United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *108th* CONGRESS, SECOND SESSION

Vol. 150 WASHINGTON, MONDAY, APRIL 26, 2004 *No. 54*

Senate

The Senate met at 1 p.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by our guest Chaplain, CAPT Albert L. Hill, of the Chaplain Corps, United States Navy. He is stationed at the Naval Amphibious Base at Little Creek, VA.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Eternal Father, Lord of the nations, we, the people of this Nation, give You our thanks for the existence of our Senate. We lift up to You once again these 100 men and women we have selected from among us to serve in this place—to be the Senators who craft our laws and attend to our well-being as a people and a nation.

Amid the complexity and confusion of competing perspectives, attune their thoughts and their actions to Your Divine will so that each and all may speak what is true and do what is right and good. Sustain their patience and respect for those with whom they disagree, and provide them humility in the expression of their own convictions, recognizing the limitations of all human knowledge and understanding. Protect them and their loved ones from danger and disease. Shelter them from the pressures that every moment press in and down upon them so that they may always have room to breathe and time to think. Give to each man and woman in this Senate at least one moment of pure and honorable joy today, to restore a hopeful spirit in the midst of weary work.

Wise and gracious God, make this Senate a blessing to the Nation and to all the peoples of the world. Hear us and grant this prayer for the sake of Your glory. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today, the Senate will conduct a period of morning business until 2 p.m. I ask unanimous consent that the time be equally divided.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. FRIST. Following morning business, the Senate will resume consideration of S. 150, a bill relating to the taxation of Internet access. I remind my colleagues that the moratorium on these taxes expired last year. Last year we began consideration of the bill; however, it was set aside to allow the principals involved in the legislation an opportunity to try to negotiate a resolution. I have put everyone on notice that we would resume consideration this week, and it is time to proceed with this important legislation.

I had hoped the Senate would resume the bill today; however, there was an objection to proceeding from both sides of the aisle. Therefore, today, at 5:30 p.m., the Senate will conduct a rollcall vote on invoking cloture on the motion to proceed to S. 150. I encourage Members to allow us to go forward and begin consideration of this bill.

Members may want to offer other alternatives to the underlying moratorium; therefore, I hope that cloture can be invoked so we can allow amendments to come forward. If we are able to proceed to the bill, then I expect amendments and votes throughout this week, with the expectation of finishing the bill prior to the week's end.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 2 p.m., with Senators permitted to speak for up to 10 minutes each, equally divided.

Mr. FRIST. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WYDEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

Mr. WYDEN. Mr. President, I ask unanimous consent to speak for up to 15 minutes in morning business.

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

INTERNET TAXATION

Mr. WYDEN. Mr. President, this week the Senate will spend most of its time on the question of taxation of the Internet. Having been the principal sponsor of the legislation on this subject in the Senate twice, I would be the first to say this subject inherently is about as interesting as prolonged root canal work. But at the same time, I think it is fair to say the decisions the Senate makes with respect to this subject will say a whole lot about the future of the Internet.

For example, the decisions will determine, to some extent, whether e-mail

and spam filters and Google searches and Web sites and instant messaging are singled out for discriminatory tactics. The Senate is going to have to make some decisions about whether Internet access through cable is tax free, but consumers who choose DSL Internet access would get taxed.

I wanted to take just a few minutes this afternoon to go through some of the history with respect to this issue, and particularly suggest that I think the key, as the Senate takes up this subject, is to keep in mind two principles that have been important to me.

First has been the question of technological neutrality. I think it is absolutely key that as the Senate looks to make technology a policy that we ensure there is fair treatment and true competition among all of the various technologies that drive decisions in this field.

I say to the President pro tempore of the Senate, I can recall when we were looking at this legislation initially, and the Senator from Alaska was enormously helpful to me. What we found out was, for example, early on, if you bought the Wall Street Journal in some States and you got the interactive edition, you paid a big tax, but if you bought it the traditional way, through snail mail, for example, there was no tax. That, it seemed to me, was not technologically neutral. That did not ensure we would have competition in the greatest possible way to benefit the consumer, and that was very much at the heart of my concern as I authored in the Senate the first internet tax freedom bill.

The second concern that was foremost in my mind was the question of how this would affect our States and localities with respect to revenue. At that time, we had a number of Governors, mayors, county officials, and others expressing tremendous concern with respect to revenue. I have always tried to take those concerns very seriously. That is why I wanted to outline some of what was said during the years when those early bills were debated because I think we are going to have a repeat of those discussions.

To some extent, some of the State and local officials who raised concerns about the revenue impact of what we did during the first two iterations of the internet tax freedom bill have dusted off the arguments and, in effect, brought them to the Senate again.

To go through some of the history, if I might, back in 1997, the National Governors Association, an organization I tremendously respect, said the Internet Tax Freedom Act would ''cause the virtual collapse of the State and local revenue base.'' But the record shows that the following year, State and local sales tax revenues were up $7.2 billion.

Let me repeat that. We were told in 1997 that we would have a virtual collapse of the State and local revenue base. The following year, we saw a significant increase in local and State tax revenues.

In 2001, when we dealt with the issue again, opponents said:

> The growth of e-commerce represents a significant threat to State and local tax revenues and they might lose tax revenue in the neighborhood of $20 billion in 2003.

Once again, the record shows otherwise. According to the National Association of State Budget Officers, State sales tax collections rose from $134.5 billion in 2001 to $160.4 billion in 2003, an increase of more than $15 billion in just 2 years.

We saw this pattern continue in 1998 as well when the National League of Cities said:

> A tax-free Internet would place Main Street retailers at competitive disadvantage and would doom the sales tax.

But e-commerce still only represented 1.6 percent of total retail sales in 2003, while brick-and-mortar retail sales grew from $2.6 trillion in 1998 to $3.4 trillion in 2003, according to the Commerce Department.

In three instances with respect to projections by the National Governors Association, the National Association of State Budget Officers, and the National League of Cities, as the Senate dealt with the two iterations of the tax freedom bill, when this body was told that tremendous amounts of revenue would be lost, in each instance, as I have just documented this afternoon, actual revenues collected went up rather than revenues going down.

The reason I have taken the time to go through that is I am sure during the course of this week, we are going to hear the same kinds of projections. We are going to see State and local officials come and say if the Senate reauthorizes this law that has been reauthorized twice, pretty much Western civilization is going to come to an end. They are going to say they are going to be in dire straits with respect to the funds they are going to need for critical services and that they will find all form of financial calamity.

I am very interested in addressing those concerns. I have great empathy for the challenge of funding State and local services, but I just want the Senate to know, and why I am focusing on this point at the start of the debate, that again and again over the last 7 years, as this debate has gone forward, the Senate has been given these projections about calamitous losses to our States and localities if the internet tax freedom bill is passed, and as I have pointed out, in instance after instance, revenue has gone up rather than down.

I think it is fair to say that all of these technologies, in the issue of whether someone gets internet access over DSL or whether they obtain it through cable, are complicated. That is why I, Senator ALLEN, Senator MCCAIN, and others who have worked on this issue have tried to spend time talking to all concerns. Frankly, we have made a number of changes in an effort to try to accommodate the issues brought up by those who do not share our view.

For example, we have in several instances tightened definitions of Internet access that have been raised. We have agreed to a request for new statutory language on what is called bundling, where various technologies are bundled together. We have added language to protect a host of taxes for States and localities, such as property and income taxes that have never been affected by the original legislation, but because there was concern on the part of States and localities, we wanted to drive home our intent not to have these areas taxed.

We have also agreed to a request for provisions to protect universal service, regulatory proceedings, and we also agreed to deal with some requests from States for what is called grandfathering so as to protect existing sources of revenue.

At the end of the day, we want to make sure that consumers who now hear the message ''You've got mail'' don't get a message, ''You've got special taxes.'' That is what this issue has always been about. It is clear from the history of this legislation that we do not want the Internet to get preferential treatment, nor do we want it singled out for discriminatory treatment. That is what I sought to do when we began this debate late in 1996. I pointed out, for example, how a newspaper that was purchased online would be taxed, but a newspaper that was purchased in the traditional way would not be taxed. That is not technological neutrality.

That is what the sponsors of this legislation are seeking to protect. The alternative that several of our colleagues are interested in would take a very different approach. That alternative would essentially break up Internet access into individual components so that if they chose to do so, States and localities could tax each one of those components.

Under that, for example, Internet consumers could be subjected to close to 400 separate telecommunications taxes, administered by something like 10,000 different jurisdictions.

In effect, each piece of e-mail, the filtering systems that families use to block pornography and spam and each Web site, each blackberry message conceivable is exposed to tax by scores of jurisdictions. Each town that chooses to do so could tax the e-mail flowing through its phone or cable lines even if the e-mail was not being sent from or to someone in the jurisdiction. I think it is fair to say if even a modest portion of the jurisdictions that could impose these taxes chose to do so, we would be talking about a massive increase in the cost of Internet access to every consumer in America.

What I think this is really all about is that the States and localities essentially see the Internet as the last cash cow in the pasture. In effect, they have been barred by the courts from going after phone sales. They have been barred by the courts from going after

mail order. So now along comes the Internet, and the Internet is being seen as an enormous cash opportunity.

The fact is, Internet sales in 2003 are still only 1.6 percent of total retail sales. They grew at a far more modest rate than brick and mortar sales grew over the last few years, but that is not even the central point.

All of us understand the value of the Internet as a tool for businesses and communication and to improve health care and extend cultural opportunities. The Chair and I share a State with mostly small towns and folks who have to go great distances, and the Internet is one of the best tools, if not the ideal tool, for compensating for major distances from commercial centers and major population centers.

So I hope my colleagues will think through the history I have outlined with respect to the revenue protections and the question of whether vast amounts of revenue are going to be lost because I think the record shows those dire projections to State and localities have not come to pass.

I hope my colleagues will also see the principle of technological neutrality that I sought 7 years ago still is a sound one and one that the Senate ought to preserve. It does not make sense to me to say, for example, that cable Internet access ought to be tax free and then stick it to consumers who choose DSL Internet access.

So we are going to be dealing with these issues over the course of the week, but I wanted to take a few minutes to make clear that we are going to be protecting the States and localities from property and income taxes and telecommunications carriers. They are concerned about it. We agreed to their proposal to deal with what is called bundling to make sure that Internet service providers cannot hide from tax services that would otherwise be subject to bundling. We narrowed the definition of Internet access so as to try to find common ground.

States and localities were concerned about sweeping up all telecommunication services into Internet access so that no telecommunication service could be taxed. The changes in definitions that we made narrowed the definition and ensured that the Senate would still keep up with the significant technological developments in the field.

The bill ensures that all platforms, whether dial-up, digital subscriber lines, cable mode, satellite, wireless, or any other technology platform, as well as the components used to provide Internet access, would be covered by the moratorium.

So I think we are going to have an important debate this week. I expect to spend a fair amount of time on the Senate floor as we discuss it. This has never been a partisan issue. I have worked on this legislation with Chairman MCCAIN and with Senator ALLEN over the last few years since he has come to the Senate. I think ultimately the decisions that the Senate makes are going to say a whole lot about where the Senate wants Internet to go in the future.

I cannot believe the Senate wants to subject e-mail, blackberries, and a variety of technologies to scores of new and discriminatory taxes. That is what this debate has always been about: should the Internet be subject to discriminatory taxation. If a jurisdiction, for example, taxes brick And mortar sales, they can tax sales online and through the Internet in exactly the same kind of fashion.

I hope the Senate can find common ground on this legislation this week and continue a law that has worked. I am proud to be able to have been a part of this consideration over the last 7 years, and I hope we can pass reauthorization for a third time so as to promote true competition between all technologies in a fashion that ensures that this idea of technological neutrality we had 7 years ago is preserved, and to do it as we have sought to do so that the dire revenue projections we will hear this week about States losing vast amounts of money will not come true as they have not come true over the last 7 years.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. LEAHY. Mr. President, what is the parliamentary situation? Are we still in morning business?

The PRESIDING OFFICER. The Senate is in morning business.

Mr. LEAHY. I thank the Chair.

ENVIRONMENTAL POLICY

Mr. LEAHY. Mr. President, last Thursday I came to the floor to mark Earth Day, and I wanted to highlight the laser-like focus of the Bush administration in rolling back 30 years of environmental protections. When one looks at their record, it is literally breathtaking.

The reason I am concerned about this is that most of our environmental legislation was put together by bipartisan coalitions. In my State of Vermont we do not think of the environment as a Republican or a Democratic issue. We think of it as an issue of protecting what is best about our country and protecting it for not only ourselves but for our children and our grandchildren.

Unfortunately, this administration tends to look at the environment as something where they should react to their largest contributors and take advantage of what it may do for them today and let our children and our grandchildren worry about it tomorrow.

Why do I say this? Three years into office, the Bush administration has taken well over 300 actions to weaken and sometimes to gut environmental protections to clean the air we breathe, the water we drink, and the food we eat. They have taken huge steps to hand over our public lands to timber, oil and gas companies for more drilling and logging.

With this record, it is no wonder that the administration continues to use every page of its public playbook to downplay the effect of these rollbacks.

One of their favorite tactics is announcing environmental rollbacks on Fridays or around holidays when they think the American public will not be paying attention. In fact, we all know if you have something good you want to announce, you do it early in the week, you do it with a lot of fanfare. But if you have something you don't want anybody to pay much attention to, you do it late on Friday.

The administration has announced at least 40 environmental rollbacks on Fridays, another 20 on holidays. Actually, for them, every Friday is Friday the 13th: Friday, November 22, the clean air rollback; Friday, January 3, 2003, fast-tracked logging; Friday, January 29, 2003, clean water protections threatened; Friday, July 11, 2003, weakened our drinking water protections; Friday, October 10, 2003, changed environmental rules for mining waste; on Friday, October 17, 2003, dioxin regulation, or in this case deregulation. And on and on. These are just a few of the actions they have taken on Friday. They show just how far the administration has gone in gutting the Clean Air Act, ramping up logging in some of our spectacular national forests, dumping more mining wastes on public lands, and dumping more sewage sludge on private lands.

Another favorite tactic is either ignoring or sometimes, if the science doesn't suit their political needs, if they cannot get away with ignoring the science, then they just change it. One of the most blatant examples of this was the White House scrubbing of an annual EPA air report to avoid any mention of evidence of climate change.

Just recently, the New York Times reported on the creative White House fact spinning of the administration's proposed retreat from strong mercury controls at powerplants.

We all recognize their favorite tactic: If you are going to gut the environment, then just give it a nice name. You can see the number of focus groups they must use in the administration to come up with these names. They don't say, we are going to join Polluters-R-Us, or we are going to give a payoff to some large polluting corporation because they helped out in a fundraiser. Instead, they will go to focus groups and find out what will sound good to people, what is a good line we can use and maybe they won't look behind it, maybe they will just look at the rhetoric and ignore the reality.

I will give some examples. ''Clear Skies'' and ''Healthy Forests''—these are lines they use, but they are just about as accurate as ''No Child Left Behind.''

They have used all of these tactics when it comes to misleading the public. For example, on wetlands protections, last January—on a Friday, of course—the administration announced one of its most sweeping rollbacks to take away protections under the Clean Water Act for 20 million acres of wetlands. This policy created such a groundswell of opposition from hunters, anglers, environmental groups, and others that the President finally withdrew the proposed rulemaking last December. One of the things they found out is hunters, anglers, and environmentalists often include a whole lot of Republicans as well as a whole lot of Democrats, and that the environment is not just for one party. But they got such enormous objection that they withdrew it—they had to withdraw it—but they did not tell the public they were not revoking the underlying instructions to Federal agencies to follow the same policy that leaves 20 million acres of wetlands at risk.

That is why I found it so interesting that the President would start his reelection attempts to greenwash his administration's anti-environmental record by talking about wetlands. Here you have this enormous anti-environmental record. You put at risk 20 million acres of wetlands. You would think the last thing in the world they would want to do is talk about wetlands, but that is what he started with. He had some nice photo-ops walking around the salt marshes and wetlands of Maine, but when you look between the lines of his Earth Day announcement, it doesn't hold water.

While the President was touting his plan to restore 1 million acres of wetlands, he made no mention of his policy to revoke protection of 20 million acres. We will give you 1, we will take back 20. He didn't tell the folks in Maine that he proposed to cut the funding next year for one of the programs, the Wetlands Reserve Program, that was supposed to help meet his 1 million-acre target. You take back 20 million acres, you promise 1 million acres, but then you say, we won't even give you the money for the 1 million. He did not tell the folks in Maine that his administration has not fully funded this program since Congress expanded it in the last farm bill.

Yes, as he said in Maine, the President did indeed sign the farm bill to expand it. That is part of his job. But it is quite a leap for the administration to now promote that as one of their environmental accomplishments. In fact, the administration has done everything it can to shortchange the conservation programs that are so important, not only to Maine and Florida but to every other State. He not only proposed cuts to the WRP but also to other programs that might help landowners and farmers conserve the resources on their land.

When the President went down to Florida campaigning the next day, he also forgot to mention a few key facts, such as the fact that the Army Corps has allowed more than 3,800 acres of wetlands to be drained or filled in the Everglades. The Bush administration stood by and watched as the Army Corps signed off on development permits that are destroying the Everglades. It has also argued against Clean Water Act regulations of water being pumped from urban Broward County into the Everglades.

If you go back to the 300-plus rollbacks under this administration, it brings up even more policies that are hurting the environment in Maine and Florida and Vermont. The administration's retreat from aggressive mercury controls on powerplants has just been the most recent of these all-out environmental assaults.

It is hard to say we are family friendly when we are going to put more mercury into the air, the water, and the fish pregnant women eat, or by which the newborn children might be affected. That is not being family friendly, to say we have to support our polluting industries because they have been strong supporters of the President and it is tough about the newborn children.

The President, as any President of any party, can always get nice photo-ops. But his record on the environment is too mired on reversals and rollbacks for any greenwash to last too long. Greenwash, like whitewash, doesn't stick too long, and despite all the public relations maneuvering, the public recognizes the enormous and long-term effect of the Bush policies on our environment and on our health. When the administration is done, it will mean more pollution in the rivers and streams, more toxins in the air, and of course a lot less natural resources to pass on to the next generation.

I yield the floor.

The PRESIDING OFFICER. The Senator from South Dakota.

Mr. JOHNSON. Mr. President, I ask unanimous consent to address the body for 10 minutes as in morning business.

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

DRUG PRICING

Mr. JOHNSON. Mr. President, the United States remains the only developed nation that does not protect its consumers from drug price discrimination and, as a result, American consumers continue to pay the highest prices in the world for prescription drugs.

Drug spending in the United States and Canada rose by 11 percent last year to $230 billion, which accounts for nearly half of all the worldwide sales. Among seniors, total prescription drug spending rose an estimated 44 percent between 2000 and 2002. In 2002, a Families USA study found that for the 50 drugs most frequently used by seniors that year, prices rose 3.4 times the rate of inflation in 2002.

The House Committee on Government Reform report released last year found that seniors who lack drug coverage must pay twice as much for the five most popular drugs as purchasers in foreign countries, those prices being 131 percent higher than the United Kingdom, 112 percent higher than Canada, and 105 percent higher than France. For some drugs, U.S. seniors pay well over twice the price. For example Zocor, a cholesterol medication, costs only $37 in France for a monthly supply, but in the United States that same drug costs $117—over three times as much. A month's supply of Prevacid, an ulcer medication, costs only $42 in the United Kingdom compared to $118 in our country.

Clearly, this price discrimination must be addressed. Many, including myself, had hoped that the Medicare drug bill would be the first step in tackling the skyrocketing cost of prescription drugs. Unfortunately, the final product did very little to address these concerns. The new law expressly prohibits the Secretary of the Department of Health and Human Services from negotiating lower prices.

Again, this law not only does not correct the price differential, believe it or not, the new Medicare drug bill signed by the President last December actually prohibits the United States from negotiating lower drug prices the way every other foreign nation does. The United States remains alone.

When I traveled to South Dakota earlier this year to discuss the Medicare bill, seniors back home found this astonishing.

The new law also includes provisions that will allow the Secretary to prohibit real access to drug reimportation. Meanwhile, the cost estimates of the new prescription drug program continue to rise—to somewhere between $500 billion and $600 billion over 10 years.

We are in need of real solutions to this problem. It is my hope a real discussion could occur about drug pricing. What do we do about that gap and about the fact that American citizens pay twice the price or more as citizens of other nations?

There are several alternatives. We could allow drug reimportation from Canada or other countries and take advantage of their lower prices, and do so in a carefully monitored way that will secure the safety of those drugs. That would be one course. But, unfortunately, the White House and President Bush are opposed to that.

Second, we could be more direct. We could join the rest of the industrialized world and negotiate in behalf of our own citizens lower prices. That is what everybody else does. That is why France, Italy, Germany, Scandinavia, Great Britain, Mexico, Canada, and every other industrialized nation have

prices far lower than the United States. But President Bush and the administration don't want to do that either.

Do you know what their answer is? Their answer increasingly is to use our trade rules not to cut the price of drug costs for U.S. citizens but to demand that other countries raise their drug prices on their citizens. That almost boggles the mind—that the solution is not to lower the cost of drugs for U.S. citizens but to raise them for everybody else in the world. Maybe in this case it is the United States that is out of step and the rest of the world has been in step in terms of drug pricing. The rest of the world has figured it out and we haven't.

In this country, we have done an extraordinary job of guaranteeing that the pharmaceutical industry has incredible levels of profits. And, of course, this new effort to use the trade rule would further enhance the profitability of the big drug companies, but it would do little or nothing for U.S. citizens. What good does it do U.S. citizens to know that the citizens of other nations have to pay higher prices? We need to moderate those prices and get the United States in step with the rest of the industrialized world.

It is an outrageous tactic to push the U.S. Trade Representative—USTR—to try to force other countries, through trade agreements, to up the price of prescription drugs in those nations. Most recently, the Speaker of the House and some in the Republican leadership in the Senate have advocated that USTR negotiate with Australia to increase its drug prices within its Pharmaceutical Benefits Scheme, or PBS. These proposals are outrageous for several reasons.

First, our Government should not be telling other nations how to run their health care system. How would we feel if Australia asked us to develop a universal health care program and do so in a way that would cost our citizens more than was necessary? Many of my colleagues and I do not believe anybody would believe it is appropriate for another country to tell us how we should run our health care system in America. Additionally, I find it inappropriate that some in Congress and the administration find it appropriate to ask other countries to increase their drug prices, but we certainly wouldn't do the same for our citizens at their request.

Would we be willing to increase drug prices under the VA program because Australia asked us to? I doubt it. I hope not.

Some of our colleagues will say other countries need to share the burden of research and development and that in so doing we will indirectly help to reduce prices in the United States. We should be very clear. Any trade agreement proposal that would require another country to increase its prescription drug prices provides no guarantee that prices will go down for U.S. consumers.

Does anyone really believe the pharmaceutical industry, which is reaping the highest profits of any sector of the Fortune 500, wouldn't pocket these as additional profits and say, Thank you, very much? Why would they lower costs to U.S. citizens? There is no data available to indicate that our prices would go down. In my mind, if this argument is the underlying justification for promoting these types of policies, the Trade Representative and members of Congress supporting these plans and the President owe it to our trade partners and American consumers to provide them the data—the proof that American consumers would benefit from increasing drug prices for everybody else around the world.

I also think we need to be very careful when making these assumptions—the unspoken assumption here—that research and development is the cause of our higher prices in this Nation. Isn't it the reality—that the lion's share of the prices paid by American consumers is not going into R&D but is going into the pockets of the pharmaceutical industry and its stockholders rather than research and development. There are very few industries that can boast the type of sales claimed by the drug industry, which has enjoyed average annual sale increases of 15 percent in recent years.

A Public Citizen June 2003 report found that in 2002 the top 10 drug companies netted profits of $36 billion, or more than one-half of all the profits of all the Fortune 500 companies.

While some may argue this increased spending is justified because it reduces other costs of health care spending, the overall rate of health care inflation continues to soar with no end in sight.

Beyond straight profits, the pharmaceutical industry continues to increase their spending on direct consumer advertising and lobbying. One study found that eight major American pharmaceutical companies spent more than twice as much on marketing and administrative costs as they did on R&D. For all the talk about research and development, in fact, more than twice of that is being spent on marketing and administrative costs.

The Security and Exchange Commission's 2002 financial data finds that for the fiscal year ending in December of 2002, the average profits of Pfizer, Merck, Bristol-Myers Squibb, Abbott and Wyeth was $5.1 billion, marketing and administration were $5.2 billion and R&D was much less at $2.3 billion. And let's not forget the campaign spending habits of the drug industry. During the 2000 election cycle, the drug industry gave disproportionate support to President George W. Bush and seventy percent of the industry's unprecedented $24.4 million in campaign contributions was spent on Republicans.

With all this in mind, I find it very hard to believe that American consumers are carrying the research and development burden, rather than the stockholder profit burden. And given that drug companies spend more on TV ads, marketing and administration than they do on drug research, perhaps we should first ask why the domestic pharmaceutical industry won't spend more of its money on developing new drugs, before we start asking our trading partners to pay higher prices for drugs.

The outcome of the Australia trade agreement included requirements that the PBS program in that country provide more transparency in how decisions are made about covered drugs. The PBS system seems to me to be a very good system. Before a medicine can be subsidized by the Australian government, the Pharmaceutical Benefits Advisory Committee or PBAC must recommend that a drug be listed on the PBS. When deciding what drugs make the list, the PBAC takes into account the medical conditions for which the medicine has been approved for use, its clinical effectiveness, safety and cost-effectiveness compared to other treatments. A drug providing new benefits receives a higher price reflecting that advantage. This system rewards true innovation by the pharmaceutical industry while ensuring value for the taxpayer dollar.

This is a well thought out and scientific process and I think the U.S. should at least explore similar steps in order to reduce drug prices under the Medicare program. I also think that the clinical comparative effectiveness analyses that the PBAC conducts are something that we should be making a priority in our country. The U.S. should also establish an independent source of this type of information. Right now, one of the reasons drug costs are so high in the U.S. is because consumers, doctors and purchasers do not have access to objective, unbiased, reliable data to compare how drugs measure up to one another. This type of information would force drug companies to truly compete with one another based on the value of their products. Australia is on the right track here and we should follow suit.

With the help of Senator CONRAD, I am pleased we were able to obtain support during the Fiscal Year 2005 budget markup for a sense-of-the-Senate resolution supporting $75 million for the Agency for Health Care Research and Quality for getting these types of studies—drug comparative effectiveness studies—that are needed to find out what the real facts are. Having such information available and accessible to physicians and their patients has the potential to reduce our nation's prescription drug expenditures, by enabling doctors to make better informed prescribing decisions. I hope that my colleagues will support funding this year for these fund, which in the long run will mean lower drug prices for all Americans.

The very notion that the response from the Bush administration is not to allow cheaper drugs into the United States and not to negotiate lower

prices for our citizens the way every other nation does but to try to demand that other countries raise the prices for their drugs indicates that the administration is out of touch and out of tune with the real needs and real priorities of American citizens. I urge my colleagues to join me in rejecting these proposals and ask that all members of this body work together to achieve real solutions to address the skyrocketing costs of prescription drugs.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. DORGAN. Mr. President, while we are waiting for someone from our side who will manage the issue dealing with the Internet tax, I ask unanimous consent to speak in morning business for as much time as I may consume.

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

FISCAL POLICY

Mr. DORGAN. Mr. President, while this week we will take up the Internet tax issue, which is complicated and, in some ways, controversial—and I expect it will take some time—I wanted to mention something about fiscal policy for a moment and hope that perhaps this week, or in the intervening weeks, we may take up a couple of these issues.

As you know, we have a Federal budget deficit that will be in this fiscal year the largest in the history of this country, by far. They say now there will be over a $530 billion Federal budget deficit in this fiscal year. I think everyone understands that saddling our children and their children with debt they must pay because this President and this Congress has decided we will spend money we don't have—we will borrow it and saddle someone else with the responsibility to pay it—is wrongheaded fiscal policy. It is bad for this country; it doesn't represent a value system that we should embrace, and, second, in the long-term it retards economic growth and crushes opportunity in the future for our children and those who follow them.

My hope is we will begin to address this issue of fiscal policy. We cannot spend more for defense—nearly $100 billion more for defense and say, by the way, we don't have to pay for it. We cannot spend more for homeland security and say it doesn't count, we don't have to pay for that. We cannot cut taxes as we spend more for defense and homeland security and, as we spend more for health care, which costs more each year, say we will just charge all that. That is not a responsible thing to do.

But we have a Federal budget that is sent to us, which comes from the President, and then the Congress works on this budget plan that says a couple of things. We know we are going to have increases in health care spending. We know that because both Medicare and Medicaid represent entitlement programs, we know the cost of health care spending is increasing. We know the President is recommending very substantial increases in costs for defense. We know the President is recommending substantial increases in spending for homeland security. We also know the President is recommending making permanent tax cuts, which at this point are temporary.

