

Several improvements were made to this legislation during Committee consideration, many at my request. First, the reported version includes stronger language regarding the protection of information being accessed through remote networks. This IT security language is important to reassure the general public that, as we promote the use of telework in federal agencies, the government is taking necessary steps to make sure personal information is safeguarded.

Second, the reported version requires agencies to further integrate telework into their continuity of operations planning by making sure mission critical personnel are prepared to telework in the event of a major disaster, such as a terrorist attack or an outbreak of the pandemic flu.

Third, the reported version tasks the Chief Human Capital Officers Council with being a central coordinator of best practices for agencies regarding telework.

Fourth, the reported version gives agencies some flexibility in determining how best to promote telework within their workforce by allowing them to either assign the telework responsibilities to the agency's Chief Human Capital Officer or to a career official at the agency.

Promoting the use of telework by our federal workforce will improve employee efficiency and ultimately lead to improved service to the American public, and I appreciate the majority's willingness to work with us on this legislation.

Mr. Speaker, I am happy to support this legislation and urge its adoption.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Illinois (Mr. DAVIS) that the House suspend the rules and pass the bill, H.R. 4106, as amended.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL FOOD DONATION ACT OF 2008

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2420) to encourage the donation of excess food to nonprofit organizations that provide assistance to food-insecure people in the United States in contracts entered into by executive agencies for the provision, service, or sale of food.

The Clerk read the title of the Senate bill.

The text of the Senate bill is as follows:

S. 2420

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Food Donation Act of 2008".

SEC. 2. PURPOSE.

The purpose of this Act is to encourage executive agencies and contractors of executive agencies, to the maximum extent prac-

ticable and safe, to donate excess, apparently wholesome food to feed food-insecure people in the United States.

SEC. 3. DEFINITIONS.

In this Act:

(1) APPARENTLY WHOLESOME FOOD.—The term "apparently wholesome food" has the meaning given the term in section 2(b) of the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791(b)).

(2) EXCESS.—The term "excess", when applied to food, means food that—

(A) is not required to meet the needs of executive agencies; and

(B) would otherwise be discarded.

(3) FOOD-INSECURE.—The term "food-insecure" means inconsistent access to sufficient, safe, and nutritious food.

(4) NONPROFIT ORGANIZATION.—The term "nonprofit organization" means any organization that is—

(A) described in section 501(c) of the Internal Revenue Code of 1986; and

(B) exempt from tax under section 501(a) of that Code.

SEC. 4. PROMOTING FEDERAL FOOD DONATION.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Federal Acquisition Regulation issued in accordance with section 25 of the Office of Federal Procurement Policy Act (41 U.S.C. 421) shall be revised to provide that all contracts above \$25,000 for the provision, service, or sale of food in the United States, or for the lease or rental of Federal property to a private entity for events at which food is provided in the United States, shall include a clause that—

(1) encourages the donation of excess, apparently wholesome food to nonprofit organizations that provide assistance to food-insecure people in the United States; and

(2) states the terms and conditions described in subsection (b).

(b) TERMS AND CONDITIONS.—

(1) COSTS.—In any case in which a contractor enters into a contract with an executive agency under which apparently wholesome food is donated to food-insecure people in the United States, the head of the executive agency shall not assume responsibility for the costs and logistics of collecting, transporting, maintaining the safety of, or distributing excess, apparently wholesome food to food-insecure people in the United States under this Act.

(2) LIABILITY.—An executive agency (including an executive agency that enters into a contract with a contractor) and any contractor making donations pursuant to this Act shall be exempt from civil and criminal liability to the extent provided under the Bill Emerson Good Samaritan Food Donation Act (42 U.S.C. 1791).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Missouri (Mr. CLAY) and the gentlewoman from North Carolina (Ms. FOXX) each will control 20 minutes.

The Chair recognizes the gentleman from Missouri.

GENERAL LEAVE

Mr. CLAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

Mr. CLAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2420, the Federal Food Donation Act, is a modest meas-

ure designed to help address a very large problem, hunger in America. In 2005, 25 million people in this country, including 9 million children, had to rely on soup kitchens and other charitable feeding programs to help meet their nutritional needs.

S. 2420 is very similar to legislation introduced by Representative JO ANN EMERSON, H.R. 4220, which passed the House on a voice vote last December. It requires Federal agencies to include in their food service and space rental contracts a provision which encourages contractors to donate any surplus wholesome food to nonprofit organizations that provide assistance to the hungry. This bill builds on the work of some innovative nonprofit organizations and think tanks that have been conducting similar programs in the private sector.

