wheel some of its water supply from its Lake Curry storage reservoir through a specific and limited part of the Putah South Canal. In doing so, Vallejo will be able to keep its current water permit active.

The Putah South Canal serves the Solano Project, constructed by the Bureau of Reclamation in the 1950s. Vallejo's proposal has been carefully negotiated by the Solano Water Authority and other Solano Project water users, including the City of Fairfield. Vallejo is prepared to pay all appropriate charges for the use of this facility. There will be no cost to the U.S.

Many California water agencies are becoming much more accustomed to using various facilities, some of them Federal, some State, some private, to facilitate the movement and transfer of water more efficiently around the State. There are both State and Federal initiatives to encourage more efficient water use, and many of the various CALFED programs focus on improved water management.

H.R. 1235 is part of that ongoing effort to bring some flexibility into our water management policies while continuing to meet important statutory, fiscal, and environmental requirements.

Execution of a Warren Act contract to benefit the city of Vallejo will require full compliance with Federal and State and environmental laws and regulations. We want to assure that no damage is done to the steelhead fishery that is returning to Suisun Creek or to other resources.

The record of the committee's consideration of H.R. 1235 includes correspondence from the Bureau of Reclamation, clearly indicating that all environment compliance requirements must be met before execution of a Warren Act contract to benefit the city of Vallejo. Those include the requirements of the National Environmental Policy Act of 1969, the California Environmental Quality Act, the Endangered Species Act, State Fish and Game Department regulations, and all other environmental mandates.

Mr. Speaker, H.R. 1235 is important to the city of Vallejo, and this legislation is not controversial.

I wish to congratulate the gentleman from California (Mr. GEORGE MILLER) on this important piece of legislation and thank the chairman for his cooperation and collaboration on this legislation. I urge my colleagues to support H.R. 1235.

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

Mr. DOOLITTLE. Mr. Speaker, I urge an aye vote, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. DOOLITTLE) that the House suspend the rules and pass the bill, H.R. 1235.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

## GENERAL LEAVE

Mr. DOOLITTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bills just passed, H.R. 862, H.R. 992, and H.R. 1235.

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

There was no objection.

## ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

Mr. BLILEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1714) to facilitate the use of electronic records and signatures in interstate or foreign commerce, as amended.

The Clerk read as follows:

H.R. 1714

*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 ''Electronic Signatures in Global and National Commerce Act''.

**TITLE I—VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES FOR COMMERCE**

**SEC. 101. GENERAL RULE OF VALIDITY.**

(a) GENERAL RULE.—With respect to any contract, agreement, or record entered into or provided in, or affecting, interstate or foreign commerce, notwithstanding any statute, regulation, or other rule of law, the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied—

(1) on the ground that the contract, agreement, or record is not in writing if the contract, agreement, or record is an electronic record; or

(2) on the ground that the contract, agreement, or record is not signed or is not affirmed by a signature if the contract, agreement, or record is signed or affirmed by an electronic signature.

(b) AUTONOMY OF PARTIES IN COMMERCE.—

(1) IN GENERAL.—With respect to any contract, agreement, or record entered into or provided in, or affecting, interstate or foreign commerce—

(A) the parties to such contract, agreement, or record may establish procedures or requirements regarding the use and acceptance of electronic records and electronic signatures acceptable to such parties;

(B) the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied because of the type or method of electronic record or electronic signature selected by the parties in establishing such procedures or requirements; and

(C) nothing in this section requires any party to use or accept electronic records or electronic signatures.

(2) CONSENT TO ELECTRONIC RECORDS.—Notwithstanding subsection (a) and paragraph (1) of this subsection—

(A) if a statute, regulation, or other rule of law requires that a record be provided or made available to a consumer in writing, that requirement shall be satisfied by an electronic record if—

(i) the consumer has separately and affirmatively consented to the provision or availability of such record, or identified groups of records that that include such record, as an electronic record; and

(ii) has not withdrawn such consent; and

(B) if such statute, regulation, or other rule of law requires that a record be retained, that requirement shall be satisfied if such record complies with the requirements of subparagraphs (A) and (B) of subsection (c)(1).

(c) RETENTION OF CONTRACTS, AGREEMENTS, AND RECORDS.—

(1) ACCURACY AND ACCESSIBILITY.—If a statute, regulation, or other rule of law requires that a contract, agreement, or record be in writing or be retained, that requirement is met by retaining an electronic record of the information in the contract, agreement, or record that—

(A) accurately reflects the information set forth in the contract, agreement, or record after it was first generated in its final form as an electronic record; and

(B) remains accessible, for the period required by such statute, regulation, or rule of law, for later reference, transmission, and printing.

(2) EXCEPTION.—A requirement to retain a contract, agreement, or record in accordance with paragraph (1) does not apply to any information whose sole purpose is to enable the contract, agreement, or record to be sent, communicated, or received.

(3) ORIGINALS.—If a statute, regulation, or other rule of law requires a contract, agreement, or record to be provided, available, or retained in its original form, or provides consequences if the contract, agreement, or record is not provided, available, or retained in its original form, that statute, regulation, or rule of law is satisfied by an electronic record that complies with paragraph (1).

(4) CHECKS.—If a statute, regulation, or other rule of law requires the retention of a check, that requirement is satisfied by retention of an electronic record of all the information on the front and back of the check in accordance with paragraph (1).

**SEC. 102. AUTHORITY TO ALTER OR SUPERSEDE GENERAL RULE.**

(a) PROCEDURE TO ALTER OR SUPERSEDE.—Except as provided in subsection (b), a State statute, regulation, or other rule of law may modify, limit, or supersede the provisions of section 101 if such statute, regulation, or rule of law—

(1)(A) constitutes an enactment or adoption of the Uniform Electronic Transactions Act as reported to the State legislatures by the National Conference of Commissioners on Uniform State Laws; or

(B) specifies the alternative procedures or requirements for the use or acceptance (or both) of electronic records or electronic signatures to establish the legal effect, validity, or enforceability of contracts, agreements, or records; and

(2) if enacted or adopted after the date of enactment of this Act, makes specific reference to this Act.

(b) LIMITATIONS ON ALTERATION OR SUPERSESSION.—A State statute, regulation, or other rule of law (including an insurance statute, regulation, or other rule of law), regardless of its date of enactment or adoption, that modifies, limits, or supersedes section 101 shall not be effective to the extent that such statute, regulation, or rule—

(1) discriminates in favor of or against a specific technology, process, or technique of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures;

(2) discriminates in favor of or against a specific type or size of entity engaged in the business of facilitating the use of electronic records or electronic signatures;

(3) is based on procedures or requirements that are not specific or that are not publicly available; or

(4) is otherwise inconsistent with the provisions of this title.

(c) EXCEPTION.—Notwithstanding subsection (b), a State may, by statute, regulation, or rule of law enacted or adopted after the date of enactment of this Act, require specific notices to be provided or made available in writing if such notices are necessary for the protection of the safety or health of an individual consumer. A consumer may not, pursuant to section 101(b)(2), consent to the provision or availability of such notice solely as an electronic record.

**SEC. 103. SPECIFIC EXCLUSIONS.**

(a) EXCEPTED REQUIREMENTS.—The provisions of section 101 shall not apply to a contract, agreement, or record to the extent it is governed by—

(1) a statute, regulation, or other rule of law governing the creation and execution of wills, codicils, or testamentary trusts;

(2) a statute, regulation, or other rule of law governing adoption, divorce, or other matters of family law;

(3) the Uniform Commercial Code, as in effect in any State, other than sections 1-107 and 1-206 and Articles 2 and 2A;

(4) any requirement by a Federal regulatory agency or self-regulatory organization that records be filed or maintained in a specified standard or standards (including a specified format or formats), except that nothing in this paragraph relieves any Federal regulatory agency of its obligations under the Government Paperwork Elimination Act (title XVII of Public Law 105–277);

(5) the Uniform Anatomical Gift Act; or

(6) the Uniform Health-Care Decisions Act.

