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

The amendment (No. 3828) was agreed to.

The bill (H.R. 1756), as amended, was passed.

GOVERNMENT PAPERWORK ELIMINATION ACT

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 581, S. 2107.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

A bill (S. 2107) to enhance electronic commerce by promoting the reliability and integrity of commercial transactions through establishing authentication standards for electronic communication and for other purposes.

The Senate proceeded to consider the bill, which had been reported from the Committee on Commerce, Science, and Transportation, with an amendment to strike all after the enacting clause and inserting in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act''.

SEC. 2. STUDIES ON USE OF ELECTRONIC SIGNATURES TO ENHANCE ELECTRONIC COMMERCE.

The Secretary shall conduct an ongoing study of the enhancement of electronic commerce and the impact on individual privacy due to the use of electronic signatures pursuant to this Act, and shall report findings to the Commerce Committee of the House and to the Commerce, Science, and Transportation Committee of the Senate not later than 18 months after the date of enactment of this Act.

SEC. 3. ELECTRONIC AVAILABILITY OF FORMS.

(a) NEW FORMS, QUESTIONNAIRES, AND SURVEYS.—The head of an agency or operating unit shall provide for the availability to the affected public in electronic form for downloading or printing through the Internet or other suitable medium of any agency form, questionnaire, or survey created after the date of enactment of this Act that is to be submitted to the agency by more than 1,000 non-government persons or entities per year, except where the head of the agency or operating unit determines by a finding that providing for such availability would be impracticable or otherwise unreasonable.

(b) ALL FORMS, QUESTIONNAIRES, AND SURVEYS.—As soon as practicable, but not later than 18 months after the date of enactment of this Act, each Federal agency shall make all of its forms, questionnaires, and surveys that are expected to be submitted to such agency by more than 1,000 non-government persons or entities per year available to the affected public for downloading or printing through the Internet or other suitable electronic medium. This requirement shall not apply where the head of an agency or operating unit determines that providing such availability for particular form, questionnaire or survey documents would be impracticable or otherwise unreasonable.

(c) APPLICABILITY OF SECTION.—The requirements of this section shall not apply to surveys that are both distributed and collected one-time only or that are provided directly to respondents by the agency.

(d) AVAILABILITY.—Forms subject to this section shall be available for electronic submission (with an electronic signature when necessary) under the provisions of section 8, and shall be available for electronic storage by employers as described in section 7.

(e) PAPER FORMS TO BE AVAILABLE.—Each agency and operating unit shall continue to make forms, questionnaires, and surveys available in paper form.

SEC. 4. PAYMENTS.

In conjunction with the process required by section 8—

(1) where they deem such action appropriate and practicable, and subject to standards or guidance of the Department of the Treasury concerning Federal payments or collections, agencies shall seek to develop or otherwise provide means whereby persons submitting documents electronically are accorded the option of making any payments associated therewith by electronic means.

(2) payments associated with forms, applications, or similar documents submitted electronically, other than amounts relating to additional costs associated with the electronic submission such as charges imposed by merchants in connection with credit card transactions, shall be no greater than the payments associated with the corresponding printed version of such documents.

SEC. 5. USE OF ELECTRONIC SIGNATURES BY FEDERAL AGENCIES.

(a) AGENCY EMPLOYEES TO RECEIVE ELECTRONIC SIGNATURES.—The head of each agency shall issue guidelines for determining how and which employees in each respective agency shall be permitted to use electronic signatures within the scope of their employment.

(b) AVAILABILITY OF ELECTRONIC NOTICE.—An agency may provide a person entitled to receive written notice of a particular matter with the opportunity to receive electronic notice instead.

(c) PROCEDURES FOR ACCEPTANCE OF ELECTRONIC SIGNATURES.—The Director, in consultation with the Secretary, shall coordinate agency actions to comply with the provisions of this Act and shall develop guidelines concerning agency use and acceptance of electronic signatures, and such use and acceptance shall be supported by the issuance of such guidelines as may be necessary or appropriate by the Secretary.

(1) The procedures shall be compatible with standards and technology for electronic signatures as may be generally used in commerce and industry and by State governments, based upon consultation with appropriate private sector and State government standard setting bodies.

(2) Such procedures shall not inappropriately favor one industry or technology.