The bill also includes provisions which would ensure that cost of collecting, transporting and storing donated food would not be borne by the Federal Government, and that executive agencies and contractors would be protected from civil or criminal liability.

I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Ms. FOXX. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today to take up S. 2420, the Federal Food Donation Act. The House version of this legislation, H.R. 4220, was introduced by Representative JO ANN EMERSON and was passed by the House last December.

S. 2420 would require the Federal Acquisition Regulation to be amended to provide certain contracts for the provision, service or sale of food, include a clause encouraging the donation of excess food to organizations such as homeless shelters. In doing so, the legislation also states agencies and contractors making donations would be protected from civil or criminal liability associated with the donation.

Mrs. EMERSON has been a leader in the effort to relieve hunger in this Nation, and I applaud her dedication to this issue. I urge my colleagues to support this bill.

Mr. WOLF. Mr. Speaker, I rise in support of S. 2420, the Federal Food Donation Act of 2008. This bill would require a clause in federal food services contracts greater than \$25,000 to encouraging donations to nonprofit organizations, such as food banks and food pantries.

I have been active in the fight against hunger for over two decades. Following my first visit to Ethiopia during its famine in 1984, I worked across the aisle to fight hunger both at home and abroad. I was pleased to work for the passage of the Bill Emerson Good Samaritan Act of 1996 that protected organizations donating food to charitable organizations from liability in order to spur greater donations.

However, I am concerned that rising food commodity prices and gasoline prices could hamper efforts by food banks and food pantries to meet the needs of the hungry. In meeting with charitable organizations in my congressional district, it is clear that the business

community and government agencies could be doing much more to support efforts to a growing number of families relying on food assistance from charitable organizations.

Anyone who has visited a grocery store in the last year understands the challenge our food banks are facing. U.S. grocery prices increased 5.1 percent overall during the last year, with a 17-percent increase in cost for dairy products, a 13-percent increase for rice and pasta, and a 12-percent increase in the cost of breads. This has a tremendous impact on the bottom line for American families. For example, if a family earns \$45,000 a year, it now costs them an extra \$1,000 to maintain the same food, gas, and basic goods purchases compared to 2006—a 9.6-percent increase. This makes more families dependent on food assistance, and even more affluent families less likely to donate to food banks and food pantries.

I am proud that the food banks and food pantries, grocery stores, and chambers of commerce in my district are coming together to raise awareness of this challenge and develop community-based solutions. Given the large federal agency presence in my district, I believe that this bill will help supplement their efforts.

Mr. Speaker, I urge my colleagues to join me in supporting this pragmatic and necessary legislation.

Ms. FOXX. Mr. Speaker, I yield back the balance of my time.

Mr. CLAY. Mr. Speaker, I yield back the balance of my time and urge my colleagues to support this measure.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Missouri (Mr. CLAY) that the House suspend the rules and pass the Senate bill, S. 2420.

The question was taken; and (two-thirds being in the affirmative) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

FEDERAL AGENCY DATA PROTECTION ACT

Mr. CLAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4791) to amend title 44, United States Code, to strengthen requirements for ensuring the effectiveness of information security controls over information resources that support Federal operations and assets, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 4791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) **SHORT TITLE.**—This Act may be cited as the “Federal Agency Data Protection Act”.

(b) **TABLE OF CONTENTS.**—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Purpose.

Sec. 3. Definitions.

Sec. 4. Authority of Director of Office of Management and Budget to establish information security policies and procedures.

Sec. 5. Responsibilities of Federal agencies for information security.

Sec. 6. Federal agency data breach notification requirements.

Sec. 7. Protection of government computers from risks of peer-to-peer file sharing.

Sec. 8. Annual independent audit.

Sec. 9. Best practices for privacy impact assessments.

Sec. 10. Implementation.

SEC. 2. PURPOSE.

The purpose of this Act is to protect personally identifiable information of individuals that is maintained in or transmitted by Federal agency information systems.

SEC. 3. DEFINITIONS.

(a) **PERSONALLY IDENTIFIABLE INFORMATION AND MOBILE DIGITAL DEVICE DEFINITIONS.**—Section 3542(b) of title 44, United States Code, is amended by adding at the end the following new paragraphs:

“(4) The term ‘personally identifiable information’, with respect to an individual, means any information about the individual maintained by an agency, including information—

“(A) about the individual’s education, finances, or medical, criminal, or employment history;

“(B) that can be used to distinguish or trace the individual’s identity, including name, social security number, date and place of birth, mother’s maiden name, or biometric records; or

“(C) that is otherwise linked or linkable to the individual.