(b) ADDITIONAL EXCEPTIONS.—The provisions of section 101 shall not apply to—

(1) any contract, agreement, or record entered into between a party and a State agency if the State agency is not acting as a market participant in or affecting interstate commerce;

(2) court orders or notices, or official court documents (including briefs, pleadings, and other writings) required to be executed in connection with court proceedings; or

(3) any notice concerning—

(A) the cancellation or termination of utility services (including water, heat, and power);

(B) default, acceleration, repossession, foreclosure, or eviction, or the right to cure, under a credit agreement secured by, or a rental agreement for, a primary residence of an individual; or

(C) the cancellation or termination of health insurance or benefits or life insurance benefits (excluding annuities).

**SEC. 104. STUDY.**

(a) FOLLOWUP STUDY.—Within 5 years after the date of enactment of this Act, the Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall conduct an inquiry regarding any State statutes, regulations, or other rules of law enacted or adopted after such date of enactment pursuant to section 102(a), and the extent to which such statutes, regulations, and rules comply with section 102(b).

(b) REPORT.—The Secretary shall submit a report to the Congress regarding the results of such inquiry by the conclusion of such 5-year period.

**SEC. 105. DEFINITIONS.**

For purposes of this title:

(1) ELECTRONIC RECORD.—The term ''electronic record'' means a writing, document, or other record created, stored, generated, received, or communicated by electronic means.

(2) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means information or data in electronic form, attached to or logically associated with an electronic record, and executed or adopted by a person or an electronic agent of a person, with the intent to sign a contract, agreement, or record.

(3) ELECTRONIC.—The term ''electronic'' means of or relating to technology having electrical, digital, magnetic, optical, electromagnetic, or similar capabilities regardless of medium.

(4) ELECTRONIC AGENT.—The term ''electronic agent'' means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records in whole or in part without review by an individual at the time of the action or response.

(5) RECORD.—The term ''record'' means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.

(6) FEDERAL REGULATORY AGENCY.—The term ''Federal regulatory agency' means an agency, as that term is defined in section 552(f) of title 5, United States Code, that is authorized by Federal law to impose requirements by rule, regulation, order, or other legal instrument.

(7) SELF-REGULATORY ORGANIZATION.—The term ''self-regulatory organization'' means an organization or entity that is not a Federal regulatory agency or a State, but that is under the supervision of a Federal regulatory agency and is authorized under Federal law to adopt and administer rules applicable to its members that are enforced by such organization or entity, by a Federal regulatory agency, or by another self-regulatory organization.

## TITLE II—DEVELOPMENT AND ADOPTION OF ELECTRONIC SIGNATURE PRODUCTS AND SERVICES

**SEC. 201. TREATMENT OF ELECTRONIC SIGNATURES IN INTERSTATE AND FOREIGN COMMERCE.**

(a) INQUIRY REGARDING IMPEDIMENTS TO COMMERCE.—

(1) INQUIRIES REQUIRED.—Within 180 days after the date of the enactment of this Act, and biennially thereafter, the Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall complete an inquiry to—

(A) identify any domestic and foreign impediments to commerce in electronic signature products and services and the manners in which and extent to which such impediments inhibit the development of interstate and foreign commerce;

(B) identify constraints imposed by foreign nations or international organizations that constitute barriers to providers of electronic signature products or services; and

(C) identify the degree to which other nations and international organizations are complying with the principles in subsection (b)(2).

(2) SUBMISSION.—The Secretary shall submit a report to the Congress regarding the results of each such inquiry within 90 days after the conclusion of such inquiry. Such report shall include a description of the actions taken by the Secretary pursuant to subsection (b) of this section.

(b) PROMOTION OF ELECTRONIC SIGNATURES.—

(1) REQUIRED ACTIONS.—The Secretary of Commerce, acting through the Assistant Secretary for Communications and Information, shall promote the acceptance and use, on an international basis, of electronic signatures in accordance with the principles specified in paragraph (2) and in a manner consistent with section 101 of this Act. The Secretary of Commerce shall take all actions necessary in a manner consistent with such principles to eliminate or reduce, to the maximum extent possible, the impediments to commerce in electronic signatures, including those identified in the inquiries under subsection (a) for the purpose of facilitating the development of interstate and foreign commerce.

(2) PRINCIPLES.—The principles specified in this paragraph are the following:

(A) Free markets and self-regulation, rather than government standard-setting or rules, should govern the development and use of electronic records and electronic signatures.

(B) Neutrality and nondiscrimination should be observed among providers of and technologies for electronic records and electronic signatures.

(C) Parties to a transaction should be permitted to establish requirements regarding the use of electronic records and electronic signatures acceptable to such parties.

(D) Parties to a transaction—

(i) should be permitted to determine the appropriate authentication technologies and implementation models for their transactions, with assurance that those technologies and implementation models will be recognized and enforced; and

(ii) should have the opportunity to prove in court or other proceedings that their authentication approaches and their transactions are valid.

(E) Electronic records and electronic signatures in a form acceptable to the parties should not be denied legal effect, validity, or enforceability on the ground that they are not in writing.

(F) De jure or de facto imposition of standards on private industry through foreign adoption of regulations or policies with respect to electronic records and electronic signatures should be avoided.

(G) Paper-based obstacles to electronic transactions should be removed.

(c) CONSULTATION.—In conducting the activities required by this section, the Secretary shall consult with users and providers of electronic signature products and services and other interested persons.

(d) PRIVACY.—Nothing in this section shall be construed to require the Secretary or the Assistant Secretary to take any action that would adversely affect the privacy of consumers.

(e) DEFINITIONS.—As used in this section, the terms ''electronic record'' and ''electronic signature'' have the meanings provided in section 104 of the Electronic Signatures in Global and National Commerce Act.

## TITLE III—USE OF ELECTRONIC RECORDS AND SIGNATURES UNDER FEDERAL SECURITIES LAW

**SEC. 301. GENERAL VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES.**

Section 3 of the Securities Exchange Act of 1934 (15 U.S.C. 78c) is amended by adding at the end the following new subsection:

''(h) REFERENCES TO WRITTEN RECORDS AND SIGNATURES.—

''(1) GENERAL VALIDITY OF ELECTRONIC RECORDS AND SIGNATURES.—Except as otherwise provided in this subsection—

''(A) if a contract, agreement, or record (as defined in subsection (a)(37)) is required by the securities laws or any rule or regulation thereunder (including a rule or regulation of a self-regulatory organization), and is required by Federal or State statute, regulation, or other rule of law to be in writing, the legal effect, validity, or enforceability of such contract, agreement, or record shall not

be denied on the ground that the contract, agreement, or record is not in writing if the contract, agreement, or record is an electronic record;

''(B) if a contract, agreement, or record is required by the securities laws or any rule or regulation thereunder (including a rule or regulation of a self-regulatory organization), and is required by Federal or State statute, regulation, or other rule of law to be signed, the legal effect, validity, or enforceability of such contract, agreement, or record shall not be denied on the ground that such contract, agreement, or record is not signed or is not affirmed by a signature if the contract, agreement, or record is signed or affirmed by an electronic signature; and

''(C) if a broker, dealer, transfer agent, investment adviser, or investment company enters into a contract or agreement with, or accepts a record from, a customer or other counterparty, such broker, dealer, transfer agent, investment adviser, or investment company may accept and rely upon an electronic signature on such contract, agreement, or record, and such electronic signature shall not be denied legal effect, validity, or enforceability because it is an electronic signature.

