

(e) **POSTAL SERVICES.**—The Commission may use the United States mails in the same manner and under the same conditions as other agencies of the Federal Government.

#### SEC. 6. COMMISSION PERSONNEL MATTERS.

(a) **COMPENSATION OF MEMBERS.**—A member of the Commission shall serve without pay, but shall be allowed a per diem allowance for travel expenses, at rates authorized for an employee of an agency under subchapter I of chapter 57 of title 5, United States Code, while away from the home or regular place of business of the member in the performance of the duties of the Commission.

(b) **STAFF.**—

(1) **IN GENERAL.**—The Chairperson of the Commission may, without regard to the civil service laws, including regulations, appoint and terminate an executive director and such other additional personnel as are necessary to enable the Commission to perform the duties of the Commission.

(2) **CONFIRMATION OF EXECUTIVE DIRECTOR.**—The employment of an executive director shall be subject to confirmation by a majority of the members of the Commission.

(3) **COMPENSATION.**—

(A) **IN GENERAL.**—Except as provided in subparagraph (B), the Chairperson of the Commission may fix the compensation of the executive director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates.

(B) **MAXIMUM RATE OF PAY.**—In no event shall any employee of the Commission (other than the executive director) receive as compensation an amount in excess of the maximum rate of pay for Executive Level IV under section 5315 of title 5, United States Code.

(c) **DETAIL OF FEDERAL GOVERNMENT EMPLOYEES.**—

(1) **IN GENERAL.**—An employee of the Federal Government may be detailed to the Commission without reimbursement.

(2) **CIVIL SERVICE STATUS.**—The detail of a Federal employee shall be without interruption or loss of civil service status or privilege.

(d) **PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.**—On request of the Commission, the Secretary of the Army, acting through the Chief of Engineers, shall provide, on a reimbursable basis, such office space, supplies, equipment, and other support services to the Commission and staff of the Commission as are necessary for the Commission to carry out the duties of the Commission under this Act.

#### SEC. 7. CONGRESSIONAL BUDGET OFFICE REVIEW.

Not later than 90 days after the date on which the report under section 4(c) is submitted to Congress by the Commission, the Congressional Budget Office shall review the report and submit a report on the results of the review to the Committee on Environment and Public Works and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

#### SEC. 8. FUNDING.

(a) **FISCAL YEAR 2005.**—For fiscal year 2005, from amounts otherwise made available to the Secretary of the Army for the purpose of civil works for that fiscal year, the Secretary of the Army shall transfer to the Commission such amount, not to exceed \$2,000,000, as the Commission may request to carry out this Act.

(b) **FUTURE FISCAL YEARS.**—There is authorized to be appropriated to the Commission to carry out this Act \$1,000,000 for each of fiscal years 2006 and 2007.

#### SEC. 9. TERMINATION OF COMMISSION.

The Commission shall terminate on September 30, 2007.

By Ms. SNOWE (for herself, Mr. ROCKEFELLER, Mr. STEVENS, Mr. BURNS, and Mr. DORGAN):

S. 2994. A bill to provide that funds received as universal service contributions under section 254 of the Communications Act of 1934 and the universal service support programs established pursuant thereto are not subject to certain provisions of title 31, United States Code, commonly known as the Antideficiency Act, for a period of time; to the Committee on Commerce, Science, and Transportation.

Ms. SNOWE. Mr. President, I rise today with the support of many of my colleagues on the Committee on Commerce, Science, and Transportation to introduce legislation to help keep Americans' telephone bills from rising and to prevent future disruption to the Universal Service Fund. The Universal Service Fund helps keep telephone rates at a reasonable level for millions of American consumers and businesses located in rural parts of our country, areas where phone service would otherwise be prohibitively expensive. The USF also provides discounts to schools and libraries on their Internet service through the E-Rate program, which I and Senator ROCKEFELLER worked to establish in 1996. Finally the USF makes basic "life line" phone service available to low-income Americans, and gives assistance to rural health care providers.