The point is that this doesn't add up. It is a fiscal policy that doesn't add up. So how could we begin to make some sense of this? There are a couple of things that have happened in recent weeks which I think we need to address. This past weekend there was a story in the Washington Post about the issue of the $145 billion mistake that was made in the estimate of the cost of the prescription drug plan for Medicare.

We are told now from press reports that the chief actuary who works on the Medicare Program knew long before the Congress voted on a prescription drug plan in the Medicare Program that this would not cost $400 billion, as was provided for in the budget, but, in fact, would cost over $140 billion more than that during the 10-year period. But he was told he would be fired if he informed Congress of this information. So the Congress acted without having information that was available in the executive branch because the chief actuary, who is not partisan—he is not part of the political system, he has been a career public servant and, by all accounts, an excellent one—was told he would lose his job if he informed the Congress of what this would cost.

I think there needs to be an investigation into who threatened this person's job, who had this information and refused to turn it over to Congress, who indicated it was inappropriate for the Congress to know this information before it voted on this legislation. I believe this Congress owes it to the American people to investigate that because how can we legislate in the future on issues of this type without having adequate information or without being able to trust the information that is coming from, in this case it was Health and Human Services and from the chief actuary of the Medicare Program?

I believe one way or another in the coming weeks, we ought to find a way to investigate that circumstance. I believe we owe that to the American people.

FUNDING MILITARY OPERATIONS IN IRAQ

Mr. DORGAN. Mr. President, what I want to talk about, in addition to the prescription drug issue, is the notion that—at the end of last week it was addressed—we would probably need more money for the military with respect to the fighting that is occurring in Iraq and Afghanistan. This Congress passed a supplemental emergency bill that was nearly $87 billion—I believe it was just under $87 billion—some months ago. We were told that would take us through the end of this calendar year and perhaps even a bit more.

The President's budget that was sent to us contained zero money requested for the activities in Iraq and Afghanistan. The reason the President recommended there would be no funding in the regular budget for Iraq and Afghanistan is because he and the administration said they could not estimate what it would cost; therefore, they recommend zero.

We know it is not zero. We know we are spending $5 billion a month—$4 billion in Iraq and $1 billion in Afghanistan. If we are spending $5 billion a month or $60 billion a year, it is unfathomable to me that we get a budget request from the President that says, ''I recommend nothing at this point because I will later on ask for an emergency appropriations.''

Late last week we heard perhaps more money will be needed than was otherwise expected and that Congress would be asked to appropriate this on an emergency basis.

It is clear to me we will do whatever is necessary to protect the safety of the troops we have sent to Iraq. There is no question but that when we ask American men and women in uniform to fight for this country and to defend this country's interest and then to send them overseas, there is no question we have an obligation to protect them and provide for their safety. If they need more equipment, if we need to spend more money to provide for their safety, this Congress, in my judgment, is going to do that.

Let me make a point about all of this. In addition to providing the supplemental emergency funding that was necessary for the Pentagon some months ago—almost 6 months ago now—we also were requested by the President to appropriate $20.3 billion for reconstructing Iraq.

I offered an amendment in the Senate to strike that spending. It was the largest proposed spending cut for this fiscal year that was offered in the Congress. The single largest spending cut that was offered last year is one I offered on the floor of the Senate to strike the $20.3 billion for reconstructing Iraq.

I came up short. I had over 40 votes for the amendment, but, nonetheless, it did not prevail. I want to explain why I did that and why it has relevance today.

I proposed striking that funding for a very simple reason: We did not target Iraq's infrastructure. When we decided to displace Saddam Hussein and send American troops to Iraq, we did not

target their roads, bridges, dams, or electric grid. That is not what we targeted. We did not try to bomb Iraq in a way that destroyed their infrastructure.

It is my judgment the American taxpayers should not be required to rebuild the Iraq infrastructure. Iraq has the second largest reserves of oil in the world, next only to Saudi Arabia. In fact, one of the troops who came back from Iraq with the National Guard unit from North Dakota told me one day he was standing in an area in Iraq, in some sandy area, and the bottom of his boots became black with oil.

There is a great deal of oil in the country of Iraq. I believe, based on Ambassador Bremer's testimony of how much oil they would be pumping this year and next year, that when they get to 3 million barrels of oil a day, which is something they will reach very soon, they will have $16 billion of net export value of oil in Iraq—$16 billion a year. That is $160 billion of net export value of oil in 10 years. That is above and beyond that which they need to use in Iraq.

It seems to me with respect to the reconstruction of Iraq, it makes a great deal of sense for a country with the second largest reserves of oil in the world to be told the Iraq people ought to use Iraqi oil to reconstruct Iraq. It is not the job or the burden or the responsibility of the American people to reconstruct Iraq.

I lost that debate in the Senate and lost the vote. So now we have just under $20 billion available to reconstruct Iraq. There is a very thick booklet that describes the reconstruction of Iraq. There is a jobs program for Iraq paid for by the American taxpayers. There is a housing program for Iraq paid for by the American taxpayers. There is a highway program for Iraq, a health care program for Iraq, a security program for Iraq, all paid for by American taxpayers. There is marsh restoration and there is the creation of ZIP codes, all paid for by the American taxpayers.

Since I lost that vote on the floor of the Senate and since nearly $20 billion was then appropriated for the reconstruction of Iraq, paid for by the American taxpayers, I have watched the progress of that reconstruction and I noticed, for example, some of the things that were happening in Iraq with respect to expenditures. I have been bothered about it, but nonetheless I had my vote and I lost that vote.

Then last week, I learned we are short of money for the troops in Iraq, and it is very likely an emergency supplemental request will need to be passed by the Congress and, indeed, we will pass it if it is necessary to support the troops in Iraq. I checked and discovered at the last count, somewhere close to $17 billion—$16-plus billion—remains unspent with respect to the reconstruction funds that were appropriated by the Congress for Iraq. It seems to me what we ought to do is transfer that unexpended reconstruction funding and use it for the benefit of the support of the American troops in Iraq.

If, in fact, we are short of money, if we are going to need to expend additional emergency funds in Iraq, why not use the funds that are unspent at this point for the reconstruction of Iraq and, indeed, use that for the support of the American troops in Iraq, and then engage the Iraqi government—first of all the provisional government and, second, the government that takes effect on July 1—and have that government securitize future production of Iraqi oil and raise their own funds to reconstruct this country. It is their job, not the job of the American taxpayers, to have a program for housing, health care, jobs, and highways in the country of Iraq. That ought not be the burden of the American taxpayer.

When we have a fiscal policy that is desperately out of balance and we are borrowing money at a record pace—$530 billion this year alone—I think it is responsible for us to take a look at how we might ease that burden and at least one small portion of that ought to be to revisit this proposition of a reconstruction fund for Iraq. A substantial amount of that money is as yet unspent.

Incidentally, while I am on the subject, let me also say with respect to the military funding, we need to do a much better job with that expenditure. I noticed, for example, the Halliburton Corporation—I held a hearing on this subject in the Democratic Policy Committee a couple of months ago—the Halliburton Corporation has had to now restore funding for kickbacks they made for inappropriate expenditures.

Here is a company, for example, that was billing the U.S. Government, the Defense Department—therefore, the U.S. taxpayers—they were billing us for serving 42,000 meals a day. The problem was they were only making 14,000 meals a day for the American troops. Somehow 28,000 meals got lost. They were overbilling by 28,000 meals a day. I come from a small town of about 300 people. I can understand somebody overbilling for 10 meals, maybe 100 meals, but 28,000 meals a day? That is absurd.

That is the sort of thing that the American taxpayer reads about and is angry about, and should be because there is a substantial amount of money being wasted, yes, even in these defense contracts. That is something the American taxpayers expect better of with respect to the use of their funds.

I want to come back to this central point. I think it is time we revisit this question of reconstruction funds for Iraq. I suggest we do that by deciding that which is yet unspent be used to support the American troops because we are told there is not sufficient money to do that at this point, and I believe, because it is not the American taxpayers' burden to reconstruct Iraq but it is the American taxpayers' burden to support troops who we have asked to go in harm's way on our behalf, that this would represent a positive step and would also help with fiscal policy that now is creating the largest deficits in history.

We will be on the subject of the Internet tax issue soon, and I will have more to say on that subject later, but in the meantime I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mrs. DOLE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

ON THE DEATH OF STAFF SERGEANT CORY W. BROOKS

Mr. DASCHLE. Madam President, South Dakotans have a proud tradition of military service and volunteerism. Today, in Iraq, a new generation is carrying that tradition forward. South Dakota's percentage of its citizens serving in active duty in Iraq is among the highest in the Nation.

The spirit of service and volunteerism runs throughout South Dakota's towns and neighborhoods, and young children grow up learning that they have an obligation to one another, to their communities, and to their country. The families of South Dakota look upon the service of our young men and women with great pride, because they are carrying the values of South Dakota across the world and bringing freedom to the people around the world and the people of Iraq.

Alongside our pride for our soldiers' service comes an awareness of the cost. As our soldiers shoulder much of the burden of battle, so, too, must our communities shoulder a greater burden of grief.

We were reminded of this yet again this past week.

On April 19, SGT Keith O'Donnell, a native of McIntosh, SD, and a member of the 141st Engineer Combat Battalion in the North Dakota National Guard, was injured when an explosive device detonated during his patrol.

South Dakota this week also mourns the death of Staff Sgt. Cory Brooks, from Philip, SD. SGT Brooks was a Combat Engineer in the 153rd Engineer Battalion. SGT Brooks' death comes just 1 week after the death of another member of the 153rd, Specialist Dennis Morgan, from Winner, SD.

Cory Brooks was typical of South Dakota's youth. He grew up playing backyard wiffle ball in the summertime and football in the fall. He was a loving son, a good student, and a caring friend.

Ray Rhodes, the father of Cory's closest friend and one of Cory's high school football coaches said, ''He was just like family. He was one of those kids you love to work with. He was

very happy-go-lucky.'' Cory's friend, Ray Coyle, remembered him for his sense of fun and his friendship. ''He was a very loyal friend. I could count on him for whatever,'' he said. ''We shared a lot of laughs. Cory was up for anything to have fun.''

Perhaps what made Cory most typical of South Dakota's children was his eagerness to serve his country. He joined the National Guard after high school, in 1989, and served continually for the past 15 years. His battalion was deployed in February. Staff SGT Brooks and his comrades were stationed at Forward Operating Base Chosin, south of Baghdad. They were engaged in the difficult and dangerous work of defusing roadside bombs and other explosives. It was the kind of service the friends of Sgt. Brooks would have expected from him: He put himself at greater risk in order to make things safer for those around him.

Forty years ago, President Kennedy noted that no nation ''in the history of the world has buried its soldiers farther from its native soil than we Americans or closer to the towns in which they grew up.'' Cory Brooks learned the values of service growing up in South Dakota. And it is the measure of those values that he and so many other children of my State have volunteered to put their lives at risk to bring freedom and security to people all across the world.

Cory Brooks, like those who preceded him in Iraq, was a hero in the truest sense. His Nation mourns his loss and offers his parents, Darral and Marilyn Brooks, its prayers, its condolences, and its gratitude.

TRIBUTE TO MARY McGRORY

Mr. DASCHLE. Madam President, today is the funeral of another American. This American fought for 50 years, in her own inimitable way, to defend the ideals of our democracy.

Mary McGrory was the most elegant political writer I have ever known, and one of the bravest. She loved many things in life: a well-told tale, a good joke, good books, good dogs, orphans, lazy August days in Italy, time with her family in Boston, and almost everything about her Irish-American heritage. Most of all, Mary McGrory loved politics and newspapering. I sometimes thought she had newspaper ink in her veins. She never tired of asking questions, chasing stories or writing truth.

I can't count the number of times that I have held press briefings in the hallway just off this floor, surrounded by two or three dozen reporters, all jostling for position. And there, among them, was Mary, reporter's notebook in hand. She was 40, 50 years older than some of the other reporters, but there she was, in the thick of it. She didn't need to be there. She could have asked a colleague to pose her question for her and relay the answer to her. But that was not the way of Mary McGrory. She had an extraordinary eye for the telling detail. She wanted to see and hear things herself, and form her own judgments. President Nixon put her on his enemies list, but many of us adored her.

In the last year, a stroke robbed Mary of her legendary ability to find just the right word. But she remained a passionate observer of politics and of life. Many of us hoped that she might regain her mastery of words and resume writing. If anyone could conquer the ravages of a stroke, Mary seemed like a likely candidate. But Mary will live through her words. She was an American treasure.

Many times this past year, I have missed Mary's wise voice. I am sure I will miss her often in the future, too. These are hard times for our Nation. We could use Mary's insight, her passionate commitment to peace and her fierce belief in democracy. Fortunately, Mary has left us more than a half-century of extraordinary work—work for which she won a Pulitzer Prize and the respect of untold millions. There is more than enough beauty, wit and wisdom in her words to last a lifetime.

I am honored to have known Mary McGrory. My thoughts and prayers are with her family and her many, many friends. We have lost a legend.

Mary's cousin, Brian McGrory, is a columnist for the Boston Globe. Last November, he wrote a column for the Washington Post about what he called ''the amazing journey that is Mary McGrory's life'' and ''one of the most important, colorful and enduring newspaper careers that the American public has had the pleasure to experience.'' The headline on the column was ''The Best I'll Ever Know.''

I ask unanimous consent that his column be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Washington Post, Nov. 11, 2003]

THE BEST I'LL EVER KNOW

(By Brian McGrory)

Today, I ask your indulgence. I'm about to commit the boorish act of bragging about a relative, and I'm hoping you'll understand why.

Mary McGrory is my cousin. Merely typing those words fills me with pride. For the unknowing, she's a Post columnist, a lion of the left, winner of the Pulitzer Prize.

Born in Roslindale and educated in Boston, she has written about the world's most significant events for nearly 50 years. People still quote her words from the Kennedy assassinations. She landed prominently on President Nixon's enemies list. The elder George Bush once lamented in his private journal, ''She has destroyed me over and over again.''

I raise these points because in the amazing journey that is Mary McGrory's life, this has been a bittersweet week. Wednesday in New York she received the John Chancellor Award for Excellence in Journalism, but a sad reality came clear amid the laudatory words and the applause.

Mary fell ill in March, and eight months later she has yet to fully recover. Barring a breakthrough, she has probably written the last of her syndicated columns, ending one of the most important, colorful and enduring newspaper careers that the American public has had the pleasure to experience.

While most Washington pundits closet themselves with their own profound thoughts, interrupted only by lunch at the Palm with the secretary of Something, Mary employs old-fashioned tools: a sensible pair of shoes, a Bic and a notebook. She haunts congressional hearings. She sits with the unwashed in the back of the White House briefing room.

And after finding her perpetually lost keys and remembering where she parked, she rushes back to The Post to create elegantly understated prose, on point and on deadline.

Times have changed in the news business, but Mary never has. Technology baffles her, and I'm not talking about Palm Pilots and Blackberries. I mean the answering machine and the computer. I've received countless voice mails from her that proceed: ''Hello?'' Pause. ''Cousin?'' Pause. ''Click.'' In a rant against Toshiba, she once wrote, ''I came along in an era when the transmission of one's copy did not require an advanced degree from MIT,'' adding of the old days, ''all I had to carry was my portable typewriter, and I never really carried that.''

Indeed, from the very beginning, she mastered the role of the helpless naif. On her many campaign trips, if her colleagues aren't carrying her jumble of bags, then the candidate probably is. No one is exempt; to her, I'm more porter than reporter.

But that's just part of the deal. The reward is an invitation to Sunday supper. Members of Congress from both parties, diplomats, newshounds and activists gather regularly to dine on her lasagna and sing Irish songs. Newcomers are first sent to work in her garden; George Stephanopoulos might still be fertilizing her impatiens but for Bill Clinton's victory in 1992.

Her one true love was the Washington Star—''just a wonderful, kind, welcoming, funny place, full of eccentrics and desperate people,'' she once told an interviewer. Star editor Newby Noyes plucked her from the anonymity of the book section in 1954 to cover the Army-McCarthy hearings with the advice, ''Write it like a letter to your favorite aunt.''

When the Star closed in 1981, she went to the more formal newsroom of The Post, where she liked to remind people of the fun they didn't have. Still, its staff and owners have poured out their hearts to her since she fell ill, with a generosity like a throwback to another time.

Hers is a world of soft irony. She checks into elaborate spas in Italy every year, but while there always gains a few pounds. She was audited during the Nixon administration and got a refund. At a stiff Washington party, she once whispered to me, ''Always approach the shrimp bowl like you own it.''

Blood aside, in my chosen field, she's the best I'll ever know, and that's the joy and the sadness of it all.

Mr. DASCHLE. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

CONCLUSION OF MORNING BUSINESS

Mr. ALEXANDER. Madam President, what is the order of business?

The PRESIDING OFFICER. Morning business is closed.

INTERNET TAX NONDISCRIMINATION ACT—MOTION TO PROCEED

The PRESIDING OFFICER. The Senate will resume consideration of the motion to proceed to S. 150, which the clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 353, S. 150, a bill to make permanent taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act, and for other purposes.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I would like to address my remarks for the next few minutes on the discussion that we have been having for the last 6 months in this body on the question of how to deal with the phenomenon of high-speed Internet access. It is the fastest growing new technology in America, according to a New York Times article last week. We have some differences of opinion about how to proceed in terms of the taxation and regulation of this phenomenon, not only what it should be but whether the Federal Government, the State government, or local government should do it.

The leader has asked all of us who have different opinions to work together. We have tried that. We have worked hard. Senator MCCAIN, chairman of the Commerce Committee, has been especially involved. I am grateful to him for that. Senator ALLEN and Senator WYDEN, who have principled positions on this discussion, have worked hard to try to compromise on the issues, as have I and my colleagues, but we simply have a difference of opinion.

Now, today, we begin debating a motion to proceed and to move down a track in the Senate that, I believe, is the wrong track. I welcome this opportunity and I thank the leader for giving us a chance to have a full debate, which we will be having this week. I am confident that by the time we are finished the Senators who have had a chance to spend more time on this, and that the citizens of the country who have had a chance to understand more clearly what we are talking about, and the State and local officials who will see exactly what we are doing which might affect the future of State and local governments in America will suddenly say there is a little more to this than meets the eye and that we will come to a good conclusion.

I believe it was President Harry Truman who had on his desk a sign that said, ''The buck stops here.'' What we are about to do today and later this week with the consideration of S. 150 is to begin a series of votes about passing the buck. I looked on the Truman Presidential library Web site to see why Harry Truman, who was noted for plain speaking, liked the phrase ''The buck stops here.'' Here is what the Truman Web site says:

The saying ''the buck stops here'' derives from the slang expression ''pass the buck'' which means passing the responsibility on to someone else. The latter expression is said to have originated with the game of poker, in which a marker or a counter, frequently in frontier days a knife with a buckhorn handle, was used to indicate the person whose turn it was to deal. If the player wishes to deal, he could pass the responsibility by passing the buck, as the counter came to be called, on to the next player.

That would be my text today, if I were preaching a sermon, because we are about to vote about passing the buck. By passing the buck, if we were to do this, we would create permanent confusion about how to regulate and tax the fastest growing new technology in America—high-speed Internet access. We would create a permanent tax loophole for the high-speed Internet access industry and the telecommunications industry, and the high-speed Internet access industry, so far as I can tell, must already be the most heavily subsidized in America by Federal, State, and local laws. We would be voting for higher taxes, not lower taxes, because if you order taxes to be lowered on telecommunications or high-speed Internet access, you are raising taxes on local property taxes or local sales taxes on food or local corporation taxes on manufacturing companies that might be struggling to keep from moving their jobs overseas.

It is a big trick to say this is a bill that lowers taxes. It does create a tax loophole for one industry. But what cost does that mean? That just means everybody else pays higher taxes.

Aren't a lot of people going to be surprised if this should be enacted and suddenly they find their mayor and their Governor raising local property taxes, raising local sales taxes on food and imposing a car tax again? That is what happens. You lower this tax and you raise that tax.

Then the worst thing to me as a former Governor—and there are many in this body who have been Governors, who have been State tax commissioners, who have been mayors, who have been State treasurers, who have been local officials—the worst thing to me is we are breaking our promise about doing no harm to State and local governments, particularly on my side of the aisle, the Republican side of the aisle.

We were elected promising to do no harm to State and local governments. I will be talking a lot about that this week because I believe in that. I heard it. It wasn't just from me.

In 1994, the Republican revolution began to occur. In 1995 and 1996, we had Presidential elections. When the Republican Party gained control of Congress in 1995, the first thing it did in this body was pass S. 1.

The Presiding Officer very well knows the distinguished Senator who was the majority leader at that time. His name was Senator Bob Dole of Kansas. He carried around in his pocket the tenth amendment. He said S. 1 means no more unfunded mandates.

If we vote to put into motion S. 150 and the companion measure that passed the House, we will be imposing a massive unfunded mandate on State and local governments. We will be breaking our promise.

It is rare that the Senate has had an opportunity to do so much harm with one vote. It is very difficult to find a situation where you can cast one vote and create permanent confusion about the fastest growing technology and a permanent tax loophole for the most subsidized technology I can find. With that one vote, you could also impose higher taxes, local property taxes, car taxes, taxes on food, and sales taxes, and break your promise to State and local governments to do no harm.

There is a better way to go about this. I believe that I and my colleagues have suggested that. Senator CARPER and I and a group of nine other Senators of both parties have said: Wait a minute. Let us do this a different way. There is a way we can vote to ban new taxes on Internet access for 2 years. We can provide the Senate time to consider what to do about this phenomenon of high-speed Internet access growth, and we can keep our promise to State and local governments.

Rarely has there been a chance to do so much good with one vote, and that would be to pass the Alexander-Carper compromise, or take the original moratorium of 1998 and enact it for 2 more years. That would be a vote for no taxes, it would be a vote for no unfunded mandates, and it would be a vote for time to study it. That would be the wise and prudent course. That will be the argument we will be making today.

Today, we begin a series of procedural motions—that is the way the Senate works—designed to give us a full opportunity to consider and discuss these issues.

Senators ALLEN and WYDEN have offered S. 150 which will be coming up this afternoon. I am under no illusions about the fact we will be getting to it even though I think it is moving us in the wrong direction and along the wrong track. Senator CARPER and I, and nine others, have offered the compromise I just suggested. I believe that would be the best way to go—a 2-year extension of the current ban on State and local taxing of international access. We did it in 1998. Congress did it in 2000. Congress can do it again in 2004.

By voting to extend the original moratorium on taxation for 2 more years, Members of Congress will be casting a vote against taxing Internet access—casting a vote for allowing time to consider what the best long-term solution is and casting a vote for doing no harm to State and local governments. I believe, if the House were to agree with us, we could get the legislative action we desire in this session.

I am prepared to move ahead, as I have been all year, and I have suggested for 2 years ways we could move ahead. I am for banning taxation for the next 2 years. I am willing to support that. I am for no unfunded mandates and I am for time to study. Prospects for legislative action might have been different this year, if the House of Representatives had sent to the Senate a different piece of legislation to begin with instead of sending legislation to extend the current moratorium.

Moratorium means a temporary timeout. That was the idea in 1998. Everybody said we have this new thing, the Internet. In 1998, when the moratorium was passed, I would wager that almost no one in the Congress had ever heard of high-speed Internet access. The only kind of Internet access we were using was AOL which hooks up to your dial telephone. But we said—and I agreed with this and I supported this—that we don't really understand what this is. This is new. Let us just put in a temporary timeout. Then we will decide what to do. The assumption, in my mind at least, was that as the Internet industry grew and became mature, it would pay the same taxes as everyone else. We don't say the Senator from North Carolina and the Senator from Tennessee will pay taxes which the Senator from Wyoming will not pay. We have to have an awfully good reason for that. We believe in the fair and equitable distribution of taxes.

We are talking about whether the Internet industry should pay the same sales taxes and the same kind of business taxes that everybody else is paying or whether we should lower their taxes permanently and create a great big loophole for them, subsidize them some more, and then have higher taxes for everybody else.

The House didn't send us another temporary timeout which would have been the third on State and local taxation of Internet access. The House sent over a permanent ban. But it was more than that. Instead of banning State and local taxation of Internet access—which would mean my relationship to the Internet service provider, the same as my relationship to a telephone company or a cable company or a satellite TV company—they broadened the definition of Internet access.

Whether intentionally or unintentionally, this train got on the wrong track, running completely out of control. Maybe it was because this is a very complex subject, we have a lot going on here, and not many people were paying close attention, but it got out of control.

Basically, what started out as a modest benefit to consumers, a temporary timeout while we could see what was happening, the House turned it into a permanent big tax loophole for the Internet access industry, the telecommunications industry. Then, on top of that, they turn around and send the bill to State and local governments. We do not do that much. We debate taxes all the time. We reduce taxes. Sometimes they go up, but we do it ourselves. I did not know you could do this.

I ran for the Senate the same year as the Presiding Officer the Senator from North Carolina. If I knew the Senate could do this, I might have run for the Senate promising to make a Federal law abolishing local property taxes as my way of encouraging home ownership, or I might have run for the Senate promising to pass a Federal law to abolish State car taxes as a way of encouraging transportation to work, or I might have run for the Senate promising to pass a Federal law abolishing State taxes on food because there are a lot of hungry people. But that would have been a trick on the voters. The voters would have caught up with me and said, Wait a minute, LAMAR, who are you trying to fool? You cut our sales taxes, and now we will have an income tax in Tennessee. Because if sales taxes go down, this must go up.

I suppose one could say we will close a few schools, raise tuition, and cut the cost of Government. But it means lower taxes for one group of taxpayers and it means higher taxes for another. That is what we have over here.

Sometimes it has been said these figures that have been used are not accurate, so I have some detailed information for the CONGRESSIONAL RECORD. For example, the bill sent to the Senate from the House of Representatives in the name of a simple, permanent ban on the little connection we make to the Internet access would do this: One, it would put at risk $10 billion collected annually in telephone transaction taxes in the State and local governments. State and local governments collect more than $10 billion annually in taxes on telephones. If we tell them they cannot do that, what do they do? Senator FEINSTEIN has said, and I am sure she will say later this week, she has 125 cities and counties in California that say this might interrupt 5 to 10 percent of their local budgets. We cut one tax and they raise the property tax. That is not what we are supposed to do. We promised not to do that in 1995.

There are 62 Senators serving here today who in 1995 voted to pass the Unfunded Mandates Act which said no money, no mandate. If we break our promise, throw us out. I want to keep the promise.

The first problem with the House bill is $10 billion in telephone taxes. The second problem is $7 billion annually in business taxes currently collected. I have a source from each one of these. The first is the Congressional Budget Office. The source for the $7 billion is in the Multistate Tax Commission memoranda and a letter from the Congressional Budget Office. The third unfunded mandate in the House bill, half a billion annually in business taxes currently collected on the Internet backbone. We will hear more about that this week. The backbone is the infrastructure of the Internet. The same kind of business taxes on the backbone is like business taxes on any other business. Nobody likes to pay taxes, but are we going to exempt them and make everybody else pay? Four, cost to State and local governments was $80 to $120 million. On grandfathered States—that means 11 States were permitted after the 1998 temporary timeout moratorium; there are about 16 States already taxing dial-up Internet service so they are permitted to keep doing that—that is $80 to $120 million out the window, and another $40 to $75 million in 27 States where they are taxing the part of the Internet access provided by the telephone companies, DSL.

Finally, the language of H.R. 49, the bill that came over from the House, would hurt universal service fund fees and September 11 service fees. That is very important in Alaska, rural North Carolina, and Tennessee. If there is less money in the fund, there is less money for September 11 and universal service.

This bill came to the Senate like a freight train. Nobody voted against it. It passed by consent order. What did it do? It came over wearing a dress that said, ''I am Ms. Internet Access Tax Ban.'' But it actually was $10 billion in telephone taxes, $7 billion more in business taxes, half a billion in business taxes, sales taxes of a couple hundred million a year, universal service fund fees, September 11 fees, all of that which is the responsibility of State and local governments. We say, here, you cannot collect. That is an unfunded Federal mandate of the worst sort.

Now after some discussion, the bill has gotten a little better. Senator ALLARD, to his great credit, has worked hard. There may be no better-humored Member of the Senate.

He and I joined in a debate at the Heritage Foundation on a minority of principle. We had a good debate and discussed the issues. He improved the bill some. There are fewer unfunded mandates.

I will be asking unanimous consent at the end of my speech to have printed

in the CONGRESSIONAL RECORD the unfunded Federal mandates in his bill, S. 150. Still, as far as I know, his bill threatens $3 to $10 billion in telephone taxes currently collected. He and I have said to each other we do not intend to do that. However, that was several weeks ago and we have been working hard to write language we agreed on that expressed our mutual intention. We have failed so far.

No. 2, his legislation continues to say to State and local governments, you cannot collect half a billion a year in business taxes that are currently collected on the Internet backbone.

No. 3, his legislation would phase out the sales taxes State and local governments are currently collecting on Internet access. So S. 150 continues down the wrong track. It continues to provide a big subsidy to the fastest growing technology already heavily subsidized.

