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Mr. REID. Madam President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 60, 2001. The PRESIDING OFFICER. The clerk will report the bill by title.

Mr. LEAHY. Madam President, I am pleased that the Senate is considering the TISCH Act, S. 487, today. This legislation will help clarify the law and allow educators to use the same rich material in distance learning over the Internet that they are able to use in face-to-face classroom instruction. The TISCH Act enhances the Digital Millennium Copyright Act reform for the past two months. The legislation we report today reflects our understanding that we need to use new technologies to advance our educational goals in a manner that recognizes and protects copyrighted works.

The genesis of this bill was in the Digital Millennium Copyright Act (DMCA), where we asked the Copyright Office to study the complex copyright
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issues involved in distance education and to make recommendations to us for any legislative changes. The Copyright Office released its report in May, 1999. The report contains suggestions on how modest changes in our copyright law could go a long way to foster the appropriate use of copyrighted works in valid distance learning activities. Senator HATCH and I then introduced the TEACH Act, S. 497, relying heavily on the legislative recommendations of that report.

Marybeth Peters, the Registrar of Copyrights, has expressed her heartfelt thanks for that comprehensive and incisive study and their work on this legislation. We have made efforts in refining the Copyright Office's conclusions and concerns about it. I appreciate that some copyright owners disagreed with the Copyright Office's conclusions and have amended the proposed copyright law to address the valid concerns of both the copyright owners and the educational community. This has not been an easy process and I want to extend my thanks to all of those who worked hard and with us to craft the legislation that the Judiciary Committee and considered by the Senate today.

The growth of distance learning is exploding; largely because it is responsive to the needs of older, non-traditional students. The Copyright Office, "20," report noted two years ago that, by 2003, the number of students taking distance education courses will represent 15 percent of all higher education students. Moreover, the typical average distance learning student is 31 years old; employed full-time; and has previous college credit. More than half are women. In increasing numbers, students in other countries are using distance learning for credit; for practical training opportunities here through U.S. distance education programs. (OO Report, at pp. 19-20).

Furthermore, distance education makes advanced college placement and college equivalency courses available—a great opportunity for residents in our more-rural states. In colleges, distance education makes lifelong learning a practical reality.

Not only does distance education make it more convenient for many students to pursue an education, for students who have full-time work commitments, who live in rural areas or in foreign countries, who have difficulty obtaining child or elder care, or who have physical disabilities, distance education may be the only means for them to pursue an education. These are the people with busy schedules who need the flexibility that on-line programs offer: virtual classroom accommodations to ensure that the student is ready to log-on.

In rural areas, distance education provides an opportunity for schools to offer courses that their students might otherwise not be able to enjoy. It is therefore no surprise that in Vermont, and many other rural states, distance learning is a critical component of any quality educational and economic development system. The most recent Vermont Telecommunications Plan, which was published in 1999, identifies distance learning as being critical to Vermont's development. It also recommends that Vermont consider "using its purchasing power to accelerate development of new (distance learning) services in Vermont." Technology has empowered individuals in the most remote communities to have access to the knowledge and skills necessary to improve their education and ensure they are competitive for jobs in the 21st Century.

Several years ago, I was proud to work with the state in establishing the Vermont Interactive Television network. This constant two-way video-conferencing system can reach communities, schools and businesses in every corner of the state. Since we first studied the costs, our state has carefully secured funds to build the backbone of the system, Vermont has constructed fourteen nodes. The VIT system is currently running at full capacity and has demonstrated that in Vermont, technology highways are just as important as our transportation highways.

No one single technology should be the platform for distance learning. In Vermont, creative uses of available resources have put in place a distance education system that employs T-1 lines in some areas and traditional internet modem hook-ups in others. Several years ago, the Grand Isle Supervisory Union received a grant from the U.S. Department of Agriculture to link all the schools within the district with fiber optic cable. There are not a lot of students in this Supervisory Union but there is a lot of land separating schools from one another. The bandwidth created by the fiber optic cables has not only improved the educational opportunities in the four Grand Isle towns, but it has also provided a vital economic boost to the area's business.

