



U.S. SENATE COMMITTEE ON

## Commerce, Science, and Transportation

JOHN MCCAIN, Chairman

[www.senate.gov/~commerce](http://www.senate.gov/~commerce)**FAX**

TO: Bethany Little  
OFFICE: White House  
FAX NO: 456-5581  
DATE: 10/26/- TIME: \_\_\_\_\_  
PAGE 1 OF: 3  
FROM: David Crane (202) 224 - 2252  
SUBJECT: \_\_\_\_\_

Per our conversation, following are  
the proposed changes from Jeffords  
office. We are neutral.

David

FAX



**MAJORITY STAFF  
SENATE COMMITTEE ON HEALTH, EDUCATION, LABOR,  
AND  
PENSIONS**

**JAMES M. JEFFORDS**  
**Chairman**

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*Thanks*

TO:

*David Crane*  
*Charlie Armstrong*  
*Mark Foster*

FROM:

*Umm*

FAX #:

#OF PAGES:

*2*

DATE:

*see attached:*

*draft: arm. co. CSB*

MESSAGE:

*Policy → page 3 → change language so that it  
is added as an amendment to title III of ESEA:*

*Title III of Elementary Secondary Education Act of 1965 (20 USC, 1601a  
is amended by adding at the end the following:*

*Part F: Limitation of Availability of Certain Funds for Schools  
"Sec. 3601 → etc. Please be sure to put running quotes"*

1 On page 3, strike line <sup>22</sup>24 all that follows through  
2 page <sup>13</sup>12, line <sup>27</sup>23, and insert the following:

3 Title III of the Elementary and Secondary Education  
4 Act of 1965 (20 U.S.C. 6801 et seq.) is amended by add-  
5 ing at the end the following:

6 **"PART F—LIMITATION ON AVAILABILITY OF**  
7 **CERTAIN FUNDS FOR SCHOOLS**

8 **"SEC. 3601. LIMITATION ON AVAILABILITY OF CERTAIN**  
9 **FUNDS FOR SCHOOLS.**

10 **"(a) INTERNET SAFETY.—**

11 **"(1) IN GENERAL.—**No funds made available  
12 under title III of the Elementary and Secondary  
13 Education Act of 1965 to a local educational agency  
14 for an elementary or secondary school that does not  
15 receive services at discount rates under section  
16 254(h)(5) of the Communications Act of 1934, as  
17 added by section \_\_\_\_21 of this Act, may be used  
18 to purchase computers used to access the Internet,  
19 or to pay for direct costs associated with accessing  
20 the Internet, for such school unless the school,  
21 school board, or other authority with responsibility  
22 for administration of such school both—

23 **"(A)(i)** has in place a policy of Internet  
24 safety for minors that includes the operation of  
25 a technology protection measure with respect to

*10 problem  
that*

*41259  
Daniel Crane  
Charlie  
Armstrong  
at  
leg. counsel*

*Daniel  
Crane  
& McCain  
Kurt's story  
7/1/01*

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1           **TITLE \_\_\_\_—CHILDREN’S**  
2           **INTERNET PROTECTION**

3   **SEC. \_\_\_\_01. SHORT TITLE.**

4           This title may be cited as the “Children’s Internet  
5   Protection Act”.

6   **SEC. \_\_\_\_02. DISCLAIMERS.**

7           (a) **DISCLAIMER REGARDING CONTENT.**—Nothing in  
8   this title or the amendments made by this title shall be  
9   construed to prohibit a local educational agency, elemen-  
10   tary or secondary school, or library from blocking access  
11   on the Internet on computers owned or operated by that  
12   agency, school, or library to any content other than con-  
13   tent covered by this title or the amendments made by this  
14   title.

15          (b) **DISCLAIMER REGARDING PRIVACY.**—Nothing in  
16   this title or the amendments made by this title shall be  
17   construed to require the tracking of Internet use by any  
18   identifiable minor or adult user.

19   **SEC. \_\_\_\_03. STUDY OF TECHNOLOGY PROTECTION MEAS-**  
20           **URES.**

21          (a) **IN GENERAL.**—Not later than 18 months after  
22   the date of the enactment of this Act, the National Tele-  
23   communications and Information Administration shall ini-  
24   tiate a notice and comment proceeding for purposes of—

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1 (1) evaluating whether or not currently avail-  
2 able technology protection measures, including com-  
3 mercial Internet blocking and filtering software, ade-  
4 quately addresses the needs of educational institu-  
5 tions;

6 (2) making recommendations on how to foster  
7 the development of measures that meet such needs;  
8 and

9 (3) evaluating the development and effective-  
10 ness of local Internet safety policies that are cur-  
11 rently in operation after community input.

12 (b) DEFINITIONS.—In this section:

13 (1) TECHNOLOGY PROTECTION MEASURE.—The  
14 term “technology protection measure” means a spe-  
15 cific technology that blocks or filters Internet access  
16 to one or more of the following:

17 (A) Material that is obscene, as that term  
18 is utilized in section 1460 of title 18, United  
19 States Code.

20 (B) Child pornography, as that term is de-  
21 fined in section 2256 of title 18, United States  
22 Code.

23 (C) Material that is harmful to minors.

24 (2) MATERIAL THAT IS HARMFUL TO MI-  
25 NORS.—The term “material that is harmful to mi-

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1       nors” means any communication, picture, image,  
2       graphic image file, article, recording, writing, or  
3       other matter of any kind that—

4               (A) taken as a whole and with respect to  
5       minors, appeals to a prurient interest in nudity,  
6       sex, or excretion;

7               (B) depicts, describes, or represents, in a  
8       patently offensive way with respect to what is  
9       suitable for minors, an actual or simulated sex-  
10      ual act or sexual contact, actual or simulated  
11      normal or perverted sexual acts, or a lewd exhi-  
12      bition of the genitals; and

13              (C) taken as a whole, lacks serious literary,  
14      artistic, political, or scientific value as to mi-  
15      nors.

16      (3) SEXUAL ACT; SEXUAL CONTACT.—The  
17      terms “sexual act” and “sexual contact” have the  
18      meanings given such terms in section 2246 of title  
19      18, United States Code.