''(2) IMPLEMENTATION.—

''(A) REGULATIONS.—The Commission may prescribe such regulations as may be necessary to carry out this subsection consistent with the public interest and the protection of investors.

''(B) NONDISCRIMINATION.—The regulations prescribed by the Commission under subparagraph (A) shall not—

''(i) discriminate in favor of or against a specific technology, method, or technique of creating, storing, generating, receiving, communicating, or authenticating electronic records or electronic signatures; or

''(ii) discriminate in favor of or against a specific type or size of entity engaged in the business of facilitating the use of electronic records or electronic signatures.

''(3) EXCEPTIONS.—Notwithstanding any other provision of this subsection—

''(A) the Commission, an appropriate regulatory agency, or a self-regulatory organization may require that records be filed or maintained in a specified standard or standards (including a specified format or formats) if the records are required to be submitted to the Commission, an appropriate regulatory agency, or a self-regulatory organization, respectively, or are required by the Commission, an appropriate regulatory agency, or a self-regulatory organization to be retained; and

''(B) the Commission may require that contracts, agreements, or records relating to purchases and sales, or establishing accounts for conducting purchases and sales, of penny stocks be manually signed, and may require such manual signatures with respect to transactions in similar securities if the Commission determines that such securities are susceptible to fraud and that such fraud would be deterred or prevented by requiring manual signatures.

''(4) RELATION TO OTHER LAW.—The provisions of this subsection apply in lieu of the provisions of title I of the Electronic Signatures in Global and National Commerce Act to a contract, agreement, or record (as defined in subsection (a)(37)) that is required by the securities laws.

''(5) SAVINGS PROVISION.—Nothing in this subsection applies to any rule or regulation under the securities laws (including a rule or regulation of a self-regulatory organization) that is in effect on the date of enactment of the Electronic Signatures in Global and National Commerce Act and that requires a contract, agreement, or record to be in writing, to be submitted or retained in original form, or to be in a specified standard or standards (including a specified format or formats).

''(6) DEFINITIONS.—As used in this subsection:

''(A) ELECTRONIC RECORD.—The term 'electronic record' means a writing, document, or other record created, stored, generated, received, or communicated by electronic means.

''(B) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means information or data in electronic form, attached to or logically associated with an electronic record, and executed or adopted by a person or an electronic agent of a person, with the intent to sign a contract, agreement, or record.

''(C) ELECTRONIC.—The term 'electronic' means of or relating to technology having electrical, digital, magnetic, optical, electromagnetic, or similar capabilities regardless of medium.''.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. BLILEY) and the gentleman from Massachusetts (Mr. MARKEY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BLILEY).

GENERAL LEAVE

Mr. BLILEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to insert extraneous material on the bill, H.R. 1714.

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

There was no objection.

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

Mr. Speaker, last year, the Committee on Commerce began an initiative to better understand the issues surrounding the Internet and electronic commerce. As part of this initiative, the committee held 11 hearings, focusing on a variety of electronic commerce issues.

One of the issues that was raised repeatedly at the hearings was the need to provide enforceability to electronic signatures and electronic records. This issue is really quite simple: Does an electronically signed contract formed over the Internet have the same legal validity as a paper contract with a handwritten signature? Do electronic records have the same legal effect as a paper record?

In most cases, the answer is either no or uncertain. The lack of legal certainty for electronic signatures and records has been cited for many in the e-commerce industry as a potential roadblock for the growth of electronic commerce. To address this issue, earlier this year I introduced H.R. 1714, the Electronic Signatures in Global and National Commerce Act, better known as E-SIGN.

The purpose of this legislation is to provide a uniform nationwide standard for electronic signatures and electronic records. It creates a minimum Federal standard to promote interstate commerce, but E-SIGN recognizes the efforts of States to enact their own uniform laws.

The bill we have before us today is the product of extensive research, careful examination of the issues, committee hearings and mark-ups, and extensive negotiations with our colleagues across the aisle and many other interested parties.

Finally, it is a recognition of a positive step that Congress can take to help electronic commerce and the new economy continue to grow.

Mr. Speaker, as many of my colleagues know, H.R. 1714 was first scheduled to be considered on the House floor 2 weeks ago. After discussions with the gentleman from Massachusetts (Mr. MARKEY), I asked that this bill be withdrawn from consideration so that we could continue negotiations with him and the gentleman from Michigan (Mr. DINGELL) over a number of outstanding issues.

The amended version of the bill as before us today is the product of lengthy negotiations with the Committee on Commerce minority and with the Committee on the Judiciary. As of the middle of last week, I believed that we had reached a substantive agreement on the text we are debating today.

Numerous changes were made to the text of the bill on a good-faith effort by me to address the legitimate concerns raised about the bill by some of our colleagues. These changes include adding a new opt-in provision to prevent consumers from being forced to use or accept electronic records. In addition, we added brand-new carve-outs prohibiting use of electronic records where those records are necessary for protection of a consumer's health, safety, and home.

Unfortunately, all of this hard work has fallen victim to partisan politics. The administration, after publicly supporting the need for electronic signature legislation, has decided that they must deny Congressional Republicans a victory on this important technology legislation.

It is my understanding that last week officials from the administration met with Members of the Democrat leadership in the House and persuaded some House Members to withdraw their support from H.R. 1714, despite the agreement we had reached and after many days of negotiations. This is a shame.

Since that time, many false and misleading charges have been made against H.R. 1714. The bill has come under attack by opponents of technology legislation who claim that H.R. 1714 would harm consumers. Mr. Speaker, these claims are absolutely false. The consumer provisions contained in H.R. 1714 keep in place all existing consumer protection laws and fully protect consumers.

Mr. Speaker, it is unfortunate that such an important technology bill has come under attack. If we want the Internet and electronic commerce to continue to grow, we must pass H.R. 1714 providing the much needed legal

certainty to electronic signatures and records.

H.R. 1714 is one of the most important high technology votes that this Congress will undertake. If my colleagues support the U.S. high-tech industry, they will vote yes on this bill.

A vote in support of H.R. 1714 is a vote in support of providing consumers with greater security and on-line transactions. It is a vote in support of allowing businesses to provide new and innovative services online.

I urge all of my colleagues to reject baseless charges against the bill and support H.R. 1714.

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

Mr. MARKEY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I would just like to say that there really is not a gulf that exists between Democrats and Republicans over our support for electronic commerce. That is clearly something that the Committee on Commerce has been working on for the last 15 years. Every single bill has been able to be produced with near unanimity. It is clearly a tribute to our committee that we have been able to work together in that fashion.

At the full committee level, we worked closely with the majority on a bill that dealt with electronic signatures; and we really worked together in a very bipartisan fashion. Since the full committee, the whole notion of the bill has been broadened out to include records as well, another issue area that is quite complex but resolvable and one in which I thought that we had made enormous progress. In fact, I know we had made enormous progress through the end of last week.

It was clearly our intent to have worked with the majority to, once again, demonstrate our ability to work in a bipartisan fashion in this area. It was our hope that, at the end of the day, that would be the case.

I commend the gentleman from Virginia (Chairman BLILEY) for including a provision allowing consumers to decide whether to opt in to receive contractual documents in electronic form. This opt-in provision goes a long way towards ensuring that consumers do not unwittingly forgo existing protections under State and Federal law.

However, there were other issues that are also in play that include what kind of notice, whether it be conspicuous or otherwise, that consumers are entitled to under existing laws to receive these documents in writing.