While there are wonderful examples of the use of distance learning inside Vermont, the opportunities provided by these technologies are not limited to the borders of one state, or even one country. Champlain College, a small college in Burlington, Vermont has shown this is true when it adopted a strategic plan to provide distance learning for students throughout the world. Under the leadership of President Roger Perry, Champlain College now has more students enrolled than any other college in Vermont. The campus in Vermont has not been overwhelmed with the increase. Instead, Champlain has been able to accommodate a large number of students overseas through its on-line curriculum. Similarly, Marlboro College in Marlboro, Vermont offers innovative graduate programs designed for working professionals with classes that meet not only in person but also online.

The Internet, with its interactive, multi-media capabilities, has been a significant development for distance learning. By contrast to the traditional, passive approach of distance learning where a student located remotely from a classroom was able to watch a lecture being broadcast at a fixed time over the air, distance learners today can participate in real-time distance learning, in addition to the general multimedia projects. The Copyright Office report confirmed what I have assumed for some time—that the "computer is the most versatile of distance education instruments," not just in terms of flexible schedules, but also in terms of the material available.

More than 20 years ago, the Congress recognized the potential of broadcast and cable technology to supplement classroom teaching, and to bring the classroom to those who, because of their disabilities or other special circumstances, are unable to attend classes in person. We included in the present Copyright Act certain exemptions for distance learning, in addition to the general fair use exemption. The time has come to do more. The recent report of the Web-Based Education Commission, headed by former Senator Bob Kerrey, says:

Current copyright law governing distance education is "inappropriately restrictive." (p. 97).

Under current law, the performance or display of any work in the course of distance education is exempt from the exclusive rights of a copyright owner. In addition, the copyright owner loses certain performances or displays of copyrighted works but restricts such transmissions subject to the exemption to those sent to a classroom or a similar place which is normally devoted to instruction, to persons whose disabilities or other special circumstances prevent classroom attendance, or to government employees. While this exemption is "technologically neutral and does not limit except "transmissions" to distance learning broadcasts, the exemption does not authorize the reproduction or distribution of copyrighted works a limitation that has enormous implications for transmissions over computer networks. Digital transmissions over computer networks involve multiple acts of reproduction as a data packet is moved from one computer to another.

The TEACH Act makes three significant expansions in the distance learning exemption in the Copyright Act, while minimizing the additional risks.
to copyright owners that are inherent in exploiting works in a digital format. First, the bill eliminates the current exemptions for the distance learning exemption that the instruction occur in a physical classroom or that special circumstances prevent the attendance of students in the classroom. At the same time, the bill would maintain and clarify the requirement that the exemption is limited to use in mediated instructional activities of governmental bodies and accredited non-profit educational institutions.

Second, the bill clarifies that the distance learning exemption covers the transient or temporary copies that occur through the automatic technical process of transmitting material over the Internet.

Third, the current distance learning exemption only permits the transmission of the performance of "non-dramatic literary or musical works," but copyright law permits help movies or videotapes, or the performance of plays. The Copyright Commission report recommended the exemption as an obstacle to distance learning in current copyright law and noted the following examples: A music instructor may play songs and other pieces of musical content in the classroom, but must seek permission from copyright holders in order to incorporate these works into an online version of the same class. A children's literature instructor may routinely display illustrations from books in the classroom, but must get licenses for each one for an online version of the course.

Fourth, disparity, the TEACH Act would amend current law to allow educators to show reasonable limits on the portion of educational materials under the exemption in the copyright law for distance learning, but also contains a number of proposals for copyright owners. In particular, the bill would change the exemption those works that are produced primarily for instructional use, for such works, unlike entertainment products or materials of a general educational nature, the exemption could significantly cut into primary markets, impairing incentives to create. Indeed, the Web-Based Education Commission urged the development of "high quality online educational content that meets the highest standards of educational excellence." Copyright owners are aware that the transmittal of material would be limited only to the students who are intended to receive its benefits. Finally, the bill directs the Patent and Trademark Office to report to the Congress with a description of the various technological protection systems in use, available, or being developed to protect digitized copyrighted works and prevent infringement, including those being developed in private, voluntary, industry-led entities through an open broad based consensus process. The original version of this study proposed by Senator HATCH in an amendment filed to the Elementary and Secondary Education bill, 81, proved highly controversial.