“(5) The term ‘mobile digital device’ includes any device that can store or process information electronically and is designed to be used in a manner not limited to a fixed location, including—

“(A) processing devices such as laptop computers, communication devices, and other handheld computing devices; and

“(B) storage devices such as portable hard drives, CD-ROMs, DVDs, and other portable electronic media.”

(b) **CONFORMING AMENDMENTS.**—Section 208 of the E-Government Act of 2002 (Public Law 107-347; 44 U.S.C. 3501 note) is amended—

(1) in subsection (b)(1)(A)—

(A) in clause (i), by striking “information that is in an identifiable form” and inserting “personally identifiable information”; and

(B) in clause (ii)(II), by striking “information in an identifiable form permitting the physical or online contacting of a specific individual” and inserting “personally identifiable information”;

(2) in subsection (b)(2)(B)(i), by striking “information that is in an identifiable form” and inserting “personally identifiable information”;

(3) in subsection (b)(3)(C), by striking “information that is in an identifiable form” and inserting “personally identifiable information”; and

(4) in subsection (d), by striking the text and inserting “In this section, the term ‘personally identifiable information’ has the meaning given that term in section 3542(b)(4) of title 44, United States Code.”

SEC. 4. AUTHORITY OF DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET TO ESTABLISH INFORMATION SECURITY POLICIES AND PROCEDURES.

Section 3543(a) of title 44, United States Code, is amended—

(1) by inserting before the semicolon at the end of paragraph (5) the following: “, including plans and schedules, developed by the agency on the basis of priorities for addressing levels of identified risk, for conducting—

“(A) testing and evaluation, as required under section 3544(b)(5); and

“(B) remedial action, as required under section 3544(b)(6), to address deficiencies identified by such testing and evaluation”; and

(2) by adding at the end the following:

“(9) establishing minimum requirements regarding the protection of personally identifiable information maintained in or transmitted by mobile digital devices, including requirements for the use of technologies that efficiently and effectively render information unusable by unauthorized persons;

“(10) requiring agencies to comply with—

“(A) minimally acceptable system configuration requirements consistent with best practices, including checklists developed under section 8(c) of the Cyber Security Research and Development Act (Public Law 107-305; 116 Stat. 2378) by the Director of the National Institute of Standards and Technology; and

“(B) minimally acceptable requirements for periodic testing and evaluation of the implementation of such configuration requirements;

“(11) ensuring that agency contracts for (or involving or including) the provision of information technology products or services include requirements for contractors to meet minimally acceptable configuration requirements, as required under paragraph (10);

“(12) ensuring the establishment through regulation and guidance of contract requirements to ensure compliance with this subchapter with regard to providing information security for information and information systems used or operated by a contractor of an agency or other organization on behalf of the agency; and”.

SEC. 5. RESPONSIBILITIES OF FEDERAL AGENCIES FOR INFORMATION SECURITY.

Section 3544(b) of title 44, United States Code, is amended—

(1) in paragraph (2)(D)(iii), by striking “as determined by the agency” and inserting “as required by the Director under section 3543(a)(10)”;

(2) in paragraph (5)—

(A) by inserting after “annually” the following: “and as approved by the Director”;

(B) by striking “and” at the end of subparagraph (A);

(C) by redesignating subparagraph (B) as subparagraph (D); and

(D) by inserting after subparagraph (A) the following:

“(B) shall include testing and evaluation of system configuration requirements as required under section 3543(a)(10);

“(C) shall include testing of systems operated by a contractor of the agency or other organization on behalf of the agency, which testing requirement may be satisfied by independent testing, evaluation, or audit of such systems; and”;

(3) by striking “and” at the end of paragraph (7);

(4) by striking the period at the end of paragraph (8) and inserting a semicolon; and

(5) by adding at the end the following:

“(9) plans and procedures for ensuring the adequacy of information security protections for systems maintaining or transmitting personally identifiable information, including requirements for—

“(A) maintaining a current inventory of systems maintaining or transmitting such information;

“(B) implementing information security requirements for mobile digital devices maintaining or transmitting such information, as required by the Director (including the use of technologies rendering data unusable by unauthorized persons); and

“(C) developing, implementing, and overseeing remediation plans to address vulnerabilities in information security protections for such information.”

SEC. 6. FEDERAL AGENCY DATA BREACH NOTIFICATION REQUIREMENTS.

(a) **AUTHORITY OF DIRECTOR OF OFFICE OF MANAGEMENT AND BUDGET TO ESTABLISH DATA BREACH POLICIES.**—Section 3543(a) of title 44, United States Code, as amended by section 4, is further amended—

(1) by striking “and” at the end of paragraph (7);