filing of records with such agencies or organizations. The authority contained in section 104(a) is not subject to the limitations set forth in section 104(b) or other limitations contained in the Act. The preservation of agency authority contained in section 104(a) is subject only to the requirements of the Government Paperwork Elimination Act.

Agencies that seek to promote electronic filings may set standards and formats for such filings as they deem appropriate. Standards and formats for electronic filings may be appropriate, for example, to ensure the integrity of electronic filings from security breaches by computer hackers. Likewise, agencies may set standards and formats for filings to promote uniform filing systems that will be accessible to regulators and the public alike, and to advance the agencies' statutory mission.

Section 104(b) allows agencies to adopt regulations, orders and guidance to assist in implementing the legislation, subject to standards set forth in section 104(b). Section 104(b) contains criteria for agencies to use, but because of the vast numbers of transactions that agencies regulate, agencies must necessarily have appropriate discretion to apply those criteria to determine when to require performance standards or, in some limited circumstances (in a manner consistent with the this bill and the Government Paperwork Elimination Act), paper records.

Having recognized in Section 101(d) the importance of accuracy and accessibility in electronic records, Section 104(b)(3)(A) recognizes the ability of federal regulatory agencies to provide for such standards. Section 104(b)(3)(A) gives federal regulatory agencies the flexibility to specify performance standards to assure accuracy, record integrity, and accessibility of records

Although agencies should seek to implement the goals of the statute, the bill also provides federal and state regulatory agencies the necessary latitude to prevent waste, fraud and abuse, and to enforce the law and to protect the public, by interpreting section 101 in the appropriate way for their programs and activities, subject to any applicable criteria in the bill. It is my understanding that courts reviewing any such agency interpretations or applications of such criteria would apply the same deference that they give to other agency action. It is not my understanding that the conference report would demand unusual scrutiny beyond applying the criteria set forth in the statute.

Consumers are given many protections in this legislation, and among those protections is the continued right to receive paper (or other non-electronic) notices on certain important occasions. For, example, Section 103(b)(2)(A) leaves intact laws that require paper notification of the cancellation or termination of utility services. This includes—but is not limited to—water, heat and power. Other utilities, such as telephone service (a utility critical to safety in modem times), would also be protected. Obviously, Internet service would also be included in this exemption, to avoid the anomalous situation of a consumer trying to obtain, understand and respond to a disconnection notice that is available only through the very medium that has been disconnected.

Consumer consent to electronic transactions is, in general, a critical safeguard that is maintained in this bill. The Chairman was absolutely correct when he began his statement by saying, ''. . . under E-Sign, engaging in electronic transactions is purely voluntary. No one will be forced into using or accepting an electronic signature or record. Consumers that do not want to participate in electronic commerce will not be forced or duped into doing so.'' However, the conferees recognized that there may be some specific instances in which stringent requirements for verifying consent might not actually be needed to protect consumers. Therefore, under the bill, agencies have a very limited authority to exempt certain transactions from the consent verification provisions. In those instances where it is truly necessary to eliminate a consent verification requirement—in part because there is no other way to eliminate a substantial burden on electronic commerce—agencies may sometimes be able to do so. However, even when eliminating a consent verification requirement is the only way to avoid a substantial burden on electronic commerce, an agency may do so only when there will not be any material risk of harm to consumers.

I would also like to make another point that is very important to keep in mind when trying to understand the impact of this legislation. Of course, the bill does not force Federal and State government agencies to use or accept electronic signatures and electronic records in contracts to which they are parties. Therefore, the limitations in parts of the conference reports such as sections 102(a), 104(b)(2) and 104(c)(1) on the ability of Federal and State agencies to interpret section 101 do not apply to contracts in which such agencies are parties. Just like private commercial parties, government agencies have the freedom to choose their methods of contracting, subject to other applicable laws. The conference report does not force parties to a contract to use any particular method in forming and carrying out the contract, and allows them to decide for themselves what specific methods to use. When the government is a party to a contract, it naturally has the same rights. The restrictions in the sections that I cited do not apply in that circumstance and do not diminish those rights.

Also, I note that this legislation was consciously drafted to avoid displacing the carefully-crafted provisions of the Government Paperwork Elimination Act, Pub. L. No. 105–277 sections 1701–1710 (1998), or GPEA. That Act set a timetable for Federal agencies to make available electronic alternatives to traditional paperwork processes, and set standards for agencies to apply in determining whether and how to adopt such alternatives. To the extent that the two bills do overlap, this bill is crafted to allow agencies the flexibility to comply with the existing standards set forth in GPEA.

Finally, I would like to raise an important law-enforcement issue. Senator ABRAHAM's ''guidance'' states that ''if a customer enters into an electronic contract which was capable of being retained or reproduced, but the customer chooses to use a device such as a Palm Pilot or cellular phone that does not have a printer or a disk drive allowing the customer to make a copy of the contract at that particular time, this section is not invoked.'' (June 16, 2000, CONGRESSIONAL RECORD at S5284, 3rd column, last para.)

Section 101(e) addresses more than the application of the statute of frauds to contracts entered into electronically. Section 101(e) provides that the legal effect of an electronic record may be denied if it is not in a form capable of being retained and accurately reproduced. As a threshold matter, businesses create the electronic systems being used by the consumer. Those designing and implementing these systems are obligated to ensure that electronic records are accurate, and in a form capable of being retained. Notably, the bill also applies to businesses that are obligated to make and keep accurate electronic records for examination by government regulators (and, if necessary, for enforcement action). The fact that a consumer uses particular technology that does not immediately produce an electronic record does not excuse the other party's regulatory obligation to have accurate and accessible records or otherwise exempt the transaction from this provision. To suggest otherwise, flies in the face of the plain meaning of the statute and opens up a gaping loophole for fraudsters to take advantage of.

Conferees should be given adequate time to review and reach agreement on the statement of managers required under the Rules. This short-cut has proven to be a dangerous and unacceptable alternative.

VETERANS TRAVEL FAIRNESS ACT

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, June 21, 2000

Mr. STUPAK. Mr. Speaker, a major issue of concern for veterans and their families in rural areas all around this nation is the long distances they must travel to receive medical care at the VA hospitals. The current VA reimbursement rate for privately owned motor vehicle use is unreasonable and presents a real hardship for many rural veterans, some of whom must travel hundreds of miles to receive care. The issue is especially important now, because of the high price of gasoline.

As many of us know, the cost of driving and maintaining a motor vehicle is significant. The travel reimbursement rate developed for Federal employees reflects these costs. This rate is the established Internal Revenue Service rate, the same, fair rate that we are allowed to claim on our income taxes. Currently, the Veterans Affairs travel reimbursement rate is only 11 cents per mile, compared to a rate of 32.5 cents per mile used by Federal employees and the IRS.

Why should a veteran driving 100 miles across the state for medical care be reimbursed only $11.00, when a Federal employee gets $32.50 for going the same distance to a meeting in his own car? In fact, Department of Veterans Affairs employees themselves get reimbursed at the higher rate, while the clients they serve are expected to travel at a fraction of the cost. It simply does not make sense for the VA to use a different and stingy method to determine reimbursement rates for vets that are only one-third what is considered reasonable for Federal employees.

I am introducing this bill to amend Title 38, United States Code, to provide that the rate of reimbursement for motor vehicle travel regulated under the beneficiary travel program of

the Department of Veterans Affairs be the same as the rate for private vehicle reimbursement for Federal employees.

This is an equity issue and also a matter of respect in the way we treat our veterans. Our vets deserve the same travel reimbursement rate as Federal employees. Please join me in supporting this bill.