I appreciate that copyright owners are frustrated at the pace at which technological means to develop and implement to protect digital copyrighted works, particularly those high-speed digital connections and broadband service becomes more readily available. At the same time, computer and software manufacturers and providers of Internet services are appropriately opposed to the government mandating use of a particular technological protection measure or the specification standards for such measures. Indeed, copyright owners are a diverse group, and some owners may want more flexibility and variety in the technical protection measures available for their works than would result if the government intervened soon and mandated a particular standard or system. I am glad that with the constructive assistance of Senator Canton and other members of the Judiciary Committee, we were able to include a version of the PTO study in the bill that is likely to provide information to the Congress.

Distance education is an important issue to both the Senate and to me, and to the people of all of our States. This is a good bill and I urge the Congress to act promptly to see this legislation enacted.

Mr. HATCH. Madam President, I am pleased that we will pass out of the Senate today S. 5990, the "Technology and Copyright Harmonization Act" or fittingly abbreviated as the "TEACH Act," which updates the educational use provisions of the copyright law to account for advancements in digital transmission technologies that support distance learning.

But first I want to thank the Ranking Member for his work and partnership on this legislation. We have done it in a bipartisan, consensus-building manner. I would also like to thank the various representatives of the copyright owner and education communities who have worked so hard with us. I think that we have achieved that goal and move this legislation forward.

They have worked in the spirit of cooperation toward the shared goal of helping our students learn better better through technology and the media. I would also like to thank the Register of Copyrights, and her staff at the Copyright Office, for their hard work and technical assistance. They have done an admirable job in helping us move forward the deployment of the Internet and digital transmissions systems in education.

Because of their hard work, I am confident we have an important education reform that can be sent to the President with broad, bipartisan support in the coming month.

Distance education, and the use of high technology tools such as the Internet in education, bold promise for students in States like Utah, where distances can be great between students and learning opportunities. I think it is similarly important for any State that has students who seek broader learning opportunities than they can reach in their local area. Any education reforms moved in the Congress this year should include provisions that help deploy high technology tools, including, but not limited to, distance learning, to give our students the very best education and experience we can offer. I believe this legislation is an important part of truly effective education initiatives that can open up new vistas to all our students, while potentially costing less in the long run to provide a full education experience.

By using these tools, students in remote areas of my home State of Utah are becoming able to link up to resources previously available only to those in cities or at prestigious educational institutions. Limited access to language instructors in remote areas or particle accelerators in high schools limit access to educational opportunities. These limits can be overcome to a revolutionary degree by online offerings, which can combine sound, video, and interactivity in new ways. Students in remote areas that transcond what is possible in the classroom, such as hyper texts linked directly to secondary sources, are possible only in the online world.

With the advent of the Internet and other communication technologies, emerging, the legislation expands the deployment of advanced digital technologies.

Specifically, the TEACH Act amends sections 110(2) and 112 of the Copyright Act to update the educational provisions of the copyright law for the 21st century, allowing students and teachers to benefit from the deployment of advanced digital technologies.

In addition, the TEACH Act amends sections 110(2) and 112 of the Copyright Act to facilitate the growth and development of digital distance learning. First, the legislation expands the use of the section 110(2) exemption to apply to performances and displays of all copyright works or portions of works that are non-dramatic literary or musical works that are lawfully made or acquired and use technological protection safeguards to protect against retention of the work and ensure that

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digitally transmitted. Thus, for example, the Act allows transmissions to locations other than the physical classroom, and includes audiovisual works, some of which may be works that fall in the exemption. At the same time, the bill maintains and clarifies the concept of "mediated instructional activities," which requires that the performance or display be analogous to the type of performance or display that would take place in a live classroom setting.