How much does it cost the Federal taxpayer? Not a penny. Not a penny. We will send the bill to Governors and mayors and local governments and let them raise property taxes, let them raise sales taxes on food, let them worry with all the other unfunded mandates and add this right on top of it. That is what we are doing. We are passing the buck.

I ask unanimous consent at the end of my remarks I be allowed to have printed in the RECORD the unfunded Federal mandates on H.R. 49 first, and unfunded Federal mandates on S. 150 next.

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

(See exhibit 1)

Mr. ALEXANDER. Madam President, there is no doubt this is an unfunded Federal mandate. We can talk about that more this week. Some of my colleagues on my side have come up and said that does not sound like an unfunded mandate. I thought an unfunded mandate was when we told you you had to do something and pay for it. But if I tell you you have to stop doing something, that you cannot collect that tax, that is a cost I have imposed on you. If I and the Congress say to Governor Alexander, in Tennessee, ''Stop collecting property taxes, stop collecting sales taxes,'' then I have to go think of some other tax—lower taxes here; higher taxes there. Nothing makes local officials madder than some Member of the U.S. Senate or Congress to come up here and have some big idea and pass a law, and take credit for it—lower taxes on the Internet—and then send the bill home to them and then that same Member of Congress or Senator is usually down to the district the next weekend making a big speech about local control. Nothing gets the blood up in a Senator or Governor or mayor or county commissioner more than that, and that is exactly what we are doing.

If the Congress wants to create a big, additional tax break for high-speed Internet access, then Congress should pay for it and not send the bill to State and local governments. I think we, as Members of Congress, ought to do as Paul Harvey says, and tell the rest of the story: If we lower your taxes on Internet access, we are going to raise your property taxes or your car taxes. Sure as the world, it is going to be our responsibility. We can call this the Raising the Local Property Tax Act of 2004 or the Car Tag Act of 2004 or the Sales Tax on Food Act of 2004 or the Raise the Corporate Tax on Manufacturing and Send the Jobs to China Act of 2004. That is what we will be doing.

One of the other issues I hope we talk about this week is whether there needs to be an additional Government subsidy for high-speed Internet access on top of the billions already provided by Federal, State, and local governments.

According to the Congressional Research Service, there is already at least $4 billion in Federal tax subsidies to encourage the use of high-speed Internet access. I have a report from the Alliance for Public Technology. I will not inflict its length on the CONGRESSIONAL RECORD today, but it is filled with State and local programs to encourage the growth of high-speed Internet access—dozens and dozens of State and local subsidies, in addition to the Federal subsidy to encourage the spread of high-speed Internet access.

Why is there a need for more subsidy at all when the New York Times reported, last week, that high-speed Internet access is the fastest growing new technology in America? It is growing at an astonishing rate. According to a Congressional Budget Office report in February, the United States has the highest number of broadband subscribers—''broadband'' is another name for high-speed Internet access—at 19.8 million. It is probably a lot higher today.

An April 19 story from the Associated Press tells us that a new study by the Pew Internet and American Life Project has found that almost one-quarter of all Americans—more than 48 million people—have high-speed Internet access at home. This is two out of every five Web users who have it at home. The same study showed that more than half of Americans have it at work. CBO told us, last December, that 88 percent of all ZIP codes have at least one high-speed subscriber, and 29 percent have access to more than five.

In September of 2002, the U.S. Department of Commerce told us consumers are adopting broadband technologies at a faster pace than CD players, cell phones, color TVs, and VCRs during the same period in their development. CBO, the Congressional Budget Office, reported, in December of last year, that cellular phones took 6 years from their introduction to reach 7.5 million subscribers; high-speed Internet access reached 7.5 million subscribers in half that time.

Then, why do we need additional taxpayer subsidy? Why do we need to say to these folks: You pay less taxes and the rest of us will pay more? You can barley pick up a newspaper today without reading about some new initiative from the private sector offering high-speed Internet access.

According to CBO, from 1996 to 2001, the four largest telephone companies increased their investment in broadband technologies by 64 percent. Cable companies increased their investment by 68 percent in the same period.

Now, sometimes this discussion makes my head hurt because high-speed Internet access is a subject that is unfamiliar to most of us, and you almost have to warm up in order to be able to talk about it and understand the complexities of what is going on. But, in effect, it is very simple: It is just faster access to the Internet. It can be provided in lots of different ways. Your cable company will sell it to you. Your telephone company will sell it to you. There is a nice young woman who comes on your direct satellite television and she will sell you high-speed Internet access.

There is another way we might get it. There may be more. Things are changing. But your electric company may sell it to you over electric wires. There is a lot of talk about how we need to create more and more subsidy so we can reach more and more Americans, that we will have people left out. Well, thanks to the expansion of the rural electrification system in America during World War II, almost every American has an electric wire somewhere near them. Electric companies have begun to offer high-speed Internet access service.

Madam President, I have an article from the Washington Times of April 5, 2004. I ask unanimous consent that this article be printed in the RECORD, in the proper sequence, following my remarks.

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

(See exhibit 2.)

Mr. ALEXANDER. According to this article—and we will be talking about this more this week—according to the Federal Communications Office of Engineering and Technology, having another major player—the power companies—has helped to bridge the digital divide. The power companies have the infrastructure to make broadband available nationally.

> There are a lot of utilities out there that really, really want to do this, [says the head of another firm].
>
> It is being offered today in Manassas, VA. The city of Manassas offers high-speed Internet access through their electric company for $26.95 a month.
>
> Customers typically pay $30 to $40 a month for DSL service and $40 to $50 a month for Internet access over cable.

If we are really talking about taxes on Internet access, we are only talking about $1 to $3 a month, for most Americans, that they would save if we Senators and our fellow Members of Congress go home and say: Look at us. We just banned State and local taxation of

Internet access. Well, that will save you $1 to $3 a month. That is not what they are doing, though. They are exempting a whole industry from taxation that most industries pay. But for those who worry about whether high-speed Internet access is going to be available to every single American, it will be available from your electric company soon.

Now, there is another phenomenon we should talk about in terms of whether we need to have a subsidy. All this growth is happening, just as it should. We have a promarket economy. Traditionally, we do not pick economic winners and losers. That is what they do in Japan. They do it a lot more than we do. Our economy is stronger and better than theirs because the Government does not do as good a job, we believe, at picking winners and losers as the free market does. That is, at least, what a great many of us over here on the Republican side traditionally say, that we do not like industrial policy. We do not like picking and choosing winners and losers.

So we asked the Congressional Budget Office, Congress did, last year, about this. CBO reported to us, Congress:

[T]he broadband market is booming. . . . [N]othing in the performance of the residential broadband market suggests that federal subsidies for it will produce any economic gains.

Yet here we are, getting ready to spend a whole week sending billions of dollars more in subsidies to the high-speed Internet access market. Why are we doing this? To even encourage broader use of it? Well, I am not sure it will have that effect.

This is an example from the Atlanta Constitution Journal of September of a couple years ago. It is a little old, but it is good information.

In LaGrange, GA, they give away high-speed Internet access for free. So we can ban taxation. We can keep Gwinnett County from imposing a dollar tax on your high-speed Internet access in Georgia, but we won't be able to do that because they give it away for free. And what has happened? Despite the fact they give it away for free, only half the city has subscribed a year later. A lot of people didn't want it. This story tells why.

I ask unanimous consent this article from the Atlanta Constitution be printed in the RECORD following my remarks.

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

(See exhibit 3.)

Mr. ALEXANDER. It is an interesting article. It is like a lot of other things. Just because we in Washington think everybody in America ought to have high-speed Internet access tomorrow doesn't mean they will take it, even if we give it to them. So then why should we give the telecommunications industry another big subsidy to offer high-speed Internet access to people who are already getting it free and won't take it?

Finally, just in case Congress should, in its wisdom, decide to grant an additional subsidy to high-speed Internet access, the first thing we should do is make sure Congress pays for it and doesn't send the bill to State and local governments. The House bill and the Allen-Wyden bill, S. 150, which this motion to proceed is about, expressly violate the Budget Act which was amended in 1995 by the Republican majority, enthusiastically. And President Clinton signed it. Sixty-two Senators now serving in this body voted for it, and 300 Republicans stood on the Capitol steps in late September, early October, right before the election that produced the Contract with America and the first Republican Congress in a long time, and this is what we said: Our party, no money, no mandate. If we break our promise, throw us out.

This is about the Congress keeping its promise. I have a great many speeches that say in words more effectively than I how important avoiding an unfunded Federal mandate is. Most of them were made by Members of this body. There will be an opportunity to hear those speeches again this week because they were good in 1995, and they are good in 2004.

There is one way to provide a further subsidy to encourage the use of high-speed Internet access, if we think it is necessary, that would make a lot more sense than the various proposals that have been offered so far. That, interestingly, is the Texas plan. It was the plan authored by our President, George W. Bush, when he was Governor of Texas. It is very simple. It is aimed at consumers, not big companies. In 1999, Governor Bush signed a law exempting the Texas State sales tax on Internet access up to the $25 the consumer paid each month. In other words, there is no State tax in Texas on the first $25 you pay for Internet access.

We just heard that in Manassas, VA, it doesn't cost you more than $25 to get Internet access from your power company. So you don't pay any tax on Internet access in Texas. The Governor suggested to the Congress some time ago that if Congress were bound and determined to give another big subsidy to the telecommunications and high-speed Internet access industry, do it this way. Use Governor Bush's idea; use the Texas plan. Then I would say we ought to figure out what it cost State and local governments and reimburse them for it.

It is ironic that last year we stood here and cried about the condition of State and local governments and sent a $20 billion welfare check to the States. This year we are taking credit for lowering taxes on Internet access $1 a month and sending the bill to State and local governments. I suggest if we really want to consider a Federal law that affects State and local taxation of Internet access over the long term, we ought to look at President Bush's idea when he was Governor of Texas. Then I would argue it is up to us to decide what tax we are going to raise to pay the bill, or are we going to increase the deficit or are we going to cut services, because that is precisely what the mayors are going to have to do. That is what the Governors are going to have to do, and the county commissioners are going to have to do.

If everybody would go home 1 week and ask, How would you like one more unfunded mandate to deal with along with all the others, I think they would get an earful. At least I do when I go home.

I look forward to this week. I hope this is the beginning of a constructive debate. I hope the end result is that we reject the proposal we are moving to proceed on this afternoon. Those are proposals that would create permanent confusion in this complex area of trying to deal with the growth of high-speed Internet access that would create an unwarranted additional tax loophole for one of the most heavily subsidized industries in America, the high-speed Internet access industry; that would create higher taxes because when you order taxes lowered on some people, they are going up on others; and that would break a promise this Congress made to State and local governments 9 years ago that we would do no harm, that we would not pass any more unfunded Federal mandates.

What we should be doing is what we are doing in other parts of the Congress and in the courts and in the Federal Communications Commission. The chairman of the Commerce Committee, Senator MCCAIN, has already held a hearing about high-speed Internet access, its regulation, and its taxation, and tried to sort out what to do about it since it was not envisioned by the Telecommunications Act of 1996. The Senator from Alaska, Mr. STEVENS, has said several times that he thinks we need to revisit the Telecommunications Act and do this in a comprehensive way.

The Chairman of the Federal Communications Commission, Michael Powell, has talked about the importance of digital migration, high-speed Internet access. We will be able to carry to our homes movies, e-mail, all sorts of services. It is wonderful. But when it does that, it may have the effect of wiping out 5, 10, 15 percent of the State and local tax base. We should think about that before we do that.

Among all of the principles we need to discuss, one of those is federalism, the improper relationship of strong State and local governments to the Federal Government. We should not slam through like a freight train a permanent tax loophole for this industry without carefully considering the long-term consequences to State and local governments and the parks and the schools and the universities and the health care and other services they are expected to provide.

A vote for the legislation that came from the House and for S. 150 or anything like it is a vote for permanent

confusion, a vote for unwarranted tax loopholes, a vote for higher taxes, and a vote to break a promise.

A vote for the Alexander-Carper compromise is a vote to ban taxes for another 2 years, to extend the moratorium, extend the temporary timeout. It is a vote against taxes. It is a vote against unfunded mandates because it does no more harm to State and local governments. And it is a vote for a reasonable period of time, up to a couple of years, for us to thoughtfully consider what to do.

Madam President, I am new to this body, but I have watched it for a long time. I had my first opportunity to work in it when the Senator from North Carolina and I both came to Washington a few years ago. I have great respect for the wisdom here and for the rules of this body. They offer us a chance to deliberate a little longer than our friends in the House are able to, and sometimes that is important to do. I believe it is on this issue.

I am ready to move, ready to come to a conclusion. There are at least a couple of ideas out there that will get a legislative result this week if we would like to do it. But I am not ready to vote for permanent confusion, another big tax loophole, higher taxes, and I am not ready to break our promise to State and local governments about unfunded mandates.

I ask unanimous consent to have printed in sequence following my remarks the following articles:

One is a November 4, 2003, editorial from the Washington Post. The Senator from Ohio, Senator VOINOVICH, brought this to our attention at that time, saying this Congress should step back from the brink temporarily, extend the moratorium, and sort this all out in a way that doesn't intrude on State prerogatives.

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

(See exhibit 4.)

Mr. ALEXANDER. Madam President, I ask unanimous consent to have printed in the RECORD an editorial from the Dallas Morning News. ''Congress must get this right,'' it says in its last sentence, ''and a 2-year moratorium with all new Internet access fees will give Congress enough time to sort through the issue.''

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

(See exhibit 5.)

Mr. ALEXANDER. Madam President, I ask unanimous consent to have printed in the RECORD a letter from Commissioner Loren Chumley from the Department of Revenue from the State of Tennessee. She points out Tennessee is now not taxing, not imposing a sales tax on Internet access because our State law doesn't permit it. In fact, the direction of things has been that States have repealed their taxes on Internet access. States do things like that. But this points out in very clear terms how important it is for our State, which doesn't have an income tax—how important it is for us here not to try to tell them what taxes to collect and what services to provide. Again, I ask unanimous consent that that be printed in the RECORD.

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

(See exhibit 6.)

Mr. ALEXANDER. Finally, there are two articles which are a little long, but they are important. I know Senators and staff members will bring their attention to this subject, and we know we will be debating it for the next several days, and that truly we will be considering it for the next couple of years as the Commerce Committee wades through all of the issues surrounding digital migration and, hopefully, come to a comprehensive approach toward how we approach taxation and regulation—I hope minimal taxation and regulation, but appropriate taxation and regulation of high-speed Internet access, and how we divide that among the various governments. These are the best two articles I have found that help explain the history behind the Internet access tax moratorium bill and the issue before us.

The first is by the Center on Budget and Policy Priorities, dated March 15, 2004, entitled '' The Alexander-Carper Internet Access Tax Moratorium Bill, S. 2084: a True Compromise That Substantially Broadens the Original Moratorium.''

I point out that the leader asked us who are opposed to this to compromise, and we have. The Alexander-Carper legislation is broader than the original moratorium, and it levels the playing field so all providers of high-speed Internet access are treated the same—at least so far as the Congress is concerned—on the last mile between the user of high-speed Internet access and the provider.

I ask unanimous consent that the article's summary be printed in the RECORD in sequence following my remarks.

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

(See exhibit 7.)

Mr. ALEXANDER. Finally, I want to offer another recent article by Harley Duncan and Matt Tomalis, from the Multistate Tax Commission, entitled ''The Forgotten First Sentence.''

The definition of Internet access is what is causing a lot of the problem here. We hear a lot about that from the Senator from Ohio and those on both sides of the issue. The problem is, the way the bill is written, it doesn't focus only on the consumer and provider of Internet access, it goes way back up the line and bans the State and local government from collecting taxes on the whole industry, and a whole variety of services that are now part of the State and local tax. Nobody wants to pay taxes on anything, but if we ban those taxes, we raise these taxes. This article helped us to clearly understand how the definition of Internet access is the problem here.

I see the Senator from Ohio, a former chairman of the National Governors Association before he was a Senator. He can speak with authority about what happened in 1994 and 1995 because he was a national leader in the movement to persuade Congress to stop unfunded Federal mandates and to pass the Unfunded Mandate Reform Act, which amended our Budget Act. He is a principled man and I am delighted to be working with him on this issue and on others.

Again, I thank the leader for setting in motion the series of procedural steps that will give us a chance to fully debate this issue this week. I thank Senator ALLEN and Senator WYDEN for their courtesies and patience as we worked on an issue we disagree about. I look forward to a full discussion and, I hope, a temporary 2-year timeout to give us a chance to think about that which bans taxes for 2 more years, but keeps our promise and does no harm to State and local governments.

I yield the floor.

EXHIBIT 1

UNFUNDED FEDERAL MANDATES CREATED BY H.R. 49

1. $10 billion annually in telephone transactions taxes currently collected—under H.R. 49, the telecommunications industry could be exempted from the collection of state and local taxes on gross receipts taxes, sales an use taxes, and other telecommunications transactions taxes. As the telecommunications industry offers more and more of its services over the Internet, more and more of the industry's revenues could be tax exempt. Cost to state and local governments: $10 billion annually. Source: Letter from Congressional Budget Office, February 13, 2004.

2. $7 billion annually in business taxes currently collected—The taxes preempted in H.R. 49 go beyond taxes on access by customers to the Internet to include income, property, and other business taxes levied on telecommunications companies. Cost to state and local governments: $7 billion annually. Source: Multistate Tax Commission Memorandum, September 24, 2003; Letter from Congressional Budget Office, February 13, 2004.

3. $500 million annually in business taxes currently collected on the Internet ''backbone''—Under H.R. 49, states could not continue to tax some business transactions such as business-to-business transactions between Internet service providers and telephone companies. Cost to state and local governments: $500 million annually. Source: Federation of Tax Administrators' Memorandum, November 10, 2003.

4. Sales taxes on Internet access currently collected—Under H.R. 49, states that are now collecting taxes on Internet access could not continue to do so immediately upon the bill being signed into law. Cost to state and local governments ''grandfathered'' by the original 1998 Act: $80–120 million per year. Cost to state and local governments (27 states) imposing taxes on charges for the portion of DSL Internet access services that they do not consider to be ''Internet access'': $40–75 million per year. Source: Letter from Congressional Budget Office, November 5, 2003.

5. Universal Service Fund fees and 911 service fees—The language of H.R. 49 would prohibit the federal government and/or states from imposing or collecting fees on telecommunications offered over the Internet. As telephone service migrates to the Internet, universal service funding and funding

for the provision of 911 and E911 service will be reduced as traditional telephone sales revenue drops. Cost to state and local governments: $3–4 billion. Source: Congressional Research Service; Letter from Congressional Budget Office, February 13, 2004.

UNFUNDED FEDERAL MANDATES ON STATES (S. 150)

1. $3–$10 billion annually in telephone taxes currently collected—Under the moratorium, states may not be able to continue to tax telephone calls if they are made over the Internet. Cost to state and local governments: within five years losses in telecommunications revenues could rise to $3 billion per year; ultimately, state and local revenue loss could be $10 billion per year. Source: Letter from Congressional Budget Office, February 13, 2004.

2. $500 million annually in business taxes currently collected on the Internet ''backbone''—Under S. 150, states could not continue to tax some business transactions such as business-to-business transactions between Internet service providers and telephone companies. Cost to state and local governments: $500 million annually. Source: Federation of Tax Administrator's Memorandum, November 10, 2003.

3. Sales taxes on Internet access currently collected—Under S. 150, states could not continue to collect sales taxes on Internet access after the three-year grandfather period. Cost to state and local governments ''grandfathered'' by the original 1998 Act; $80–120 million per year. Cost to state and local governments imposing taxes on charges for the portion of DSL Internet access services that they do not consider to be ''Internet access'': $40 to $75 million per year. Source: Letter from Congressional Budget Office, November 5, 2003.

EXHIBIT 2

[From the Washington Times, Apr. 5, 2004]

ELECTRIC COMPANIES BEGIN OFFERING BROADBAND SERVICE

(By William Glanz)

Sean Porter's high-speed Internet connection doesn't come through a cable-television cord, a telephone line or from a satellite.

An electrical outlet powers the broadband connection at the Manassas architect's firm.

''The greatest advantage is that we only need to have an outlet to use it,'' Mr. Porter said.

Manassas is the second city in the nation, where broadband service over power lines became commercially available. City officials there began marketing the service in February.

Today, only about 300 U.S. consumers pay for high-speed Internet access over power lines, but this new method of delivering Web content could jolt the market for Internet service.

Allentown, Pa., and Cincinnati are the only other U.S. cities where residents are paying for the new high-speed Internet service, but electric companies from North Carolina to Hawaii are testing the service or plan to begin a pilot project. Federal regulators hope broadband access over power lines becomes widely available, especially in rural areas.

In Manassas, 60 homeowners and a handful of businesses have Internet access through power lines. Another 1,200 homeowners have asked to be hooked up. That's nearly 10 percent of the city's 12,500 homes.

By the end of the year, broadband over power lines could be available to all Manassas residents. It would be the first U.S. city where the new technology is available to all residents.

Internet access from power lines began to get attention last year, when the Federal Communications Commission (FCC) promoted it as a way to offer high-speed Internet services for people in rural areas. The FCC also saw broadband access from power lines as an alternative to high-speed access from phone, cable and satellite companies that could lower consumer prices.

Since the power grid is ubiquitous, broadband over power lines could be available to nearly every U.S. home.

''Having another major player—the power companies—has to help bridge the digital divide. The power companies have the infrastructure to make broadband available nationally,'' said Ed Thomas, chief of the FCC's Office of Engineering and Technology.

The FCC in February proposed rules to govern broadband over power lines. The rules aren't final, but a handful of cities, utilities and technology companies are pushing forward.

Current Communications Group in Germantown, Md., is working with Ohio utility Cinergy Corp. to market broadband service over power lines in Cincinnati.

Current Communications also has a pilot project with Pepco in Potomac to test the new Internet service.

''There are a lot of utilities out there that really, really want to do this,'' said Jay Birnbaum, vice president of Current Communications, a privately held firm founded four years ago.

Main.net Powerline Communications in Reston is working with Manassas, which owns its electric plant, to deliver Internet content over the power lines.

Main.net and Current Communications are two of the primary companies in a small cluster of firms that market technology to send Internet data over power lines and make the modems that subscribers plug into wall sockets.

Experts long have known power lines could accommodate Internet data. Electricity travels at a lower frequency than an Internet signal, so the two can share a power line.

Public works department employees in Manassas hook up new Internet subscribers nearly every day.

''They're beating down our doors,'' said John Hewa, assistant director of the city's electric utility.

That's because few people there have high-speed Internet access, Mr. Hewa said.

''A lot of people are telling us they can't get high-speed services where they live. There are a lot of areas where it's not available, and they're using dial-up service,'' he said.

The FCC found in June 2003 that there were no high-speed Internet subscribers in 9 percent of U.S. zip codes, where about 1 percent of residents live. In another 16 percent of U.S. zip codes, there was just one broadband provider.

The American Public Power Association, which represents utilities, says 75 percent of its members serve communities with fewer than 10,000 people, many of whom don't have high-speed Internet access.

About 24 million people subscribe to broadband service, according to Washington research firm Precursor Group.

But spokesmen for Verizon Communications Corp. and Comcast Corp. both say they are equipped to deliver high-speed service in Manassas.

The new broadband service in Manassas also might be popular because the city charges $26.95 a month, less than digital subscriber lines (DSL) or cable Internet providers. Current Communications charges a basic rate of $29.95 a month in Cincinnati. Customers typically pay $30 to $40 a month for DSL service and $40 to $50 a month for Internet access over cable.

Although the FCC is hopeful that broadband over power lines helps lower prices and provides access to underserved areas, Precursor Group analyst Pat Brogan isn't so sure the service will take off because DSL and cable Internet services have been around for years. Broadband over power lines simply might be too late to catch up, he said.

But electric companies want to make money off their power lines, and consumers who have been relegated to using low-speed dial-up services are interested in subscribing to broadband access over power lines, said Joseph Marsilii, president and chief executive of Main.net.

''I firmly believe there is a huge market for this,'' he said. ''I think we're on the cusp.''

EXHIBIT 3

[From the Atlanta Journal-Constitution, Sept. 2, 2004]

A GEORGIA CITY DECIDED TO PROVIDE ITS RESIDENTS WITH; A YEAR OF FREE INTERNET ACCESS. BUT ONLY HALF HAVE SIGNED ON. WHY LAGRANGE ISN'T MORE ''WIRED''

(By Ernest Holsendolph)

LAGRANGE.—A delegation of 11 Japanese legislators came calling on the city of LaGrange recently to learn more about its efforts to connect every household in the city to the Internet free of charge for a year.

The assemblymen for Gunma Prefecture were here ''to understand the community strategy,'' said Kazuo Aikyama, chairman of the delegation.

They aren't the first to come on such a quest.

A well-worn path to city hall on Ridley Street has seen similar delegations from England, Canada and Bulgaria as well as curious groups from cities and towns in the United States.

At the urging of City Manager Tom Hall and others, LaGrange set out to provide easy access for residents to create a ''wired'' community able to interact with one another—and do business more easily with City Hall, agencies and other stopping points.

They would do it by connecting the homes, for free at first, hopefully showing people how valuable the service was and later get them to pay for subscriptions.

However, Dave McGee, a LaGrange native who is a glass worker, was unaware of the program. ''I have heard things about this Internet, but I don't know anything about it,'' said McGee, 47, as he walked along a side street off Lafayette Square.

And Mable Abercrombie, who gave her age discreetly as ''over 65,'' said she had heard of the LaGrange project but was keeping her distance from it.

''I am too busy in my garden; need to spend more time there,'' she said over the counter of the Merle Norman cosmetics display where she works.

McGee is an African-American, Abercrombie a senior citizen. Each represents a group that has been a special challenge to LaGrange's effort to bring all its residents online.

''We expected that with the service offered free of charge, we would have big interest in communities where people had been unable to afford Internet service,'' said Joe Maltese, economic development director.

Instead, he said, there was an overall acceptance of nearly 50 percent—with no high interest in the southern city communities where the black population is heaviest.

Interestingly, LaGrange recently was named one of the top seven ''intelligent'' communities in the world by the prestigious World Teleport Association.

In addition, LaGrange, about 65 miles southwest of downtown Atlanta, has been cited as ''Intelligent City of the Year'' by the

association. And so, while gaining recognition for its technological push, the distinction seems lost on a major share of its 26,000 citizens.

Partly to keep plugging away with residents who remain unexcited, city officials decided two weeks ago to extend the free offer for another year.

''We have worked hard to make service relevant to people's lives,'' said Hall, 40, the city manager of LaGrange since 1994.

Under Hall and Maltese, the city has pushed to get interest and response, working with school officials and holding rallies in public housing communities with U.S. Sen. Max Cleland (D–Ga.) as a speaker. They also have advertised in papers and on television and have mailed letters directly to residences.

Subscribers can get the service either through cable modems and personal computers, or they can access it via television through the black set-top box.

Residents can use wireless keyboards, as with WebTV, to connect to the Internet, or to special city networks where they can learn about community activities, church events, shopping opportunities, the weather and other information.

That's all the stuff tech-savvy people now take for granted in the information age. But there's a problem, says Greg Laudeman, a community information specialist with Georgia Tech's economic development outreach program.

There is a gap, he said, between segments of society who embrace computers and digital information, and other people.

''Early adopters (of new ideas and technology) and the group that comes right behind them have different needs, desires and interests than others,'' he said.

''And in a curious way, the technology companies, early adopters start coming up with more and more that suits their interests at the same time that others ignore it because they do not need it, or immediately see the usefulness of it.''

Laudeman and others say the ''digital divide,'' when examined this way may not be racial, or even economic entirely, but more a different way people view developments.

''Many of us (early adopters) learn to value information apart from what we do, or apart from the material or physical things we own or use . . . we value it as a resource,'' Laudeman said, ''while other people value information only as it relates to what they are doing.''

He added, ''It's like the world is divided between those who enjoy talking and thinking about technology, and those who simply use it.''

Hall and Maltese grapple with that dichotomy between groups nearly every day.

''Some people say the service has no relevance to their lives,'' said Hall, ''and others are just against it because . . . well, because it is new and something they're not accustomed to.''

Jabari Simama, who directed the establishment of community technology centers in Atlanta, said his staff noticed also that access alone is not enough to get response from predominantly black, lower-income areas.

''Income may be a barrier, but it is not the only one,'' Simama said. ''Other factors that keep people from getting involved in Internet technology include lack of reading ability, and an absence of information they want or need.

''It's one thing to say you'll put up information about the city or city services, but you need to put up things about the neighborhoods and communities where people live—and that means you must use the same focus-group approach cable TV and others have used to reach those audiences.''

Simama's view is corroborated by a study of the Children's Partnership, a Los Angeles-based nonprofit organization that mostly focuses on the needs of young people. But it also reached conclusions about reaching lower-income people.

Among the barriers to strong Internet interest in the hard-to-reach communities, the study found, are literacy, language, culture and lifestyle, and the ''lack of most urgently needed local information.''