The bill I introduce today is a corrective measure that addresses problems recently encountered by the Universal Service Administration Company, or "USAC," the private, nonprofit corporation that Congress created to administer the USF. Specifically, this bill deals with a decision by the FCC that ordered USAC to adhere to a special set of accounting rules that applies to government agencies. As a private company, USAC had utilized the same accounting rules as used by the private sector, but was told last year that it was subject to the Anti-Deficiency Act, a law that prevents government agencies from incurring financial obligations beyond the amount that has been appropriated to them by Congress. Adherence to government accounting rules is one of the Anti-Deficiency Act's requirements.

However, the switch to government accounting rules has caused an unforeseen disruption in the operation of the USF. In July 2004, USAC was notified that its method for accounting for funding commitments made to schools and libraries under the E-Rate program was illegal under the new government accounting rules, even though the method was perfectly proper under Generally Accepted Accounting Principles. As a result, USAC was forced to place an enormous amount of cash on its books by the close of the fiscal year, September 30; to freeze the program on August 3, preventing any ac-

tion on applications for E-Rate discounts right before the start of the school year; and to liquidate all of its assets, resulting in \$4.6 million in penalties and an estimated loss of \$30 million in expected interest income.

While USAC believes it can resume acting upon applications for E-Rate discount later this month, it notified the FCC on November 1 that, in order to continue compliance with the new government accounting rules, the USF contribution factor must be raised. The contribution factor is the portion of each customer's phone bill that is paid into the USF. Currently the charge is 8.9 percent of a customer's interstate calls made, but it will likely rise to 13 percent or more. Of course, this increase would be passed right on to consumers and businesses. Worse yet, this accounting change is likely to affect the other components of the USF as well, since they by and large operate in the same manner. If the USF as a whole is forced to make the same accounting changes that were imposed on E-Rate, the USF contribution factor may rise to 25 percent or more by January 1, 2005.

As a result of a seemingly innocuous accounting rule change, schools and libraries across the country have been unable to obtain much-needed discounts on their Internet connections, leading many to shut off their Internet service altogether. A similar strain may be encountered by the USF as a whole, jeopardizing price supports for rural- and low-income Americans on their phone service. And if no immediate action is taken, the telephone bills of American consumers and businesses are slated to rise significantly come the beginning of the new year.

My colleagues and I have examined this issue and worked closely with the FCC and our counterparts on the House Energy and Commerce Committee. We have determined that, given the pending phone bill increases on January 1, the only way to address this problem is to pass a law exempting the Universal Service Fund from the Anti-Deficiency Act through December 31, 2005. During this exemption period, USAC can continue to operate its programs in an orderly manner, phone bills can remain stable, and both Congress and the Executive Branch can work on a permanent solution to this problem. There is ample precedent for an exemption; indeed, many government programs are permanently exempted from the Anti-Deficiency Act, such as the National Park Service and the Conservation Trust.

This is a bipartisan effort among those Members who deal with telecommunications issues regularly. We have worked closely with the FCC and the House, and we have the support of the telecom industry, educators, and state and local governments. A permanent solution might require legislation, or it might not, but either way we will require sufficient time to craft that fix. This bill ensures that, in the

meantime, the status quo is preserve, schools and libraries receive their Internet funding, the USF continues to operate soundly, and consumers' telephone bills do not rise.

#### SUBMITTED RESOLUTIONS

#### SENATE CONCURRENT RESOLUTION 146—TO DIRECT THE SECRETARY OF THE SENATE TO MAKE CORRECTIONS IN THE ENROLLMENT OF THE BILL S. 150

Mr. ALLEN (for himself, Mr. WYDEN, Mrs. HUTCHISON, Mr. ALEXANDER, and Mr. ENZI) submitted the following concurrent resolution; which was considered and agreed to:

S. CON. RES. 146

*Resolved by the Senate (the House of Representatives concurring).* That, in the enrollment of the bill (S. 150) to extend the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act, the Secretary of the Senate shall make the following corrections:

(1) Amend subsection (a) of section 1104 of the Internet Tax Freedom Act (47 U.S.C. 151 note), as added by section 3 of the bill, to read as follows:

“(a) PRE-OCTOBER 1998 TAXES.—

“(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, if, before that date—

“(A) the tax was authorized by statute; and

“(B) either—

“(i) a provider of Internet access services had a reasonable opportunity to know, by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

“(ii) a State or political subdivision thereof generally collected such tax on charges for Internet access.