Moreover, of utmost significance to the copyright owners, the legislative safeguards to counteract the risks posed by digital transmissions in an educational setting. For example, the bill imposes obligations to implement technological protection measures as well as certain limitations relating to accessibility and duration of transient copies. The Act also amends section 112 of the Copyright Act to permit storage of copyrighted materials served in the process of asynchronous use of material in distance education. The legislation was reported unanimously by the Judiciary Committee, and we expect it will pass the full Senate unanimously. Today we will make two non-controversial changes to the legislation as passed by the Committee. First, Senator LEAHY and I have added language that would make the determination of certain limitations relative to educational transactions, and to provide a bill that will be good for students, teachers, copyright owners, and information technologists.

But I would like to explain some of the thinking that went into requesting that report. First of all, the report is not designed to be a first step toward the government regulating, mandating, or favoring types of technologies or products that protect copyrighted works online. Second, the legislative language makes clear that we do not seek a government comparison of various products that are commercially available. We do not seek such comparisons, and we do not want the government picking winners and losers among commercial products, nor in any way do we want the standards or the law that would govern the development of such products.

Instead, this request is made because technological protection will be increasingly important in preventing widespread, unlawful copying of copyrighted works generally, and the Committee wishes to know as much about its capabilities as possible, for our selves and for our constituents. This information would be extremely valuable, for example, if the Committee determines in the future that it is appropriate to fund a standard-setting process or to encourage the implementation of such standards in devices or devices that would control or facilitate the public in a secure environment. Encryption, watermarking, and digital rights management systems have been studied and continue to be developed to protect copyrighted works, but these are just a portion of the possibilities that exist in making the digital environment safe for the delivery of valuable copyrighted works. If, for instance, computer and other digital devices recognize and respond to technological protection measures, a significant portion of the infringing activity that harms copyright owners could be prevented, and the Internet could be a much safer environment for the valuable and quality works that consumers want to enjoy and copyright owners want to deliver online. Therefore, the Undersecretary should include in its study so-called "bilateral" systems that have been or could be developed that would allow technology embedded in copyrighted works to communicate with computers and other devices with regard to the level of protection required for that work, as well as unilateral protection systems. The Undersecretary should also provide us information on robust and reliable protection systems that could be renewed or upgraded to respond to any development in the area of cyberhacking, as opposed to becoming useless or obsolete. Some have raised concerns that such a study would only provide a snapshot in time, or would be out of date by the time it is finished due to continual advances in technology. This may be correct. However, given these possible limitations, the study will be extremely useful in establishing a baseline of knowledge for the Committee and our constituents with regard to what technology is or could be made available and how it is or could be implemented. Perhaps the information contained in this report could be updated by the Undersecretary to address evolving technologies in this area.

Overall, this legislation will make it easier for the teachers who deliver instruction to students online to enhance the learning process by illustrating music appreciation principles with appropriate movie clips. These wholly new interactive educational experiences, or more traditionally new interactive educational experiences now understandable about the students' schedule, will be made more easily and more inexpensively by this legislation. Beyond the legislative enhancements provided by this legislation, opportunities for students and lifetime learners of all kinds, in all kinds of locations, are limited only by the human imagination and the creative activity of the creators and users of copyrighted works. The possibilities opened up in the digital world are thrilling to contemplate.

I strongly believe that this legislation is necessary to foster and promote distance education and to continue the careful balance between copyright owners and users. Through the increasing influence of educational technologies, viruses are populating all over the country and what we do not want to do is stand in the way of the development and advancement of innovative technologies that offer new and exciting educational opportunities. I think we all agree that digital distance should be fostered and utilised to the greatest extent possible to deliver instruction to students in ways that could have been possible a few years ago. We live at a point in time when we truly have an opportunity to help shape the future by influencing how technology is used in education so I hope my colleagues will join us in supporting this modest update of the copyright law that offers to make more readily available distance education in a digital environment to all of our students.
In addition, because "display" of certain types of works, such as literary works using an "e-book" reader, could substitute for traditional purchases of print works (e.g., a book), the display exemption is limited to "an amount comparable to that which is typically displayed in the course of a live classroom setting." This limitation is further explained by the concept of "mediated instructional activity." The concept of "reasonable and limited display" is intended to include "transmission" is intended to include any infringement by reason of transient or incidental display of a work or performance, in connection with the display right exemption, to the extent that such infringement is not covered by any other provision of the Copyright Act.