How specific might that information be? One respondent said:

''Many of the people in the housing project where I work want to find out about jobs they can do in the neighborhood. If the neighborhood was more connected and mapped online, this kind of information would really make a difference to residents.''

The study projected that some 50 million Americans may be inhibited by one or more of the barriers, with 41 million specifically held back by lack of reading ability.

These are the kinds of extended considerations the leaders in LaGrange will have to confront in the second year of effort to get more residents involved in Internet communication.

Among the barriers that must be scaled, are inertia among people who see no ''need'' as well as others who are outright suspicious.

Abercrombie, the gardener, when asked why she would not try something that is free of charge, replied: ''Well, yes, but what happens after the year when it's free?''

The LaGrange arrangement allows someone to try it, then to decide what it's worth. ''But,'' she said, ''I am not sure I want to be interested.''

She was given a computer by her son, who wanted her to trade e-mail, but she has not done that, despite prompting by grandchildren and others.

Patricia Graves, who works in the city cemetery office, has been a subscriber to the Internet service for a year and loves it.

Graves, who is black, said she enjoys e-mail, learning about places to vacation, and just gathering information.

''I have not made a purchase yet, but I am thinking about it,'' she said.

Asked why some of her friends had not shown the same enthusiasm, she was candid. ''I just find many people are just afraid of computers. And some people are suspicious of the city and wonder why this interest in putting these machines in their homes. Some even wonder if they are for watching them.''

State Rep. Carl von Epps, a south LaGrange merchant, said he does not subscribe to the city service.

''Don't get me wrong,'' he said. ''It is fine, and it is a great way for people to get their foot in the door and learn about the Internet, but it is not as fast as my service that I've had for some time.''

Von Epps, who is black, said he was aware of some feelings of suspicion and fear. ''But a lot of that will be overcome by working more with churches and community organizations and people the neighbors trust,'' he said. ''It's just a matter of time.''

[From the Washington Post, Nov. 4, 2003]

TAX AND CLICK

State and local governments have broad power to tax as they see fit—everything from clothes and food to electricity and telephone service. Nearly everything, that is, except the Internet. Under a supposedly temporary law passed in 1998 and already extended once, Congress prohibited states from taxing Internet access fees, monthly charges imposed by Internet service providers. Proponents argued that the nascent engine of the Internet shouldn't be slowed by taxing it and that it would take time to devise a system to prevent duplicative or discriminatory taxes. Now, with the tax moratorium having expired on Saturday, Congress is poised to make the ban permanent, broaden its reach and wipe out existing taxes that had been grandfathered in under the previous law. With state budgets under stress and the Internet thriving, this is an unnecesary—and costly—incursion on states' rights.

The argument for permanently barring taxes on Internet services centers on two issues. One is the argument that taxing Internet access, whether through phone lines or cable modems, would amount to double taxation, because the phone lines and cable service are already taxed. That's true, but purchasing Internet access provides a separate—and separately taxable—bundle of services. Terming this double taxation is like saying that a shopper who pays tax on a pair of slacks should then be exempt from being taxed on a shirt bought with it.

The other argument is that taxing Internet access would worsen and prolong the digital divide, the computer gap between rich and poor. This may be a problem, but prohibiting taxation is not the answer. It's not the extra few cents on a monthly bill that's stopping the less well-off from Googling their way to the middle class. A policy to erase the digital divide, however laudable, doesn't justify the no-tax solution. The federal government wants to spur home ownership for low-income familes—surely a bigger problem than lack of Internet access—but that doesn't lead it to tell local governments that they can't impose property taxes.

What's driving this legislation is that telecommunications companies and Internet service providers see an opportunity not only to make the tax moratorium permanent—in itself a bad idea—but to save what could amount to billions in additional taxes. The law frees service providers from having to pay taxes on telephone service they use to provide Internet access. And as the Internet becomes a more effective medium for providing phone service and delivering products such as downloaded movies, software and music, the legislation could sweep such offerings within the ambit of services that states are prohibited from taxing.

The Internet shouldn't be subject to conflicting taxes, but that's no reason to argue that it shouldn't be taxed at all. There should be a level playing field for taxing Internet access, whether it comes through ordinary dial-up, cable modems or high-speed telephone lines. The last thing Congress should do now to cash-strapped states is pass a law that would not only permanently put Internet access off limits for taxation but also deprive them of revenue that they now collect. Proponents of the law are busy demagoguing the issue, suggesting, as Senate sponsor RON WYDEN (D-Ore.) put it the other day, that users ''could be taxed every time they send an e-mail, every time they read their local newspaper online or check the score of a football game.'' Congress should step back from the brink, temporarily extend the moratorium and sort this all out in a way that doesn't intrude on state prerogatives.

EXHIBIT 5

[From Dallas News.com, Mar. 30, 2004]

INTERNET ACCESS FEES: DON'T LET REMOVAL HAVE UNINTENDED EFFECTS

Getting rid of a bad tax isn't as easy as one might think.

Late last year, a couple of bills that would have done away with Internet access fees began winding their way through Congress. (An Internet access fee is one of those mysterious fees you find near the bottom of your monthly phone bill.)

The bills had gained support until lawmakers discovered a major problem. The

bills also would have exempted virtually all telecommunications activity from taxation. Cities and states would have been left out on a precarious financial limb, possibly unable to collect traditional right-of-way and franchise fees that fund city and state operations.

Welcome to the law of unintended consequences.

For that reason, we urge Congress to go slowly in this area and to extend a moratorium on new Internet access fees for another two years.

We aren't thrilled about leaving in place a bad tax that encumbers an emerging technology—even one that provides $45 million annually in Texas. But it's the right decision and one that buys time for a more thoughtful discussion of the Internet and taxes. The moratorium has support from a growing number of lawmakers, including Sen. Kay Bailey Hutchison, R-Texas.

Technology breakthroughs are changing telecommunications faster than legislation can keep pace. For years, Congress, the Federal Communications Commission and state regulators have wrestled with how much to regulate the Internet but have had less-than-satisfying results.

The Internet shouldn't become an easy target for revenue-hungry jurisdictions, but neither can it expect to be a tax-free haven for commerce. Congress has a responsibility to find a satisfactory middle ground, recognizing the revenue needs of cities and states while also not crippling the telecommunications and information services industries.

Congress must get this right, and a two-year moratorium on all new Internet access fees will give it enough time to sort through the issue.

EXHIBIT 6

STATE OF TENNESSEE,
DEPARTMENT OF REVENUE, NASHVILLE,
TN, January 9, 2004.

Re S. 150—the Internet Tax Moratorium.

Senator LAMAR ALEXANDER,
Hart Building,
Washington, DC.

DEAR SENATOR ALEXANDER: It was a pleasure to see you at the recent meeting for the National League of Cities in Nashville. Again I want to thank you for your courageous assistance with regard to protecting the interests of the State of Tennessee on the subject of the Internet Tax Moratorium.

I wanted to make you aware of a recent development in this matter. Tennessee has taxed Internet access as a ''telecommunications service'' under its sales and use tax laws since 1996. In my presentations to Harrison Fox and Joe Cwiklinski concerning the adverse impact S. 150 and the Managers' Amendment would have on Tennessee's tax base, I explained that Tennessee has been involved in lawsuits concerning whether Internet access falls within Tennessee's definition of ''telecommunications.'' The Court of Appeals decision in Prodigy Services Corp., Inc. v. Johnson, 2003 WL 21918624 (Tenn. Ct. App., Aug. 12, 2003) has now become final. In this case, the Court held that, under Tennessee law, Internet access is not taxable as a telecommunication service in Tennessee. Therefore, the Tennessee Department of Revenue will issue a notice in the near future explaining that Internet service providers should no longer collect sales tax on sales of Internet access to consumers. I advised your office that the sales tax on the true Internet access component of the prior Internet Tax Freedom Act was approximately $18 million annually for Tennessee.

This Tennessee Court decision does not in any way impact our stringent opposition to S. 150 and the Managers' Amendment. Both S. 150 and the Managers' Amendment put Tennessee's entire telecommunications sales tax base at risk because the amendment sought by the telecommunications companies incorporates the very broad definition of ''Internet access'' under the original Internet Tax Freedom Act. While certain constituencies have questioned the states' estimates of the bills' fiscal impact, the critical problem is about the language in the bill and about the policy. As long as the amendment sought by the telecommunications industry includes the phrase ''Internet access'' and as long as the definition of ''Internet access'' remains as it was under the federal law, then the fiscal problem identified by the states and local governments remains.

Tenness strongly supports the amendment that you proposed to S. 150, the Alexander-Carper amendment. If there is anything that I can do to assist on this matter or any other matter concerning Tennessee taxes, please do not hesitate to let me know. Thank you again for all of your help.

Very truly yours,

LOREN L. CHUMLEY,
Commissioner.

EXHIBIT 7

THE ALEXANDER-CARPER INTERNET ACCESS TAX MORATORIUM BILL, S. 2084: A TRUE COMPROMISE THAT SUBSTANTIALLY BROADENS THE ORIGINAL MORATORIUM

(By Michael Mazerov)

SUMMARY

Senators Lamar Alexander and Thomas Carper, with nine original cosponsors, have introduced S. 2084, the ''Internet Tax Ban Extension and Improvement Act.'' This bill would reinstate and broaden the ''moratorium'' on state and local taxation of Internet access services originally imposed in 1998 by the Internet Tax Freedom Act (ITFA). S. 2084 would bar state and local governments for two more years from taxing the typical $10–$50 monthly charge that households and businesses pay—to an Internet access provider like America Online, or to the local phone or cable TV company—to be able to access the World Wide Web and send and receive e-mail.

S. 2084 would broaden the original ITFA moratorium substantially by newly exempting from taxation all telecommunications services ''purchased, used, or sold by an Internet access provider to connect a purchaser of Internet access to the Internet access provider.''

This new language in S. 2084, which amends ITFA's definition of Internet access, exempts from new state and local taxes almost all communications services that an Internet access subscriber can use to connect to her Internet access provider—so-called ''last mile'' telecommunications. S. 2084 would, however, grandfather existing state and local taxes on ''last-mile'' telecommunications services. Grandfathering currently-collected taxes is consistent with the sponsors' position that Congress should not impose a new, expensive, ''unfunded mandate'' on state and local governments, especially at a time of severe fiscal stress.

The new language to be added to ITFA's Internet access definition by S. 2084 seeks to achieve ''technological neutrality'' in the tax treatment of high-speed access by exempting from tax all the forms in which the ''last mile'' connection is made: cable modems, ''Digital Subscriber Lines'' (DSL), dedicated ''T–1'' lines used by businesses, wireless connections (e.g., Blackberry), and satellite transmissions. The only exception to the tax exemption for ''last mile'' telecommunications would be ordinary voice telephone lines used for ''dial-up'' (conventional modem) access to the Internet; taxes on such lines would still be allowed under S. 2084.

S. 2084 is a significant expansion of the moratorium. As enacted in 1998 (and as renewed in 2001), the Internet Tax Freedom Act had excluded (carved out) from the definition of tax-exempt ''Internet access'' all telecommunications services—as that term is defined by the Federal Communications Commission. Thus all states and localities were allowed to continue taxing all telecommunications services, even those used to obtain or provide Internet access on the ''last mile.''

The authorization of state and local governments to continue taxing telecommunications was consciously and intentionally included in ITFA in order to preserve state and local taxes and fees imposed on all forms of telecommunications services used at any point along the Internet. While some have claimed that S. 2084's grandfather provision condones ''illegal'' taxes on Internet-related telecommunications imposed by states and localities attempting an ''end run'' around ITFA, the legislative history of ITFA clearly refutes those claims.

Renewing ITFA in its original form would preserve state and local taxes on all Internet-related telecommunications. The proposed S. 150 would prohibit all state and local taxation of both ''last mile'' telecommunications services and the ''upstream'' telecommunications services that constitute the underlying infrastructure and ''backbone'' of the Internet. (According to the Federation of Tax Administrators, states and localities would lose approximately $500 million annually if ''upstream'' telecommunications services were no longer taxable.) In prohibiting new taxes on ''last mile'' telecommunications, S. 2084 represents a true compromise between these two alternatives.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. VOINOVICH. Madam President, first of all, I want to thank the Senator from Tennessee for the tremendous amount of time and effort he has put into this issue. We all got into this together last year when we saw the train moving very fast and we wanted to do what we could to slow it down. We were able to accomplish that. Since that time, the Senator from Tennessee and the Senator from Delaware have been working on a bipartisan basis to try to spend a great deal of time with the folks who have a different point of view, trying to reconcile the differences.

Unfortunately, those differences have not been reconciled. But it certainly is not based on a lack of trying. The Senator from Tennessee now has become the expert on this. Madam President, I wish you had been at a meeting I had with him last week, where he was teaching the teachers on this legislation. I thank him so very much for all of his hard work and dedication to this issue. I hope our colleagues will listen to us today and perhaps come up with another compromise that will allow us to spend more time to deal with this subject. This is a very complicated issue and we need to be careful how we proceed.

Today we are going to consider a motion to proceed on S. 150, the Internet Tax Nondiscrimination Act of 2003. When the Senate first considered this legislation last November, I argued the

debate on S. 150 was not about taxing e-mail or increasing taxes on Internet access. It was suggested by some members of this legislative body that we were in favor of taxing the Internet or e-mail. In fact, I stand here today in opposition to taxes on Internet access and firmly opposed to any and all taxes on e-mail by any level of government—Federal, State, or local. But that is not what today's debate is about.

Rather, the debate on S. 150 is about federalism, unfunded mandates, and protecting the States' ability to collect revenue at a time when State and local governments are struggling to make ends meet.

As a former State representative, counter auditor, counter commissioner, Lieutenant Governor, mayor of Cleveland, and Governor of Ohio, I have seen firsthand how the relationship between the Federal Government and our State and local counterparts affect our citizens and the communities in which they live.

My experience has fueled my passion for federalism and the need to balance the Federal Government's power with the powers our Founding Fathers envisioned for the States. This very body was created in part to guarantee that States have adequate and equal means to assert their interests before the Federal Government, and I can assure you that if we Senators were still elected State legislators, this issue would not be before us today.

The relationship between the Federal Government and State and local governments should be one of partnership. However, that is not always the case. I am concerned about the tendency of the Federal Government to preempt the functions of State and local governments and force on them new responsibilities, particularly without also providing funding to pay for these new responsibilities. Madam President, that is why I fought for the passage of unfunded mandates reform.

As a matter of fact, I will never forget the first time in my life I set foot on the floor of the U.S. Senate was when the unfunded mandates reform legislation passed. Then, later at the Rose Garden, I was there representing State and local governments when President Clinton signed UMRA in 1995. As I said, I was representing State and local governments, and, Madam President, your husband a former Senator from Kansas, Mr. Dole, was representing the national interests. It is a day I will never forget. In fact, I have the pen that was used to sign the legislation proudly displayed in my office in the Senate.

As I will explain in a moment, S. 150 violates the principles of federalism. When S. 150 was pulled from the Senate floor last November, advocates on both sides of the issue agreed to resolve our differences. For the past 6 months, we have been engaged in meaningful dialog, but we just cannot reach an agreement. At this point in time, I am concerned that the philosophical differences between the two sides may be too deep to bridge.

Madam President, I have three problems with the definition of Internet access:

First, it is so broad that it prevents State and local governments from collecting taxes on all telecommunications services used to provide Internet access over the entire broad band network. We are talking about the entire network, last mile, middle mile, and backbone. States are currently collecting between $3 billion and $10 billion annually in telephone taxes. I am concerned that this tax base may erode as traditional phone service migrates to cutting edge technology called voice over Internet protocol, VOIP. In fact, the migration is happening at a rapid pace. For example, on April 9, 2004, Newsday reported that AT&T expects to add 1 million VOIP customers by the end of 2005 and there are many other companies rolling out this service as well. This will have a tremendous change in the way telephone service is provided in the United States.

As a part of our good-faith negotiations on S. 150, Senators Allen and Alexander were working on language to preserve the States' ability to collect taxes on VOIP, but they have not yet reached an agreement. In addition, the Federation of Tax Administrators noted that S. 150 would prohibit States from continuing to tax some transactions such as business-to-business transactions between Internet service providers and telephone companies, and they estimate this could cost State and local governments $500 million annually in lost revenues.

Second, S. 150 violates the spirit of the original moratorium by making a brand new definition of Internet access permanent. The original 1998 moratorium was 3 years in duration, and in 2001, Congress extended it for 2 more years. With technology changing so rapidly, we must be cautious when trying to define Internet access.

Third, according to the CBO, S. 150 imposes an intergovernmental mandate under the Unfunded Mandates Reform Act. Let me repeat, CBO says it is an unfunded mandate. On page 6 of the September 29, 2003, Commerce Committee's report on S. 150, CBO said:

> By extending and expanding the moratorium on certain types of State and local taxes, S. 150 would impose an intergovernmental mandate as defined in the Unfunded Mandates Reform Act. CBO estimates that the mandate would cause State and local governments to lose revenue beginning in October 2006; those losses would exceed the threshold established in the Unfunded Mandates Reform Act . . . by 2007. While there is some uncertainty as to the number of States affected, CBO estimates that the direct costs to State and local governments would probably total between $80 million and $120 million annually, beginning in 2007.

There is no question, this is an unfunded mandate.

Furthermore—and this is the part to which we really need to pay attention:

> Depending on how the language altering the definition of what telecommunications are taxable is interpreted, that language also could result in substantial revenue losses for States and local governments. It is possible that States could lose revenue if services that are currently taxed are redefined as Internet access under the definition of S. 150 . . . However, CBO cannot estimate the magnitude of these losses.

In other words, at this stage of the game, they have no idea how large these losses will be to State and local governments if the definition of Internet access in S. 150 is passed.

To follow up on CBO's assessment, I went to my own State and said: Can you examine the proposals and let me know what they would cost our state?

Under S. 150, as reported, it would cost the State of Ohio $350 million a year at a time when they are trying to balance their budget. They are making cuts in services right now to try to balance the State budget. The Allen-Wyden managers' amendment we discussed in November would cost about $150 million for 2 years, and the Alexander-Carper-Voinovich amendment would cost my State about $40 million a year. So any proposal under consideration would cost my State money.

Logic tells me that if CBO cannot calculate the potential loss in revenue to the States, and my State projects large revenue losses, why would we make dramatic and permanent changes to the Internet tax moratorium? Why would we do that to our friends in State and local government?

Last month, Senator COLLINS, chairman of the Governmental Affairs Committee, confirmed in a letter to me that the Allen-Wyden managers' amendment to S. 150 also contained unfunded mandates as defined by UMRA. The CBO says it and the Governmental Affairs Committee says it is an unfunded mandate.

Unlike Congress, by law States must balance their budgets. They do not have the option of printing money like we do. Therefore, if the Senate passes S. 150 or the managers' amendment, Congress will, in effect, force States to raise taxes or cut services in order to make up the difference, which is why each State and local government and organizations are opposed to this legislation with the exception of the NCSL.

However, NCSL did send a strong message earlier this year. In fact, they were in favor of this bill last November but have since removed their support and are now neutral on the legislation. They are giving more consideration to this issue.

The financial impact of S. 150 would be devastating to our State and local governments, but there are other problems with the legislation that are beyond our control. The Federal Communications Commission classifies DSL as both an information service and telecommunications service. I just wonder how many of our colleagues really understand what this is all about. This is a very complex issue and we really need to pay attention to both the language in the proposals and, now to the courts as well. Under the 1998 moratorium, State and local governments are

able to collect taxes on the telecommunications portion of DSL service.

The problem that supporters of S. 150 point out is that cable modem Internet service has been classified by the FCC as an information service and, therefore, it is not subject to State and local telecommunications taxes. My colleagues argue that we need to bring parity to the industry by enacting an expanded definition of Internet access. I agree with them in principle. However, earlier this month the Ninth Circuit overruled the Federal Communications Commission decision that cable modem broadband service was a single information service. The court ruling means that cable modem service now can be classified as part information service and part telecommunications service, just like DSL. So under the Ninth Circuit, there is now parity between DSL and cable modem.

The Ninth Circuit case may be appealed to the Supreme Court. This whole area still is in flux. But it does not end there.

As I mentioned, we think it will go to the Supreme Court, and, if so, they may not render a decision until June of 2005. The case, obviously, has significant impact on the debate today.

When we have so much uncertainty, Congress should proceed very cautiously and not run out and do something that will have a tremendous impact on all the future decisions that are made on this issue.

I am one of 11 Members joining Senators ALEXANDER and CARPER on S. 2084, the Internet Tax Ban Extension and Improvement Act. The bill provides a 2-year solution that expands the definition of Internet access to the level playing field for all Internet providers: DSL, cable, modem, wireless, and satellite. In other words, our bill would put them all in an equal position and would resolve the issue with the Ninth Circuit Court because it would basically say we agree with the court.

Our legislation would make the last mile of Internet service from the Internet provider to the customer tax free. In addition, our legislation retains the existing grandfather clause in effect for 2 years, that is 11 States; expands the grandfather clause by allowing States that are now collecting taxes on DSL service to continue to do so for 2 more years, currently 16 States; and prohibits States that are not collecting taxes on DSL from doing so.

It would also prevent them from collecting taxes on cable and other services on the Internet. Unfortunately, our legislation was not acceptable to the sponsors. We thought it was very reasonable because they believed we needed a broader policy to promote the growth of the Internet. However, recent trends on the growth of broadband services may suggest otherwise.

When I was chairman of the National Governors Association back in 1998, I helped negotiate the first Internet tax moratorium because there was a big concern about what it would do to the Internet. Our goal then and our goal today is the same: to encourage the growth of the Internet as a driving force in our economy. We want that to happen. I believe we have been successful.

In fact, I will highlight how much Internet technology has grown over the past years. It is unbelievable. According to a study released by the Pew Internet and American Life Project last week, 55 percent of American Internet users have access to broadband either at home or at the workplace. The report also noted that home broadband usage is up 60 percent since March of 2003, with half of that growth since November of 2003. DSL technology now has a 42-percent share of the home broadband market. This figure is up from 28 percent in March of 2003. What I would like to point out is that it all happened since the moratorium ended.

I think the Chair will recall that our opponents were concerned that if the moratorium expired, States would rush out and tax the Internet. That has not happened. In fact, we have just seen an exponential growth in the use of the Internet. Additionally, on April 21, a major telecommunications company, SBC released their 2004 first quarter earnings.

I will read the first two sentences from the company's press release because it illustrates how fast this technology is growing.

> SBC Communications, Inc., today reported first-quarter 2004 earnings of $1.9 billion as it delivered strong progress in key growth products. In the quarter, SBC added 446,000 DSL lines, the best ever by a U.S. telecom provider . . .

I congratulate this company for fostering the growth of DSL service in our country and for building a solid business plan that allowed them to have such a positive impact on their bottom line. Their financial outlook proves that Congress should not subsidize a growing industry at the expense of our State and local governments.

As I mentioned earlier, not one State has passed legislation to tax Internet access in the absence of a Federal moratorium. In fact, we have reports that a couple of States have even backed off from what they were doing before. Therefore, the sky that was predicted to fall has not.

That is not to say that I am opposed to an Internet tax moratorium. Nothing could be further from the truth. There is still more room to compromise, and I think it is fair to say that some of my colleagues agree with my assessment.

The inability of both sides to reach an agreement prompted Senator MCCAIN to offer a new proposal. I commend my good friend from Arizona for trying to reach a middle ground on this complex issue and, for that matter, I congratulate him on trying to bring us together.

I do not know whether the Senator from Tennessee is going to opine on that proposal, but the four principles are: Establishes a 4-year moratorium; allows States to collect taxes on telephone calls made over the Internet; extends the original grandfather clause for 3 years; initiates the 2-year grandfather clause for States that are currently collecting taxes on DSL services.

I am very concerned because the term of the moratorium is longer than the two grandfather clauses, which may trigger the unfunded mandate that I have been talking about in the point of order.

I appreciate the attempt of the Senator from Arizona to offer a solution. But here we are here again at the last minute trying to get something done, and now we have a new proposal. We have no idea of what impact it is going to have. I for one, would like my state to review the proposal.

It seems to me that at this stage the best thing we can do is to understand that we have unresolved issues, and that S. 150 was passed out of the Commerce Committee by voice vote. That is the way it came out of the committee. If one examines S. 150 and they examine the Alexander-Carper-Voinovich, et al., bill they will find both bills have 11 cosponsors. There are 11 for our bill and 11 for the legislation of the Senator from Virginia. Six cosponsors of each bill are from the Commerce Committee.

So it is evident that even within the Commerce Committee there are genuine differences of opinion on the best way to proceed. I think we understand that given the longstanding impasse on negotiations and the possible Supreme Court action, there has to be an easier way to get this done.

I understand Senator ENZI will introduce a 15-month extension of the original moratorium, and perhaps that is the most reasonable solution because it will provide all stakeholders, including the Commerce Committee, the FCC, the State and local government groups, and the industry time to draft a reasonable bill.

If the motion to proceed to S. 150 passes this afternoon, I believe the Senate will not be able to reach an agreement on the underlying bill, which may signal the end of the Internet tax moratorium. If we cannot agree, that is the end of it. I do not want that to happen. Therefore, I implore my colleagues to continue negotiations on the Internet tax moratorium.

Our goal should be to reach a sensible solution with two simple principles in mind: First and foremost, do no harm to the States. Second, foster the growth of high-speed Internet access by leveling the playing field for all Internet service providers.

So a way out of the thicket may be to extend the moratorium for another 2 years or for 15 months, give the Commerce Committee more of an opportunity to work on the issue, give the FCC more time to be involved, see

which way the court cases are going, and come back with something where all of us can agree that makes sense. We need a proposal that respects the State and local governments, does not violate unfunded mandates, and at the same time make sure we can move forward with the Internet and achieve the phenomenal success that it already has achieved.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I have already spoken, so if the Senators from Virginia or Delaware want to speak, I will certainly yield to them.

But I certainly congratulate the Senator from Ohio. He knows what he is talking about when it comes to State and local government. He has been a mayor. He rescued a major American city from bankruptcy. He chaired the National Governors Association. The people of Ohio know he works in a very principled way. He understands, as I believe I do, that this train is on the wrong track.

I say this to the Senators from Ohio and Delaware and then I will stop and yield to the Senator from Delaware: How much subsidy is enough subsidy? I notice, in this thick list of subsidies that States give high-speed Internet access, Texas is generating $1.5 billion of subsidy just to encourage the growth of high-speed Internet access. Then, in addition, it has already made exempt from taxation the first $25 you pay for high-speed Internet access. Now we are talking about giving further subsidies to the companies that provide that access. I don't see the sense of that.

I congratulate the Senator from Ohio, look forward to working with him, and now that I see the Senator from Delaware with whom I have enjoyed working, I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Madam President, I am delighted to be on the floor with you and particularly pleased to be with Senators VOINOVICH and ALEXANDER.

I wish to ask a question of Senator VOINOVICH, if I could—I know, before he was the Senator from Ohio, he was the Governor of Ohio. We served together at that time—to what other elective positions Senator VOINOVICH has been elected by the people of Ohio? As I recall——

Mr. VOINOVICH. I have already listed them in my formal presentation on the floor. There are so many it is hard to remember.

But I did mention the fact that we all worked together as members of the National Governors Association. In fact, the Senator from Delaware was vice chairman of the National Governors Association when I was president of the National Governors Association, and we worked together and collaborated on a lot of issues.

I have been concerned about this issue since I was president of the National League of Cities back in 1985. As the Presiding Officer knows, one of the biggest issues we had in 1995 and 1996 was unfunded mandates. We went right across the country pointing out how devastating these mandates coming out of Washington were for State and local governments. We thought we had done something very significant about it.

But to answer the question of the Senator from Delaware, from my perspective, the passage of this bill would be the most egregious unfunded mandate we have seen since 1995, when the unfunded mandates relief legislation was passed. It seems to me we still have Members of this body who were around when unfunded mandates relief legislation was passed and there was great support for it. It seems to me those who supported it at that time should give some real consideration to the fact that we are about, if this were to pass, to have the biggest unfunded mandate, as I said, since that bill passed.

Mr. CARPER. I would say, Madam President, Senator VOINOVICH is not a Johnny-come-lately on this subject. I recall, early in my time as Governor, working through the National Governors Association, the kind of leadership he provided, encouraging the Congress, the House and Senate, and then President Clinton, to pass and enact an unfunded mandates law. He played a major role in getting that done.

It is kind of ironic that a decade or so later, we are back again and the issue is very much the same. I am pleased to see we stand today where we stood then. I am honored to be involved in this battle on the same side with Senator VOINOVICH and Senator ALEXANDER.

We have been joined on the floor by the former mayor of San Francisco, Senator FEINSTEIN, and I see we have been joined on the floor by another former Governor, Governor ALLEN, who in this instance is our adversary but remains our very good friend.