So, again, we are quite regretful on this side because we clearly would like to support a piece of legislation that advances these goals and could be passed on a bipartisan near-unanimous vote out here on the floor. But at this point I have to regretfully ask the Members to vote no.

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

□ 1515

Mr. BLILEY. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. OXLEY), chairman of the Subcommittee on Finance and Hazardous Materials of the Committee on Commerce.

Mr. OXLEY. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in strong support of H.R. 1714, the Electronic Signatures in Global and National Commerce Act.

Commerce on the Internet is projected to grow exponentially to hundreds of billions of dollars in transactions in just a few years. Because the access to financial information has improved dramatically, the Internet poses significant opportunities for more Americans to become directly involved in the capital markets.

The Subcommittee on Finance and Hazardous Materials, which I chair, held hearings on this bill and passed it through subcommittee unanimously. This bill will provide a critical cornerstone for the electronic financial transactions in the next century.

The securities industry has responded to the new world of e-commerce with a proliferation of on-line trading brokers. Today, millions of Americans trade securities and manage their investments on-line. The cost savings to investors are significant. Full service brokerage can cost as much as $400 per trade. On-line brokerage costs less than $10 per trade at many firms.

The law needs to keep up with this significant technological development. H.R. 1714 brings legal certainty to electronic transactions. The legislation states that contracts shall not be deemed invalid because they are entered into electronically rather than the old-fashioned way, by handwritten signature.

One goal of this legislation is to allow customers to open accounts on line without mandating a physical signature on a brokerage agreement and mailing it back to the broker. Title III of this legislation modernizes securities laws by providing that requirements for a writing can be satisfied by an electronic signature with just a click of a button.

The legislation does not endorse any particular electronic authentication technology. We think that the market is the best place to decide that.

I want to commend the gentleman from Virginia (Mr. BLILEY) for his vision and introducing this critical legislation that will benefit the future of American economy. This is not just a bill that will benefit the American companies that develop new technology, it will also help American businesses, large and small, that use technology to develop and grow their business and provide new and innovative service to consumers.

Mr. Speaker, I urge Members to support this sound and worthwhile legislation, one of the key pieces of technology legislation this Congress will consider.

Mr. MARKEY. Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding me this time, and I, without equivocation, rise in strong opposition to this legislation.

I obviously understand the problem that the committee was trying to solve and the necessity to deal with electronic or e-commerce, and to try to provide the legal framework which would be workable for such transactions to go forward. That is an imperative that needs to be addressed in terms of this Congress and I am sure in subsequent Congresses. The fact of the matter is, though, that this bill, while being dealt with in the Committee on Commerce in the House and the Committee on the Judiciary, there was a reluctance to in fact provide the Committee on Banking and Financial Services with an opportunity to look at the legislation.

That in and of itself would be understandable if in fact the issues dealt with, in regards to consumer and consumer safeguards, were in fact properly dealt with in this legislation. This is not a jurisdictional fight on my part. In fact, I was quite surprised to see this bill on the calendar a couple of weeks ago. My impression was that it was a very narrow bill that dealt with some transactions and tried to, in fact, provide legal sanctity to an electronic signature, which, as I said, makes some sense. But in the process of going forward and reviewing the bill more closely, my recognition and understanding of this bill grew that it encompasses much more than simply an electronic signature.

In fact, this legislation would undermine some of the fundamental consumer laws that we have that relate to financial institutions and agreements, such as truth in lending, so an individual knows what his proper amount of interest is, and he would receive detailed information. They could opt for that electronically and, thereafter, that would be sufficient. Provided that that consumer did not make any other choice under this bill, they would never receive this as a paper document, in fact, it would only be an electronic record.

There are all sorts of problems that could go down. The assumption here is that someone is going to have a computer and be on the Internet forever; that the format is not going to change; that the printer works; that there is paper in the printer. There are many other assumptions that simply do not fit in terms of what the consequence would be with regards to consumers.

I have already mentioned truth in lending. The Real Estate Sales Practices Act, RESPA law is another one, the Real Estate Sales Practices Act, where an individual gets a preliminary set of documents that estimates what the costs are going to be for closing when a home is purchased, and then a

final set of documents at that closing. Again, this paperwork is absolutely paramount for people to understand some of the most important transactions that they become involved with with regards to their financial affairs.

I note that there are some provisions in the law that are accepted, and some opportunity for States to step in after this bill is enacted, provided they pass a whole series of legislation or laws that address specifically some of the concerns that they now have in force and effect as State laws. The consequence, of course, is all subjected to the fact that any interpretation of differences between having things on paper or having an electronic form could be subject to and considered discrimination under the Federal law that is being written and proposed on this floor today; so that this State reservation is much depreciated if in fact it exists at all under this measure.

So the consequences may very well be, in some cases, meaningless under that interpretation of the law. Furthermore, of course, the States themselves, the National Conference of State Legislatures, the Office of State-Federal Relations, has issued a strong objection to this bill; that it preempts State consumer protections in contract law, just as I feel it preempts and does not treat properly some of the Federal laws that occur with regards to truth in lending and RESPA and many other laws that are in force and effect that represent safeguards and information and it is imperative that consumers have such information.

Of course, the out here is that consumers may in fact ''opt out,'' or ''opt in'' to suggest that they do not want this information in a paper form. But I would suggest to my colleagues that the relationship between a financial institution granting a loan, granting a mortgage, and that of a consumer is not exactly equal. That is to say when I go in for a loan, I am trying to keep that banker happy so that he would make that loan to me. I think it is pretty well understood that in order to do that, we want to make it as convenient for the banker and perhaps for ourselves at that moment. But that moment of convenience may well result in a lack of understanding with regards to what the consequences and the costs of these transactions would be to those individual consumers.

And, of course, throughout this there is this ability of the individual to waive his or her rights with regards to paper transactions and records in this measure. No paper record, no documentation, I think that that is folly. I think it is a big mistake.

I think that based on where we are at today, with the administration being opposed to this bill, many, many consumer groups voicing their opposition to it, including the National Consumer Law Center, the Consumer Federation of America, groups like the United Auto Workers, Consumer Union, Consumer Action, U.S. PIRG, the National Conference of State Legislatures, as I mentioned, the National Center on Poverty Law, and many others opposed to this, I think to bring a bill up like this on suspension is to make, in a sense, a mockery of the importance of the subject matter and the ability of Members to shape and form legislation of this import to the American consumer and to our constituents.

Mr. Speaker, I thank the gentleman for his generous yielding of time to me, and I urge opposition to this bill.

Mr. BLILEY. How much time do I have left, Mr. Speaker?

The SPEAKER pro tempore (Mr. PETRI). The gentleman from Virginia (Mr. BLILEY) has 13 minutes remaining.

Mr. BLILEY. Mr. Speaker, I yield 5 minutes to the gentleman from Northern Virginia (Mr. DAVIS), the original cosponsor of the bill.

(Mr. DAVIS of Virginia asked and was given permission to revise and extend his remarks.)

Mr. DAVIS of Virginia. Mr. Speaker, I rise today to voice my strong support for H.R. 1714. As an original cosponsor, I am pleased to stand here today with my colleague, the gentleman from Virginia (Mr. BLILEY), to urge my colleagues to vote in favor of legislation that I think is the critical first step in reconciling our legal system with modern day technology. The E-SIGN bill is essential to fostering the continued growth of electronic commerce that is propelling America's economy and our prosperity in the Information Age.