This concept is intended to apply to performances provided primarily for educational purposes and for the benefit of non-profit educational institutions. This includes educational institutions that are otherwise eligible to rely on the 110(2) exemption so apply to performances of works produced or marketed primarily for educational purposes or displays given by means of a copy or phonorecord that is not lawfully made and acquired. The concept of "mediated instructional activity" is intended to apply to performances or displays that would take place in a live classroom setting. Thus, it is possible to display an entire textbook or extensive course-pack material through an e-book reader or similar device or computer application.

The concept of "mediated instructional activity" as described in section 110(2) of the TEACH Act, this latter concept is intended to require the performance of an "e-book" reader or similar device or computer application. This concept of "mediated instructional activity" as described in section 110(2) of the TEACH Act, this latter concept is intended to require the performance or display of any work which would substitute for the performance of print works (e.g., a book), the display exemption is limited to "an amount comparable to that which is typically displayed in the course of a live classroom setting." This limitation is further explained by the concept of "mediated instructional activity." The concept of "reasonable and limited display" is intended to include "transmission" is intended to include any infringement by reason of transient or incidental display of a work or performance, in connection with the display right exemption, to the extent that such infringement is not covered by any other provision of the Copyright Act.

The amended exemption is not intended to address other uses of copyrighted works in the context of interactive multimedia, such as including student use of supplemental or research materials in digital form, such as electronic course packs, e-reserves, and online library resources. Such activities do not constitute performance and displays of copyrighted works in digital distance education under applicable provisions to perform or display that would take place in a live classroom setting. Thus, it is possible to display an entire textbook or extensive course-pack material through an e-book reader or similar device or computer application. This concept of "mediated instructional activity" as described in section 110(2) of the TEACH Act, this latter concept is intended to require the performance or display of any work which would substitute for the performance of print works (e.g., a book), the display exemption is limited to "an amount comparable to that which is typically displayed in the course of a live classroom setting." This limitation is further explained by the concept of "mediated instructional activity." The concept of "reasonable and limited display" is intended to include "transmission" is intended to include any infringement by reason of transient or incidental display of a work or performance, in connection with the display right exemption, to the extent that such infringement is not covered by any other provision of the Copyright Act.
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involve uses analogous to the performances and displays currently addressed in section 1102).

The "mediated instructional activity" requirement is thus intended to prevent the unauthorized use of copyrighted works, including photocopies of textbooks, course packs or other material in any media, copies or phonorecords of which are typically purchased or acquired by students for their independent use in the classroom or as part of mediated instructional activities transmitted via digital networks. To place the limitation on the nature of the exempt activity, the latter limits the relevant context to the classroom setting, where it would typically be purchased by students in the local classroom environment, as distinct from the classroom settings, where it would not fall within the exemption. Conversely, because textbooks are typically used primarily as a reference in the classroom setting, and the instructor would not be precluded from using a chart or table or other short excerpt from a textbook directly in the classroom setting, the exemption would not apply for such use. The requirement of subparagraph (2)(B) that the performance or display be "in the classroom setting" is not intended to preclude the use of materials in the teaching context of the transmission, is found in subparagraph (1)(a) in its current form. As noted in the Register's Report, this test of relevance and material importance, if it excludes, in other words, the non-classroom setting, and it means that the portion performed or displayed may not be performed or displayed for the mere entertainment of the students, or as unrelated background material.