20       **Subtitle A—Federal Funding for**  
21       **Educational Institution Computers**

22       **SEC. \_\_\_\_11. LIMITATION ON AVAILABILITY OF CERTAIN**  
23       **FUNDS FOR SCHOOLS.**

24       (a) INTERNET SAFETY.—

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1 (1) IN GENERAL.—No funds made available  
2 under title III of the Elementary and Secondary  
3 Education Act of 1965 to a local educational agency  
4 for an elementary or secondary school that does not  
5 receive services at discount rates under section  
6 254(h)(5) of the Communications Act of 1934, as  
7 added by section \_\_\_\_21 of this Act, may be used  
8 to purchase computers used to access the Internet,  
9 or to pay for direct costs associated with accessing  
10 the Internet, for such school unless the school,  
11 school board, local educational agency, or other au-  
12 thority with responsibility for administration of such  
13 school both—

14 (A)(i) has in place a policy of Internet  
15 safety for minors that includes the operation of  
16 a technology protection measure with respect to  
17 any of its computers with Internet access that  
18 protects against access through such computers  
19 to—

- 20 (I) material that is obscene;  
21 (II) child pornography; and  
22 (III) material that is harmful to mi-  
23 nors; and

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1 (ii) is enforcing the operation of such tech-  
2 nology protection measure during any use of  
3 such computers by minors; and

4 (B)(i) has in place a policy of Internet  
5 safety that includes the operation of a tech-  
6 nology protection measure with respect to any  
7 of its computers with Internet access that pro-  
8 tects against access through such computers  
9 to—

10 (I) material that is obscene; and

11 (II) child pornography; and

12 (ii) is enforcing the operation of such tech-  
13 nology protection measure during any use of  
14 such computers.

15 (2) TIMING AND APPLICABILITY OF IMPLEMEN-  
16 TATION.—

17 (A) IN GENERAL.—The local educational  
18 agency with responsibility for a school covered  
19 by paragraph (1) shall certify the compliance of  
20 such school with the requirements of paragraph  
21 (1) as part of the application process for the  
22 next program funding year under the Elemen-  
23 tary and Secondary Education Act of 1965 fol-  
24 lowing the effective date of this section, and for

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1 each subsequent program funding year there-  
2 after.

3 (B) PROCESS.—

4 (i) SCHOOLS WITH INTERNET SAFETY  
5 POLICIES AND TECHNOLOGY PROTECTION  
6 MEASURES IN PLACE.—A local educational  
7 agency with responsibility for a school cov-  
8 ered by paragraph (1) that has in place an  
9 Internet safety policy meeting the require-  
10 ments of paragraph (1) shall certify its  
11 compliance with paragraph (1) during each  
12 annual program application cycle under the  
13 Elementary and Secondary Education Act  
14 of 1965.

15 (ii) SCHOOLS WITHOUT INTERNET  
16 SAFETY POLICIES AND TECHNOLOGY PRO-  
17 TECTION MEASURES IN PLACE.—A local  
18 educational agency with responsibility for a  
19 school covered by paragraph (1) that does  
20 not have in place an Internet safety policy  
21 meeting the requirements of paragraph  
22 (1)—

23 (I) for the first program year  
24 after the effective date of this section  
25 in which the local educational agency

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1 is applying for funds for such school  
2 under the Elementary and Secondary  
3 Education Act of 1965, shall certify  
4 that it is undertaking such actions, in-  
5 cluding any necessary procurement  
6 procedures, to put in place an Inter-  
7 net safety policy that meets such re-  
8 quirements; and

9 (II) for the second program year  
10 after the effective date of this section  
11 in which the local educational agency  
12 is applying for funds for such school  
13 under that Act, shall certify that such  
14 school is in compliance with such re-  
15 quirements.

16 Any school covered by paragraph (1) for  
17 which the local educational agency con-  
18 cerned is unable to certify compliance with  
19 such requirements in such second program  
20 year shall be ineligible for all funding  
21 under title III of the Elementary and Sec-  
22 ondary Education Act of 1965 for such  
23 second program year and all subsequent  
24 program years until such time as such

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1 school comes into compliance with such re-  
2 quirements.

3 (iii). WAIVERS.—Any school subject to  
4 a certification under clause (ii)(II) for  
5 which the local educational agency con-  
6 cerned cannot make the certification other-  
7 wise required by that clause may seek a  
8 waiver of that clause if State or local pro-  
9 curement rules or regulations or competi-  
10 tive bidding requirements prevent the mak-  
11 ing of the certification otherwise required  
12 by that clause. The local educational agen-  
13 cy concerned shall notify the Secretary of  
14 the applicability of that clause to the  
15 school. Such notice shall certify that the  
16 school will be brought into compliance with  
17 the requirements in paragraph (1) before  
18 the start of the third program year after  
19 the effective date of this section in which  
20 the school is applying for funds under title  
21 III of the Elementary and Secondary Edu-  
22 cation Act of 1965.

23 (3) DISABLING DURING CERTAIN USE.—An ad-  
24 ministrator, supervisor, or person authorized by the  
25 responsible authority under paragraph (1) may dis-

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1       able the technology protection measure concerned to  
2       enable access for bona fide research or other lawful  
3       purposes.

4               (4) NONCOMPLIANCE.—

5               (A) USE OF GENERAL EDUCATION PROVI-  
6       SIONS ACT REMEDIES.—Whenever the Secretary  
7       has reason to believe that any recipient of funds  
8       under title III of the Elementary and Sec-  
9       ondary Education Act of 1965 is failing to com-  
10      ply substantially with the requirements of this  
11      subsection, the Secretary may—

12               (i) withhold further payments to the  
13      recipient under that title,

14               (ii) issue a complaint to compel com-  
15      pliance of the recipient through a cease  
16      and desist order, or

17               (iii) enter into a compliance agree-  
18      ment with a recipient to bring it into com-  
19      pliance with such requirements,

20      in same manner as the Secretary is authorized  
21      to take such actions under sections 455, 456,  
22      and 457, respectively, of the General Education  
23      Provisions Act (20 U.S.C. 1234d).

24               (B) RECOVERY OF FUNDS PROHIBITED.—

25      The actions authorized by subparagraph (A)

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1 are the exclusive remedies available with respect  
2 to the failure of a school to comply substantially  
3 with a provision of this subsection, and the Sec-  
4 retary shall not seek a recovery of funds from  
5 the recipient for such failure.

6 (C) RECOMMENCEMENT OF PAYMENTS.—

7 Whenever the Secretary determines (whether by  
8 certification or other appropriate evidence) that  
9 a recipient of funds who is subject to the with-  
10 holding of payments under subparagraph (A)(i)  
11 has cured the failure providing the basis for the  
12 withholding of payments, the Secretary shall  
13 cease the withholding of payments to the recipi-  
14 ent under that subparagraph.