That having been said, I do have some other comments I would like to make. Let me observe we have gotten into some very bad habits here in Washington. We all know we are living beyond our means. We all know about our growing budget shortfall and our escalating level of indebtedness. We all know the most popular way to pay for things around here is simply to issue more and more debt on our Nation's credit card and on our taxpayers' dime.

Moreover, we all know that our budget shortfall is actually bigger than we report it to be. We all know we are using Social Security funds to mask the actual size of our Federal budget deficit.

We are using the payroll tax contributions that working Americans pay into Social Security, and employers pay, to pay for other Government spending and to partially offset corporate tax breaks and reductions in taxes on inherited estates.

What we do not talk about very often is that piling up more debt and drawing on Social Security are not the only means we are resorting to these days to continue to spend more than we take in. The other way we found to spend without constraint or accountability was to pass the buck to our friends in State and local government.

If you think about it, it is a sweetheart deal. We order up a feast here in Washington of more spending or more special interest tax breaks and more corporate subsidies. Then we stick the Governors, mayors, and State and local taxpayers with the tab. It is not surprising that we do this. In doing so, we get to take credit for helping an array of different groups and businesses represented here in Washington. Yet we don't have to raise a single tax or cut a single program to pay for it.

In government as in business, however, there is no such thing as a free lunch. This policy of passing unfunded mandates has not been nearly as convenient for our Governors, for our mayors, and State and local taxpayers as it has been for us here in our Nation's Capital. I don't have to tell my colleagues their States and localities are struggling to cope today with the worst fiscal crisis—some say since World War II. Classrooms are becoming even more crowded as school budgets are cut. Prisoners in a number of States are being released from jail as corrections budgets are cut. Governors and mayors are pushing through unpopular and frequently regressive tax increases because they have a constitutional mandate to balance their budget.

We all know this. Yet when it comes right down to it, we proceed to act here in Washington as if we are oblivious to what is going on all around us. We continue to treat State and local budgets almost as piggy banks that we can break in order to pay for our own priorities.

Just about everyone in this body supports a moratorium on State and local taxes on Internet access. In 1998, the Congress passed such a moratorium. In 2001, we extended that moratorium. In fact, I believe we did so just about unanimously.

Last year the Internet tax moratorium expired. There was no reason why that should have happened. If the bill had been brought to the floor of the Senate simply to extend that moratorium once again, it would have passed once again by acclamation. The American people support the moratorium. I support the moratorium. All of us want to see it extended.

However, as was the case last year, the bill we are debating this week does not simply extend the expired Internet tax moratorium. I wish that it did. Instead, what this bill does is to take advantage of the need to extend that moratorium to attach billions of dollars in new subsidies for the telecommunications industry.

Such a bill would not normally stand much of a chance of passage in the Senate.

The simple truth of the matter is we don't have the money at this time of budget deficits at home and war abroad to pay for billions of dollars in new subsidies for what is already a highly profitable industry. But the proponents of this legislation have discovered an easy solution to their problem. Why pay when we can send the bill back home to our Governors and to our mayors? Just think of it as political welfare. We spend and they pay.

Passing the buck in this way is bad enough, but it gets worse. Believe it or not, we can't actually say what this legislation will cost our friends in State and local governments. We know it will not cost us a dime here in Washington, but the truth is we do not know how much it will cost in Dover, DE, in Raleigh, NC, in Richmond, VA, in Columbus, OH, in Nashville, TN, or in Sacramento, CA.

The Congressional Budget Office tells us this legislation is written in a way that is extremely broad and vague. In fact, the Congressional Budget Office cannot even give us a rough estimate of what the effect will be on State and local budgets except to say this:

We believe it could grow to be large.

Here is what we are saying in effect to our Governors and to our mayors: We are extending to you the great honor of picking up our dinner tab tonight. We can't tell you exactly how much we have ordered or what the final bill will be, but we believe it could grow to be large.

At times like these when property taxes are being raised, when sales taxes are being raised, when school budgets are being cut, when prisoners are being released prematurely, our first responsibility in dealing with our partners in State and local government should be to do as Senator VOINOVICH has already said—no harm. Indeed, that is the pledge our Senate majority leader, Senator FRIST, made to our Nation's Governors when he spoke to them back in February, a couple of months ago, when they were here in town. As a doctor—and a good one—the majority leader said his approach to legislation would be, ''First, do no harm.'' This, it seems to me, at least is a sensible approach. My hope is that rather than wasting time with an unproductive fight here on the floor, we will return to the negotiating table and work out a compromise that keeps faith with this Hippocratic pledge to do no harm.

Unfortunately, the way it stands, we are choosing the way of lawyers around here rather than the way of the doctors. The Congressional Budget Office says the language of the legislation we are proceeding to here in the Senate is so confusing lawyers will ultimately have to get involved and we will not know what the implications for State and local budgets will be until it all gets sorted out in the courts.

If we had to choose between extending the Internet tax moratorium and keeping faith with our pledge to do no harm, we would truly be faced with a difficult decision. But in reality, that is not the decision with which we are faced. We can extend the Internet tax moratorium. Nobody I have talked to is opposed to that. States and localities have been living under the Internet tax moratorium for more than 5 years now. None of them are counting on revenues from taxes prohibited under the Internet tax moratorium.

Extending the Internet tax moratorium is not what creates a large, new, unfunded mandate. What creates a large, new, unfunded mandate is using the occasion of the Internet tax moratorium renewal to create new industry subsidies and then emptying State and local treasuries to pay for those subsidies.

This bill departs from the original intent of the previous moratorium which was to ensure the monthly bills our constituents receive from their Internet service providers remain tax free. Instead, this legislation picks the pockets of State and local taxpayers who have already suffered their fair share of tax increases over the past 3 years.

Senator ALEXANDER and I are Senators. Like all of our colleagues, we have constituents who use the Internet and who want the Internet tax moratorium to remain in place. Like most others in this body, we want to extend the Internet tax moratorium. But Senator ALEXANDER and I are also former Governors. We know what it is like to be on the receiving end of unfunded Federal mandates, as do my colleagues Senator FEINSTEIN, former mayor of San Francisco, and Senator HUTCHISON, a former State treasurer from Texas.

Senator ALEXANDER and I, together with Senator VOINOVICH, Senator GRAHAM, Senator HUTCHISON, Senator FEINSTEIN and others, have offered what we believe is a straightforward, commonsense alternative. As we did in 2001, let us examine the Internet tax moratorium for another 2 years. If we need to expand the moratorium slightly to ensure all consumers can access the Internet tax free, regardless of whether they choose cable or DSL, then let us do that. But beyond that, let us do no harm.

Let us do no harm because doing harm is not necessary to ensure consumers can access the Internet tax free. Doing harm is only necessary if we believe the telecommunications industry needs billions of dollars in new subsidies. Beyond that, doing harm is only necessary if we believe Congress cannot or should not pay for such subsidies it decides to create.

Senator ALEXANDER and I, together with Senators VOINOVICH, FEINSTEIN, HUTCHISON, GRAHAM and others, have been working in good faith with our colleagues on the other side of this issue. We are committed to reaching a reasonable compromise. We are willing to meet every day if necessary to work out such a compromise. However, what we are not going to do is turn our backs on our former colleagues in our Nation's State houses and our Nation's city halls. We are not going to stand by as yet another unfunded mandate gets passed down and wreaks havoc on the operations of State and local governments.

We don't think it is constructive to try to write this bill on the floor. Furthermore, we believe we should only proceed to consideration of a bill that adheres to the principles of doing no harm.

If our colleagues want to attach industry subsidies to an Internet tax moratorium, they should offer an amendment to do so, and that amendment should be debated openly here on the floor of the Senate.

If the majority leader wants to try to write this bill on the floor despite our reservations, then we are prepared to go through that exercise.

We have many specific concerns with the bill that has been called up. We have a number of amendments we will offer for our colleagues' consideration, including amendments to return to the original intent of the moratorium and to require any new subsidies be directly passed on to consumers in the form of reduced rates.

We will also offer our colleagues an opportunity to pay for the billions of dollars of subsidies that have been added to this bill.

If this body does not believe the resources exist at the Federal level to pay for these subsidies, we will raise a point of order against the bill.

As the Congressional Budget Office has already indicated, this bill violates the promise Congress made in 1995 that we would not continue to pass large, unfunded mandates. The Senate has the power to waive the point of order that is supposed to prevent Congress from passing large, unfunded Federal mandates. If we are going to do so, however, Senator ALEXANDER and I believe the Senate ought to be put on record as acknowledging our continued reliance on unfunded mandates as a chosen means to avoid our fiscal responsibility, and it should not have to come to that. Our hope is it will not come to that.

We believe the negotiations we have had with our friends on the other side, though they have been limited, have been productive, and we have tried as fully as we can consistent with our principles to address industries' demands.

We believe we have come a long way since this debate began early last year. We are committed to continuing that process. If that process is short circuited, however, as it seems it will be, at least for now, we will insist upon a serious and informed debate in the Senate this week.

This is the body that our Founding Fathers created to represent the interest of States. This is the body that must defend our Federal system of government and stand against the trend of passing more and more unfunded Federal mandates.

Win or lose, Senator ALEXANDER and I are committed to ensuring that this is one unfunded mandate that will not be passed silently in the dead of night.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Madam President, I rise this afternoon to urge my colleagues to support the motion for cloture to proceed to S. 150, the Internet Tax Nondiscrimination Act. This bill does have strong bipartisan support.

Let me say a few things in response to my good friend, the junior Senator from Delaware, Mr. CARPER. If those who oppose this measure want to extend the moratorium, why are we having this debate tonight? Why are we going to have to have a motion for cloture on moving to proceed on the bill?

I agree that we should do no harm. Those who are for this measure want to prevent harm to consumers so that they are not loaded up with taxes from State and local governments. I will get into the details of that in my remarks.

The cost, the so-called unfunded mandate aspect of this is a very small amount in the scheme of things, $80 to $120 million, then another $40 million for the taxing of DSL. Updates in the new technologies need to be made in the definition of Internet access to make sure DSL and digital subscriber lines using telephone lines get high-speed Internet access or broadband. We need to have that changed to make sure the folks at the State and local level recognize that there has been an update and upgrade, there have been advancements in technology in the transport of the Internet, particularly broadband, but DSL lines should not be subject to taxation.

The intent of the first Internet tax moratorium was to make sure the Internet was free of taxation. The Internet is a freeway. If you want access to information, you click on. Now that transport is being taxed. Who pays? The consumer pays.

I will use an analogy. Now we have a freeway. You are going to Charlotte, NC, from Washington, DC, you get on Interstate 95 and switch over to Interstate 85. It is a freeway. Then you get off on an exit to wherever you want to get in the city of Charlotte, NC.

The advocates of taxing the Internet and those who oppose S. 150 would like to turn that freeway into the New Jersey Turnpike, a toll road.

Clearly, the consumer getting that information on the backbone of the Internet is going to have to pay for it, increasing their costs.

Companion legislation was passed by the House 8 months ago. My colleagues have heard me say on many occasions, I believe what we ought to be advocating in the Senate, in the Congress, at the Federal level, and every level of government in the United States of America, are policies that allow people to compete and succeed. That means tax policy, regulatory policies that promote freedom and opportunity for all Americans. We ought to, as leaders, be advancing ideas that help create more investment, creating, thereby, more jobs and more prosperity rather than more burdens of taxation and regulation.

Senator WYDEN from Oregon and I joined together early last year with this bill. We want to make sure there is equal access to the Internet for all consumers and also protect e-commerce transactions from discriminatory taxes or multiple taxes. The Internet is one of the greatest tools invented by this country. It is a symbol and an actual tool of innovation and individual empowerment. Accordingly, I would think everyone in the Senate would want to help the Internet continue to grow and flourish as a valuable tool for commerce, for information, for education.

However, as of November 1 of last year, the Federal moratorium, which was originally enacted in 1998—and Senator WYDEN was a key sponsor of that measure—expired, leaving consumers vulnerable to harmful regressive and discriminatory taxes for the first time in 6 years.

If the Senate does not act now and move to consider S. 150, it is unlikely we will get another chance in this election year. If we do not invoke cloture, the Senate will be known as a Senate that favors new taxes on the Internet; the Senate that turned a blind eye; and a Senate that limited individual opportunity while enabling harmful, regressive taxation of access to the Internet.

When Senator WYDEN and I introduced this legislation over a year ago, it was consistent with the founding principles of the original moratorium that the Internet ought to remain as accessible as possible to all people in all parts of the country forever. Unfortunately, in the last year of debate, the focus has shifted away from that principle, causing unnecessary confusion and delay.

Let me be clear, this legislation is not about tax breaks for telecommunications companies. It is not about mayors and Governors. It is certainly not about the 1994 Republican revolution that has absolutely nothing to do with traditional telephone calls migrating to the Internet. Rather, our legislation has everything to do with consumers and the impact of taxation on real people and our American economy.

All of the protax arguments and misleading accusations presented by the opposition are unrelated distractions aimed at confusing Senators and stalling consideration of this very important measure. In fact, the issue is not about telephone services migrating to the Internet. Rather, it is the ongoing campaign by State and local tax lobbyists to make sure telephone taxes, which average 15 to 18 percent, migrate to the Internet.

I ask my colleagues and anyone else who might be listening to think of their telephone bill. Think of the bill you receive each month with all sorts of taxes included—usually multiple local taxes, State taxes, as well as Federal taxes.

In effect, the opponents of our measure would have our monthly Internet service provider bill be loaded down with all those taxes, as on our telephone bill.

Mr. WYDEN. Would the distinguished Senator from Virginia yield for a question?

Mr. ALLEN. I yield.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. I thank my colleague for an excellent presentation.

Is it not correct that in the late 1990s we heard the same kind of arguments we are hearing today, that the States and localities would be bereft of revenue, and there would be financial calamity? Is it not correct in 1997, 1998, the National Governors Association said the State and local revenue system would collapse, and that very next year revenue went up something like $7 billion? Was that not the history all through this debate over the last 6 or 7 years, that we have had the projections from State and local officials that there would be disastrous financial consequences, and then you and I and Senator SUNUNU would look a short time later, and every single time revenue went up; is that correct?

Mr. ALLEN. I say to my friend, the Senator from Oregon, he is exactly correct.

I recollect back in 1997, I was Governor of the Commonwealth of Virginia when Senator WYDEN and Congressman CHRIS COX of California introduced this measure. I was one of four Governors who believed this was clearly interstate commerce. If there is anything that is interstate in nature by its architecture, design, and engineering, it is the Internet. I thought we ought to have a national policy, that it be more ubiquitous or more available, understanding that taxation harms it.

I believed, as did the Senator from Oregon and Senator SUNUNU, this would be a great engine for innovation, growth, investment, and jobs. That is exactly what happened.

The amount of revenues lost by those first, most avaricious, those desiring to go in and start taxing at the local and State level, is very small.

But if you look at the economic growth led by the Internet, and the revenues that came after it—and it does not have to be a technology business; it could be a mom-and-pop start-up business; it could be a major corporation; it could be somebody working from their home on eBay—you see the revenue growth, you see more jobs and, therefore, more revenue for the Government.

So when you look at the effect of the localities and States not being able to tax this interstate commerce, you find that it actually has been beneficial for the economy. The lost revenues are very small. In fact, there were about 10 States, I believe it was, that were

grandfathered in that had already started taxing prior to 1998. About three-quarters of those States are still taxing Internet access.

Six years later, you would figure they would wean themselves off of it. But there were about a quarter of these States—South Carolina, Connecticut, Iowa and the District of Columbia, and others—that have said: Gosh, this is harmful. This makes our jurisdiction, our State less attractive for investment and jobs, and it is bad for our citizens, and they voluntarily stopped taxing the Internet.

The reality is, all of these fiscal impacts that we hear of are so farfetched. In fact, the CBO confirmed that our opponents and the State tax agencies have overstated the revenue impact of this clarification to make sure that DSL and broadband is not taxed. They overstated it by 100 times. The fiscal impact, if you throw them all together, at best, would be $200 million. Across the whole country, our opponents are saying it is going to cost $20 billion.

Mr. SUNUNU. Madam President, will the Senator from Virginia yield for a question?

Mr. ALLEN. I am happy to yield to my friend from New Hampshire.

Mr. SUNUNU. The Senator from Virginia has mentioned those 10 or 12 States that were grandfathered under the original Internet tax moratorium. I think it is important to understand—because the opponents have claimed there is an unfunded mandate—isn't the only reason the Congressional Budget Office will score an unfunded mandate because those 10 or 12 States were grandfathered in the first place? In other words, if we had not made any effort to allow those States to continue to collect some taxes on Internet access, there would be no unfunded mandate because those taxes would have been eliminated, as one might argue they should have been in the first place? But isn't that the only reason there is a so-called unfunded mandate in the first place?

Mr. ALLEN. I say to my friend, the Senator from New Hampshire, he is exactly correct. The unfunded mandate aspect of this is a kind of perverse reasoning because the States that were grandfathered back in 1998 have yet to wean themselves off of this tax on Internet access. We are actually giving them, in our measure, 3 more years, and that is a loss of revenue to them? Then there are those in the last couple years that have made rulings that are taxing the backbone or the transport, more importantly, the high speed transport or broadband. That is about $40 million. So the point is, they have had plenty of time to wean themselves off of this tax, and we are actually going to give them even more time.

Also, it is not unprecedented for Congress to recognize the importance of a coherent national policy regarding matters of interstate commerce. In 1973, States were prohibited from imposing a tax, a fee, or a head charge on all air commerce. In 1985, Senator Bob Dole led a measure affecting food stamp purchases. States were putting sales taxes on food stamp purchases, and Senator Dole introduced a bill, and it passed in 1985, prohibiting States from imposing sales taxes on food stamp purchases.

Most recently as we were passing the Medicare drug bill this last winter, just a few months ago, Congress prohibited States from imposing insurance premium taxes on drug insurance policies. The fiscal impact of that was approximately $60 million.

Now, in the last 10 years, of course, the Internet has grown, with the policy of our country that we would not tax it. We wanted it to flourish, to grow, and provide opportunities for individuals. What our opponents will have us do, though, is—again, remember, they want to have unelected tax administrators or local and State governments to tax the Internet backbone or, for that matter, high-speed or broadband telephone service.

Let me speak about everyone's telephone bill. Look at all those taxes on it. This is why the moratorium is so essential, that we stop them from taxing anymore than they are now, and wean them off.

Realize it is nearly impossible to repeal taxes because—do you know what?—on your telephone bill, for every single citizen, every single person in America who has telephone service, part of those taxes that you are paying is a luxury tax that was put on 105 years ago as a luxury tax on telephone service to finance the Spanish American War. Guess what? We are still paying it. That war has been over for over 100 years and we won. Yet we are still paying that tax.

That is why it is important, number one, to wean the few States and localities off of this negative, burdensome tax on opportunity and freedom but also to stop it from happening in the future.

The President of the United States, on numerous occasions—recently, in New Mexico, in Michigan, in Minnesota—has stated a goal for this country, in the year 2007—which is also the 400th anniversary of the founding of Jamestown by the Virginia Company—he wants to have everyone in this country having access to broadband.

Broadband is essential for rural areas. I know in southwestern Virginia, in Southside Virginia, in any rural areas in this country, they look at having broadband, high-speed Internet access as key to their young people having opportunities—whether it is educational opportunities or health care with telemedicine, or for small businesses to be able to be competing internationally, as opposed to young people having to leave their home and their roots and their heritage to find jobs elsewhere.

It is the President's view that we are falling behind—and we are falling behind—other countries as far as broadband and high-speed access. You see a disparity, one based on income. Every study and anybody with a scintilla of common sense will understand, if you tax something, fewer people can afford it. Those who are lower income or lower middle income cannot afford it. Every study—by Pew and others—shows that the cost of Internet access is the reason for them not being online. For broadband, if you want to get broadband deployed and available in rural areas, and have competition and choice for customers, clearly DSL will be an approach, wireless will be an approach, maybe satellites. Most cannot use a cable modem because there is just a lot of dirt to dig to get to many rural areas that are sparsely populated.

The fact is, the most recent studies show there is a disparity not only in the economic digital divide, which manifests itself with Hispanic Americans and African Americans, but also rural versus city areas. City areas have almost three times as much utilization and use of broadband in their homes than out in the country in rural areas. Broadband deployment is only 10 percent in rural areas while it is over 28 percent in city or suburban-city areas.

For rural areas to be able to compete, and for the vitality of their future, adding a 15- to 18-percent tax—these are the telecommunications taxes that our opponents would impose—will diminish the availability of the Internet. That 15- to 18-percent tax means it is going to take more money to get broadband access to those people, and fewer people will be able to access it. Therefore, the investors will not invest the money to get into that community.

Mr. SUNUNU. Madam President, will the Senator from Virginia yield for one additional question?

Mr. ALLEN. I am happy to yield to my friend from New Hampshire.

Mr. SUNUNU. Madam President, the Senator from Virginia is talking about the kind of Internet access-specific taxes that the opponents of this bill would like to apply. There are a number of States that are taxing Internet access today. There are a handful of others that have begun to tax DSL and other forms of broadband. These are all taxes that are unique to Internet access. Yet the opponents continue to suggest that there is a subsidy involved here.

I want to ask the Senator from Virginia to clarify this point because I can't think of any taxes that are applied broadly from which this bill would exempt Internet access providers. Isn't it true that if you are an Internet access provider, you would still have to have pay State payroll taxes?

Mr. ALLEN. Yes, you would still have to pay corporate taxes, State payroll taxes.

Mr. SUNUNU. Would they be subject to capital gains taxes in those States where it was applicable?

Mr. ALLEN. Yes, they would.

Mr. SUNUNU. Would they have to pay property taxes in those States where they owned property and operated facilities?

Mr. ALLEN. Absolutely, they would have to pay those taxes.

Mr. SUNUNU. If there were an Internet transaction that was selling a good within a State that had a sales tax, just like a mail order product, wouldn't they be responsible for the applicable sales taxes in those States?

Mr. ALLEN. Sales and use taxes, if they have a physical presence in that State, yes, they would have to collect and remit those taxes.

Mr. SUNUNU. Would the Senator agree that there are no taxes that are being applied uniformly or broadly in States that these Internet access providers would be exempted from? This is a bill that simply avoids discriminatory taxes that single out Internet access or multiple taxation where you can have taxes levied at the State level and the county level and the city level; isn't that the ultimate goal of the bill?

Mr. ALLEN. I would say to the Senator from New Hampshire, he has it exactly correct, as well as protecting consumers from access taxes. The Senator from New Hampshire understands this issue very well. Maybe the opponents would like to stop these delay-of-game tactics so we can actually get to protecting the people.

I find it interesting—and as I said, this has nothing to do with subsidies of telecommunications companies—that virtually every Senator will say, let's figure out subsidies; let's figure out tax breaks to get broadband to rural areas. Why would you want to have subsidies and expenditures and then on the other hand say, let's tax it, when you are trying to get more people utilizing and having access to broadband for a variety of reasons?

I see the chairman of the Commerce Committee has arrived. I will simply say, the United States has been a leader for freedom. We are falling behind other countries in broadband, its deployment, and its use to Asian and European countries. Simply put, taxes on access to the Internet reduce the number of consumers who can afford to purchase this service, thereby limiting opportunities for millions of Americans. Reduction of demand will stifle investment in rural and underserved areas. It will slow the deployment of the next-generation broadband technologies.

I urge, most respectfully, my colleagues to stand on the side of freedom, embrace innovation and improvement, and not tax this tool for individual empowerment and opportunity. I urge my colleagues to support cloture on the motion to proceed. It is a motion to proceed for opportunity and for freedom.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Arizona.

Mr. MCCAIN. Mr. President, may I ask the Senator from California if she would like to take 5 minutes. I know she has been patiently waiting.

Mrs. FEINSTEIN. I would be happy to speak after the vote.

Mr. MCCAIN. I thank the Senator from California. I appreciate her patience and hope she is able to speak, as I know she has strong beliefs on this issue.

Over 5 years ago, Congress took appropriate action to pass the Internet Tax Freedom Act which encouraged the growth and adoption of the Internet by exempting Internet access from State and local taxation and by protecting e-commerce transactions from multiple or discriminatory taxes. As my colleagues know, since then the Internet has grown from a tool used by a relatively small percentage of our population to a broadly utilized communications, information, entertainment, and commercial medium as well as an important vehicle for political participation.

To keep promoting the growth of the Internet, many of my colleagues have made efforts to extend the Internet tax moratorium. Regrettably these efforts have stalled. Six months ago, we left unfinished business before the Senate. At the time, many of us were prepared to vote to extend the Internet tax moratorium. Unfortunately, a vote never took place because of disagreement over what components of Internet access should be free from taxation and how long the moratorium should last. As a result, the moratorium expired and State and local governments are now free to impose new taxes on the Internet.

Today, we return to the consideration of S. 150, the Internet Tax Nondiscrimination Act, which would permanently extend the moratorium on the taxation of Internet access. After 10 months of negotiations, there is still no clear consensus in the Senate over what types of Internet access services should be tax free, nor is there any clear consensus over how long the moratorium should last. One thing is clear, though: There is broad agreement that the Internet tax moratorium should be reinstated. It is also clear that the Members who have been involved in this long negotiation process have listened closely to the concerns of State and local governments.

For example, to address issues raised by opponents of S. 150, Senators ALLEN, WYDEN, SUNUNU, ENSIGN, WARNER, SMITH, LEAHY, GRASSLEY, BAUCUS, HATCH, BOXER, CHAMBLISS, LINCOLN and I—a strongly bipartisan effort—offered a substitute amendment that would have narrowed the scope of the moratorium and clarified its effects on State and local revenues. This time around, we will go a significant step further by offering a compromise amendment written to address the core concerns expressed by State and local governments over the extension of the Internet tax moratorium.

Before I get into the details of the amendment, let me be crystal clear about one thing: This compromise will not make everyone 100 percent happy. There are several aspects that will accommodate State and local governments, but the legislation also contains components that are favored by industry and ultimately benefit consumers. So there continue to be disagreements.

The Members who sit on the edges of this debate bell curve will continue to oppose anything that falls short of their desired outcome. However, any practical person who reads the amendment objectively will have to agree. What we are offering constitutes a reasonable middle ground in the debate between those who want to make the Internet tax moratorium permanent and broad and those who want to make the moratorium brief and narrow.

Throughout the negotiation process, State and local groups asked for a temporary extension to the Internet tax moratorium. Specifically, they have asked for a 2-year extension of the moratorium. The substitute amendment would extend the moratorium for 4 years from November 1, 2003. This alone is an extraordinary concession, especially considering the fact that the House of Representatives, in a strongly bipartisan effort, passed a permanent extension of the moratorium last year, and there remains significant support in the Senate for such a measure.

President Bush has expressed his strong support for a permanent extension of the moratorium. Nevertheless, I hope my colleagues who favor a permanent moratorium will support this proposal in an effort to reach an acceptable compromise between industry and consumers and State and local governments.

Another concern we have heard from State and local governments is that extending the Internet tax moratorium would somehow impact traditional telephone services. That certainly was never the intent of the original legislation, as has been made clear by the Commerce Committee's report accompanying the bill.

The report reads:

> The modified definition [of Internet access] would not affect the taxability of voice telephony over the public switched telephone network (so-called ''plain old telephone service'' or ''POTS'').

The matter is further clarified in this amendment. Simply put, this legislation would not impact in any way, shape, or form the revenue generated by State and local governments from traditional phone services. Again, a concern of State and local governments was accommodated to the full satisfaction of State and local authorities.

State and local governments have also expressed worry that this bill would hamper their ability to tax voice services and other services that run over the Internet.

For example, the National Governors Association has stated that one of its main concerns is that this legislation will prohibit states and localities from taxing telephone services as they migrate to the Internet. The Senators

from Tennessee and Ohio today have also emphasized that this is one of their three core concerns in this debate. In an attempt to respond to the concern about the migration of telephone services to the Internet, Senators ALLEN and ALEXANDER agreed in principle to carve voice over Internet Protocol, VOIP, telephon services out of the scope of the Internet tax moratorium. Unfortunately, their negotiations over the precise definition of VOIP telephone services were not successful.

The amendment that I offer bridges the gap in this matter by setting forth a broad definition of services—including voice services—that are provided over the Internet that would not be considered Internet access and would therefore not be subject to the Internet tax moratorium. My compromise would further narrow the definition of Internet access, while ensuring that services incidental to Internet access—such as e-mail and instant messaging—would remain tax-free. Once again, this provision fully addresses the concerns of state and local governments.

Mr. President, the list of compromises goes on and on. For example, my amendment would clarify that the Internet tax moratorium does not apply to nontransactional taxes such as taxes on net income, net worth, or property value.

My amendment would clarify that otherwise taxable services would not become tax-free solely because they are offered as a package with Internet access.

The amendment would grandfather for three years from November 1, 2003, the States that were taxing Internet access in October 1998.

My amendment would grandfather for two years from November 1, 2003, the States that began to tax—according to many, improperly—Internet access after October 1998.

The amendment would ensure that universal service would not be affected by the moratorium.

And finally, my amendment would ensure that 911 and E–911 services would not be affected by the moratorium.