limitations on reception of transmissions

Unlike current section 1102(b), the TEACH Act amends the requirement that transmission must be made at the school or similar place. Unlike current section 1102(b), the TEACH Act amends the requirement that transmission must be for the non-commercial purposes of the school or similar place. Unlike current section 1102(a), the TEACH Act amends the requirement that transmission must be for the non-commercial purposes of the school or similar place. Unlike current section 1102(b), the TEACH Act amends the requirement that transmission must be for the non-commercial purposes of the school or similar place. Unlike current section 1102(b), the TEACH Act amends the requirement that transmission must be for the non-commercial purposes of the school or similar place.

the transmission be made solely for, and to the extent technologically feasible, the reception is limited to the students directly enrolled in the course for which the transmission is made or governmental employees as part of their official duties. This "mediated instructional activity" requirement is not intended to impose a general requirement of network security. Rather, it is intended to require only that the students or employees authorized to be recipients of the transmission should be identified, and the transmission should be technologically limited to such identified authorized recipients. The systems through which such purpose access or other similar measures.

Additional safeguards to counteract new risks

The digital transmission of works to students and others out of copyright ownership or transmission through analog broadcast means. Digital technologies make possible the creation of multiple copies, and their rapid and widespread dissemination around the world. Accordingly, the TRACH Act includes additional safeguards not currently present in section 1102.

A transmitting body or institution seeking to invoke the exemption is required to take reasonable measures to prevent such unauthorized further dissemination of the work. The obligation to reasonably prevent and further dissemination of the work. The obligation to reasonably prevent and further dissemination of the work. The obligation to reasonably prevent and further dissemination of the work. The obligation to reasonably prevent and further dissemination of the work.

In the case of the digital transmission, the transmitting body or institution is required to use technological measures to prevent (1) retention of the work in accessible form by recipients to which it sends the work for longer than the class session, and (2) unauthorized further dissemination of the work in accessible form by such recipients. Measures intended to limit access to authorized recipients of transmissions from the transmitting body or institution are not addressed in this subparagraph (2)(D) Rather, they are the subjects of subparagraph (2)(D).

The requirement that technological measures be applied to limit retention for a longer time than the "class session" refers back to the requirement that the performance be limited to an "integral part" of the class session. The duration of a "class session" in asynchronous distance education would generally be the period of time during which a student is logged on to the server of the institution or governmental body making the display or performance, but is likely to vary with the needs of the student and with the design of the particular course. It does not mean the duration of a particular course (i.e., a semester or term), but rather is intended to describe the equivalent of an actual single face-to-face mediated class session (although it may be asynchronous and one student may remain online longer than the performance or display for longer than another student simply required to complete the class session). Although flexibility is necessary to accommodate the pedagogical goals of distance education, the TRACH Act expects that common sense construction will be applied so that a copy or phonorecord displayed or performed in the classroom setting of a distance education program would not remain in the possession of the recipient for a time that would cause a substitute for acquisition or for use other than use in the particular class session. Conversely, the technological protection measure in subparagraph (2)(D)(i) refers only to retention of a copy or phonorecord in the possession of a teacher or the teacher of a class session.

The material to be performed or displayed may, under the amendments made by the TRACH Act, be performed or displayed in the classroom setting, regardless of the location of the classroom setting, and in an educational institution. The application or interpretation of section 1102(d) shall not be construed to permit the use of overhead transparencies or of transparencies made through the automatic technical process of such transmission, or any distribution resulting therefrom. Certain modifications
have been made to the Register’s recom-

mendations to accommodate instances where the recommendation was either too broad or not adequately tailored to specific circumstances.

The Register’s concern that the exemption should not be transformed into a mechanism for obtaining copies, the paragraph also requires that such transient or temporary copies be made by the recipient’s random access memory at the time of the transmission. The paragraph further explains that even if the recipient makes a copy, it will still be considered a temporary copy created in the recipient’s random access memory at the time of the transmission. The paragraph also states that the copyright owner may not charge a fee for the copy and that the recipient may not use the copy for any purpose other than for the performance or display of the work to others.