15 (5) DEFINITIONS.—In this section:

16 (A) LOCAL EDUCATIONAL AGENCY; ELE-  
17 MENTARY; SECONDARY SCHOOL.—The terms  
18 “local educational agency”, “elementary”, and  
19 “secondary school” have the meanings given  
20 such terms in section 14101 of the Elementary  
21 and Secondary Education Act of 1965 (20  
22 U.S.C. 8801).

23 (B) COMPUTER.—The term “computer”  
24 includes any hardware, software, or other tech-

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1 nology attached or connected to, installed in, or  
2 otherwise used in connection with a computer.

3 (C) ACCESS TO INTERNET.—A computer  
4 shall be considered to have access to the Inter-  
5 net if such computer is equipped with a modem  
6 or is connected to a computer network which  
7 has access to the Internet.

8 (D) ACQUISITION OR OPERATION.—A ele-  
9 mentary or secondary school shall be considered  
10 to have received funds under title III of the El-  
11 ementary and Secondary Education Act of 1965  
12 for the acquisition or operation of any computer  
13 if such funds are used in any manner, directly  
14 or indirectly—

15 (i) to purchase, lease, or otherwise ac-  
16 quire or obtain the use of such computer,  
17 or

18 (ii) to obtain services, supplies, soft-  
19 ware, or other actions or materials to sup-  
20 port, or in connection with, the operation  
21 of such computer.

22 (E) MINOR.—The term “minor” has the  
23 meaning given such term in section 2256 of  
24 title 18, United States Code.

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1 (F) CHILD PORNOGRAPHY.—The term  
2 “child pornography” has the meaning given  
3 such term in section 2256 of title 18, United  
4 States Code.

5 (G) MATERIAL THAT IS HARMFUL TO MI-  
6 NORS.—The term “material that is harmful to  
7 minors” means any communication, picture,  
8 image, graphic image file, article, recording,  
9 writing, or other matter of any kind that—

10 (i) taken as a whole and with respect  
11 to minors, appeals to a prurient interest in  
12 nudity, sex, or excretion;

13 (ii) depicts, describes, or represents,  
14 in a patently offensive way with respect to  
15 what is suitable for minors, an actual or  
16 simulated sexual act or sexual contact, ac-  
17 tual or simulated normal or perverted sex-  
18 ual acts, or a lewd exhibition of the geni-  
19 tals; and

20 (iii) taken as a whole, lacks serious  
21 literary, artistic, political, or scientific  
22 value as to minors.

23 (E) OBSCENE.—The term “obscene” has  
24 the meaning given such term in section 1460 of  
25 title 18, United States Code.

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1 (G) SEXUAL ACT; SEXUAL CONTACT.—The  
2 terms “sexual act” and “sexual contact” have  
3 the meanings given such terms in section 2246  
4 of title 18, United States Code.

5 (H) SECRETARY.—The term “Secretary”  
6 means the Secretary of Education.

7 (b) EFFECTIVE DATE.—This section shall take effect  
8 120 days after the date of the enactment of this Act.

9 (c) SEPARABILITY.—If any provision of this section  
10 is held invalid, the remainder of such section and this Act  
11 shall not be affected thereby.

12 SEC. \_\_\_\_ 12. LIMITATION ON AVAILABILITY OF CERTAIN  
13 FUNDS FOR LIBRARIES.

14 (a) AMENDMENT.—Section 224 of the Museum and  
15 Library Services Act (20 U.S.C. 9134(b)) is amended—

16 (1) in subsection (b)—

17 (A) by redesignating paragraph (6) as  
18 paragraph (7); and

19 (B) by inserting after paragraph (5) the  
20 following new paragraph:

21 “(6) provide assurances that the State will com-  
22 ply with subsection (f); and”; and

23 (2) by adding at the end the following new sub-  
24 section:

25 “(f) INTERNET SAFETY.—

1           “(1) IN GENERAL.—No funds made available  
2 under this Act for a library described in section  
3 213(2)(A) or (B) that does not receive services at  
4 discount rates under section 254(h)(6) of the Com-  
5 munications Act of 1934, as added by section  
6 \_\_\_\_21 of this Children’s Internet Protection Act,  
7 may be used to purchase computers used to access  
8 the Internet, or to pay for direct costs associated  
9 with accessing the Internet, for such library  
10 unless—

11           “(A) such library—

12                   “(i) has in place a policy of Internet  
13 safety for minors that includes the oper-  
14 ation of a technology protection measure  
15 with respect to any of its computers with  
16 Internet access that protects against access  
17 through such computers to—

18                           “(I) material that is obscene;

19                           “(II) child pornography; and

20                           “(III) material that is harmful to  
21 minors; and

22                   “(ii) is enforcing the operation of such  
23 technology protection measure during any  
24 use of such computers by minors; and

25           “(B) such library—

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1                   “(i) has in place a policy of Internet  
2                   safety that includes the operation of a  
3                   technology protection measure with respect  
4                   to any of its computers with Internet ac-  
5                   cess that protects against access through  
6                   such computers to—

7                               “(I) material that is obscene; and

8                               “(II) child pornography; and

9                   “(ii) is enforcing the operation of such  
10                  technology protection measure during any  
11                  use of such computers.

12               “(2) ACCESS TO OTHER MATERIALS.—Nothing  
13               in this subsection shall be construed to prohibit a li-  
14               brary from limiting Internet access to or otherwise  
15               protecting against materials other than those re-  
16               ferred to in subclauses (I), (II), and (III) of para-  
17               graph (1)(A)(i).

18               “(3) DISABLING DURING CERTAIN USE.—An  
19               administrator, supervisor, or other authority may  
20               disable a technology protection measure under para-  
21               graph (1) to enable access for bona fide research or  
22               other lawful purposes.

23               “(4) TIMING AND APPLICABILITY OF IMPLE-  
24               MENTATION.—

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1           “(A) IN GENERAL.—A library covered by  
2 paragraph (1) shall certify the compliance of  
3 such library with the requirements of paragraph  
4 (1) as part of the application process for the  
5 next program funding year under this Act fol-  
6 lowing the effective date of this subsection, and  
7 for each subsequent program funding year  
8 thereafter.