Electronic commerce has been growing at a tremendous pace, with the number of Americans with access to the Internet increasing nearly 900 percent since early 1993. In 1998, electronic commerce generated more than $300 billion in U.S. revenue and was responsible for over 1.2 billion jobs as of 1998. One estimate places the dollar volume of business-to-business electronic commerce in 1998 at $27.4 billion, and the projected volume for 1999 is $64.8 billion. Those numbers are expected to quadruple in the next 2 years alone. Consumer on-line sales have reached more than $7 billion this year and are expected to exceed $40 billion by 2002. If the trend continues, it is likely these predictions are conservative.

The need for legal certainty and uniformity of laws is compelling if we are to encourage the continued growth of electronic commerce. One of the biggest barriers to the explosion of electronic commerce as the marketplace of the 21st century is the lack of certainty surrounding the legal acceptance of electronic signatures used in conducting on-line contracts or agreements. With the Internet as the communications network of the future, increasing its use depends on developing and retaining consumer and business confidence in this unique problem.

Although 44 States have already enacted legislation that would recognize digital signatures, the differences among these States and the lack of legislation in others are an impediment to the growth of e-commerce because many parties are unwilling to risk entering into contracts on line without the certainty that those signatures are legally binding nationally. H.R. 1714 establishes a single standard for the acceptance of electronic signatures and records and will give both businesses and consumers the same confidence in the legal validity of an on-line agreement that they have today in a written, binding agreement signed by two or more contracting parties.

Another critical feature of this legislation is the balance it strikes between encouraging growth in electronic commerce and minimizing the role that the Federal Government plays in the marketplace. In addition to the gap this measure fills in establishing a uniform standard, what is equally important is that this legislation does not entrench specific electronic signature technologies by dictating what methods will be used for verifying and validating digital signatures and records. Instead, the E-SIGN bill allows the parties to set their own procedures for using electronic signatures and electronic records in interstate commerce. As a result, when the future brings new technologies it will be the marketplace, not government regulations, that drives the development of those that succeed.

A vote for this legislation is a vote for technology and a vote for ensuring the evolution of Internet commerce and the vitality of the American economy. For this reason, I urge my colleagues to support the legislation.

Mr. Speaker, I want to take a second, if I can, to respond to some of the charges coming from the other side that this legislation contains anti-consumer provisions.

I have heard that this preempts existing consumer protection laws; I have heard that this legislation will force consumers into electronic transactions; I have heard this will discriminate against consumers that do not have computer access. These claims are false.

First, consumers are absolutely free to choose or not choose to enter into electronic transactions. This bill clearly states that nothing requires any party to use or accept electronic records or electronic signatures. This bill simply offers consumers the option, by mutual consent, to use electronic transactions should both parties determine that to be their preference.

If a consumer does choose to conduct an on-line transaction, that consumer is protected by the underlying Federal or State laws governing that transaction. If a State law requires that a notice or disclosure be made in writing, then those traditional writings must continue to be delivered from the consumer. Nothing in this bill will nullify such existing State consumer protection laws.

For example, if a law requires that a consumer be provided a copy of a warranty when purchasing an appliance,

that consumer has to receive a copy of that warranty, whether that consumer is at a shopping mall or on line. This bill does absolutely nothing to alter this long-established principle.

However, before a consumer can receive an electronic copy of a warranty, a consumer has to separately and affirmatively consent to receive that document electronically. That is, a consumer specifically must approve of receiving electronic documents in that portion of a contract or agreement, telling the consumer that documents he or she should receive electronically may not be buried in the fine print.

□ 1530

If the consumer wants to receive a traditional paper warranty, he is absolutely entitled to under this rule and under this bill. But if a consumer consents to receive such documents electronically, as I think many of my constituents would like to do, that does not mean that they may never return to receiving paper documents should they so wish. A consumer could withdraw the consent to electronic documents at any time.

There are two main subsections in the consent portion of the bill that explicitly constitute a consumers assent in the bill. One of these critical subsections mandates that once the consumer withdrawals his consent to receive documents electronically, the materials must be delivered in the traditional paper writing.

Finally, H.R. 1714 requires that electronically delivered documents must accurately reflect the information agreed to at the time of the transaction. In addition, any electronic copy of a contract or document must be able to be printed or saved for future use by a consumer.

In sum, the allegations that H.R. 1714 contains anti-consumer ideas are unfounded. We have worked very hard throughout the process to reach consensus with both sides of the aisle and are confident that this bill represents a solid balance between protecting consumers and entering into agreements in the electronic arena.

Mr. Speaker, it is vitally important for consumers to have safety, security and privacy in their online transactions. If consumers do not feel comfortable using this new technology, they will abandon it.

I believe that the consumer provisions of H.R. 1714 will help consumers to feel comfortable when conducting online transactions. They will have the information they need to make an informed decision, and they will have the right to accept, if they so choose, important documentation in electronic format.

I urge all of my colleagues to support this important legislation that will help to promote the growth of electronic commerce and at the same time protect consumers in online transactions.

Mr. MARKEY. Mr. Speaker, I would inquire of the Chair how much time is remaining on either side.

The SPEAKER pro tempore (Mr. PETRI). The gentlemen have 11½ minutes remaining.

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

Mr. Speaker, I would first like to include for the RECORD the Statement of Administration Policy on this bill. They oppose it in specific particulars, and I would like at this point for it to be included in the RECORD.

H.R. 1714.—ELECTRONIC SIGNATURES IN GLOBAL AND NATIONAL COMMERCE ACT

The Administration strongly opposes House passage of the revised version of H.R. 1714, the ''Electronic Signatures in Global and National Commerce Act.'' The Administration believes that electronic commerce can provide substantial benefits to consumers, and seeks to foster the expansion of this medium. Secure electronic signatures can play an important role in this area, and the Administration supports their development and dissemination. However, the Administration also believes strongly that individuals should have no fewer consumer protections in the on-line world than they do in other forms of commerce. That disparity could undermine consumer confidence in electronic commerce, and impede the growth of this important new medium of trade. While some improvements have been made, H.R. 1714 still goes well beyond what is necessary to facilitate electronic commerce, and unnecessarily deprives consumers of important protections.

The Administration believes that Federal legislation is appropriate to ensure the validity of electronic agreements entered into by private parties under State law before the States have an opportunity to enact the Uniform Transactions Act (UETA). We therefore support the bill's provisions affirming the legal validity of contracts that are memorialized and signed in electronic form.

The Administration also believes, as noted, that consumers must be granted the same protections on-line that they currently receive off-line under existing laws and regulations. Unfortunately, many Americans today do not enjoy reliable and regular access to the Internet. To ensure that an electronic disclosure will have the same impact upon consumers on-line as paper disclosure has now, regulators must have the authority to make sure that electronic notices and disclosures will actually reach and be understood and retained by consumers. H.R. 1714 also would allow businesses to condition credit or other services on a consumers' consent to notices or disclosures—even when the consumer is incapable of receiving or retaining them. The Administration strongly objects to this bill on several grounds.

First, the bill purports to protect consumers by requiring them to ''separately and affirmatively'' consent to the use of electronic records. Unfortunately, this provision requires just an additional paragraph of small print in the form contract prepared by a business. The notice to the consumer need not be conspicuous, the consumer need not be told of his or her right to obtain information in the form required by law, and the consumer need not be told which specific records would be affected. More fundamentally, these current law notice and disclosure requirements were created to protect vulnerable consumers allowing businesses to redefine the protections based on ''consent''—something that businesses may not do with respect to paper transactions—is thus an open invitation to consumer deception on a broad scale.

Second, the scope of the bill's preemption is unjustifiably broad. Neither the States nor Federal regulators will have any ability to eliminate the abuses that may occur when electronic records are used. With respect to Federal regulators, the bill by its terms eliminates all such authority. With respect to the States, the bill's grant of authority is illusory because it prohibits (in section 102(b)(4)) any State action inconsistent with the bill's provisions, leaving the States powerless to curb any abuse that the bill itself fails to prevent.