Each of the compromise provisions is included in direct response to State and local government concerns about S. 150. And so my amendment will ensure that the $20 billion in telecommunications taxes that is collected annually by State and local governments will largely remain protected. Any statement to the contrary would be patently false.

Mr. President, my amendment goes a long way to meeting the concerns of the States and localities. However, before those on the other side of this debate start to protest, I would remind them that what I am proposing is truly a compromise between the interests of State and local governments on the one side and industry and consumers on the other. This legislation therefore doesn't—and, as a compromise, can't—adopt the State and local governments' position wholesale.

For that reason, the legislation would make Internet access 100 percent tax-free for all States in its fourth year.

Some question whether it's wise for Congress to make Internet access tax free, but this body has a long history of giving tax incentives and other economic support to industries and commercial activities that we believe help our society. The Internet is clearly a technology that also merits strongly the support of Government, as it is a source of and vehicle for significant economic benefits to our country.

Contrary to statements that have been made on the floor, yes, the railroads were assisted; yes, highways are assisted; yes, our airlines continue to be subsidized; and yes, we need to assist this new incredible technology that is changing America and the world.

In the case of the Internet tax moratorium, however, we are not talking about subsidies. We are merely talking about a national policy of taking a hands-off approach to the continued growth of the Internet. The Internet is now accessed at home by 75 percent of the population—an estimated 204 million people in the U.S.—up from 64 percent in 2002, and 26 percent in 1998 when Congress rightly decided to implement the ban on taxes on Internet access. That's an impressive 3 times what the Internet use rate was just over 5 years ago. And though the Internet tax moratorium has obviously had its intended effect of contributing to the growth of the Internet, our job is not yet done.

Today, the Internet offers the promise of broadband access services, which provide higher bandwidth connections that permit faster data transmissions and thus facilitate and enhance services such as streaming audio and video. Nevertheless, many of the households with Internet access have only basic dial-up access, and have not migrated to broadband services. In fact, the Pew Internet Project estimates that only 24 percent of American households have broadband access, while most homes still connect through dial-up modem connections. In fact, the United States is falling behind many other developed countries such as Japan, South Korea, and Canada in our deployment of broadband services—and many experts even call the broadband services that we have ''broadband on training wheels'' because they do not provide the speeds provided by the broadband networks of other nations.

Clearly, there remains a strong need to ensure that taxes on Internet access will not pose a hurdle to the continued adoption of basic dial-up access or to the migration from basic Internet access to broadband Internet access. Keeping the Internet tax-free translates into lower costs for consumers, and lower costs give our citizens freer access to important online services like telemedicine and e-learning.

Mr. LOTT. Will the Senator yield briefly?

Mr. MCCAIN. I am glad to.

Mr. LOTT. Mr. President, I want to commend the Senator for his tenacity. Typically, he wants to work to find a compromise that can satisfy both sides. I think he has done that. I am sure there are those on both sides of the issue and the aisle who may not feel this is perfect, but they will have an opportunity, when we get on the legislation—the substance of it, as this is a vote on the motion to invoke cloture on the motion to proceed—they will be able to offer amendments.

I thank the Senator from Arizona for what he has done. I urge my colleagues to certainly support this motion on cloture and allow us to get to the substance of the bill and to be able to reach conclusion on this important issue. So I recognize the Senator's efforts.

Mr. MCCAIN. Mr. President, I thank the Senator from Mississippi. I thank him for his involvement in this issue. As everyone knows, he is a genius at working his way through difficult and thorny issues. I appreciate his involvement in seeking to try to resolve differences between the two sides—at least to a point where we can move forward. I look forward to his continued assistance as we address this issue.

Mr. LOTT. I thank the Senator for yielding.

Mr. MCCAIN. Wider adoption of broadband services could also translate into economic growth and greater job creation for our country. I would suggest then that, as States and localities are shoring up their budgets and increasing their tax revenues after a few years of budget shortfalls, we should not move to stifle economic growth by taxing the Internet.

But this debate isn't just about the economic benefits of affordable Internet access. During my presidential candidacy, one of the many rewarding experiences I had was seeing how the Internet served as a medium for political participation. Hundreds of thousands of people logged on to my campaign Web site where they were able to access information and organize. For me, keeping Internet access tax-free is about protecting consumers' wallets and about helping our Nation's economy, but it also is about improving our political process and the right and ability of our citizens to participate fully in that process.

Because my amendment is not one-sided, I know that a few of my colleagues who have been firmly on one side of this debate or the other will not join us in this compromise. Some of my colleagues, for example, believe that Internet access should receive little—if any—protection from taxation. We have heard statements from some on that side that my amendment is not a true compromise, which both boggles the mind and indicates that for some in this debate the attitude is ''my way or

the highway.'' Others I'm sure continue to believe that all data transmissions over the Internet—including VoIP services—should be tax-free. But I ask those Members who see merits to both sides of this debate to join me in this effort to break the deadlock that has delayed action on this matter for far too long. Doing so will not only strike a fair balance in this debate, but it will also clarify the confusion that has been hanging over the tax treatment of Internet access for several months.

Mr. President, for all of the reasons stated, I urge my colleagues to vote in support of cloture on the motion to proceed to S. 150 and in favor of the Internet tax compromise that I will offer. I trust that we will add this measure to the long line of pro-consumer legislation we have passed during this Congress—including the Do-Not-Call registry legislation. I hope that we will again join together to give American consumers affordable access to the Internet, which we all agree is a crucial medium of communications, education, commerce, and political participation in America.

Again, I will summarize. This proposal is a temporary 4-year moratorium, which makes the Internet access 100 percent tax free, but narrows the definition of ''Internet access'' by excluding traditional telephone service, and it further narrows the definition of Internet access by carving out voice and other services provided over the Internet, while ensuring that services incidental to Internet access, such as e-mail and instant messaging, remain free.

My amendment grandfathers States that were taxing Internet access in 1998 for a 3-year period. It grandfathers States that currently tax Internet access, including those that tax the last mile that were not protected by the 1998 grandfather clause, for a 2-year period, and it incorporates all other components of the substitute amendment to S. 150 and the Alexander Internet tax bill, the accounting rule to address bundling, and the explicit inclusion of nontransitional taxes from the Internet tax moratorium and savings clauses addressing the regulation of Internet access, universal service, and e-911.

Mr. President, I yield the floor.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 5:30 p.m. having arrived, under the previous order, pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will report.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on the motion to proceed to Calendar No. 353, S. 150, a bill to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

Bill Frist, George Allen, Jon Kyl, Orrin Hatch, James Inhofe, Elizabeth Dole, Larry Craig, John Ensign, Gordon Smith, Mitch McConnell, Norm Coleman, Sam Brownback, Trent Lott, Conrad Burns, Jim Talent, John E. Sununu, Mike Crapo.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to S. 150, the Internet Tax Nondiscrimination Act, shall be brought to a close? The yeas and nays are mandatory under the rule. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. I announce that the Senator from Rhode Island (Mr. CHAFEE), the Senator from Wyoming (Mr. ENZI), the Senator from Illinois (Mr. FITZGERALD), the Senator from Nebraska (Mr. HAGEL), and the Senator from Pennsylvania (Mr. SPECTER) are necessarily absent.

Mr. REID. I announce that the Senator from Delaware (Mr. BIDEN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KERRY), the Senator from Wisconsin (Mr. KOHL), the Senator from Louisiana (Ms. LANDRIEU), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Maryland (Ms. MIKULSKI), the Senator from Georgia (Mr. MILLER), the Senator from Maryland (Mr. SARBANES), are necessarily absent.

The PRESIDING OFFICER (Ms. MURKOWSKI). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 74, nays 11, as follows:

[Rollcall Vote No. 71 Leg.]

YEAS—74

Allard	Dayton	McCain
Allen	DeWine	McConnell
Baucus	Dodd	Murkowski
Bayh	Dole	Murray
Bennett	Domenici	Nelson (FL)
Bingaman	Dorgan	Nelson (NE)
Bond	Ensign	Nickles
Boxer	Feingold	Pryor
Breaux	Frist	Reed
Brownback	Graham (SC)	Reid
Bunning	Grassley	Roberts
Burns	Gregg	Santorum
Byrd	Harkin	Schumer
Campbell	Hatch	Sessions
Cantwell	Hutchison	Shelby
Chambliss	Inhofe	Smith
Cochran	Johnson	Snowe
Coleman	Kennedy	Stabenow
Collins	Kyl	Stevens
Conrad	Leahy	Sununu
Cornyn	Levin	Talent
Corzine	Lieberman	Thomas
Craig	Lincoln	Warner
Crapo	Lott	Wyden
Daschle	Lugar	

NAYS—11

Akaka	Durbin	Jeffords
Alexander	Feinstein	Rockefeller
Carper	Graham (FL)	Voinovich
Clinton	Hollings	

NOT VOTING—15

Biden	Enzi	Inouye
Chafee	Fitzgerald	Kerry
Edwards	Hagel	Kohl
Landrieu	Mikulski	Sarbanes
Lautenberg	Miller	Specter

The PRESIDING OFFICER. (Ms. MURKOWSKI.) On this vote, the yeas are 74, the nays are 11. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. MCCAIN. Madam President, I thank all of my colleagues for their vote. It is certainly a signal that a majority of Senators want to move forward and address this issue. I believe many believe they would like to get involved as well.

If the opponents are going to talk for a while, after that is over, since we are in 30 hours of postcloture debate, if it is sought to be used, it is my intention to propose tomorrow the amendment which I described earlier. I hope we can then move forward with amendments and debate and votes.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Madam President, I defer to the leadership. I have some remarks to make on another subject as in morning business, to come out of my hour with regard to the motion to proceed.

Mr. REID. I know the Senators who are concerned about this legislation are trying to make a decision as to what is going to happen next, what they are going to do next. It would be to everyone's best interests if we had some time when we could go to the bill tomorrow.

I direct this question through the Chair to the Senator from Tennessee: When do you think you will be in a position to decide whether we can have a time certain to go to the bill or whether we will work off the 30 hours postcloture?

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I thank the assistant Democratic leader. I thank Senator MCCAIN for his efforts over the weekend to develop a substitute amendment which we received this afternoon and which we are studying.

My hope is we have a constructive movement toward a result this week that does no harm to States, that bans State and local taxes for a short period of time, and that gives Congress time through the Commerce Committee to create a comprehensive approach.

The leadership has asked us to try to do this in an orderly way. I want to do that. I have two or three Senators to discuss that with in the next 30 minutes or hour. The Senator from California has remarks she would like to make, so I say to the assistant Democratic leader, within the next 30 minutes or hour I will have a response to him and the majority leader about how we would like to proceed.

The PRESIDING OFFICER. The Senator from Florida still has the floor.

Mr. NELSON of Florida. I yield to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Madam President, I was simply going to observe now that we have had the cloture vote on a motion to proceed, there is a 30-hour period postcloture. My expectation is we would go on this bill at some point tomorrow. My hope is it would be at 2:15, for example, following the caucus meetings tomorrow. However, that is a decision those who oppose the cloture motion will want to address.

The bill we are going to be considering in the Senate is a piece of legislation that came out of the Commerce Committee. When it came out of the Commerce Committee, it had one area that was not resolved. We understood when we voted it out it was not resolved. It could have some very significant ramifications on State and local revenue base and other issues. We decided to try to resolve it on the way to the floor. It is not yet resolved. As a result, it will require substantial work—amendments, debate, some compromise here and there—to see if we cannot get a piece of legislation that does what all of us want it to do; that is, to have a moratorium on the taxation of access to the Internet but done in a way with respect to definitions that is not going to have loopholes big enough to drive trucks through.

There have been circumstances in which if you have a definition that is not appropriate and not carefully crafted, the moratorium on taxing the Internet itself could be a moratorium on taxing a wide range of products that are already taxed. We are going to have to work through this in the coming days.

I would like to see us work in a cooperative way and get on the bill and find a way to find some middle ground that accomplishes the objectives we all have. Speaking for myself, I supported the moratorium previously. I support a moratorium now. But it must be done in a manner that is consistent with definitions we all understand and one that accomplishes the objectives we all set when we wanted to pass this legislation in the first instance.

I appreciate very much the Senator from Florida yielding.

Mrs. FEINSTEIN. Madam President, we are not on the bill, is that correct?

The PRESIDING OFFICER. We are on the motion to proceed.

The Senator from Florida.

VENEZUELA

Mr. NELSON of Florida. Madam President, while we are getting all of our ducks in order with regard to the procedure and there is this momentary lull in the consideration of the instant legislation, I rise to discuss conditions facing the United States with regard to an important neighbor of ours in this hemisphere; that is, Venezuela.

Venezuela is a country in deep crisis. I worry, as has been the case with so many of our neighbors to the south, that it is not getting enough attention in relation to this crisis. We all should know the President of Venezuela, President Chavez, is right now the subject of a petition drive aimed at holding a referendum on a recall of his Presidency. That is provided for under section 72 of the Venezuelan Constitution. What is also well known is President Chavez and his allies have done everything in their power to make it impossible to hold a legitimate referendum.

A week ago I was in Venezuela. I spoke to numerous officials of the Chavez government, including the Foreign Minister, the Energy Minister, the Vice President of the National Assembly. I also spoke to leaders of the opposition who have been leading the drive to hold a recall referendum under the provisions of the Venezuela Constitution. This is a recall on whether the President will continue in office.

In addition, I met with numerous business leaders from American companies, many in the energy sector, to hear their views on what is likely to happen to Venezuela, what is going to happen to Venezuela-United States relations, and what our policy should be there.

Everyone I spoke with recommended the United States must strongly support a negotiation led by the OAS and the Carter Center aimed at resolving disputes related to holding the referendum. Typically, this would not be a dispute. They have many more signatures than is required for the referendum. However, an objection has been raised that signatures are not accurate as to the people. That is easy to check.

I met with one of the mediators at the Carter Center who described to me the proposals his team and the OAS team had made to try to bridge the gap between the Chavez government and the opposition. When I asked if anyone outside of the government, any of the opposition in the business leaders actually think the Chavez government, and specifically President Chavez, will allow the continuation of this referendum to go forward, I got the same answer from all quarters. It was, ''No.''

Because of the way President Chavez has governed, because of the way he has tried to silence opponents, it is widely believed he will never allow the recall referendum to go forward. I hope he will hear this chorus of concern being expressed now from the Senate that under section 72 of the Venezuelan Constitution he should allow the process of democracy to work.

Just last week, the Venezuelan National Election Commission announced procedures for conducting the reparos—the verification of over 1 million disputed signatures on the original recall petitions. For a few days at the end of May, those who signed the petitions will have the opportunity to come forward and present evidence that verifies their signature.

It is a cumbersome process. Even if it works perfectly, and even if the signatures are legitimate, there may not be enough time to verify them all. That is another concern, that the process is being drug out purposely, so as to avoid the timeframes involved. But even worse, there is so little trust being expressed that the Chavez government is going to conduct the process fairly that the effort may be doomed even before it starts.

This political crisis, which has been going on in one form or another in Venezuela for 3 or 4 years, leaves me deeply concerned about the direction of Venezuela and the prospects for its democracy. It is a tragedy that a country of such enormous promise, with vast natural resources, and a vibrant entrepreneurial population and well-modernized, could find itself in such a dire circumstance.

I am afraid that the United States is not doing enough to make clear how much we have at stake in the protection of democracy in Venezuela. With a recent United Nations report indicating that a majority of the people in Latin America have their doubts about the value of democracy, we cannot afford to leave any doubt about where we, the United States, stand and what our policy is. I think we also have reason to worry about the impact on the economy in our hemisphere of a major oil supplier to the United States, the fourth largest supplier to the United States; we have to be concerned. What about the interests of the United States if suddenly Venezuela were destabilized?

That is why I was so impressed with the impact that a statement by Senator JOHN KERRY had on both the Government and the opposition in Venezuela. Senator KERRY's call for strong U.S. support for the Organization of American States and the Carter Center process genuinely shook up the Chavez government, and it gave renewed hope to the opposition.

Without a sustained push by the United States at its highest levels, I have grave doubts that President Chavez will ever permit the referendum. Senator KERRY made this statement, much to the delight of the opposition in Venezuela, on March 19 of this year. It is a very strong statement on reform that is needed, and how the Chavez government needs to get behind democracy and stop the kind of direct attacks on the United States in which it is engaging.

Now, other nations to which the United States should be reaching out, to use their influence as well: Brazil, Chile, Spain, and France, are all, in some respects, better positioned than the United States to try to influence the Venezuelan Government. But those states need to see sustained leadership from the United States.

The threat to democracy in Venezuela is not, by any means, the only reason for our concern. President Chavez has caused us a number of other headaches recently. He struck up a close alliance with Fidel Castro. He has started to strike up an alliance with a

gentleman named Morales in Bolivia who is trying to expand the drug trade in Bolivia. And there is extensive evidence of cooperation between Cuban and Venezuelan intelligence services. There is also the employment of a great number of Cuban nationals in Venezuela.

Venezuela has provided assistance or, at a minimum, safe haven to even those who are drug runners, such as the FARC, a group that basically is involved in the drug trade, fighting the legitimate Government of Colombia. And the FARC continues to conduct a terrorist campaign against the Government and the people of Colombia. At a time when Colombia is making slow but steady gains in its long struggle against the FARC, the last thing it needs is to have a neighboring power; namely, Venezuela, give assistance to this brutal adversary, as they would go across the line into Venezuela.

President Chavez has also made some truly outrageous statements, such as praising Iraqi insurgents who attack American soldiers. He has also tried to use his oil supply relationship to have a lever on the small nations in the Caribbean to get them to oppose U.S. policies. And President Chavez has threatened to cut off oil exports to the United States.

Venezuela also suffers from a potent market in false documentation, such as passports and other identity cards. I am becoming increasingly concerned at the ease, by paying $800 or $900, of getting full documentation of everything from a passport to a driver's license, all of which is legitimate, simply by buying off officials. I am certainly concerned that international terrorist groups will discover their ability to acquire and make use of forged Venezuela documents to conduct terrorist attacks.

We may have a net set up to try to protect people from coming into our borders, but Venezuelans can travel on their documents to European countries. And that begins to start the process of mischief. The Venezuelan Government is not doing nearly enough to put a stop to this practice.

I had a friendly meeting with the Foreign Minister, and I raised all of these concerns with him. He said, with regard to the forged documents that are legion in Venezuela, that he was not aware of the problem. But 3 days after I left, the Government announced the arrest of nine people for trafficking in forged documents. I hope that is the beginning of a crackdown. If that is the case, I thank the Foreign Minister of Venezuela for taking my comments to heart.

You can see that the whole picture adds up to a very disturbing conclusion. If things do not improve soon, I worry that we may eventually reach the point where we have to treat this Venezuelan Government as an unfriendly government that is hostile to U.S. interests. That is not what I want. And I do not think that is what the U.S. Government wants. In the interest of fostering free and fair elections and democracy in all of Latin America, that certainly is not what we want, that is not what the Organization of American States wants, but that seams the direction in which we are headed. That is one of the reasons for me making this statement to my colleagues in the Senate.

If those deteriorating relations between our governments continue, that would be a tragedy for a longtime ally, and it would represent a reversal of the longstanding good relationship the United States and Venezuela have had.

At this stage we cannot be anything but clear with the Venezuelan Government about the direction this relationship is headed. If Venezuela's democracy continues to be undermined by its Government, if President Chavez continues to side with those who are trying to be adversaries to the United States, and if Venezuela does not prove itself to be a reliable ally in the war on terrorism, if Venezuela does not continue to abide by its own constitution, then we will scarcely be able to draw any other conclusion from these actions.

For this reason, I commend Senator KERRY for making crystal clear, in his statement of March 19 of this year, what the stakes are. He has made certain that no Venezuelan official can doubt that if the present course continues, things will get no easier for them in a future Kerry administration.

My hope is this knowledge will cause the current American administration to make clear to President Chavez that our Government places a high priority on democracy, the rule of law, and responsible conduct in international relations, and that the Government of the United States will come down hard on the words and the deeds of the Chavez government and that Chavez' failure in these areas—it will be made clear—will have consequences, not only in his relations with us but in his relations around the world.

This is a matter of grave importance when you consider how dependent we are on foreign oil. That is one reason. We have always relied on that oil coming out of Venezuela. So many of our refineries on the gulf coast of the United States are established to handle the kind of oil with its content to be able to refine it into American fuel. Many other refineries in the world don't have that capability. So it is clearly in Venezuela's interest that they continue that commerce and continue good relations with the United States.

I hope and pray our relations will improve and that we will get back into the longstanding friendship we have had for years and years.

I yield the floor.

The PRESIDING OFFICER. The Senator from California.

Mrs. FEINSTEIN. Madam President, I rise to claim an hour under the motion to proceed to speak on the bill.

Before I do, I compliment the Senator from Florida on his comments on Venezuela. He may not know this, but I had the pleasure of spending some time in Venezuela when I was mayor, leading a delegation. We had a sister city relationship with Caracas. I saw the vibrancy of that democracy at that time. This was in the mid-1980s. All the progress that had been made in the Bolivar nations and the closeness that existed between Venezuela and our country, it was something very special to see. You could say, I think, that Venezuela led all the nations in terms of its relationship to us. So the deterioration of that relationship is very much regretted by me. I associate myself with the comments of the Senator from Florida and thank him very much for making them.

I wish to speak about a bill that I am not sure everybody understands very well, let alone exactly what it is. There are essentially three bills floating around. One of them is S. 150. This is a permanent measure. It includes a 3-year grandfather on Internet access if the taxes existed in 1998. That is the Allen-Wyden bill.

There is a McCain proposal that may be brought forward. And, as I understand it, in would last for 4 years. It includes a 3-year grandfather on Internet access taxes that existed in 1998 and a 2-year grandfather on Digital Subscriber Lines (DSL) taxes.

And there is the Alexander-Carper bill, of which I am a cosponsor. This is a 2 year temporary moratorium that includes a 2-year grandfather on Internet access taxes that were in place in 1998 and a 2-year grandfather on DSL service.

What all that means is very difficult. The last time this bill was on the floor was November 6 and 7 of last year. I remember coming to the floor and saying I had been approached by more than a hundred California cities to oppose the bill. It was a deluge. I had never had that kind of opposition from California cities before in my 12 years in the Senate. That deluge has only increased.

Interestingly enough, I have not received a single letter from a telephone company in support of any of these bills, which is very interesting.

The most dominant voice has been the League of California Cities, firefighters, labor. The League in particular represents over 470 California cities. These cities believe this bill, S. 150, will cost billions of dollars nationwide, and in California it will cost local jurisdictions as much as $836 million once it really gets started.

Cities and counties across the Nation are facing budget crises. These cuts only make the situation worse. There would be less money to pay for police officers, firefighters, libraries, and parks. Passing this bill, which essentially would end revenue streams which cities have counted on for years to fund vital services, is something I can't do. That is why you have Senator CARPER, a Governor, Senator

VOINOVICH, a former mayor and Governor, Senator ALEXANDER, a Governor, and myself, a mayor, all saying, please don't do this.

I support legislation sponsored by Senators ALEXANDER and CARPER which would extend the recently expired moratorium on Internet access by 2 years, and make the moratorium technology neutral.

The Allen-Wyden bill changes the definition of Internet access significantly. That is the problem. Simply put, the definition included in the bill before us is far too broad. The bill says that telecommunications are taxable, and then it adds this:

. . . except to the extent such services are used to provide Internet access.

But what does the phrase ''to provide Internet access'' actually mean? Cities, counties, and States believe it means they won't be able to tax telecommunications services, which they currently can, to the tune of $2 to $9 billion annually all across the United States. So that is really what is at stake.

Let me read what the Center on Budget and Policy Priorities says about the definition contained in Allen-Wyden:

The ban on State and local taxation of telecommunications services used to provide Internet access would effectively eliminate billions of dollars' worth of taxes on voice telephone service as the provision of that service is migrated to the Internet, a process that is well underway.

Then it goes on and it says there will be substantial revenue losses for State and local governments. It points out that 11 States would lose between $80 million to $120 million: Colorado, Hawaii, New Hampshire, New Mexico, North Dakota, South Dakota, Ohio, Tennessee, Texas, Washington, and Wisconsin. It says 28 States and the District of Columbia would lose $70 million annually. Let me quickly mention which ones they are: Alabama, Alaska, Arizona, Colorado, Connecticut, DC, Florida, Hawaii, Illinois, Indiana, Kansas, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, New Hampshire, New Jersey, New Mexico, New York, North Carolina, Ohio, Rhode Island, South Carolina, Tennessee, Texas, Washington, and Wisconsin.

A lot of States stand to lose. It goes on to say many more State and local governments would lose their ability to tax telecommunications services purchased by Internet access providers, such as the high-speed lines providers use to link to the backbone of the Internet.

A lot of States stand to lose. Now, you can talk to authors of the bill and they will say, oh, no, that really is not true. But the fact is that even CBO cannot give you a real estimate because companies don't maintain records; but cities, interestingly enough, have retained specialists to estimate for them.

Let me read from one of those specialists. His name is William T. Fujioka. He is the administrative officer for the city of Los Angeles. He points out that:

In California, the utility user tax has been applied to telecommunications services on a technology-neutral basis for over 30 years. With 150 cities receiving over $830 million—I have been over that.

He goes on to say:

For the city of Los Angeles, our telecommunication's utility user tax covers local exchange service, long distance, and wireless, which total $260 million. S. 150 places all of these revenues in jeopardy. The loss would come from: 1, the migration of traditional telephone services to Internet-based telephone services, or Voice over Internet Protocol; and 2, the application of S. 150 to local exchange and wireless services that also provide voice and Internet access (in the same manner as DSL and cable modem), which would prevent the city of Los Angeles from taxing these services.

He then goes on to point out:

The migration of telecommunication services to the Internet is not just speculation. AT&T, SBC, Verizon, and Time-Warner have all announced their intent to introduce Internet telephone service in California this year.

It is important to note that currently, DSL and cable modem are not subject to the Federal excise tax, or UUT, utility user tax, because until recently these broadband communication services were not used for voice and were properly deemed private communication services.

Now, the Ninth Circuit Court of Appeals has changed even that and is essentially saying that both cable and DSL can be taxed. That just came out. I am told that it will take another 18 months to 2 years just to straighten that out and to see if there is an appeal on a writ of certiorari to the U.S. Supreme Court.

So this whole area is in flux and it could change dramatically. It makes no sense to do a permanent piece of legislation at this point in time, in my view, particularly with this Ninth Circuit case recently coming down.

If Allen-Wyden is approved, phone services, which are currently taxable, will become tax exempt. This means local jurisdictions will lose revenues they can collect today. In turn, this means less revenue to pay for local priorities.

I support making business and residential access to the Internet tax free. There are primarily three ways to access the Internet today: dial-up service; cable modem; and DSL, digital subscriber lines. Under the recently expired moratorium, two of these methods—dial-up service providers and cable modem—were exempted from taxation. The third, DSL, could be taxed, though many jurisdictions, including California, didn't tax that. But, as I have just told you the Ninth Circuit has just made a change by saying that you can now tax cable modem.

Alexander-Carper—the bill I support—would level the playing field and make DSL tax exempt, except in those jurisdictions which already taxed it. This grandfather would last for 2 years. And, it would grandfather access taxes in place in 1998—again for 2 years. It is hoped that this will ensure that the Internet could continue to mature.

I must say, also, it is my understanding that Senator ENZI is going to introduce a bill that will be a simple extension of the 2-year moratorium, which expired a few months ago. If the Alexander-Carper bill isn't successful, I will support this solution.

I really believe that is the solution—that we should simply extend it, let the Ninth Circuit case go up to the Supreme Court, and let the Supreme Court speak. Or we should add an amendment to S. 150 that says that all present taxes remain unaffected, so that cities, counties, and States, through your State, Madam President, and my State, as well as every other State, can know with certainty that the revenues they have counted on they can continue to count on.

If you ask people whether they want police and fire, the answer is yes. If you ask them whether they want local services, the answer is clearly yes. To pass a bill that ends the method of revenue collection and funds up to 15 percent of these local services in many jurisdictions, I think, is an unconscionable thing to do.

Much like the tax cuts, they explode in outer years. So while Members that vote for that may be popular for a short period of time, to be able to go home and say they are assuring their local jurisdiction that they are protecting their revenue sources, they cannot do that by voting for S. 150. Just too much is unknown.

Fifteen percent means layoffs, and it could mean major cuts in service. It could mean higher local taxes.

The cities that have contacted me, large and small, are like San Francisco, Los Angeles, Sacramento, La-Verne, San Leandro, and Santo Rosa.

Let me quote from the comptroller of the city of San Francisco, Ed Harrington. Again, this is a technical person writing:

For the city of San Francisco, our telecommunications UUT—utility users tax—covers local exchange service, long distance, and wireless, which totals $32 million a year. S. 150—that is Allen-Wyden—places all of these revenues in jeopardy.

The loss would come, again, from the migration of traditional telephone services to the Internet-based telephone services or Voice Over Internet Protocol; and, 2, the application of S. 150 to local exchange and wireless services that also provide voice and Internet access, which would prevent the city of San Francisco from taxing these services.