9           “(B) PROCESS.—

10           “(i) LIBRARIES WITH INTERNET  
11 SAFETY POLICIES AND TECHNOLOGY PRO-  
12TECTION MEASURES IN PLACE.—A library  
13 covered by paragraph (1) that has in place  
14 an Internet safety policy meeting the re-  
15 quirements of paragraph (1) shall certify  
16 its compliance with paragraph (1) during  
17 each annual program application cycle  
18 under this Act.

19           “(ii) LIBRARIES WITHOUT INTERNET  
20 SAFETY POLICIES AND TECHNOLOGY PRO-  
21TECTION MEASURES IN PLACE.—A library  
22 covered by paragraph (1) that does not  
23 have in place an Internet safety policy  
24 meeting the requirements of paragraph  
25 (1)—

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1                   “(I) for the first program year  
2                   after the effective date of this sub-  
3                   section in which the library applies for  
4                   funds under this Act, shall certify  
5                   that it is undertaking such actions, in-  
6                   cluding any necessary procurement  
7                   procedures, to put in place an Inter-  
8                   net safety policy that meets such re-  
9                   quirements; and

10                   “(II) for the second program  
11                   year after the effective date of this  
12                   subsection in which the library applies  
13                   for funds under this Act, shall certify  
14                   that such library is in compliance with  
15                   such requirements.

16                   Any library covered by paragraph (1) that  
17                   is unable to certify compliance with such  
18                   requirements in such second program year  
19                   shall be ineligible for all funding under this  
20                   Act for such second program year and all  
21                   subsequent program years until such time  
22                   as such library comes into compliance with  
23                   such requirements.

24                   “(iii) WAIVERS.—Any library subject  
25                   to a certification under clause (ii)(II) that

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1 cannot make the certification otherwise re-  
2 quired by that clause may seek a waiver of  
3 that clause if State or local procurement  
4 rules or regulations or competitive bidding  
5 requirements prevent the making of the  
6 certification otherwise required by that  
7 clause. The library shall notify the Direc-  
8 tor of the Institute of Museum and Li-  
9 brary Services of the applicability of that  
10 clause to the library. Such notice shall cer-  
11 tify that the library will comply with the  
12 requirements in paragraph (1) before the  
13 start of the third program year after the  
14 effective date of this subsection for which  
15 the library is applying for funds under this  
16 Act.

17 “(5) NONCOMPLIANCE.—

18 “(A) USE OF GENERAL EDUCATION PROVI-  
19 SIONS ACT REMEDIES.—Whenever the Director  
20 of the Institute of Museum and Library Serv-  
21 ices has reason to believe that any recipient of  
22 funds this Act is failing to comply substantially  
23 with the requirements of this subsection, the  
24 Director may—

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1                   “(i) withhold further payments to the  
2                   recipient under this Act,

3                   “(ii) issue a complaint to compel com-  
4                   pliance of the recipient through a cease  
5                   and desist order, or

6                   “(iii) enter into a compliance agree-  
7                   ment with a recipient to bring it into com-  
8                   pliance with such requirements.

9                   “(B) RECOVERY OF FUNDS PROHIBITED.—  
10                  The actions authorized by subparagraph (A)  
11                  are the exclusive remedies available with respect  
12                  to the failure of a library to comply substan-  
13                  tially with a provision of this subsection, and  
14                  the Director shall not seek a recovery of funds  
15                  from the recipient for such failure.

16                  “(C) RECOMMENCEMENT OF PAYMENTS.—  
17                  Whenever the Director determines (whether by  
18                  certification or other appropriate evidence) that  
19                  a recipient of funds who is subject to the with-  
20                  holding of payments under subparagraph (A)(i)  
21                  has cured the failure providing the basis for the  
22                  withholding of payments, the Director shall  
23                  cease the withholding of payments to the recipi-  
24                  ent under that subparagraph.

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1           “(6) SEPARABILITY.—If any provision of this  
2 subsection is held invalid, the remainder of this sub-  
3 section shall not be affected thereby.

4           “(7) DEFINITIONS.—In this section:

5           “(A) CHILD PORNOGRAPHY.—The term  
6 ‘child pornography’ has the meaning given such  
7 term in section 2256 of title 18, United States  
8 Code.

9           “(B) MATERIAL THAT IS HARMFUL TO MI-  
10 NORS.—The term ‘material that is harmful to  
11 minors’ means any communication, picture,  
12 image, graphic image file, article, recording,  
13 writing, or other matter of any kind that—

14           “(i) taken as a whole and with respect  
15 to minors, appeals to a prurient interest in  
16 nudity, sex, or excretion;

17           “(ii) depicts, describes, or represents,  
18 in a patently offensive way with respect to  
19 what is suitable for minors, an actual or  
20 simulated sexual act or sexual contact, ac-  
21 tual or simulated normal or perverted sex-  
22 ual acts, or a lewd exhibition of the geni-  
23 tals; and

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1                   “(iii) taken as a whole, lacks serious  
2                   literary, artistic, political, or scientific  
3                   value as to minors.

4                   “(C) MINOR.—The term ‘minor’ has the  
5                   meaning given such term in section 2256 of  
6                   title 18, United States Code.

7                   “(D) OBSCENE.—The term ‘obscene’ has  
8                   the meaning given such term in section 1460 of  
9                   title 18, United States Code.

10                  “(E) SEXUAL ACT; SEXUAL CONTACT.—  
11                  The terms ‘sexual act’ and ‘sexual contact’ have  
12                  the meanings given such terms in section 2246  
13                  of title 18, United States Code.”.

14                  (b) EFFECTIVE DATE.—The amendment made by  
15                  this section shall take effect 120 days after the date of  
16                  the enactment of this Act.