(3) Under the procedures referred to in subsection (a), an electronic signature shall be as reliable as is appropriate for the purpose, and efforts shall be made to keep the information submitted intact.

(4) Successful submission of an electronic form shall be electronically acknowledged.

(5) In accordance with all other sections of the Act, to the extent feasible and appropriate, and described in a written finding, an agency, when it receives electronically 50,000 submittals of a particular form, shall take all steps necessary to ensure that multiple formats of electronic signatures are made available for submitting such forms.

SEC. 6. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with agency procedures and guidelines established pursuant to the Act, or electronic signatures or other forms of electronic authentication used in accordance with such procedures and guidelines, shall not be denied legal effect, validity or enforceability because they are in electronic form.

SEC. 7. EMPLOYER ELECTRONIC STORAGE OF FORMS.

If an employer is required by any Federal law or regulation to collect or store, or to file with a Federal agency forms containing information pertaining to employees, such employer may, after 18 months after enactment of this Act, store such forms electronically unless the relevant agency determines by regulation that storage of a particular form in an electronic format is inconsistent with the efficient secure or proper administration of an agency program. Such forms shall also be accepted in electronic form by agencies as provided by section 8.

SEC. 8. IMPLEMENTATION BY AGENCIES.

(a) IMPLEMENTATION.—Consistent with the Privacy Protection Act of 1980 (42 U.S.C. 2000aa) and after consultation with the Attorney General, and subject to applicable laws and regulations pertaining to the Department of the Treasury concerning Federal payments and collections and the National Archives and Records Administration concerning the proper maintenance and preservation of agency records, Federal agencies shall, not later than 18 months after the enactment of this Act, establish and implement policies and procedures under which they will use and authorize the use of electronic technologies in the transmittal of forms, applications, and similar documents or records, and where appropriate, for the creation and transmission of such documents or records and their storage for their required retention period.

(b) ESTABLISHMENT OF A TIMELINE FOR IMPLEMENTATION.—Within 18 months after the date of enactment of this Act, Federal agencies shall establish timelines for the implementation of the requirements of subsection (a).

(c) GENERAL ACCOUNTING OFFICE REPORT.—The Comptroller General shall report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Commerce 21 months after the date of enactment of this Act on the proposed implementation policies and timelines described in subsections (a) and (b).

(d) IMPLEMENTATION DEADLINE.—Except where an agency makes a written finding that electronic filing of a form is either technically infeasible, economically unreasonable, or may compromise national security, all Federal forms must be made available for electronic submission within 60 months after the date of enactment of this Act.

SEC. 9. SENSE OF THE CONGRESS.

Because there is no meaningful difference between contracts executed in the electronic world and contracts executed in the analog world, it is the sense of the Congress that such contracts should be treated similarly under Federal law. It is further the sense of the congress that such contracts should be treated similarly under State law.

SEC. 10. APPLICATION WITH OTHER LAWS.

Nothing in this this Act shall apply to the Department of the Treasury or the Internal Revenue Service, to the extent that—

(1) it involves the administration of the internal revenue laws; and

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

SEC. 11. DEFINITIONS.

For purposes of this Act:

(1) SECRETARY.—The term ''Secretary'' means the Secretary of Commerce.

(2) AGENCY.—The term ''agency'' means executive agency, as that term is defined in section 105 of title 5, United States Code.

(3) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies a particular person as the source of such electronic message; and

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

(4) DIRECTOR.—The term ''Director'' means the Director of the Office of Management and Budget.

(5) FORM, QUESTIONNAIRE, OR SURVEY.—The terms ''form'', ''questionnaire'', and ''survey'' include documents produced by an agency to facilitate interaction between an agency and non-government persons.

AMENDMENT NO. 3829

(Purpose: To establish procedures for efficient government paperwork reduction)

Mr. CRAIG. Mr. President, Senator ABRAHAM has an amendment at the desk. I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for Mr. ABRAHAM, proposes an amendment numbered 3829.

The amendment is as follows:

On page 10, strike out line 7 and all that follows through page 18, line 10, and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Government Paperwork Elimination Act''.

SEC. 2. AUTHORITY OF OMB TO PROVIDE FOR ACQUISITION AND USE OF ALTERNATIVE INFORMATION TECHNOLOGIES BY EXECUTIVE AGENCIES.