“(2) TERMINATION.—

“(A) IN GENERAL.—Except as provided in subparagraph (B), this subsection shall not apply after November 1, 2007.

“(B) STATE TELECOMMUNICATIONS SERVICE TAX.—

“(i) DATE FOR TERMINATION.—This subsection shall not apply after November 1, 2006, with respect to a State telecommunications service tax described in clause (ii).

“(ii) DESCRIPTION OF TAX.—A State telecommunications service tax referred to in subclause (i) is a State tax—

“(I) enacted by State law on or after October 1, 1991, and imposing a tax on telecommunications service; and

“(II) applied to Internet access through administrative code or regulation issued on or after December 1, 2002.”

(2) Insert after section 6 of the bill the following:

“SEC. 6A. EXCEPTION FOR TEXAS MUNICIPAL ACCESS LINE FEE.

“The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 6, is amended by adding at the end the following:

“SEC. 1109. EXCEPTION FOR TEXAS MUNICIPAL ACCESS LINE FEE.

“Nothing in this Act shall prohibit Texas or a political subdivision thereof from imposing or collecting the Texas municipal access line fee pursuant to Texas Local Govt. Code Ann. ch. 283 (Vernon 2005) and the defini-

tion of access line as determined by the Public Utility Commission of Texas in its ‘Order Adopting Amendments to Section 26.465 As Approved At The February 13, 2003 Public Hearing’, issued March 5, 2003, in Project No. 26412.”

#### AUTHORITY FOR COMMITTEES TO MEET

##### COMMITTEE ON ENVIRONMENTAL AND PUBLIC WORKS

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, November 17, 2004 at 2:30 p.m. to conduct a business meeting regarding various projects included in GSA's fiscal year 2005 Capital Investment and Leasing Program, to authorize various courthouse construction projects, and to consider Army Corps of Engineers study resolutions.

The meeting will be held in SD 406.

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

##### COMMITTEE ON INDIAN AFFAIRS

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, November 17, 2004, at 3 p.m. in Room 216 of the Hart Senate Office Building to conduct a business meeting on pending Committee matters, to be followed immediately by an oversight hearing on the In Re Tribal Lobbying Matters, et al.

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

##### SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Mr. ALLEN. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on Wednesday, November 17, 2004, at 2 p.m. on Prenatal Genetic Testing Technology.

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

#### PRIVILEGES OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that the privilege of the floor be granted to the following fellow and interns of the Finance Committee staff during consideration of S. 2986, the debt limit bill: Mary Tuckerman, Priya Mahanti, Audrey Schultz, Brittney McClary, Kelsie Eggenberger, Paige Lester, Jeremy Sylestine, Jodi George, Janis Lazda, Chris Knopes, Scott Landes, and Cuong Huynh.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. JOHNSON. Mr. President, I ask unanimous consent that floor privileges for the remainder of the week be granted to Jimmy Loyless, who is a banking fellow in my office.

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

#### MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT—CONFERENCE REPORT

Mr. FRIST. Mr. President, I move to proceed to the conference report to accompany H.R. 1047, the Miscellaneous Trade and Technical Corrections Act.

The PRESIDING OFFICER. The question is on agreeing to the motion. The motion was agreed to.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 1047), to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by all conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of October 8, 2004.)

#### CLOTURE MOTION

Mr. FRIST. Mr. President, I now send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

#### CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the conference report to accompany H.R. 1047, a bill to amend the harmonized tariff schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes.

Bill Frist, Chuck Grassley, George Allen, Craig Thomas, Jon Kyl, Mike Crapo, Robert F. Bennett, John Inhofe, Pete Domenici, Lamar Alexander, John E. Sununu, Richard G. Lugar, George Voinovich, Peter Fitzgerald, Trent Lott, Lindsey Graham, Jim Talent.

Mr. FRIST. Mr. President, I ask unanimous consent that the mandatory quorum be waived.

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

Mr. FRIST. For the information of all Members, this cloture motion will ripen on Friday morning. If cloture is invoked—and I think it will be—I hope we can move quickly to the adoption of the conference report.

#### NEW SHIPPER REVIEW AMENDMENT ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to immediate consideration of S. 2991, which was introduced earlier today by Senators COCHRAN and BYRD.

The PRESIDING OFFICER. The clerk will report the bill by title.