**Subtitle B—Universal Service  
Discounts**

**SEC. \_\_\_\_ 21. REQUIREMENT FOR SCHOOLS AND LIBRARIES  
TO ENFORCE INTERNET SAFETY POLICIES  
WITH TECHNOLOGY PROTECTION MEASURES  
FOR COMPUTERS WITH INTERNET ACCESS AS  
CONDITION OF UNIVERSAL SERVICE DIS-  
COUNTS.**

(a) SCHOOLS.—Section 254(h) of the Communica-  
tions Act of 1934 (47 U.S.C. 254(h)) is amended—

(1) by redesignating paragraph (5) as para-  
graph (7); and

(2) by inserting after paragraph (4) the fol-  
lowing new paragraph (5):

“(5) REQUIREMENTS FOR CERTAIN SCHOOLS  
WITH COMPUTERS HAVING INTERNET ACCESS.—

“(A) INTERNET SAFETY.—

“(i) IN GENERAL.—Except as pro-  
vided in clause (ii), an elementary or sec-  
ondary school having computers with  
Internet access may not receive services at  
discount rates under paragraph (1)(B) un-  
less the school, school board, local edu-  
cational agency, or other authority with re-

1                   sponsibility for administration of the  
2                   school—

3                   “(I) submits to the Commission  
4                   the certifications described in sub-  
5                   paragraphs (B) and (C);

6                   “(II) submits to the Commission  
7                   a certification that an Internet safety  
8                   policy has been adopted and imple-  
9                   mented for the school under sub-  
10                  section (I); and

11                  “(III) ensures the use of such  
12                  computers in accordance with the cer-  
13                  tifications.

14                  “(ii) APPLICABILITY.—The prohibi-  
15                  tion in clause (i) shall not apply with re-  
16                  spect to a school that receives services at  
17                  discount rates under paragraph (1)(B)  
18                  only for purposes other than the provision  
19                  of Internet access, Internet service, or in-  
20                  ternal connections.

21                  “(iii) PUBLIC NOTICE; HEARING.—An  
22                  elementary or secondary school described  
23                  in clause (i), or the school board, local edu-  
24                  cational agency, or other authority with re-  
25                  sponsibility for administration of the

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1 school, shall provide reasonable public no-  
2 tice and hold at least 1 public hearing or  
3 meeting to address the proposed Internet  
4 safety policy. In the case of an elementary  
5 or secondary school other than an elemen-  
6 tary or secondary school as defined in sec-  
7 tion 14101 of the Elementary and Sec-  
8 ondary Education Act of 1965 (20 U.S.C.  
9 8801), the notice and hearing required by  
10 this clause may be limited to those mem-  
11 bers of the public with a relationship to the  
12 school.

13 “(B) CERTIFICATION WITH RESPECT TO  
14 MINORS.—A certification under this subpara-  
15 graph is a certification that the school, school  
16 board, local educational agency, or other au-  
17 thority with responsibility for administration of  
18 the school—

19 “(i) is enforcing a policy of Internet  
20 safety for minors that includes monitoring  
21 the online activities of minors and the op-  
22 eration of a technology protection measure  
23 with respect to any of its computers with  
24 Internet access that protects against access  
25 through such computers to—

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1 “(I) material that is obscene;

2 “(II) child pornography; and

3 “(III) material that is harmful to  
4 minors; and

5 “(ii) is enforcing the operation of such  
6 technology protection measure during any  
7 use of such computers by minors.

8 “(C) CERTIFICATION WITH RESPECT TO  
9 ADULTS.—A certification under this paragraph  
10 is a certification that the school, school board,  
11 local educational agency, or other authority  
12 with responsibility for administration of the  
13 school—

14 “(i) is enforcing a policy of Internet  
15 safety that includes the operation of a  
16 technology protection measure with respect  
17 to any of its computers with Internet ac-  
18 cess that protects against access through  
19 such computers to—

20 “(I) material that is obscene; and

21 “(II) child pornography; and

22 “(ii) is enforcing the operation of such  
23 technology protection measure during any  
24 use of such computers.

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1           “(D) DISABLING DURING ADULT USE.—An  
2 administrator, supervisor, or other person au-  
3 thorized by the certifying authority under sub-  
4 paragraph (A)(i) may disable the technology  
5 protection measure concerned, during use by an  
6 adult, to enable access for bona fide research or  
7 other lawful purpose.

8           “(E) TIMING OF IMPLEMENTATION.—

9           “(i) IN GENERAL.—Subject to clause  
10 (ii) in the case of any school covered by  
11 this paragraph as of the effective date of  
12 this paragraph under section \_\_\_\_21(h) of  
13 the Children’s Internet Protection Act, the  
14 certification under subparagraphs (B) and  
\* 15 (C) shall be made—

16                   “(I) with respect to the first pro-  
17 gram funding year under this sub-  
18 section following such effective date,  
19 not later than 120 days after the be-  
20 ginning of such program funding year;  
21 and

22                   “(II) with respect to any subse-  
23 quent program funding year, as part  
24 of the application process for such  
25 program funding year.

1                   “(ii) PROCESS.—

2                   “(I) SCHOOLS WITH INTERNET  
3                   SAFETY POLICY AND TECHNOLOGY  
4                   PROTECTION MEASURES IN PLACE.—

5                   A school covered by clause (i) that has  
6                   in place an Internet safety policy and  
7                   technology protection measures meet-  
8                   ing the requirements necessary for  
9                   certification under subparagraphs (B)  
10                  and (C) shall certify its compliance  
11                  with subparagraphs (B) and (C) dur-  
12                  ing each annual program application  
13                  cycle under this subsection, except  
14                  that with respect to the first program  
15                  funding year after the effective date  
16                  of this paragraph under section  
17                  \_\_\_\_21(h) of the Children’s Internet  
18                  Protection Act, the certifications shall  
19                  be made not later than <sup>OK</sup>120 days after  
20                  the beginning of such first program  
21                  funding year.

22                  “(II) SCHOOLS WITHOUT INTER-  
23                  NET SAFETY POLICY AND TECH-  
24                  NOLOGY PROTECTION MEASURES IN  
25                  PLACE.—A school covered by clause

1 (i) that does not have in place an  
2 Internet safety policy and technology  
3 protection measures meeting the re-  
4 quirements necessary for certification  
5 under subparagraphs (B) and (C)—

6 “(aa) for the first program  
7 year after the effective date of  
8 this subsection in which it is ap-  
9 plying for funds under this sub-  
10 section, shall certify that it is un-  
11 dertaking such actions, including  
12 any necessary procurement pro-  
13 cedures, to put in place an Inter-  
14 net safety policy and technology  
15 protection measures meeting the  
16 requirements necessary for cer-  
17 tification under subparagraphs  
18 (B) and (C); and



19 “(bb) for the second pro-  
20 gram year after the effective date  
21 of this subsection in which it is  
22 applying for funds under this  
23 subsection, shall certify that it is  
24 in compliance with subpara-  
25 graphs (B) and (C).

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1 Any school that is unable to certify  
2 compliance with such requirements in  
3 such second program year shall be in-  
4 eligible for services at discount rates  
5 or funding in lieu of services at such  
6 rates under this subsection for such  
7 second year and all subsequent pro-  
8 gram years under this subsection,  
9 until such time as such school comes  
10 into compliance with this paragraph.