That is the same as Los Angeles.

So you have two of the major cities in the State and their technical and financial people both saying the same thing.

The League of Cities, which represents all of California's 478 cities, its county administrators, its police officer associations, its firefighter associations, all oppose this bill.

In the city I served as mayor for 9 years, the current definition of telecom

services could lead to a loss of $32 million annually. This translates into 300 police and firefighters.

I want to also cite the city of Pasadena. Mayor Bill Bogarrd wrote my office to protest that his city would lose $11.4 million under Allen-Wyden, and he writes:

> By using vague language to include broadband Internet under the moratorium, we fear that the bill will allow telephone and cable companies to use that protection to avoid paying local franchise or utility fees.

Which is exactly what is going to happen.

He goes on to state:

> It is our understanding that it was not the intent of the bill sponsors to endanger local franchising authority, but the legislation has yet to be changed to correct these unintended consequences.

Virtually every technical person who looks at this bill—the Center for Budget and Policy Priorities, as well as every controller, technical professional employee of cities and counties—says the same thing: The definition is flawed, it is vague, and under that definition, any number of things can happen.

Madam President, 150 cities in my State levy a utility user tax. That includes telephone and cable television services. These taxes provide the contribution that I mentioned of approximately 15 percent in general purpose revenues. So they make a utility user's tax vital in helping fund critical city services.

I know why telephone companies do not want this. They do not want to be bothered by local taxes. But on the other hand, why not say that present taxes are excepted, present taxes would not be covered? Cities can continue those taxes where they are.

I believe that because of the determination that this bill is an unfunded mandate and other reasons, S. 150 is subject to a point of order when it is under consideration, and I fully expect that this point of order will be raised. For this Senate to pass a bill that further ties the hands of local government I think will be unfortunate just at a time when so many States face budget deficits and so many cities have the same situation.

In short, the problem with Allen-Wyden is that it changes the definition of Internet access in the recently expired Internet tax moratorium in such a way that cities lose billions nationally, that this escalates over time, and that this will lead to reduced preparedness of our cities, to fewer firefighters, and to fewer police officers.

Anyone who has ever done a city budget knows you cannot lose up to 15 percent of your revenue and keep services at the same level.

I am hopeful that as the days go on and as we consider amendments to the bill, there will be a straight amendment that will just simply extend a 2-year moratorium to give the Supreme Court case Brand X Internet Services v. the FCC the opportunity to go up on appeal, hopefully for the Supreme Court to take it up, or else to leave in place the appellate court opinion which makes very clear that States will be able to tax cable modem service since the 1996 act allows States to tax telecommunications services.

One of the most disturbing aspects about the bill is some people think that it imposes Internet sales taxes when this is not true at all. These taxes are all at the point where the Internet comes in to the home, and yet they reach back in the chain as various services come together substantially before the Internet reaches the house. I think if that currently taxable aspect of the service is made unavailable to local communities that have very few revenue sources, it is going to present a substantial hardship for the quality of life of the people we care about in our cities and in our States.

I will oppose S. 150. I will vote for the Alexander-Carper bill and will also vote for Senator ENZI's bill should he make that available.

I reserve the remainder of my time and yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Madam President, I congratulate the Senator from California. She represents a State that has 12 to 13 percent of all the people in our country with lots of cities and counties. She has been a leader as a mayor, as I have been a Governor. Once you get to the Senate, you are not supposed to forget what you learned as a mayor or a Governor, and what you know for sure is that if Congress comes along and says, You can't tax property in San Francisco, for example, then you are going to have to raise taxes on something else. Or, on the other hand, if they said, You can't tax automobiles in California, then you will have to raise taxes on something else.

When Congress comes along and says to California, to 118, 122, or however many, we are going to take $260 million potentially from Los Angeles, $32 million potentially from San Francisco, that is not lowering anybody's taxes. You just raise other taxes. If you say, Senator ALEXANDER, we think you are special, you don't have to pay taxes, the Senator from California is going to have to make up what I have not paid, or someone is. If you say, We will just cut Government, we will cut services, good, maybe we should do that, but still I would be paying lower taxes and you would be paying higher taxes.

What we are talking about is a very simple idea: Should the Congress, in its wisdom, decide to give yet one more subsidy to the high-speed Internet access industry and then send the bill to mayors and Governors? I can see us having a big debate and getting all excited about high-speed Internet access. When the internal combustion engine was invented, somebody in the Senate got excited about it, or when the telephone was invented, somebody got excited about it, or when the railroad was invented, somebody got excited about it, but we did not say in order to encourage them, there may be no taxes by State and local governments on these great new inventions. Whenever we decide something is worth a subsidy, we do it ourselves, or we should do it ourselves. That is the great irony here.

Here we have one of the most subsidized technologies in America and the fastest growing technology in America. There is nothing to indicate anything is stopping it from growing. Yet we are piling on more subsidies and giving the bill to State and local governments.

I thank the Senator from California for her leadership, her directness, and her consistency. I look forward to working with her tomorrow.

I think we have achieved tonight some of what we had hoped. The Senate has rules that permit a small group of Senators to make a point. I think the point we made tonight by insisting on a cloture vote on a procedural motion, on the motion to proceed, was to speed along some new compromises.

I am glad to see the Senator from Arizona with a new compromise proposal. I have been working on one for 6 months with the Senator from Virginia.

We even made some progress, but not enough. Perhaps the proposal of the Senator from Arizona is even a step further. We received it this afternoon and I have not had a chance to analyze it, which is why we need time to do that. We will move toward that objective the leadership wants and we all want, which is to create a consensus in this body about what we should do for the time being about State and local taxation of Internet access.

What I believe and the Senator from California believes and many other Senators believe is these should be our principles: No. 1, we should take the time to give the Senate Commerce Committee and the House of Representatives time to think carefully about this new technology, high-speed Internet access, which has the potential to deliver to our homes and our offices so many services. We should think carefully about that and not deal with it in any piecemeal fashion. That is why a short-term extension of the ban on State and local taxation of Internet access is much wiser than anything permanent, and I am glad to see us moving away—not far enough yet, but away from the notion of permanent confusion, which is what would happen.

Why in the world, when the Commerce Committee, when Senator STEVENS, Senator MCCAIN, and others have said they want to look into this, would we short-circuit that by making a decision about a little bit of the growth of high-speed Internet access?

We ought to carefully look at whether there is a need for an additional subsidy to high-speed Internet access. I

will be talking about that some tomorrow. There is $4 billion of Federal subsidy already. I have a study by the Alliance for Public Technology about all of the State and local subsidies to high-speed Internet access. They may all be good things, but we should know they are there. I mentioned this earlier, that in 1995 the Texas telecommunications infrastructure fund put in motion raising taxes to generate $1.5 billion over 10 years, to basically put in high-speed Internet access everywhere. That is true in virtually every State.

I mentioned earlier today, in LaGrange, GA, they are giving it away for free and still only about half the people want it. We cannot force-feed it to people, and giving a big new subsidy to the high-speed Internet access companies is not going to make people who can get it for free in LaGrange, GA, use it if they do not want it.

While my distinguished colleagues, who have a different point of view, say it does not cost much, well, the House bill costs a lot. Up to $10 billion in State and local taxes on telephones are at risk. Up to $7 billion in business taxes the States collect today are at risk. Half a billion dollars in business taxes collected on the Internet backbone would be wiped out. Sales taxes on Internet access being collected now in 27 States, gone. Universal service fund fees and 9–1–1 service fees threatened. Now people may be listening to that and saying, great, no more taxes. That is the big trick. Do not let yourself be tricked by that, because if I run for the Senate and promise to abolish local property tax, do not people know the mayor and the Governor are going to have to raise sales tax on food to make up for it? Or if I run for the Senate and say I have this great idea, I am going to abolish the car tax in California, Virginia, Tennessee, and all around the country, hooray, that sounds good, does it not? But they are going to come up with another tax. They will raise sales tax on food or on business.

So this is real money we are talking about, and that is the second point we should be discussing in this compromise, that we do not need any more subsidy.

The third point is we should not break our promise to do no harm to State and local governments. That simply means this: If Congress in its wisdom concludes high-speed Internet access needs one more subsidy, then we ought to be big enough men and women to stand up and say, okay, we will pay for it. But what are we doing? We are sending the bill to State and local governments. At least that is the way the Governors, the mayors, and everyone I have talked to, who has carefully read the bill from that perspective, reads it.

Maybe the compromise of the Senator from Arizona moves in that direction. I hope it does. I am studying it tonight, and I will study it in the morning.

It is a great surprise to me to come to the Senate and find one of the first things we do in my first 2 years is break the promise the Republican Congress made in 1995, ''No money, no mandate. If we break our promise, throw us out.''

I would rather not be thrown out. I would rather we keep our promise. Everyone knows this is an unfunded mandate. To say we passed some unfunded mandates is like asking, why are you arresting me for this one? I robbed some other stores last week and you did not catch me.

We do enact unfunded mandates on occasion, but the Congress has done it a lot less since 1995, and it has had to stand up and be counted.

I want to make sure everyone knows what we are talking about this week is an unfunded Federal mandate and that every Democrat or Republican Senator who made a speech on the floor in 1995—and I have those speeches—or who goes back to a Lincoln Day dinner or a Jefferson-Jackson Day dinner and starts off by making a great big speech about local control is overlooking support for S. 150 because it is about adding a new cost on State and local governments and not paying the bill.

The Senator from California says it is 5 to 15 percent of the revenue base of many of her cities. The Governor of Tennessee told me it is up to 5 percent of the revenue base of Tennessee. In our State, if we take out 5 percent of the sales tax base, there will be an income tax. We do not have a State income tax because the people of Tennessee make a choice. We thought the Governor and the legislature were elected to decide what taxes we could impose.

Then finally, if we insist on this additional subsidy to encourage high-speed Internet access, why do we not follow President George W. Bush's example? Let's put in the Texas plan. It is very simple. It avoids all of this discussion we are having about definitions, all this argument we are having about whether it costs anything. What they did in Texas from 1999 when President Bush was Governor Bush was the following: They said you do not have to pay any State tax on the first $25 of your monthly bill for high-speed Internet access.

Twenty-five dollars is all one has to pay for high-speed Internet access in Manassas, VA, where they deliver it through the power company, and people can also get it through the phone company, the cable company, and from the sky through the satellite. It can be gotten from everywhere. One cannot walk down the street without somebody selling people high-speed Internet access. It is the fastest growing technology in America. The Congressional Budget Office and the Department of Commerce have told us we do not need to intervene. It does not need a subsidy. There is no economic benefit to paying more taxpayers' money for this one industry.

So why is it? Why are we suddenly running a railroad train through the Congress saying we are going to pick out this one industry? This is a country where we have had many great inventions before. This is not the first invention we have ever had, high-speed Internet access. It is a great thing. But so was the telephone. So was the railroad. So was the internal combustion engine. Now we are saying more subsidies—4 billion in Federal dollars is not enough. A whole book full of State and local subsidies is not enough. The fact that it is the fastest growing technology in America, that is not fast enough. We want to pour more money in here, and it is not really going to the consumers; it is going to the companies; it is going to the industries.

My friend from Virginia will say that is passed on to the consumer. Maybe it is. But if we are going to pass corporate taxes on to consumers, why not do it for all corporations? We have a lot of manufacturing companies getting ready to move jobs overseas. Let's lower their taxes. Let's lower everybody's taxes.

I am disappointed, to tell you the truth, that this bill is even being considered in this way. I am surprised. If I were still the Governor of Tennessee—which maybe some in the Senate wish I still were—I would be roaring and screaming about this. I would be calling my Governors on the telephone saying, What are these men and women in Washington, DC doing? If they want to decide what the taxes ought to be in Tennessee and California and Iowa, let them come home and run for Governor or mayor. If they want to give a subsidy to some company, let them pay for it; don't send the bill to us. Let them come down and figure how to keep State university tuitions from going up and how we keep from raising State and local property taxes to deal with a Federal law that requires more State aid to children with disabilities but doesn't fund it. That is what I would be doing.

I would have them on the phone tonight on a conference call and asking them to call every single Senator saying, What are you doing up there? We have a war in Iraq. We have a national economy. We have plenty of national issues without you trying to be the Governor of the home State at the same time, and if you want to be the mayor of Knoxville or Nashville or Memphis, come on home. We will share all our problems with you and you can decide what to spend and how high the property taxes ought to be.

When we take hundreds of millions and potentially billions of dollars out of State and local governments, we are raising local taxes, not cutting local taxes. We are creating permanent confusion, and we are breaking our promise.

So I am glad we had this vote tonight. I hope by coming in here and voting we encouraged some work over the weekend, and late last week. I

know Senator MCCAIN was working, Senator ALLEN was working, Senators CARPER and FEINSTEIN and I were working, and I hope we have made some progress.

Tomorrow when we come in here after our lunch and begin to move to the bill at hand, I think we will have on our side—I mean those of us who oppose S. 150—that we will have upheld our part of the responsibility of keeping this Senate moving toward a conclusion. We want a result, but we want a good result.

May I say one more time what I believe a good result is. A good result is a 2-year ban on State and local taxation of Internet access so the U.S. Congress can think carefully about the migration of digital services to the Internet because of high-speed Internet access. So that is No. 1—2 years or less.

No. 2, no big subsidy to a heavily subsidized industry already.

No. 3, let's keep our promise and do no harm to State and local governments. Let's show the people of this country that when we make a promise, as we did in 1995 when we said no more unfunded Federal mandates, when 300 Republicans stood on the Capitol steps and said, If we break our promise throw us out, let's show that we mean that and not engage in rhetoric that tries to confuse the issue.

If we meet those three tests, then we can have a result. We can have one quickly tomorrow, or Wednesday, or Thursday. But if we insist on legislation here like the legislation that passed the House, that creates permanent confusion instead of careful study, an unwarranted expensive subsidy to a heavily subsidized fast-growing technology, and that does harm to State and local governments, which breaks our promises, then I am going to continue to oppose that and so are a great many of the Democrats and Republicans who joined us in the Alexander-Carper legislation.

I think this has been a successful day. I appreciate the time we have been given to debate the issue. I know Senator ENZI and others will be here tomorrow morning to continue that discussion, and I look forward to moving in an orderly way to the legislation at hand, S. 150, sometime tomorrow afternoon, based upon the decision of the leadership.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TALENT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

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

Mr. ALEXANDER. Mr. President, on behalf of the majority leader, I ask unanimous consent that when the Senate resumes the motion to proceed to S. 150, the Internet tax access bill, there be 2 hours and 40 minutes for debate remaining with 2 hours under the control of Senator ALEXANDER or his designee, with 20 minutes under the control of the chairman of the committee and 20 minutes under the control of Senator DORGAN; provided further that at the use or yielding back of that time the motion to proceed be agreed to.

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

MORNING BUSINESS

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

SCOTT CAMPBELL, STEPHANIE ROPER, WENDY PRESTON, LOUARNA GILLIS, AND NILA LYNN CRIME VICTIMS' RIGHTS ACT

Mr. MCCONNELL. Mr. President, I rise today as a proud cosponsor of this victims' rights legislation, which has special significance for my State and my hometown. On December 6, 1993, Mary Byron was murdered in Louisville on her 21st birthday as she left her place of work. Mary was killed by her ex-boyfriend who, unknown to Mary, had recently been released from the county jail where he had been held since being arrested for stalking, assaulting, and raping Mary. The Byron family had been assured that they would be notified when Mary's attacker was released from custody. But unfortunately, they were not.

Following this tragedy, the Louisville metro criminal justice community quickly realized that victims of violent crime needed a better system of notification when offenders are arrested, released, or scheduled to appear in court. The community committed itself to solving this critical problem and ensuring victims' safety. In December 1994, one year after Mary Byron's death, Jefferson County, KY introduced the Nation's first automated victim notification service.

That system is called VINE, which stands for Victim Information and Notification Everyday. This program assures crime victims access to rapid, automated notification by telephone, pager, or e-mail when an offender's status changes. The system also allows victims to call 24-hours a day to obtain the current status of an offender—giving victims peace of mind and a sense of control over their lives.

What began in Louisville 9 years ago has now spread to more than 1,400 communities in 36 States. In fact, in 19 States every county jail and State prison is connected to the VINE network. Each of these facilities and communities are connected through the VINE Communications Center located in Louisville. This central hub collects data from and manages automated interfaces among 57 percent of the Nation's county and State correctional facilities, and monitors 14 million offender transactions each month. Within moments of an offender's status change, such as escape, transfer, or release, high-speed notification is activated to reach out and provide information to victims.

The VINE Communications Center provides a staff of live operators 24-hours a day to assist victims in using the service. This national victim notification center has made over 22 million calls, resulting in more than one million notification events and saving countless lives.

VINE technology is also being used in Federal correctional facilities. In 1999, the U.S. Department of Justice launched its Federal Victim Notification Service with the core VINE software. I am proud to note that DOJ's Federal Victim Notification Service also utilizes the Louisville-based communications center that provides victim notification services for the county jails and State prisons in 36 States.

It is now time to make this life-saving service available to every crime victim in America. And this legislation helps make that a reality. The lack of victims' rights, including notification about the status of an offender, is a national criminal justice problem that requires national leadership to solve. This legislation recognizes the national problem, and I am proud to say this bill includes a component to help complete the job of providing safety to victims of domestic violence and other violent crimes.

I commend the Senator from Arizona and the Senator from California for their tireless work on this issue.

This legislation not only states that each victim of violent crime has a right to be notified of the release or the escape of the accused, but it also authorizes adequate funding to see that the crime victim notification network that currently protects many of the Nation's crime victims is extended to cover all of the Nation's crime victims.

In an effort to prevent any family from having to suffer the tragedy that befell hers, Mary Byron's mother, Pat, has dedicated the last ten years of her life to raising awareness and support for innovative programs, such as VINE, that help to break the cycle of violence. The Mary Byron Foundation, along with the National Center for Missing and Exploited Children, are strong supporters of completing the VINE Network, and I ask my colleagues to join with us in supporting this critical piece of legislation.

HONORING OUR ARMED FORCES

CORPORAL MICHAEL SPEER

Mr. GRASSLEY. Mr. President, I rise today to pay tribute to CPL Michael R. Speer of Davenport, IA, who courageously gave his life for his country in Operation Iraqi Freedom. He is the 12th Iowan to be killed in Iraq. My deepest

sympathy goes out to his wife and his entire family as they deal with their loss. Corporal Speer was killed when his unit came under enemy fire in the Al Anbar province of Iraq on Friday, April 9, 2004.

Corporal Speer was a rifleman assigned to the 2nd Battalion, 2nd Marines, 2nd Marine Division, II Marine Expeditionary Force, based in Camp Lejeune, NC. He performed his duty to his country admirably and I know his loss will be deeply felt by all those who knew him.

Michael Speer enlisted in the Marines in Davenport, IA, on January 16, 2001. He died a true patriot and it is fitting that we recognize his sacrifice here today.

STAFF SERGEANT CORY BROOKS

Mr. JOHNSON. Mr. President, I rise today to pay tribute to Staff Sergeant Cory W. Brooks, a member of the South Dakota National Guard, who died on April 24, 2004, while serving in Operation Iraqi Freedom.

Staff Sergeant Brooks was a member of the 153rd Engineer Batallion, which is based in Winner, SD. He died in a noncombat incident on Saturday.

Answering America's call to the military, Staff Sergeant Brooks joined the National Guard in May of 1989 and served as a combat engineer throughout his 15 years of service.

Born and raised in Phillip, SD, he was remembered as a dedicated athlete and student. Staff Sergeant Brooks' former football coach in high school, Jerry Rhodes said, ''He was just like family. He was one of those kids you love to work with. He always did good work. He was a very happy-go-lucky kid.'' Jerry Rhodes son, Wade, picked his good friend to be the best man at his wedding in 1995. Wade said of Brooks growing up, ''I spent more time at their house then I did my own. He was just like a brother to me.''

Staff Sergeant Brooks was a very dedicated student and well educated. After excelling at Phillip High School and the University of South Dakota for his undergraduate studies, he went on to obtain his Juris Doctorate from the University of South Dakota.

Staff Sergeant Brooks is the second member of the South Dakota National Guard to be killed in combat since the war in Iraq began. Company A, which includes members from Wagner and Winner, was assigned to the 1st Marine Expedition Headquarters. Their company is responsible for defusing roadside explosives.

Staff Sergeant Brooks served our country and was a model of loyalty and dedication in the preservation of freedom. The thoughts and prayers of my family, as well as our country's, are with his family during this time of mourning. Our thoughts continue to be with all those families who have children, spouses, and other loved ones serving overseas.

Staff Sergeant Brooks led a full life, committed to his family, his Nation, and his community. It was his incredible dedication to helping others that will serve as his greatest legacy. Our Nation is a far better place because of Staff Sergeant Brooks' contributions, and, while his family, friends, and Nation will miss him very much, the best way to honor his life is to remember his commitment to service and his family.

I join with all South Dakotans in expressing my sympathies to the friends and family of Staff Sergeant Brooks. I know that he will always be missed, but his service to our Nation will never be forgotten.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

In Davis, CA, on October 26, 2003, a homosexual man in his mid-twenties discovered that his automobile had been drenched with four flats worth of eggs. The damage to his vehicle was estimated at approximately $4,000 and a gang tag was scrawled on the vehicle. The victim said that he felt his vehicle was targeted because he hangs a gay pride flag outside his home.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

HUD'S SECTION 8 VOUCHER REIMBURSEMENT CRISIS

Mr. KENNEDY. Mr. President, I take this opportunity to warn my colleagues about the potential low-income housing crisis that could jeopardize hundreds, if not thousands of people in their States as a result of an irresponsible, punitive, and unnecessarily harsh action taken last week by the Department of Housing and Urban Development.

For the first time in the 30-year history of the Section 8 Voucher Choice Program, there is the very real possibility that tens of thousands of low-income Americans will lose their housing vouchers this summer and fall and be left with nowhere to turn but homeless shelters and the streets. The mere possibility of this is shocking and it's something my colleagues need to be aware of immediately.

Congress did not intend for this to happen, and the appropriators pushed HUD to make sure it would not happen, but that is the course we are on. And it's all because of HUD's callous indifference to the plight of the most vulnerable and this administration's unrelenting drive to destroy the safety net.

Using the most narrow possible interpretation of the appropriations bill, HUD issued a notification on Thursday that would retroactively abandon the long-standing practice of reimbursing public housing agencies for the actual costs of assisting the poor, the disabled, and the elderly through the section 8 voucher program. Instead, the new HUD policy will reimburse them on an inflation factor concocted by HUD's budgeteers that has absolutely no bearing on the actual operating costs of the Section 8 housing voucher program.

As a result, public housing agencies across the country are about to be blindsided by a rule change they did not anticipate and could not have prepared for.

The National Association of Housing and Redevelopment Officials—NAHRO—is conducting a complete national survey of the potential effects of this change, which should be available later this week. But early analysis is already available, and it is not reassuring. As a result of this change, the association thinks that maybe 60,000 families may be at risk of losing their vouchers in the coming year. 60,000.

The notification does inform public housing agencies that they can appeal the decision by July 15, but offers no information about just how to do that. The notification also points out that HUD may not have any funds by then to adjust reimbursements that were appealed. So, go ahead and send the appeal letter, but just don't expect HUD to do anything about it.

If my colleagues harbor any doubts that this HUD notification will have severe consequences, they need only look at what is happening in Massachusetts now. The State has directed public housing agencies to notify 600 families that their vouchers will be terminated effective June 1 as a result of HUD's abrupt funding change. Barring an 11 hour temporary reprieve, those notices go out tomorrow. And that is just the tip of the iceberg in Massachusetts, some thousands more may be in jeopardy.

The State is being hit now because it must reconcile HUD's funding cuts within its existing fiscal year, which ends June 30, and there is no other way to do that other than withholding assistance from those currency receiving it.

Who are these 600 families? More than 60 percent of them are disabled, a significant portion are elderly, and all are low-income.

They are people like Mr. Milton Servis II. At the age of 15, he was hit by a speeding car while he walked. As a result of the collision, he sustained a serious head injury that has left himself disabled, with impairments of his vision, balance, and ability to walk.

Then, just last year, Mr. Servis II, sustained third degree burns on his hands in the Station Nightclub fire in

Rhode Island. He lost his two best friends there as well, on that horrific and tragic night.

Despite these hardships, he continues to work to lead an independent and dignified life. His only source of income is his monthly $698 SSI check, but he is able to make ends meet because of his section 8 voucher, which covers $394 of his $550 rent.

Because of HUD's abrupt change, he may have to stretch his Social Security check all the more, because he is currently scheduled to receive a termination notice tomorrow, informing him he has 1 month before he is tossed out on the street.

This doesn't have to be this way. People like Milton Servis II, who have struggled hard to overcome misfortunes that few others can relate to, don't need to be terrified by the prospect of homelessness.

It should never have come to this. Last year, when the administration sent its budget to Congress, we didn't believe they were being accurate with the numbers.

As our colleague, Senator MIKULSKI, the ranking member of the VA–HUD Appropriations Subcommittee, wrote last week to HUD Secretary Alphonso Jackson, ''. . . the fiscal year 2004 appropriations bill provides $17.6 billion to renew expiring section 8 contracts. This amount was $1.4 billion above the amount requested by the Administration to renew existing vouchers.''

Congress went out of its way to make sure that adequate funding was available to renew all vouchers, even adding an additional $1.4 billion in these difficult budget times to make sure no one would lose their section 8 voucher. What is HUD done with this money?

But the administration doesn't care what Congress intended with regard to this program. They remain committed to their ideological goal of ending the section 8 voucher program, and shredding the safety net.

Last year, the administration proposed block granting the section 8 program so they could shift more of the responsibility for housing the elderly, the disabled, and the poor onto the State and local governments and reduce Federal spending on this critically important program.

On a bipartisan basis, Congress rejected that radical proposal, because it would have provided fewer resources and contained perverse incentives.

It would have actually rewarded housing agencies for terminating assistance for the poorest citizens and replacing it with assistance to people in less need. These ''compassionate conservatives'' described this new ability to ignore the truly neediest as a type of ''flexibility.''

The flexibility to abandon people, I guess.

But despite Congress's complete rejection of the proposal, the administration is not about to concede defeat.

If Congress will not accede to its demand to dismantle the 30-year-old section 8 program, HUD will do its best to ruin it administratively. And with this notification, HUD is attempting to do just that.

They can't win the battle of ideas in an open and full debate. So they are trying to win it deviously by simply undermining the program's integrity.

We know a Trojan Horse when we see it.

Here is how they are using it on section 8 vouchers.

First, HUD changes the rules in the middle of the fiscal year so that public housing agencies have to take drastic and truly brutal measures to comply, such as throwing people off public housing.

Then HUD blames the public housing agencies for being mismanaged.

In other words, HUD claims that public housing agencies are at fault for not having budgeted the resources to comply with HUD's unexpected policy change.

HUD has already begun condemning the public housing agencies for not maintaining adequate reserves to offset this most recent HUD-manufactured financial crisis. HUD does this event though it knows that over 800 public housing agencies serving 690,000 people have already depleted their reserves to address other HUD policy changes or funding shortfalls in the past 2 years.

HUD intends to use this funding crisis to claim that public housing agencies can't manage their programs effectively, compassionately, and efficiently.

Once the horror stories start about people losing their vouchers and landlords leaving the program, HUD can then declare the existing program a failure and revive its block grant proposal that Congress has already flatly rejected before.

This is not an academic issue.

Real people are about to suffer for HUD's actions. Many are elderly, many are disabled. They deserve to be treated with respect and compassion, which is in short supply in this administration.

HUD is about to impose these immense hardships on those of our constituents who need our help the most.

The administration may not care that low-income, elderly, and disabled Americans are being needlessly hurt, but this Senate does, and we need to join together to fight these changes before this crisis gets any worse.

IN RECOGNITION OF THE BIRTHDAY OF WILLIAM SHAKESPEARE

Mr. HATCH. Mr. President, I would like to pay tribute today to one of the world's greatest poets, whose immortal words have universal appeal. This month marks the 440th anniversary of William Shakespeare's birth on April 23, 1564. His influence has been so great in our country's cultural tradition that from our earliest days as a Nation the two books most often found in American homes were the Bible and the Complete Works of William Shakespeare. Throughout our history up to the present day, Shakespeare plays have delighted audiences and inspired many.

I do not have the time to detail all of the universal works and contributions to our culture and language provided by this great writer and poet. I do however, want to highlight today two groups among hundreds across the country that are devoting their time and energy in praise of William Shakespeare.

The first group, I am proud to say is in my home state of Utah—the Utah Shakespearean Festival. This festival is held each year in Cedar City, UT; and is one of the premier festivals of its kind in America. The ideals and dreams that were the embodiment of William Shakespeare are recaptured for audiences who have the privilege of attending. It began as a dream of Fred C. Adams, a young actor with a love of Shakespeare and a desire to produce great theater. It has grown tremendously from its inception in 1959 in which 3,276 spectators were entertained watching The Taming of the Shrew, Hamlet and The Merchant of Venice to its present-day success in 2003 in which 150,000 ticket-holders viewed 185 performances in 2 landmark theaters.