The Register notes that the fairness doctrine, which permits the reproduction and distribution of copyrighted materials in certain circumstances, is intended to provide a safeguard against the unauthorized use of such materials. The Register also states that the fairness doctrine is a separate and independent legal doctrine, and that it is not intended to be a substitute for the fair use doctrine.

The Register’s Report notes the sensitivity of copyright owners to the digitization of educational and instructional transmissions. The Register also states that the Register’s concern is not that the Act makes it easier to violate the rights of copyright owners, but rather that the Act may make it easier for copyright owners to detect and prevent such violations.

The Register’s Report cites several provisions of the Act that are intended to promote fair use and the public’s interest in the widespread dissemination of educational and instructional materials. The Register also notes that the Act is intended to provide a range of options for the use of copyrighted materials in educational settings, and that it is not intended to be a substitute for existing copyright law.

The Register’s Report concludes by stating that the Act is intended to provide a balance between the rights of copyright owners and the public interest in the dissemination of educational and instructional materials.
copyrighted works have to the well-being of not only my home state of California, but also the economy of the entire Nation.

It has been reported that the copyright industries are creating jobs at three times the rate of the rest of the economy. These industries have a surplus balance of trade with every single country in the world, and that last year they accounted for 5 percent of the U.S. Gross Domestic Product. Few other industries can boast of such a successful record, and the protection we grant to copyrighted works is directly responsible for that success.

The message is clear. Striking the appropriate balance in copyright protection is vital to maintaining consumer choice, and in maintaining this vital part of the American economy. Sufficient protection means the continued investment in the production of creative works, which results in greater choices for consumers.

Insufficient protection of copyrighted works, on the other hand, will negatively affect the ability and desire of creators and lawless distributors of such works to make the necessary investments of time, money and other resources to continue to create and offer quality works to the public.

That is why we must carefully consider any degradation of that protection, even when proposed limitations would benefit other important segments of our society, such as the educational community.

I believe that the legislation strikes the appropriate balance by allowing accredited, nonprofit educational institutions to make certain uses of copyrighted works, but requiring them to technologically protect those works to prevent unauthorized uses by others.

The application of appropriate technological protection for copyrighted works is increasingly important as we move from the analog to the digital world. Technological protection will facilitate the availability of copyrighted works in high-quality, digital formats and in global, networked environments.

That is why the provisions of this legislation directing the Undersecretary of Commerce for Intellectual Property to look at what protective technologies are out there will be of great importance to this Committee in the near future as the online environment and the world of e-commerce develops.

Questions such as whether unilateral protection applied to works by copyright owners will provide a sufficiently secure environment or whether bilateral technologies—which invoke a "handsomely awarded" sort of border that work can be used to accomplish work—should be examined more closely have yet to be answered.

This study should help us give an invaluable resource with regard to renewable, ungraspable, and robust forms of protection that will allow valuable copyrighted works to move freely and securely through the digital environment.

Mr. REID. Madam President, Senators HARKIN and LEAVY may have an amendment at the desk, and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

Mr. REID. I ask unanimous consent reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To clarify the application of certain technological measures)

On page 9, lines 14 and 15 strike ""in the ordinary course of their operations,"" and insert ""reasonably"".

Mr. REID. Madam President, I ask unanimous consent that the amendment be agreed to.

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

The amendment (No. 793) was agreed to.

Mr. REID. Madam President, I ask unanimous consent the committee substitute amendment, as amended, be agreed to, the bill be read a third time and passed, an amendment at the desk to the title be agreed to, the motion to reconsider be laid upon the table, and any statement relating to the bill be printed in the Record.

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

The committee amendment in the nature of a substitute, as amended, was agreed to.

The amendment (No. 793) as amended, was read the third time and passed.

The amendment (No. 794) was agreed to, as follows:

(Purpose: To amend the title)

Amend the title so as to read: "A bill to amend chapter 1 of title 17, United States Code, relating to the exemption of certain performances or displays for educational uses from copyright infringement provisions, to provide that the making of copies or phonorecords of such performances or displays is not an infringement under certain circumstances, and for other purposes."