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

''(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES BY EXECUTIVE AGENCIES.

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

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

(A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;

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

(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

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

SEC. 4. DEADLINE FOR IMPLEMENTATION BY EXECUTIVE AGENCIES OF PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act, Executive agencies provide—

(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

(2) for the use and acceptance of electronic signatures, when practicable.

SEC. 5. ELECTRONIC STORAGE AND FILING OF EMPLOYMENT FORMS.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this Act, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

SEC. 6. STUDY ON USE OF ELECTRONIC SIGNATURES.

(a) ONGOING STUDY REQUIRED.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this Act, the Director of the Office of Management and Budget shall, in cooperation with the National Telecommunications and Information Administration, conduct an ongoing study of the use of electronic signatures under this title on—

(1) paperwork reduction and electronic commerce;

(2) individual privacy; and

(3) the security and authenticity of transactions.

(b) REPORTS.—The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with procedures developed under this Act, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH INTERNAL REVENUE LAWS.

No provision of this Act shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision—

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

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

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of the electronic message; and

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

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

Mr. ABRAHAM. Mr. President, I wish to take a moment to discuss language that has been added to this legislation, the Government Paperwork Elimination Act. In May, I introduced S. 2107 to enhance electronic commerce and promote the reliability and integrity of commercial transactions through the establishment of authentication standards for electronic communications. S. 2107 was reported by the Committee on Commerce, Science, and Transportation last month.

After the bill was reported, it was discovered that the bill was erroneously referred to the Commerce Committee and should have been referred to the Committee on Governmental Affairs. S. 2107 deals with Federal Government information issues and, according to the parliamentarian, falls directly within the jurisdiction of Governmental Affairs. I understand a similar bill had been approved by Governmental Affairs last Congress.

Obviously, this was discovered late in the session. Nevertheless, Senator THOMPSON, the chairman of the Governmental Affairs Committee, worked with me to develop language which combines language from the bill reported by his committee last Congress and S. 2107. I want to thank my colleague from Tennessee for his help and insight. He spent a great deal of time assisting me with this legislation and, in my opinion, his language makes many improvements to the original bill.

Mr. LEAHY. Mr. President, the digitization of information and the explosion in the growth of computing and electronic networking offer tremendous potential benefits to the way Americans live, work, conduct commerce, and interact with their government. This bill, S. 2107, will make the United States government more accessible and accountable to the citizenry by directing federal agencies to accept ''electronic signatures'' for government forms that are submitted electronically.

I am pleased that Senator ABRAHAM has addressed my concerns about the privacy issues raised by this legislation. As reported out of committee, S. 2107 would have established a framework for government use of electronic signatures without putting in place any privacy protections for the vast amounts of personal information collected in the process. Without such

protections, people could be forced to sacrifice their privacy as the price of communicating with the government electronically.

For example, to submit a particular form electronically, a person might be required to use an electronic signature technology that offers a high level of security, such as the increasingly popular cryptographic digital signature. This will usually involve the use of a commercial third party—we'll call it ''X Corp.''—to guarantee the person's identity. X Corp. will need to collect detailed personal information about the person, such as home address, phone number, social security number, date of birth, and even credit information. Some of the most secure systems even collect biometric information such as fingerprints or handwritten signatures. X Corp. might also collect information about how the person uses electronic signature services, amassing a detailed dossier of the person's activities on-line. Nothing in the original bill prevented X Corp. from using or selling such private information without permission.

We have corrected this oversight by adding forward-looking privacy protections to the amendment, which strictly limit the ways in which information collected as a byproduct of electronic communications with the government can be used or disclosed to others. The provision we have crafted is designed to prevent anyone who collects personal information in the course of providing electronic signatures for use with government agencies from inappropriately disclosing that information.

We recognize that this is just the beginning of Congress's efforts to address the new privacy issues raised by electronic government and the information age. Congress will almost certainly be called upon in the next session to consider broader electronic signature legislation, and issues of law enforcement access to electronic data and mechanisms for enforcing privacy rights in cyberspace will need to be part of that discussion. For the time being, however, this legislation will ensure that Americans can interact with their government on-line, and that they can do so with the necessary safeguards in place to protect their privacy and security.

