opportunities to attend seminars
16 on such topics as budgeting and finance, ethics, per-
17 sonnel management, policy evaluations, and regu-
18 latory issues that are designed to assist public offi-
19 cials in learning more about the political process and
20 to expand the organizational skills and policy-mak-
21 ing abilities of such officials.

22 (4) To educate the general public by sponsoring
23 national conferences, seminars, publications, and fo-
24 rums on important public issues.

1 (5) To provide access to Senator John Glenn's
2 extensive collection of papers, policy decisions, and
3 memorabilia, enabling scholars at all levels to study
4 the Senator's work.

5 (c) DEPOSIT INTO ENDOWMENT FUND.—The Uni-
6 versity shall deposit the proceeds of any grant received
7 under this section into the endowment fund.

8 (d) MATCHING FUNDS REQUIREMENT.—The Univer-
9 sity may receive a grant under this section only if the Uni-
10 versity has deposited in the endowment fund established
11 under this title an amount equal to one-third of such grant
12 and has provided adequate assurances to the Secretary
13 that the University will administer the endowment fund
14 in accordance with the requirements of this title. The
15 source of the funds for the University match shall be de-
16 rived from State, private foundation, corporate, or individ-
17 ual gifts or bequests, but may not include Federal funds
18 or funds derived from any other federally supported fund.

19 (e) DURATION; CORPUS RULE.—The period of any
20 grant awarded under this section shall not exceed 20
21 years, and during such period the University shall not
22 withdraw or expend any of the endowment fund corpus.
23 Upon expiration of the grant period, the University may
24 use the endowment fund corpus, plus any endowment fund
25 income for any educational purpose of the University.

1 **SEC. 803. INVESTMENTS.**

2 (a) IN GENERAL.—The University shall invest the
3 endowment fund corpus and endowment fund income in
4 accordance with the University’s investment policy ap-
5 proved by the Ohio State University Board of Trustees.

6 (b) JUDGMENT AND CARE.—The University, in in-
7 vesting the endowment fund corpus and endowment fund
8 income, shall exercise the judgment and care, under cir-
9 cumstances then prevailing, which a person of prudence,
10 discretion, and intelligence would exercise in the manage-
11 ment of the person’s own business affairs.

12 **SEC. 804. WITHDRAWALS AND EXPENDITURES.**

13 (a) IN GENERAL.—The University may withdraw and
14 expend the endowment fund income to defray any ex-
15 penses necessary to the operation of the Institute, includ-
16 ing expenses of operations and maintenance, administra-
17 tion, academic and support personnel, construction and
18 renovation, community and student services programs,
19 technical assistance, and research. No endowment fund in-
20 come or endowment fund corpus may be used for any type
21 of support of the executive officers of the University or
22 for any commercial enterprise or endeavor. Except as pro-
23 vided in subsection (b), the University shall not, in the
24 aggregate, withdraw or expend more than 50 percent of
25 the total aggregate endowment fund income earned prior
26 to the time of withdrawal or expenditure.

1 (b) SPECIAL RULE.—The Secretary is authorized to
2 permit the University to withdraw or expend more than
3 50 percent of the total aggregate endowment fund income
4 whenever the University demonstrates such withdrawal or
5 expenditure is necessary because of—

6 (1) a financial emergency, such as a pending in-
7 solvency or temporary liquidity problem;

8 (2) a life-threatening situation occasioned by a
9 natural disaster or arson; or

10 (3) another unusual occurrence or exigent cir-
11 cumstance.

12 (c) REPAYMENT.—

13 (1) INCOME.—If the University withdraws or
14 expends more than the endowment fund income au-
15 thorized by this section, the University shall repay
16 the Secretary an amount equal to one-third of the
17 amount improperly expended (representing the Fed-
18 eral share thereof).

19 (2) CORPUS.—Except as provided in section
20 802(e)—

21 (A) the University shall not withdraw or
22 expend any endowment fund corpus; and

23 (B) if the University withdraws or expends
24 any endowment fund corpus, the University
25 shall repay the Secretary an amount equal to

1 one-third of the amount withdrawn or expended
2 (representing the Federal share thereof) plus
3 any endowment fund income earned thereon.

4 **SEC. 805. ENFORCEMENT.**

5 (a) **IN GENERAL.**—After notice and an opportunity
6 for a hearing, the Secretary is authorized to terminate a
7 grant and recover any grant funds awarded under this sec-
8 tion if the University—

9 (1) withdraws or expends any endowment fund
10 corpus, or any endowment fund income in excess of
11 the amount authorized by section 804, except as
12 provided in section 802(e);

13 (2) fails to invest the endowment fund corpus
14 or endowment fund income in accordance with the
15 investment requirements described in section 803; or

16 (3) fails to account properly to the Secretary,
17 or the General Accounting Office if properly des-
18 ignated by the Secretary to conduct an audit of
19 funds made available under this title, pursuant to
20 such rules and regulations as may be prescribed by
21 the Comptroller General of the United States, con-
22 cerning investments and expenditures of the endow-
23 ment fund corpus or endowment fund income.

24 (b) **TERMINATION.**—If the Secretary terminates a
25 grant under subsection (a), the University shall return to

1 the Treasury of the United States an amount equal to the
2 sum of the original grant or grants under this title, plus
3 any endowment fund income earned thereon. The Sec-
4 retary may direct the University to take such other appro-
5 priate measures to remedy any violation of this title and
6 to protect the financial interest of the United States.

7 **SEC. 806. AUTHORIZATION OF APPROPRIATIONS.**

8 There is authorized to be appropriated to carry out
9 this title \$6,000,000 for fiscal year 2000. Funds appro-
10 priated under this section shall remain available until ex-
11 pended.

 Passed the Senate October 8 (legislative day, Octo-
ber 2), 1998.

Attest:

GARY SISCO,
Secretary.