Third, the bill overrides all Federal and State laws or regulations concerning notices necessary for the protection of safety, shelter or health (there is a narrow exception for notices relating to the termination of utility services, eviction or foreclosure of a primary residence, or the termination of health or life insurance). Although the States are permitted to reinstate such regulations, the bill creates a gap in protection—in the critical area of safety and health—for the several years that inevitably will elapse before these rules can be reenacted. Federal agencies have no power to reinstate any Federal notice and disclosure requirements needed to protect health, safety, or shelter.

Fourth, the bill recognizes the importance of preserving Federal regulations by requiring certain entities (including banks and other financial institutions) to file or maintain records in a specified form, but fails to ensure that regulators' safety and soundness authority will continue to allow the establishment of minimum standards for computer security and interoperability. The bill also preempts all State laws and regulations regarding the maintenance of records. As a result, entities regulated under state law, such as insurance companies, will be able to decide for themselves how to maintain information, thereby undermining regulators' ability to ensure the soundness of these institutions and to detect violations of the laws and regulations governing them.

Fifth, the bill contains a provision (adding section 3(h)(1) to the Securities Exchange Act of 1934) that appears to preempt State and Federal record and signature requirements, including those applicable to forms required under Federal and State tax laws and regulatory statutes such as ERISA (existing Federal securities law requirements are exempted from this broad waiver). This means that the securities industry would have the right to force Federal and State agencies to accept electronically signed documents immediately, even if, for example, the agency has not yet implemented an electronic filing system. Title I of H.R. 1714 appears to preserve filing requirements in Federal regulations (but not statutes) and in State laws, and we see no justification for establishing a special preferential rule for the securities industry.

Finally, the bill contains other technical and drafting flaws likely to create the very confusion that it is supposed to eliminate.

Mr. Speaker, this is a very interesting point that we have reached in the history of electronic commerce. We, in negotiating in good faith over the last month, had reached a point where most of the good players, most of the honest business people in the electronic commerce world had signed off or were close to signing off on protections for consumers.

Most of them know, all of the good business people know, that the continued growth of electronic commerce is not contingent upon the ability of businesses online to be able to perpetrate fraud on consumers. They know that.

There are some, of course, that like to hide in cyberspace, like to disappear into this veil of spectrum or fiber optic that makes it very difficult for the legal authorities to be able to track them down when they have harmed consumers. And it is at those particular entities that we would be targeting any consumer protections.

But again, let it be known that we had reached pretty near agreement with most of the major players in the industry across the board on these consumer protections. And that is really all it was, it is to create the same kind of a balance in cyberspace that exists in the real world, the same kind of comfort level that people would have to go online with their money, with their credit card to know that they would be paid respect by merchants online in terms of the notification, the records, the confidence that an individual could have.

My hope is that, as we move forward, we will be able to work with the majority once again and with the outside parties towards establishing that balance.

I am afraid that the administration is today indicating that they would be likely not to support, even to veto, this legislation in its present form.

I would prefer to be negotiating without the administration around. We do it on a bipartisan basis. We produce legislation. Hopefully, that is the way in which the bill will proceed from this point on.

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

Mr. BLILEY. Mr. Speaker, I yield 1½ minutes to the gentleman from Utah (Mr. Cannon).

Mr. CANNON. Mr. Speaker, I rise today in support of H.R. 1714, the Electronic Signatures in Global and National Commerce Act. I commend the gentleman from Virginia (Chairman BLILEY) for his work on this important legislation.

There are still differing opinions between various camps and committees, but I commend the chairman and the House leadership for bringing this legislation to the floor.

Mr. Speaker, electronic commerce is expanding exponentially. The Commerce Department recently estimated that retail sales might exceed $40 billion by the year 2002 and that all electronic commerce, including business-to-business activity, may exceed $1.3 trillion in the next couple of years.

This legislation embraces the model State law called the Uniform Electronic Transactions Act, UETA for short. Until all 50 States can act to approve UETA, parallel Federal legislation must be adopted to fill the commercial gap. It must be possible to sign an agreement electronically with the confidence which has historically been given to handwritten signature.

UETA and H.R. 1714 embrace the same principles: first, uniformity across State lines in order to provide for reliability and predictability on the part of businesses and consumers alike; second, technological neutrality to allow for the development of new and more efficient and less costly delivery systems; third, party autonomy so that the parties to agreements can decide between themselves how they wish to verify or enforce electronic agreements just as they now do with traditional commercial settings.

Mr. Speaker, H.R. 1714 is minimalist in its effects and merely provides for the legal validity of electronic signatures under conditions as agreed to by the parties and permitted under State law.

I urge my colleagues to support this legislation.

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

Mr. BLILEY. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, I thank the distinguished gentleman from Virginia for yielding me the time.

Mr. Speaker, I want to say to my very good friends from Massachusetts and Minnesota that I know their hearts are in the right place and they want to do what they consider to be the right thing for consumers. But I rise in support of this bill.

A number of things have to be underscored. For one, the signature is only valid if it is done by mutual consent. Both parties have to agree. Number two, there is legal recourse in the event of any kind of fraudulent action. Number three, we have all the accountability that we have really under hardcover signatures. Number four, it is already being done.

So the real question is, do we act now ahead of the curve, or do we wait and play catch up just as we did with financial services modernization, which came more than 10 years after the entire financial services industry had already modernized.

I remember when I was on the Committee on Banking and Financial Services a decade ago looking at the possibility for modernizing the financial services industry. We knew it was going to happen anyway and we should try to influence the process on the side of consumers.

But, no, what we have done over the last 10 years is to stand in the way of what was considered modernization, and so the industry modernized itself. And now we finally have a financial services modernization bill after the fact. And that is what is going to happen with digitalized signatures. We can stay by the sidelines, watch it happen, and then after the fact ratify it as though we played a role. I think we could play a constructive role at the beginning by authorizing this legislation now.

The fact is that we have now more than half of the households in every metropolitan area that are online. In Northern Virginia 60 percent of all the households are online. They are doing these transactions. They ought to be. They are legal. We ought to ratify it. We ought to be really in front instead of behind the curve. And that is why I support the bill.

Mr. MARKEY. Mr. Speaker, I yield 5 minutes to the gentleman from Michigan (Mr. DINGELL).

Mr. DINGELL. Mr. Speaker, I hope both the gentleman from Virginia (Mr. BLILEY) and the gentleman from Virginia (Mr. MORAN) who just spoke will listen.

This is a remarkable exercise. We have been discussing with our good friends on the majority side to find out what was in the legislation on Friday. We thought we were very close to an understanding.

We find today that the bill has been changed. We find that it is quite different than it was the other day. We find that consumer protections have been removed, reduced without any consultation with the minority.

This is most curious. I am not sure whether it can be called good faith or not. Normally I would not. I can understand the gentleman being enthused because perhaps he has constituents who likes this. But I happen to like the truth, and I happen to like fair dealing and I like to know what I am doing.

If the gentleman knows what he is doing, then he should by all means support this. He does not, and I do not. And I am not convinced that the majority knows.

I am convinced of one thing, that it is bad practice and it does not comport with the traditions of the House of Representatives to negotiate, come to general understandings, and then to repudiate those understandings by changing without discussion with the other side. That is what has happened here.

There is not such enormous haste that we have to vote for something on a suspension of the rules when we had seen the arrangements made changed; when we have seen consumer protections eroded, eradicated, and reduced; and when we have seen a situation where we are told, take it or leave it, fellows, they have got a two-thirds vote, and they cannot have any opportunity to make any changes in the content of the legislation.