Mr. THOMPSON. Mr. President, I thank my colleague from Michigan for his hard work on and dedication to information technology issues. The Committee on Governmental Affairs which I chair has had a long and involved history with this issue.

This bill which we are addressing today seeks to take advantage of the advances in modern technology to lessen the paperwork burdens on those who deal with the Federal Government. This is accomplished by requiring the Office of Management and Budget, through its existing responsibilities under the Paperwork Reduction Act and the Clinger-Cohen Act, to develop policies to promote the use of alternative information technologies, including the use of electronic maintenance, submission, or disclosure of information to substitute for paper, and the use of acceptance of electronic signatures.

The Federal Government is lagging behind the rest of the nation in using new technologies. Individuals who deal with the Federal Government should be able to reduce the cumulative burden of meeting the Federal Government's information demands through the use of information technology. This bill hopefully will provide the motivation that the Federal Government needs to make this possible for our Nation's citizens.

I thank Senator ABRAHAM for offering us the opportunity to work with him on this important issue.

Mr. CRAIG. Mr. President, I ask unanimous consent the amendment be agreed to, the bill be considered read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

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

The amendment (No. 3829) was agreed to.

The bill (S. 2107), as amended, was considered read the third time and passed, as follows:

S. 2107

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 ''Government Paperwork Elimination Act''.

SEC. 2. AUTHORITY OF OMB TO PROVIDE FOR ACQUISITION AND USE OF ALTERNATIVE INFORMATION TECHNOLOGIES BY EXECUTIVE AGENCIES.

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

''(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures.''.

SEC. 3. PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES BY EXECUTIVE AGENCIES.

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

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

(A) shall be compatible with standards and technology for electronic signatures that are generally used in commerce and industry and by State governments;

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

(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

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

SEC. 4. DEADLINE FOR IMPLEMENTATION BY EXECUTIVE AGENCIES OF PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this Act, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act, Executive agencies provide—

(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

(2) for the use and acceptance of electronic signatures, when practicable.

SEC. 5. ELECTRONIC STORAGE AND FILING OF EMPLOYMENT FORMS.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this Act, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

SEC. 6. STUDY ON USE OF ELECTRONIC SIGNATURES.

(a) ONGOING STUDY REQUIRED.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104–106) and the amendments made by that Act, and the provisions of this Act, the Director of the Office of Management and Budget shall, in cooperation with the National Telecommunications and Information Administration, conduct an ongoing study of the use of electronic signatures under this title on—

(1) paperwork reduction and electronic commerce;

(2) individual privacy; and

(3) the security and authenticity of transactions.

(b) REPORTS.—The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

SEC. 7. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with procedures developed under this Act, or electronic signatures

or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

SEC. 8. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this Act, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. 9. APPLICATION WITH INTERNAL REVENUE LAWS.

No provision of this Act shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision—

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

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

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) ELECTRONIC SIGNATURE.—The term ''electronic signature'' means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of the electronic message; and

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

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

AMENDING TITLE 35, UNITED STATES CODE, TO PROTECT PATENT OWNERS AGAINST THE UNAUTHORIZED SALE OF PLANT PARTS

Mr. CRAIG. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1197, which was received from the House.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

A bill (H.R. 1197) to amend title 35, United States Code, to protect patent owners against the unauthorized sale of plant parts taken from plants illegally reproduced, and for other purposes.

The Senate proceeded to consider the bill.

AMENDMENT NO. 3830

(Purpose: To provide for access to electronic patent information)

Mr. CRAIG. Mr. President, Senators LEAHY, SMITH of Oregon, and HATCH have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Idaho [Mr. CRAIG], for Mr. LEAHY, for himself, Mr. SMITH of Oregon and Mr. HATCH, proposes an amendment numbered 3830.

The amendment is as follows:

At the end of the bill add the following:

SEC. 4. ACCESS TO ELECTRONIC PATENT INFORMATION.

(a) IN GENERAL.—The United States Patent and Trademark Office shall develop and implement statewide computer networks with remote library sites in requesting rural States such that citizens in those States will have enhanced access to information in their State's patent and trademark depository library.

