

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.

(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).

(f) ADDITIONAL EXCEPTION TO MORATORIUM.—

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

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—

(i) any charge imposed by any governmental entity for the purpose of generating revenues for governmental purposes, and is not a fee imposed for a specific privilege, service, or benefit conferred; or

(ii) the imposition on a seller of an obligation to collect and to remit to a governmental entity any sales or use tax imposed on a buyer by a governmental entity.

(B) EXCEPTION.—Such term does not include any franchise fee or similar fee imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573), or any other fee related to obligations or telecommunications carriers under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(9) TELECOMMUNICATIONS SERVICE.—The term “telecommunications service” has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(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

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.*