That is the issue before us. The issue is should we support the majority in this high-handed fashion or should we proceed to say, fellows, we will go for this and we will work together on a piece of legislation which, in fact, reflects honest negotiation on a matter in which the two sides are generally in agreement.

My consult to my colleagues on this side of the aisle, Democratic Members, and indeed to my friends on the other side is let us take enough time to, first of all, know what we are doing. Second of all, let us take enough time to deal fairly with each other. Third of all, if we are going to go ahead and do something which involves significant legislative action, let us deal fairly with the consuming public. None of those things have been done here.

Now, I do not know whether this is haste or whether it is bad faith. I do know that this does not reflect the kind of behavior that I always thought the House of Representatives should practice. And I do not think that this represents the kind of conduct that reflects well on this body or on the majority side.

I am certainly happy to conclude this matter in an honorable and a proper fashion. I have to say that the way in which this is handled does not give evidence of that kind of behavior.

We do not know what is in this legislation. The majority of the Members who are on that side do not know what is in the legislation. It is not because we have not worked diligently with the majority, but it is simply because the majority has chosen in midstride to change the way the legislation is done.

Mr. MORAN of Virginia. Mr. Speaker, will the gentleman yield?

Mr. DINGELL. I yield to the gentleman from Virginia.

Mr. MORAN of Virginia. Mr. Speaker, I thank the distinguished gentleman for yielding to me so that I can explain to him that I have no contributor who has ever asked me to support this legislation, just to clarify for the RECORD in response to your earlier implication.

Mr. DINGELL. Mr. Speaker, reclaiming my time, I am not talking about that.

Now if the gentleman could tell me he knows what he is doing, I will be quite comforted in his assertions to the body.

The simple fact of the matter is this is not the kind of practice that reflects credit on the House of Representatives.

I am urging my colleagues on this side to reject this legislation. We will be happy to negotiate with our friends on the Republican side and come to some conclusion. But negotiation does not mean bringing this thing up in this kind of haste, not without anyone having proper notice, without anybody having proper understanding, and with proceedings, which have gone on somewhere, where the matter has been changed so that it does not reflect the negotiations which were going on earlier.

Now, it may be the Republicans are in desperate haste to get out of here. That is just possible. Frankly, if I were doing the kind of job they are doing, I would be in desperate haste to get out of here, too, because I know there are people back home just wanting me to explain to them just what in the name of common sense I had been doing in Washington while I was supposedly representing their interests.

In a nutshell, this matter should be rejected. We have time enough to come back and consider it under more favorable circumstances and under a process that reflects more credit on the House.

Mr. MARKEY. Mr. Speaker, I yield 2 minutes to the gentleman from Connecticut (Mr. CONYERS), the ranking Democrat on the Committee on the Judiciary.

Mr. CONYERS. Mr. Speaker, I would like to join in the comments of the gentleman from Michigan (Mr. DINGELL), the dean of the House of this body.

Of course we would all like to see passage of an e-commerce bill that would promote commercial transactions over the Internet. But an e-commerce bill should not be a grab bag for insurance, financial, or other special interests to hurt consumers. I think that is the underlying discussion that has been developed here today.

It should not be a vehicle for Congress to tell the States that all of a sudden they are unable to enact contract law on their own in the area of e-commerce. Consumer laws requiring notice and disclosure in writing are being undermined.

This measure would allow unsavory merchants to trick consumers into clicking away many of their rights under the laws.

□ 1545

The measure, H.R. 1714, stands for the proposition that States are unable to enact their own laws and may not reinstate many additional consumer protections. It further undermines key Federal and State regulatory requirements to prevent fraud and abuse. And so an e-commerce that would be a win-win situation for all, that should make it easier for consumers to buy goods and services more quickly from a broader group of businesses and should allow businesses new methods of reaching more people, doing all these things, frankly, is not a hard bill to write.

But the bill that the Commerce majority seeks to put on the floor at this time is not such a bill. Rather than a carefully drawn bill that balances the equities, the bill unnecessarily undermines key laws that protect consumers and prevent fraud, all to please the special interests.

Join me in a negative vote on this measure.

Mr. MARKEY. Mr. Speaker, I yield 45 seconds to the gentleman from Minnesota (Mr. VENTO).

Mr. VENTO. Mr. Speaker, I thank the gentleman for yielding me this time.

I just wanted to point out to my colleague from Virginia when he commented that States can come back and reenact all these laws that are in fact set aside by this measure, that in fact there are provisions in the bill that deal with discrimination and other factors which are screens which may well prevent States from reasserting such requirements and printed documentation.

I would just point out that there is no assurance in this bill that the consumer who even has a computer is on the Internet. Once you send a message out on the Internet like a car warranty recall, the fact is, for brakes or some other major problem, you have no way of knowing whether or not that in fact that has been received by an adult or even the household intended. We know, today, they find us when we have recalls on the automobiles and that is an important factor and points out the practical unworkable aspect of this bills policy. These are just some of the many, many problems that have not been thought through with this bill. I think it is improper to consider this in this particular suspension format. If we do not understand all aspects of it, that is because it has been a moving target for the last 2 weeks as my colleagues well know. It deserves richly to be defeated today, Mr. Speaker.

Mr. MARKEY. Mr. Speaker, I yield myself the balance of my time.

I do so again to urge my colleagues reluctantly to oppose this bill. It does not have the balance which it needs in order to ensure that while we advance the electronic commerce revolution which is transforming the American economy, that simultaneously we are able to deal with the sinister side of cyberspace, we are able to deal with those that would engage in the same kind of anticonsumer activity that we have passed laws in our country over the last 30 years to protect against in the real world. And so the recommendation that we have to give is to vote ''no'' on this bill at this time but with the promise that we are going to work on a bipartisan basis to work out something which is deserving of the support of every Member of the House.

Mr. BLILEY. Mr. Speaker, I yield myself the balance of my time.

First I would like to say I am sorry the gentleman from Michigan is not on the floor, but we pulled this bill 2 weeks ago in order to work with the gentleman from Massachusetts and the gentleman from Michigan. The changes that were made in the bill were made to accommodate their concerns. I thought on Friday that we had pretty much agreement. However, the White House came down and met with the minority leader, and the ranking member then announced that he could not support the bill. But to say that we have not worked in good faith is a gross misrepresentation. We have done everything we could to work. But we only have a few days left in this session and we wanted to get this bill moving.

I cannot understand why the White House would come down and object at this time. The bill has not passed over in the Senate. Then we have got to go to conference. There is plenty of time to work out any concerns that they might have.

But let me also point out the supporters of this legislation: The Business Software Alliance, the Securities Industry Association, the American Council of Life Insurers, Information Technology Association of America, Information Technology Industry Council, Telecommunications Industry Association, National Retail Federation, National Association of Manufacturers, Charles Schwab and Company, DLJ Direct, Investment Company Institute, America Online, Microsoft, Ford Motor Credit, IBM, EquiFax, the U.S. Chamber of Commerce, and I might add they have targeted this vote, and a host of others. It is purely voluntary as my good friend and original cosponsor the gentleman from Virginia (Mr. DAVIS)

pointed out between consenting parties. Nobody is being coerced into accepting anything. All of the consumer laws are protected.

I ask the Members to support this legislation.

Ms. ESHOO. Mr. Speaker, today the House is taking an important step to bring our Nation's laws in line with the explosive growth of E-commerce.

In 1997 my office was the first to establish a virtual district office in the Congress. I quickly realized my constituents were not permitted to provide their authorization for any casework with an electronic signature.