11 “(III) WAIVERS.—Any school  
12 subject to subclause (II) that cannot  
13 come into compliance with subpara-  
14 graphs (B) and (C) in such second  
15 year program may seek a waiver of  
16 subclause (II)(bb) if State or local  
17 procurement rules or regulations or  
18 competitive bidding requirements pre-  
19 vent the making of the certification  
20 otherwise required by such subclause.  
21 A school, school board, local edu-  
22 cational agency, or other authority  
23 with responsibility for administration  
24 of the school shall notify the Commis-  
25 sion of the applicability of such sub-

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1 clause to the school. Such notice shall  
2 certify that the school in question will  
3 be brought into compliance before the  
4 start of the third program year after  
5 the effective date of this subsection in  
6 which the school is applying for funds  
7 under this subsection.

8 .. "(F) NONCOMPLIANCE.—

9 "(i) FAILURE TO SUBMIT CERTIFI-  
10 CATION.—Any school that knowingly fails  
11 to comply with the application guidelines  
12 regarding the annual submission of certifi-  
13 cation required by this paragraph shall not  
14 be eligible for services at discount rates or  
15 funding in lieu of services at such rates  
16 under this subsection.

17 "(ii) FAILURE TO COMPLY WITH CER-  
18 TIFICATION.—Any school that knowingly  
19 fails to ensure the use of its computers in  
20 accordance with a certification under sub-  
21 paragraphs (B) and (C) shall reimburse  
22 any funds and discounts received under  
23 this subsection for the period covered by  
24 such certification.

25 "(iii) REMEDY OF NONCOMPLIANCE.—

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1                   “(I) FAILURE TO SUBMIT.—A  
2                   school that has failed to submit a cer-  
3                   tification under clause (i) may remedy  
4                   the failure by submitting the certifi-  
5                   cation to which the failure relates.  
6                   Upon submittal of such certification,  
7                   the school shall be eligible for services  
8                   at discount rates under this sub-  
9                   section.

10                   “(II) FAILURE TO COMPLY.—A  
11                   school that has failed to comply with  
12                   a certification as described in clause  
13                   (ii) may remedy the failure by ensur-  
14                   ing the use of its computers in accord-  
15                   ance with such certification. Upon  
16                   submittal to the Commission of a cer-  
17                   tification or other appropriate evi-  
18                   dence of such remedy, the school shall  
19                   be eligible for services at discount  
20                   rates under this subsection.”.

21           (b) LIBRARIES.—Such section 254(h) is further  
22           amended by inserting after paragraph (5), as amended by  
23           subsection (a) of this section, the following new para-  
24           graph:

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1           “(6) REQUIREMENTS FOR CERTAIN LIBRARIES  
2           WITH COMPUTERS HAVING INTERNET ACCESS.—

3           “(A) INTERNET SAFETY.—

4           “(i) IN GENERAL.—Except as pro-  
5           vided in clause (ii), a library having one or  
6           more computers with Internet access may  
7           not receive services at discount rates under  
8           paragraph (1)(B) unless the library—

9           “(I) submits to the Commission  
10           the certifications described in sub-  
11           paragraphs (B) and (C); and

12           “(II) submits to the Commission  
13           a certification that an Internet safety  
14           policy has been adopted and imple-  
15           mented for the library under sub-  
16           section (1); and

17           “(III) ensures the use of such  
18           computers in accordance with the cer-  
19           tifications.

20           “(ii) APPLICABILITY.—The prohibi-  
21           tion in clause (i) shall not apply with re-  
22           spect to a library that receives services at  
23           discount rates under paragraph (1)(B)  
24           only for purposes other than the provision

1 of Internet access, Internet service, or in-  
2 ternal connections.

3 “(iii) PUBLIC NOTICE; HEARING.—A  
4 library described in clause (i) shall provide  
5 reasonable public notice and hold at least  
6 1 public hearing or meeting to address the  
7 proposed Internet safety policy.

8 “(B) CERTIFICATION WITH RESPECT TO  
9 MINORS.—A certification under this subpara-  
10 graph is a certification that the library—

11 “(i) is enforcing a policy of Internet  
12 safety that includes the operation of a  
13 technology protection measure with respect  
14 to any of its computers with Internet ac-  
15 cess that protects against access through  
16 such computers to—

17 “(I) material that is obscene;

18 “(II) child pornography; and

19 “(III) material that is harmful to  
20 minors; and

21 “(ii) is enforcing the operation of such  
22 technology protection measure during any  
23 use of such computers by minors.

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1           “(C) CERTIFICATION WITH RESPECT TO  
2           ADULTS.—A certification under this paragraph  
3           is a certification that the library—

4                   “(i) is enforcing a policy of Internet  
5                   safety that includes the operation of a  
6                   technology protection measure with respect  
7                   to any of its computers with Internet ac-  
8                   cess that protects against access through  
9                   such computers to—

10                           “(I) material that is obscene; and

11                           “(II) child pornography; and

12                           “(ii) is enforcing the operation of such  
13                   technology protection measure during any  
14                   use of such computers.

15           “(D) DISABLING DURING ADULT USE.—An  
16           administrator, supervisor, or other person au-  
17           thorized by the certifying authority under sub-  
18           paragraph (A)(i) may disable the technology  
19           protection measure concerned, during use by an  
20           adult, to enable access for bona fide research or  
21           other lawful purpose.

22           “(E) TIMING OF IMPLEMENTATION.—

23                   “(i) IN GENERAL.—Subject to clause  
24                   (ii) in the case of any library covered by  
25                   this paragraph as of the effective date of

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1 this paragraph under section \_\_\_\_21(h) of  
2 the Children's Internet Protection Act, the  
3 certification under subparagraphs (B) and  
4 (C) shall be made—

5 “(I) with respect to the first pro-  
6 gram funding year under this sub-  
7 section following such effective date,  
8 not later than 120 days after the be-  
9 ginning of such program funding year;  
10 and

11 “(II) with respect to any subse-  
12 quent program funding year, as part  
13 of the application process for such  
14 program funding year.