(b) DEFINITION.—In this section, the term ''rural States'' means the States that qualified on January 1, 1997, as rural States under section 1501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 379bb(b)).

Mr. LEAHY. Mr. President, I am pleased that the Senate is considering the ''Plant Patent Amendments Act of 1998,'' H.R. 1197. This legislation closes a loophole in the law by providing patent protection, not only for an entire plant, but for parts of a plant as well.

Since the 1930s, U.S. patent law has benefited agriculture, horticulture and the public by providing an incentive for breeders to develop new plant varieties. This incentive is the availability of patents for new plant varieties.

An unforeseen ambiguity in the law, however, is undermining the incentives for breeders holding U.S. plant patents. Because current U.S. law only provides patent protection for entire plants, plant parts are being traded in U.S. markets to the detriment of U.S. plant patent holders. The resulting lost royalty income has been inhibiting investment in domestic research and breeding activities associated with a wide variety of crops.

By clearly and explicitly providing that U.S. patent law protects the owner of a plant patent against the unauthorized sale of plant parts taken from plants illegally reproduced, H.R. 1197 will close the existing loophole in the law and will strengthen the ability of U.S. plant patent holders to enforce their patent rights.

Another matter of special interest to me is the amendment that I offered to the ''Plant Patent Amendments Act of 1998'' to enhance access to all types of patent information. I have long thought that electronic access should be more widespread and want to work with the United States Patent and Trademark Office (PTO) to ensure the effective implementation of statewide electronic accessibility of patent information in rural states and eventually in all areas to make it easier for inventors to study prior art and make further advances. This should be of particular benefit to Vermont, which last year established a patent and trademark depository library.

The Articles of Association of the Vermont Patent and Trademark Depository Library (Vermont PTDL) state that the library will ''create a vital educational and economic development resource that will provide all Vermonters with access to patent and trademark records and supporting research materials and reference services.'' At this time, however, all Vermonters do not, in a practical sense, have access to the wealth of resources at the Vermont PTDL. In fact, it can be as much as a four hour drive for certain Vermont citizens to drive to the Vermont PTDL at the University of Vermont's Bailey/Howe Library.

The intent of my amendment, which is cosponsored by Senator ORRIN HATCH of Utah and Senator GORDON SMITH of Oregon, is for the PTO to work with the people in the trenches currently operating the patent and trademark depository libraries to develop and implement the statewide computer networks with remote library sites; it only makes sense for the PTO to work with the people who most fully understand the needs of the constituents they currently serve and may serve in the future.

This legislation is timely, because the Senate is considering the United States Patent and Trademark Office Reauthorization Act, Fiscal Year 1999, H.R. 3723. As the lead Senate Democratic champion for H.R. 3723, I am hopeful that the Senate will pass this measure today so the PTO will not suffer a reduction in revenue for the current fiscal year. I am also committed to working with the PTO, now and in the future, as it ensures the effective implementation of statewide electronic accessibility of patent information in rural states.

I would like to pay a special thanks to Eric Benson, President of Vermont PTDL, former State representative KERRY KURT, who was instrumental in the development of the Vermont PTDL, and everybody who serves on the Board of the Vermont PTDL. These Vermonters were the inspiration for my amendment, and they have worked hard to make the Vermont PTDL an asset of which all Vermonters can be proud.

Mr. HATCH. Mr. President, I rise today in support of Senate passage of H.R. 1197, the Plant Patents Amendment Act of 1997. This legislation, passed by the House last Friday, would close a loophole in the Patent Act through which foreign infringers are able to exploit the products of their infringements within the United States, depriving American plant patent owners of millions of dollars in royalties. This bill is identical to legislation introduced in the Senate by Senator GORDON SMITH, and its substantive provisions are mirrored in the omnibus patent bill I introduced and which was reported favorably to the Senate by the Judiciary Committee last year.

The development of new plant varieties in the United States is encouraged by chapter 15 of the Patent Act, which grants patent-like protection to anyone who develops new, distinct varieties of asexually reproduced plants. Plant patent owners are rewarded for their ingenuity with a limited monopoly that allows them to prevent others from asexually reproducing the plant or selling or using a plant so reproduced.

The so-called loophole exists because the sale or use of plant parts is not explicitly prohibited. As a result, plant