Subsequently, I introduced the first piece of legislation addressing the issue of electronic signatures during the 105th Congress and succeeded in passing this bill into law. The legislation requires Federal agencies to make Government forms available online and accept a person's electronic signature on these forms.

Following on this success, I introduced a bill in the 106th Congress to expand the legality of electronic signatures to the private sector. Today, we're voting on a bill that Chairman BLILEY introduced which attempts to accomplish the same goal as H.R. 1320.

The Congress must ensure that there are no roadblocks impeding the growth of E-commerce. E-commerce is expected to generate over $1.3 trillion worth of business by 2003. Our laws should not impede this staggering growth so we must act to bridge the gap between now and the time when every State has passed an updated form of the Uniform State Law Code.

This legislation encourages States to pass a uniform law so that our Nation's consumers and businesses will not have to face 50 different sets of regulations to engage in E-commerce. I am concerned about the electronic records provisions in this bill, and hope that with further work, these concerns will be ironed out by conferees.

For these reasons, I urge my colleagues to support H.R. 1714. Our Nation's economy will be the beneficiary.

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

The SPEAKER pro tempore (Mr. BARTON of Texas). The question is on the motion offered by the gentleman from Virginia (Mr. BLILEY) that the House suspend the rules and pass the bill, H.R. 1714, as amended.

The question was taken.

Mr. MARKEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

## DISTRICT OF COLUMBIA COLLEGE ACCESS ACT

Mr. DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 974) to establish a program to afford high school graduates from the District of Columbia the benefits of in-State tuition at State colleges and universities outside the District of Columbia, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

***SECTION 1. SHORT TITLE.***

*This Act may be cited as the ''District of Columbia College Access Act of 1999''.*

***SEC. 2. PURPOSE.***

*It is the purpose of this Act to establish a program that enables college-bound residents of the District of Columbia to have greater choices among institutions of higher education.*

***SEC. 3. PUBLIC SCHOOL PROGRAM.***

*(a) GRANTS.—*

*(1) IN GENERAL.—From amounts appropriated under subsection (i) the Mayor shall award grants to eligible institutions that enroll eligible students to pay the difference between the tuition and fees charged for in-State students and the tuition and fees charged for out-of-State students on behalf of each eligible student enrolled in the eligible institution.*

*(2) MAXIMUM STUDENT AMOUNTS.—An eligible student shall have paid on the student's behalf under this section—*

*(A) not more than $10,000 for any 1 award year (as defined in section 481 of the Higher Education Act of 1965 (20 U.S.C. 1088)); and*

*(B) a total of not more than $50,000.*

*(3) PRORATION.—The Mayor shall prorate payments under this section for students who attend an eligible institution on less than a full-time basis.*

*(b) REDUCTION FOR INSUFFICIENT APPROPRIATIONS.—*

*(1) IN GENERAL.—If the funds appropriated pursuant to subsection (i) for any fiscal year are insufficient to award a grant in the amount determined under subsection (a) on behalf of each eligible student enrolled in an eligible institution, then the Mayor shall—*

*(A) first, ratably reduce the amount of the tuition and fee payment made on behalf of each eligible student who has not received funds under this section for a preceding year; and*

*(B) after making reductions under subparagraph (A), ratably reduce the amount of the tuition and fee payments made on behalf of all other eligible students.*

*(2) ADJUSTMENTS.—The Mayor may adjust the amount of tuition and fee payments made under paragraph (1) based on—*

*(A) the financial need of the eligible students to avoid undue hardship to the eligible students; or*

*(B) undue administrative burdens on the Mayor.*

*(3) FURTHER ADJUSTMENTS.—Notwithstanding paragraphs (1) and (2), the Mayor may prioritize the making or amount of tuition and fee payments under this subsection based on the income and need of eligible students.*

*(c) DEFINITIONS.—In this section:*

*(1) ELIGIBLE INSTITUTION.—The term ''eligible institution'' means an institution that—*

*(A) is a public institution of higher education located—*

*(i) in the State of Maryland or the Commonwealth of Virginia; or*

*(ii) outside the State of Maryland or the Commonwealth of Virginia, but only if the Mayor—*

*(I) determines that a significant number of eligible students are experiencing difficulty in gaining admission to any public institution of higher education located in the State of Maryland or the Commonwealth of Virginia because of any preference afforded in-State residents by the institution;*

*(II) consults with the Committee on Government Reform of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Secretary regarding expanding the program under this section to include such institutions located outside of the State of Maryland or the Commonwealth of Virginia; and*

*(III) takes into consideration the projected cost of the expansion and the potential effect of the expansion on the amount of individual tuition and fee payments made under this section in succeeding years;*

*(B) is eligible to participate in the student financial assistance programs under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.); and*

*(C) enters into an agreement with the Mayor containing such conditions as the Mayor may specify, including a requirement that the institution use the funds made available under this section to supplement and not supplant assistance that otherwise would be provided to eligible students from the District of Columbia.*

*(2) ELIGIBLE STUDENT.—The term ''eligible student'' means an individual who—*

*(A) was domiciled in the District of Columbia for not less than the 12 consecutive months preceding the commencement of the freshman year at an institution of higher education;*

*(B) graduated from a secondary school or received the recognized equivalent of a secondary school diploma on or after January 1, 1998;*

*(C) begins the individual's undergraduate course of study within the 3 calendar years (excluding any period of service on active duty in the Armed Forces, or service under the Peace Corps Act (22 U.S.C. 2501 et seq.) or subtitle D of title I of the National and Community Service Act of 1990 (42 U.S.C. 12571 et seq.)) of graduation from a secondary school, or obtaining the recognized equivalent of a secondary school diploma;*

*(D) is enrolled or accepted for enrollment, on at least a half-time basis, in a degree, certificate, or other program (including a program of study abroad approved for credit by the institution at which such student is enrolled) leading to a recognized educational credential at an eligible institution;*

*(E) if enrolled in an eligible institution, is maintaining satisfactory progress in the course of study the student is pursuing in accordance with section 484(c) of the Higher Education Act of 1965 (20 U.S.C. 1091(c)); and*

*(F) has not completed the individual's first undergraduate baccalaureate course of study.*

*(3) INSTITUTION OF HIGHER EDUCATION.—The term ''institution of higher education'' has the meaning given the term in section 101 of the Higher Education Act of 1965 (20 U.S.C. 1001).*

*(4) MAYOR.—The term ''Mayor'' means the Mayor of the District of Columbia.*

*(5) SECONDARY SCHOOL.—The term ''secondary school'' has the meaning given that term under section 14101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 8801).*

*(6) SECRETARY.—The term ''Secretary'' means the Secretary of Education.*

*(d) CONSTRUCTION.—Nothing in this Act shall be construed to require an institution of higher education to alter the institution's admissions policies or standards in any manner to enable an eligible student to enroll in the institution.*

*(e) APPLICATIONS.—Each student desiring a tuition payment under this section shall submit an application to the eligible institution at such time, in such manner, and accompanied by such information as the eligible institution may require.*

*(f) ADMINISTRATION OF PROGRAM.—*

*(1) IN GENERAL.—The Mayor shall carry out the program under this section in consultation with the Secretary. The Mayor may enter into a grant, contract, or cooperative agreement with another public or private entity to administer the program under this section if the Mayor determines that doing so is a more efficient way of carrying out the program.*

*(2) POLICIES AND PROCEDURES.—The Mayor, in consultation with institutions of higher education eligible for participation in the program authorized under this section, shall develop policies and procedures for the administration of the program.*

*(3) MEMORANDUM OF AGREEMENT.—The Mayor and the Secretary shall enter into a Memorandum of Agreement that describes—*