15 “(ii) PROCESS.—

16 “(I) ~~LIBRARIES WITH INTERNET~~  
17 ~~SAFETY POLICY~~ <sup>POLICIES</sup> AND TECHNOLOGY  
18 PROTECTION MEASURES IN PLACE.—

19 A library covered by clause (i) that  
20 has in place an Internet safety policy  
21 and technology protection measures  
22 meeting the requirements necessary  
23 for certification under subparagraphs  
24 (B) and (C) shall certify its compli-  
25 ance with subparagraphs (B) and (C)

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1 during each annual program applica-  
2 tion cycle under this subsection, ex-  
3 cept that with respect to the first pro-  
4 gram funding year after the effective  
5 date of this paragraph under section  
6 \_\_\_\_21(h) of the Children's Internet  
7 Protection Act, the certifications shall  
8 be made not later than 120 days after  
9 the beginning of such first program  
10 funding year.

11 "(II) LIBRARIES WITHOUT  
12 ~~INTERNET SAFETY POLICY~~ <sup>POLICIES</sup> AND TECH-  
13 NOLOGY PROTECTION MEASURES IN  
14 PLACE.—A library covered by clause  
15 (i) that does not have in place an  
16 Internet safety policy and technology  
17 protection measures meeting the re-  
18 quirements necessary for certification  
19 under subparagraphs (B) and (C)—

20 "(aa) for the first program  
21 year after the effective date of  
22 this subsection in which it is ap-  
23 plying for funds under this sub-  
24 section, shall certify that it is un-  
25 dertaking such actions, including

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1 any necessary procurement pro-  
2 cedures, to put in place an Inter-  
3 net safety policy and technology  
4 protection measures meeting the  
5 requirements necessary for cer-  
6 tification under subparagraphs  
7 (B) and (C); and

8 “(bb) for the second pro-  
9 gram year after the effective date  
10 of this subsection in which it is  
11 applying for funds under this  
12 subsection, shall certify that it is  
13 in compliance with subpara-  
14 graphs (B) and (C).

15 Any library that is unable to certify  
16 compliance with such requirements in  
17 such second program year shall be in-  
18 eligible for services at discount rates  
19 or funding in lieu of services at such  
20 rates under this subsection for such  
21 second year and all subsequent pro-  
22 gram years under this subsection,  
23 until such time as such library comes  
24 into compliance with this paragraph.

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1                   “(III) WAIVERS.—Any library  
2                   subject to subclause (II) that cannot  
3                   come into compliance with subpara-  
4                   graphs (B) and (C) in such second  
5                   year may seek a waiver of subclause  
6                   (II)(bb) if State or local procurement  
7                   rules or regulations or competitive  
8                   bidding requirements prevent the  
9                   making of the certification otherwise  
10                  required by such subclause. A library,  
11                  library board, or other authority with  
12                  responsibility for administration of the  
13                  library shall notify the Commission of  
14                  the applicability of such subclause to  
15                  the library. Such notice shall certify  
16                  that the library in question will be  
17                  brought into compliance before the  
18                  start of the third program year after  
19                  the effective date of this subsection in  
20                  which the library is applying for funds  
21                  under this subsection.

22                  “(F) NONCOMPLIANCE.—

23                  “(i) FAILURE TO SUBMIT CERTIFI-  
24                  CATION.—Any library that knowingly fails  
25                  to comply with the application guidelines

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1 regarding the annual submission of certifi-  
2 cation required by this paragraph shall not  
3 be eligible for services at discount rates or  
4 funding in lieu of services at such rates  
5 under this subsection.

6 “(ii) FAILURE TO COMPLY WITH CER-  
7 TIFICATION.—Any library that knowingly  
8 fails to ensure the use of its computers in  
9 accordance with a certification under sub-  
10 paragraphs (B) and (C) shall reimburse all  
11 funds and discounts received under this  
12 subsection for the period covered by such  
13 certification.

14 “(iii) REMEDY OF NONCOMPLIANCE.—

15 “(I) FAILURE TO SUBMIT.—A li-  
16 brary that has failed to submit a cer-  
17 tification under clause (i) may remedy  
18 the failure by submitting the certifi-  
19 cation to which the failure relates.  
20 Upon submittal of such certification,  
21 the library shall be eligible for services  
22 at discount rates under this sub-  
23 section.

24 “(II) FAILURE TO COMPLY.—A  
25 library that has failed to comply with

1 a certification as described in clause  
2 (ii) may remedy the failure by ensur-  
3 ing the use of its computers in accord-  
4 ance with such certification. Upon  
5 submittal to the Commission of a cer-  
6 tification or other appropriate evi-  
7 dence of such remedy, the library  
8 shall be eligible for services at dis-  
9 count rates under this subsection.”.

10 (c) DEFINITIONS.—Paragraph (7) of such section, as  
11 redesignated by subsection (a)(1) of this section, is  
12 amended by adding at the end the following:

13 “(D) MINOR.—The term ‘minor’ means  
14 any individual who has not attained the age of  
15 17 years.

16 “(E) OBSCENE.—The term ‘obscene’ has  
17 the meaning given such term in section 1460 of  
18 title 18, United States Code.

19 “(F) CHILD PORNOGRAPHY.—The term  
20 ‘child pornography’ has the meaning given such  
21 term in section 2256 of title 18, United States  
22 Code.

23 “(G) MATERIAL THAT IS HARMFUL TO MI-  
24 NORS.—The term ‘material that is harmful to  
25 minors’ means any communication, picture,

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1 image, graphic image file, article, recording,  
2 writing, or other matter of any kind that—

3 “(i) taken as a whole and with respect  
4 to minors, appeals to a prurient interest in  
5 nudity, sex, or excretion;

6 “(ii) depicts, describes, or represents,  
7 in a patently offensive way with respect to  
8 what is suitable for minors, an actual or  
9 simulated sexual act or sexual contact, ac-  
10 tual or simulated normal or perverted sex-  
11 ual acts, or a lewd exhibition of the geni-  
12 tals; and

13 “(iii) taken as a whole, lacks serious  
14 literary, artistic, political, or scientific  
15 value as to minors.

16 “(H) SEXUAL ACT; SEXUAL CONTACT.—  
17 The terms ‘sexual act’ and ‘sexual contact’ have  
18 the meanings given such terms in section 2246  
19 of title 18, United States Code.

20 “(I) TECHNOLOGY PROTECTION MEAS-  
21 URE.—The term ‘technology protection meas-  
22 ure’ means a specific technology that blocks or  
23 filters Internet access to the material covered  
24 by a certification under paragraph (5) or (6) to  
25 which such certification relates.”.

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1 (d) CONFORMING AMENDMENT.—Paragraph (4) of  
2 such section is amended by striking “paragraph (5)(A)”  
3 and inserting “paragraph (7)(A)”.

4 (e) SEPARABILITY.—If any provision of paragraph  
5 (5) or (6) of section 254(h) of the Communications Act  
6 of 1934, as amended by this section, or the application  
7 thereof to any person or circumstance is held invalid, the  
8 remainder of such paragraph and the application of such  
9 paragraph to other persons or circumstances shall not be  
10 affected thereby.

11 (f) REGULATIONS.—

12 (1) REQUIREMENT.—The Federal Communica-  
13 tions Commission shall prescribe regulations for pur-  
14 poses of administering the provisions of paragraphs  
15 (5) and (6) of section 254(h) of the Communications  
16 Act of 1934, as amended by this section.

17 (2) DEADLINE.—Notwithstanding any other  
18 provision of law, the Commission shall prescribe reg-  
19 ulations under paragraph (1) so as to ensure that  
20 such regulations take effect 120 days after the date  
21 of the enactment of this Act.

22 (g) AVAILABILITY OF RATES.—Discounted rates  
23 under section 254(h)(1)(B) of the Communications Act of  
24 1934 (47 U.S.C. 254(h)(1)(B))—

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1           (1) shall be available in amounts up to the an-  
2           nual cap on Federal universal service support for  
3           schools and libraries only for services covered by  
4           Federal Communications Commission regulations on  
5           priorities for funding telecommunications services,  
6           Internet access, Internet services, and Internet con-  
7           nections that assign priority for available funds for  
8           the poorest schools; and

9           (2) to the extent made available under para-  
10          graph (1), may be used for the purchase or acquisi-  
11          tion of filtering or blocking products necessary to  
12          meet the requirements of section 254(h)(5) and (6)  
13          of that Act, but not for the purchase of software or  
14          other technology other than what is required to meet  
15          those requirements.

16          (h) EFFECTIVE DATE.—The amendments made by  
17          this section shall take effect 120 days after the date of  
18          the enactment of this Act.

19                   **Subtitle C—Neighborhood**  
20                   **Children's Internet Protection**

21          SEC. \_\_\_\_31. SHORT TITLE.

22           This subtitle may be cited as the "Neighborhood Chil-  
23          dren's Internet Protection Act".

1 **SEC. \_\_\_\_32. INTERNET SAFETY POLICY REQUIRED.**

2 Section 254 of the Communications Act of 1934 (47  
3 U.S.C. 254) is amended by adding at the end the fol-  
4 lowing:

5 **“(1) INTERNET SAFETY POLICY REQUIREMENT FOR**  
6 **SCHOOLS AND LIBRARIES.—**

7 **“(1) IN GENERAL.—**In carrying out its respon-  
8 sibilities under subsection (h), each school or library  
9 to which subsection (h) applies shall—

10 **“(A) adopt and implement an Internet**  
11 **safety policy that addresses—**

12 **“(i) access by minors to inappropriate**  
13 **matter on the Internet and World Wide**  
14 **Web;**

15 **“(ii) the safety and security of minors**  
16 **when using electronic mail, chat rooms,**  
17 **and other forms of direct electronic com-**  
18 **munications;**

19 **“(iii) unauthorized access, including**  
20 **so-called ‘hacking’, and other unlawful ac-**  
21 **tivities by minors online;**

22 **“(iv) unauthorized disclosure, use,**  
23 **and dissemination of personal identifica-**  
24 **tion information regarding minors; and**

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1                   “(v) measures designed to restrict mi-  
2                   nors’ access to materials harmful to mi-  
3                   nors; and

4                   “(B) provide reasonable public notice and  
5                   hold at least one public hearing or meeting to  
6                   address the proposed Internet safety policy.

7                   “(2) LOCAL DETERMINATION OF CONTENT.—A  
8                   determination regarding what matter is inappro-  
9                   priate for minors shall be made by the school board,  
10                  local educational agency, library, or other authority  
11                  responsible for making the determination. No agency  
12                  or instrumentality of the United States Government  
13                  may—

14                  “(A) establish criteria for making such de-  
15                  termination;

16                  “(B) review the determination made by the  
17                  certifying school, school board, local educational  
18                  agency, library, or other authority; or

19                  “(C) consider the criteria employed by the  
20                  certifying school, school board, local educational  
21                  agency, library, or other authority in the ad-  
22                  ministration of subsection (h)(1)(B).

23                  “(3) AVAILABILITY FOR REVIEW.—Each Inter-  
24                  net safety policy adopted under this subsection shall  
25                  be made available to the Commission, upon request

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1 of the Commission, by the school, school board, local  
2 educational agency, library, or other authority re-  
3 sponsible for adopting such Internet safety policy for  
4 purposes of the review of such Internet safety policy  
5 by the Commission.

6 “(4) EFFECTIVE DATE.—This subsection shall  
7 apply with respect to schools and libraries on or  
8 after the date that is 120 days after the date of the  
9 enactment of the Children’s Internet Protection  
10 Act.”.

11 **SEC. \_\_\_\_33. IMPLEMENTING REGULATIONS.**

12 Not later than 120 days after the date of enactment  
13 of this Act, the Federal Communications Commission shall  
14 prescribe regulations for purposes of section 254(l) of the  
15 Communications Act of 1934, as added by section \_\_\_\_32  
16 of this Act.

17 **Subtitle D—Expedited Review**

18 **SEC. \_\_\_\_41. EXPEDITED REVIEW.**

19 (a) THREE-JUDGE DISTRICT COURT HEARING.—  
20 Notwithstanding any other provision of law, any civil ac-  
21 tion challenging the constitutionality, on its face, of this  
22 title or any amendment made by this title, or any provision  
23 thereof, shall be heard by a district court of 3 judges con-  
24 vened pursuant to the provisions of section 2284 of title  
25 28, United States Code.

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1 (b) APPELLATE REVIEW.—Notwithstanding any  
2 other provision of law, an interlocutory or final judgment,  
3 decree, or order of the court of 3 judges in an action under  
4 subsection (a) holding this title or an amendment made  
5 by this title, or any provision thereof, unconstitutional  
6 shall be reviewable as a matter of right by direct appeal  
7 to the Supreme Court. Any such appeal shall be filed not  
8 more than 20 days after entry of such judgment, decree,  
9 or order.