The economic impact of the festival on Cedar City and the surrounding area is immense. It stands as a monument of success to the traditions of Shakespeare and his plays. In fact, in 2000 the festival was awarded the coveted Tony Award for America's Outstanding Regional Theater, an honor truly deserving and treasured.

The second group I have recently become acquainted with is the American Friends of the Shakespeare Birthplace Trust which supports programs to preserve the heritage and properties of Shakespeare in Stratford-Upon-Avon, UK. Many U.S. institutions focus on the theater, but this group, headed by John Chwat in Washington, DC, works with the trustees in Stratford keeping the homes of Shakespeare's birth, Ann Hathaway's Cottage, Mary Arden's house and Hall's croft preserved. With the support of the Newington-Cropsey Foundation, Hastings-on Hudson, they have placed four of eight bronze monuments by Greg Wyatt depicting the text and imagery of Shakespeare's plays—King Lear, Hamlet, Julius Caesar and The Tempest—in the ''Great Garden'' at New Place where Shakespeare spent his last days and wrote The Tempest. They also sponsor summer sessions at Stratford for Columbia, Georgetown, and other American universities.

Thank you for this opportunity to salute both the Utah Shakespearean Festival and its officials, sponsors, workers, and visitors as well as the board of directors of the American Friends of the Shakespeare Birthplace Trust and the distinguished trustees in Stratford-Upon-Avon passionately working to

preserve Shakespeare's heritage. I want to end with a passage I particularly like from Hamlet, which is displayed in bronze text in one of Greg Wyatt's sculptures. It reads:

What a piece of work is a man! How noble in Reason, how infinite in faculty, in form, and moving, how express and admirable, in action
how like an angel, in apprehension and how like a
god the beauty of the world, the paragon of animals.

Mr. DODD. Mr. President, I rise today to honor a truly singular figure in history, an individual whose very name has become synonymous with poetry and theater, William Shakespeare. This past week marked the 440th anniversary of William Shakespeare's birth in 1564.

Nearly four centuries after his death, William Shakespeare's impact remains a resounding one, here in America and around the world. His works range from uproarious comedies to tragedies that move audiences and readers to tears. He continues to remind us both of the greatness of which man is capable, and the frailties which too often prevent us from realizing our potential.

Shakespeare's prolific and outstanding career is virtually unmatched in the history of Western literature and drama. Perhaps the most telling illustration of the magnitude of Shakespeare's work is that the two books most often found in American homes are the Bible and the Complete Works of William Shakespeare.

I am pleased to note that my home State of Connecticut is home to a number of Shakespeare theaters and festivals. Shakespeare on the Sound in Norwalk will entertain 10,000 people over the course of this summer. The Elm Shakespeare Company in New Haven now draws about 30,000 people per production. And Stratford, named after the town where Shakespeare was born, is currently in the process of renovating its landmark Shakespeare theater, which will hopefully reopen this coming summer.

I would also like to recognize the Shakespeare Birthplace Trust, an organization that works to perpetuate Shakespeare's legacy and to preserve his estates in Stratford-upon-Avon in the United Kingdom. Here in the United States, the American Friends of the Shakespeare Birthplace Trust work to support the Trust's goals. Together with the Newington-Cropsey Foundation, located in Hastings-on-Hudson, NY, they have placed four of what will ultimately be eight bronze monuments by the sculptor Greg Wyatt in the ''Great Garden'' at New Place, where Shakespeare spent his last days and wrote The Tempest. Replicas of those sculptures, each of which represents a particular Shakespeare work, have been presented to the Folger Shakespeare Library here in Washington. The American Friends of the Shakespeare Birthplace Trust also sponsor student summer sessions at Stratford for Columbia, Georgetown, and other American universities.

I applaud the American Friends of the Shakespeare Birthplace Trust for all the work they do. And I salute all those in Connecticut and around the world who strive to keep the name and works of William Shakespeare alive and well today. With their help, Shakespeare's words, both in print and on stage, will continue to inspire millions for many, many years to come.

PRESIDENT DOS SANTOS'S VISIT TO WASHINGTON

Mr. LEAHY. Mr. President, on May 12, Angolan President Jose Eduardo dos Santos is planning to visit Washington for meetings with President Bush and other top administration officials. I mention this because welcoming President dos Santos to the United States is contrary to President Bush's January 12, 2004, proclamation barring corrupt foreign officials from entering the United States.

President Bush's proclamation suspends entry into the United States of public officials, and their spouses, children, and dependents, if their ''solicitation or acceptance of any article of monetary value, or other benefit, in exchange for any act or omission in the performance of their public functions has or had serious adverse effects on the national interests of the United States.'' It also bars officials ''whose misappropriation of public funds or interference with the judicial, electoral, or other public processes'' has harmed the national interest.

If this standard does not apply to President dos Santos, it is hard to imagine to whom it could apply. He presides over one of the world's most corrupt governments. The IMF has concluded that between 1997 and 2002, Angola could not account for the expenditure of $4.2 billion in public funds, attributing this loss—equivalent to 10 percent of Angola's GDP—in substantial part to high-level corruption.

In a corruption trial in France in 2003, the former head of the oil company Elf Aquitaine testified that President dos Santos had received large bribes from the company. According to the Intelligence Unit of ''The Economist'' magazine, President dos Santos tops the list of the richest men in Angola, one of Africa's poorest countries.

President Bush's proclamation states that corruption is a threat to U.S. national interests when it has serious adverse effects on, among other things, ''U.S. foreign assistance goals . . . or the stability of democratic institutions and nations.'' I could not agree more. Massive corruption has clearly had these effects in Angola. To protect their ability to misappropriate public funds, Angolan leaders have limited press freedom, intimidated the judiciary, and resisted democratic and economic reforms. Moreover, they have refused to spend the country's oil revenues to lift their people from poverty. Half of Angola's children are malnourished even as government officials amass fortunes.

President Bush's proclamation states that persons to be barred entry for corruption, as well as those whose entry would not be contrary to the national interest, ''shall be identified by the Secretary of State or the Secretary's designee, in his or her sole discretion, pursuant to such standards and procedures as the Secretary may establish.'' If the Secretary has not yet acted to establish clear and consistent standards and procedures for making these determinations, he needs to act promptly. And whether he has or not, the policy behind President Bush's proclamation should be applied to the visit of President dos Santos and other Angolan officials.

I strongly agree with President Bush that the corruption of public institutions threatens United States ''efforts to promote security and to strengthen democratic institutions and free market systems.'' As I have said before, corruption is like a cancer. It is the biggest obstacle to development—from Indonesia to Guatemala, from Nigeria to Pakistan. It undermines virtually everything we are trying to do through the Foreign Operations budget.

Fortunately, some leaders are trying to stop it, such as President Bolanos of Nicaragua, and we should do everything possible to support him and people like him, by prosecuting corrupt officials for money laundering or other violations of U.S. law, and by denying them visas to the United States.

Again, I commend President Bush for his proclamation and urge the Secretary of State to implement it vigorously.

CELEBRATION OF LIFE DONOR MONUMENT

Mr. HATCH. Mr. President, I have the privilege today of honoring a unique and extraordinary group of people organ donors. In Utah this week a very special monument is being dedicated to the memories and sacrifices of many Utah families who have given others a new chance at life. The Celebration of Life Monument at Salt Lake City's new Library Square will stand as a testament to the many heroes whose organs have been donated. The monument will also serve as a beautiful, peaceful, and serene place for people to visit and hopefully feel inspired by the gift of organ donation.

Visitors to the monument will be surrounded by three glass serpentine Walls of Honor inscribed with the names of organ, eye, and tissue donors; super blood donors; and body research donors. Five life-sized bronze statues of recipients will also grace the grounds of the monument which were sculpted by the very talented Utah artist, Gary Price. These statues represent the impact organ donation has on people of every culture and age who are given a second chance for life by the sacrifice of others. In addition, guests will also be able to enjoy a beautiful water fountain in the center of the monument

symbolizing the renewal of life and the ripple effects of donation.

It is important to note that one organ donor can save the lives of nine people. In addition, a single eye and tissue donor can restore sight to two people and enhance the lives of up to 50 more. What a wonderful legacy to leave behind. To actually save and enhance the lives of so many others is almost beyond compare.

Someone once said, ''If today brings even one choice your way, choose to be a bringer of the light.'' Thousands of families each year across America choose to be ''bringers of the light.'' To the loved ones and family members who are faced with the agonizing decision to share the gift of organ donation at the very same time they are faced with the death of someone they love and cherish, I want to say a very simple and heart-felt ''thank you.'' Thank you for your choice, for your sacrifice, and for your precious gift. Your gift has helped thousands of people live another day to experience the joys of life, people who can now see the face of their child, and people who can now experience the ultimate blessing of good health and strength. Your precious gift is sacred and inspiring.

I sincerely hope that the presence of this new monument in Salt Lake City will motivate and educate people across our State and Nation to register as an organ donor and prepare themselves and their loved ones for what may be the ultimate gift of life. Utahns can do this by visiting the web site www.yesutah.org and register; or by call (866)—YES-UTAH. I truly believe that out of the tears of tragedy; comfort can be found in organ donation. Our lives can be extended through the eyes, skin, blood, and organs of others.

I want to sincerely congratulate all of those who have shared their tears and joy through building this wonderful monument. Many people and organizations in Utah have toiled for several years to make this dream a reality. May the people who visit be stirred by the names and memories of those who are named there, and may the peace of this monument inspire many to register to become an organ donor. I have always been touched by the quote, ''To the world you may be one person, but to one person . . . you may be the world.'' Any of us can be ''the world'' for someone special through organ donation.

A MARCH FOR WOMEN'S LIVES

Mrs. FEINSTEIN. Mr. President, at the ''March for Women's Lives'' yesterday, I joined the hundreds of thousands of women from across the United States and the world to show support for a woman's right to choose and for access to reproductive health services.

This demonstration comes at a time when women's reproductive rights are in immediate danger. Not only has President Bush done more to roll back women's reproductive health than any president in history, opponents of abortion in Congress have made advances in the assault on the right to choose.

In the past decade, Congress has voted on choice related issues 168 times. Women lost in 136 of those votes.

As if these attacks themselves were not disturbing enough, the fact that they have gone largely unnoticed and unchallenged is even more alarming.

That is why, now, more than ever since Roe v. Wade, it is vital to show President Bush and his friends in Congress that we will fight to maintain women's reproductive rights and access to health care in America.

Since the day George W. Bush took office, his administration has been systematically chipping away at women's reproductive rights.

One of his first acts as President was to reinstate the global gag rule, which prevents U.S. foreign aid from funding any overseas clinic that performs or counsels women on abortion.

The Bush Administration has announced at international conferences that the United States believes that life begins at conception.

They have canceled the United States' contribution to the United Nations' family planning program.

Instead, they have promoted abstinence-only sex education for young people both here and abroad, even though their success at preventing pregnancy and the spread of sexually transmitted diseases has been questioned.

George W. Bush has also consistently nominated judicial candidates who oppose a woman's right to choose to lifetime appointments on the Federal bench.

Just this month, he signed the Unborn Victims of Violence Act, which, for the first time, puts into Federal law the concept that life begins at conception. This will, in effect, grant a fetus or even a fertilized egg separate rights as a person and can now be used legally to further chip away at a woman's constitutional right to choose.

I offered an alternative to this bill that would have provided the same effect and punishment for offenders in criminal law, but did not address the profound and deeply divisive question of when life begins.

The President also approved a ban on so-called partial birth abortions, which is the first law outlawing abortion since the Roe v. Wade decision. It is also the first time that a medical procedure has ever been criminalized.

This unconstitutional law has not yet been enforced because of lawsuits pending against it in Federal courts in San Francisco, New York and Lincoln, NE.

In disregard for people's privacy, U.S. Justice Department attorneys defending the law have attempted to compel two doctors to turn over private patient abortion records.

Who knows where it will stop? We are on a slippery slope toward granting fetuses greater rights than the mothers who carry them. It may not be long before common forms of contraception, in-vitro fertilization and stem-cell research are banned in the name of the unborn.

These Federal laws, along with more than 350 anti-choice measures enacted by States, are setting legal precedents that abortion opponents will use to challenge Roe v. Wade, which is perilously close to being overturned.

The Supreme Court appears to be only one vote away from reversing Roe v. Wade and taking the decision to have an abortion away from a woman and her doctor and putting it in the hands of politicians.

It is entirely possible that abortion will once again be illegal in this country.

For many women, it has been easy to take the right to choose for granted, because it is all they have ever known.

I remember a time, however, when an estimated 1.2 million women each year resorted to illegal, back alley abortions despite the possibility of death and infection.

I remember that time very vividly. In college during the 1950s, I knew young women who found themselves pregnant with no options. I even knew a woman who committed suicide because she was pregnant and abortion was illegal in the United States.

I also remember the passing of a collection plate in my college dormitory so that another friend could go to Mexico for an abortion.

That is why it is so important to show President Bush that we will NOT just stand back and do nothing while women's rights are taken away.

Women have a fundamental right to determine when and whether to become a mother. The Government should not be able to take that right away.

We cannot go back to a time without choice.

PAUL OFFNER

Mr. BAUCUS. Mr. President, I wish to mark the passing of an outstanding public servant, former member of the Senate community, former staffer to Senators, and former staffer for the Senate Finance Committee—Paul Offner.

Born in Bennington, VT, Paul spent part of his childhood in Florence, Italy. He earned a bachelor's degree from Amherst College, a master's degree from Princeton University's Woodrow Wilson School of Public and International Affairs, and a doctorate in economics from Princeton.

After this outstanding education, Paul began his career in public service with the U.S. Senate, serving as a legislative assistant to Senator Gaylord Nelson of Wisconsin.

Paul had caught the political bug. He decided to run for office himself, seeking to represent the people of La Crosse, Wisconsin, in the State legislature. That showed that Paul didn't

shrink from tough odds, as he ran as a Democrat in La Crosse, a city that had not elected a Democrat for quite some time. Paul proved a natural campaigner. He had a great slogan: ''Vote once. Vote Offner.''

Winning that election, Paul served in the Wisconsin State legislature, and then in the Wisconsin Senate. He established himself as an expert on the challenging area of health care and health insurance.

In the early 1980s, Paul ran for Lieutenant Governor and for Congress, but those elections did not work out for him. Fortunately for us, he stuck to his career in public service nonetheless.

In 1990, Paul returned to work for the U.S. Senate, serving as senior legislative assistant for health and human services for Senator Daniel Patrick Moynihan of New York. Staff for Senator Moynihan recall that from their very first meeting, Senator Moynihan regarded the staffer with the Princeton doctorate as a colleague.

Paul became one of the leading national voices in welfare and health policy. After President Clinton won the 1992 Presidential election, Paul coordinated the Clinton transition team's welfare reform policies.

When Senator Moynihan became chairman of the Finance Committee, Paul became the committee's chief health and welfare counselor. Having served as chairman and ranking minority member of the Finance Committee, I know that Paul's position was a demanding one. Paul handled it well during the important year when Congress enacted President Clinton's first budget, in 1993. That budget set the pattern that led to 8 years of economic growth and the creation of more than 20 million new jobs.

Paul served with the Clinton White House Health Care Task Force, which tried to extend health benefits to millions of uninsured Americans. The task force did not succeed then, but they fought an important fight. We will need to revisit that important task again, before long.

During the debate on welfare reform in the mid-1990s, Paul contributed a series of prominent articles. He influenced the national debate.

When the Republicans took control of the Senate with the 1994 election, Mayor Marion Barry asked him to become the commissioner of health care finance for Washington, DC. One need not be a critic of Washington to know that when Paul took on the job of running Medicaid for the District of Columbia, he took on as thankless and difficult a task as there is. And he did it well.

He went on to work at Georgetown University and the Urban Institute. In recent years, he focused on the situation of young Black men in America, arguing that society needs to make a greater effort to improve their chances of making it.

It tells you something about Paul that while he was working hard at high-powered Capitol Hill jobs, he also served as a dedicated tutor to school kids in the District. He was a volunteer tutor for the Friends of Tyler School, a public elementary school not far from the Capitol building in Southeast Washington, DC.

People will tell you that Paul had a tremendous intellect, a caring heart, and a quick wit. He was the kind of person who went through the policy wars enough to be a skeptic, but was still in there pitching, trying to make things better.

''He believed in public service,'' said Molly Collins Offner, his wife of 8 years. ''Accomplishing good and making the world better was key for him,'' she said.

The noblest human endeavor is to serve our fellow man. It can be service to church, to community, to family, to spouse, to children. Paul Offner served.

Members of the House and the Senate who serve also get the benefit and gratification of seeing their names in newspapers and their faces on TV. But dedicated professionals such as Paul work very hard behind the scenes, often with little or no recognition. I recognize the central role that Paul Offner played.

Paul passed away last week, and was remembered this past weekend at a Mass of Christian Burial not far from here on Capitol Hill. He will be remembered by his wife Molly Collins Offner, daughter Mary Shu Yu Offner, and sister Antoinette Gerry. But he will also be remembered by a thankful U.S. Senate community. And for years to come, he will be thanked by millions of Americans whose lives will have been made better for his having lived, but who never knew his name.

50TH ANNIVERSARY OF THE SALK POLIO VACCINE FIELD TRIALS

Mr. DURBIN. Mr. President, this coming Monday is the 50th anniversary of the Salk polio vaccine field trials.

On April 26, in conjunction with National Immunization Week, the March of Dimes will commemorate the development of the Salk polio vaccine.

This day holds great significance for our Nation. Fifty years ago, the first dose of the Salk vaccine was distributed to children at Franklin Sherman Elementary school in McLean, VA as part of the National Field Trial program. In the following months, more than 1 million school children participated in these trials, making this the largest peacetime volunteer mobilization in United States history.

National Immunization week, which was established by the Centers for Disease Control and Prevention, is an opportune time to emphasize the importance of immunizations. In April of every year since 1993, dedicated people across the country have joined forces with State and local health departments, health care providers, and other partners to deliver this immunization message.

Immunization against vaccine-preventable disease is one of the most effective health care and public health tools developed in the 20th century. Advances in technology and widespread immunization efforts have led to an all-time record low in the infection rate for diseases that once devastated entire communities. Smallpox has been eradicated; polio has been eliminated from the Western Hemisphere; and the number of cases of other infectious diseases has been reduced to record lows.

We have learned a vast amount about the importance of immunizing children and adults in this country since the creation of the Salk vaccine. However, there is still work to be done. Though overall immunization levels in the United States have been improving, levels in many parts of the country remain dangerously low. According to a 2001 National Immunization Survey Conducted by the Centers for Disease Control and Prevention, only 77 percent of our Nation's children are fully immunized by age 2. Tragically, levels in some areas of the country are as low as 55 percent.

The Salk vaccine could not have ended the scourge of polio in American without a concerted Federal effort to provide it to all of our citizens. I hope that my colleagues will join me in continuing and expanding Federal support for immunization efforts.

ADDITIONAL STATEMENTS

TRIBUTE TO THE UNIVERSITY OF ALABAMA SCHOOL OF LAW

• Mr. SHELBY. Mr. President, I rise today to recognize the University of Alabama School of Law for their outstanding ranking among the country's law schools. U.S. News and World Report recently released its annual list of the Top 100 Law Schools, and ranked the University of Alabama School of Law fortieth in the Nation. This ranking places the Law School in the top tier of law schools nationwide, which is phenomenal considering the institution was ranked in the third tier just 8 years ago in 1996. As a graduate of the law school myself, I am proud to see their elevation to one of the premier law schools in the Nation.

I believe that much of the school's success must be attributed to the dean of the Law School, Kenneth Randall. Dean Randall holds four law degrees, including a doctorate from the Columbia University School of Law, 1988; a master's from Columbia, 1985; a master's from Yale University, 1982; and a juris doctor degree from Hofstra University, 1981. Additionally, Dean Randall received a bachelor of arts degree in English literature from Aldelphi University on Long Island. Indeed, his educational background is outstanding, and he has demonstrated a true enthusiasm for the law.

Since taking the reins as dean in 1993, Dean Randall has provided a clear

vision for the institution. He takes great pride in the success of the law school, and has done so since joining the faculty in 1985. I am hopeful that his career path keeps him here in Tuscaloosa for many years to come.

The education of our young people is critical to the success of our Nation, and the University of Alabama School of Law is committed to providing students with the tools necessary to succeed. I believe the dedication of Dean Randall, the administration, faculty, and alumni has created an environment that allows students to achieve their goals and exceed their own expectations.

I extend my sincerest congratulations to the University of Alabama School of Law for its remarkable success and look forward to celebrating more achievements in the future.●

NATIONAL MINORITY CANCER AWARENESS WEEK

● Ms. LANDRIEU. In my State of Louisiana, 23,540 new cancer cases will be diagnosed this year and 9,700 members of my community will die from cancer. Children will lose mothers to breast cancer. Wives will lose husbands to prostate cancer. These tremendous losses are devastating to both families and communities. Despite all of the progress that has been made in the battle against cancer, some populations are disproportionately affected by the burden of this disease.

African Americans have the highest death rate for all cancers. Cancer is also the leading cause of death for Asian-American women. African-American, American-Indian, Alaska Native, Asian-American, and Pacific Islander men all have a lower 5-year survival rate than non-Hispanic white males. This disparity is partially attributed to the fact that preventive services are not as easily accessible for these populations. The consequences of inadequate access to preventive services and early detection are that diseases like cancer are more often diagnosed at later stages when the severity is likely to be greater and options for treatment and the odds of survival are decreased. The demographic changes expected over the next decade will only magnify the urgency of addressing these health disparities.

The future health of America as a whole will be influenced substantially by our success in improving the health of minority and other medically underserved populations. To address these disparities, Congress must provide adequate funding for screening, prevention, and treatment services for minority and underserved populations. We must continue to fund research through the National Cancer Institute that will help to provide better prevention, diagnosis, and treatment of cancer in all populations.

There are many organizations and individuals in my State of Louisiana working tirelessly to address these health disparities and to improve the quality of life for all Americans. Because last week was National Minority Cancer Awareness Week, I would like to take this opportunity to commend these organizations and individuals for all of their efforts. Together with my colleagues in Congress, I am confident that one day we can reduce and ultimately eliminate the disparate burden of cancer and all other diseases on minority and medically underserved communities.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

An in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a withdrawal which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

H.R. 2844. To require States to hold special elections to fill vacancies in the House of Representatives not later than 45 days after the vacancy is announced by the Speaker of the House of Representatives in extraordinary circumstances.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2348. A bill to extend the Internet Tax Freedom Act.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment:

S. 1910. A bill to direct the Secretary of Agriculture to carry out an inventory and management program for forests derived from public domain land (Rept. No. 108–254).

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute and an amendment to the title:

H.R. 620. A bill to authorize the Secretary of the Interior to provide supplemental funding and other services that are necessary to assist the State of California or local educational agencies in California in providing educational services for students attending schools located within the Park (Rept. No. 108–255).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. AKAKA:

S. 2346. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. VOINOVICH (for himself, Mr. DURBIN, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 2347. A bill to amend the District of Columbia Access Act of 1999 to permanently authorize the public school and private school tuition assistance programs established under the Act; to the Committee on Governmental Affairs.

By Mr. ENZI (for himself and Mrs. FEINSTEIN):

S. 2348. A bill to extend the Internet Tax Freedom Act; read the first time.

By Mr. HATCH (for himself and Mr. KENNEDY):

S. 2349. A bill to modify the application of the antitrust laws to permit collective development and implementation of a standard contract form for playwrights for the licensing of their plays; to the Committee on the Judiciary.

By Mr. CONRAD (for himself and Mr. DORGAN):

S.J. Res. 34. A joint resolution designating May 29, 2004, on the occasion of the dedication of the National World War II Memorial, as Remembrance of World War II Veterans Day; to the Committee on the Judiciary.

ADDITIONAL COSPONSORS

S. 737

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 737, a bill to amend title 37, United States Code, to increase the rate of imminent danger special pay and the amount of the family separation allowance.

S. 788

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 788, a bill to enable the United States to maintain its leadership in aeronautics and aviation.

S. 846

At the request of Mr. SMITH, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 846, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for premiums on mortgage insurance, and for other purposes.

S. 874

At the request of Mr. TALENT, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 874, a bill to amend title XIX of the Social Security Act to include primary and secondary preventative medical strategies for children and adults with Sickle Cell Disease as medical assistance under the medicaid program, and for other purposes.

S. 955

At the request of Mr. ALLEN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 955, a bill to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations.

S. 971

At the request of Mr. HARKIN, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 971, a bill to amend title XIX of the Social Security Act to provide individuals with disabilities and older Americans with equal access to community-based attendant services and supports, and for other purposes.

S. 976

At the request of Mr. WARNER, the names of the Senator from California (Mrs. BOXER) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 976, a bill to provide for the issuance of a coin to commemorate the 400th anniversary of the Jamestown settlement.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1115

At the request of Mrs. MURRAY, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 1115, a bill to amend the Toxic Substances Control Act to reduce the health risks posed by asbestos-containing products.

S. 1335

At the request of Mr. GRASSLEY, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 1335, a bill to amend the Internal Revenue Code of 1986 to allow individuals a deduction for qualified long-term care insurance premiums, use of such insurance under cafeteria plans and flexible spending arrangements, and a credit for individuals with long-term care needs.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1380

At the request of Mr. SMITH, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1380, a bill to distribute universal service support equitably throughout rural America, and for other purposes.

S. 1394

At the request of Mr. HARKIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 1394, a bill to establish a demonstration project under the medicaid program to encourage the provision of community-based services to individuals with disabilities.

S. 1645

At the request of Mr. CRAIG, the names of the Senator from Florida (Mr. NELSON) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 1645, a bill to provide for the adjustment of status of certain foreign agricultural workers, to amend the Immigration and Nationality Act to reform the H–2A worker program under that Act, to provide a stable, legal agricultural workforce, to extend basic legal protections and better working conditions to more workers, and for other purposes.

S. 1755

At the request of Mr. LEAHY, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1755, a bill to amend the Richard B. Russell National School Lunch Act to provide grants to support farm-to-cafeteria projects.

S. 1784

At the request of Mrs. FEINSTEIN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1784, a bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine.

S. 1820

At the request of Mr. CORNYN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1820, a bill to authorize the States to implement such mechanisms as are necessary to ensure the continuity of Congress in the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated.

S. 1833

At the request of Mr. DASCHLE, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 1833, a bill to improve the health of minority individuals.

S. 1900

At the request of Mr. SANTORUM, his name was added as a cosponsor of S. 1900, a bill to amend the African Growth and Opportunity Act to expand certain trade benefits to eligible sub-Saharan African countries, and for other purposes.

S. 1932

At the request of Mr. CORNYN, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Illinois (Mr. DURBIN) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 1932, a bill to provide criminal penalties for unauthorized recording of motion pictures in a motion picture exhibition facility, to provide criminal and civil penalties for unauthorized distribution of commercial prerelease copyrighted works, and for other purposes.

S. 1999

At the request of Mr. DASCHLE, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1999, a bill to amend part D of title XVIII of the Social Security Act, as added by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003, to provide for negotiation of fair prices for medicare prescription drugs.

S. 2020

At the request of Mrs. BOXER, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2020, a bill to prohibit, consistent with Roe v. Wade, the interference by the government with a woman's right to choose to bear a child or terminate a pregnancy, and for other purposes.

S. 2031

At the request of Mr. CORNYN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 2031, a bill to authorize the States to implement such mechanisms as are necessary in a time of national crisis to ensure the continuity of the Senate in the event that a quorum of the Senate is not present due to the inability of members of the Senate to discharge the powers and duties of their office.

S. 2099

At the request of Mr. MILLER, the names of the Senator from Missouri (Mr. BOND) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 2099, a bill to amend title 38, United States Code, to provide entitlement to educational assistance under the Montgomery GI Bill for members of the Selected Reserve who aggregate more than 2 years of active duty service in any five year period, and for other purposes.

S. 2100

At the request of Mr. MILLER, the names of the Senator from Missouri (Mr. BOND) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 2100, a bill to amend title 10 United States Code, to increase the amounts of educational assistance for members of the Selected Reserve, and for other purposes.

S. 2236

At the request of Ms. CANTWELL, the names of the Senator from New Jersey (Mr. CORZINE), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 2236, a bill to enhance the reliability of the electric system.

S. 2264

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 2264, a bill to require a report on the conflict in Uganda, and for other purposes.

S. 2269

At the request of Mr. BOND, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 2269, a bill to improve environmental enforcement and security.

S. 2292

At the request of Mr. VOINOVICH, the name of the Senator from New York

(Mrs. CLINTON) was added as a cosponsor of S. 2292, a bill to require a report on acts of anti-Semitism around the world.

S. 2302

At the request of Mr. CONRAD, the name of the Senator from Wisconsin (Mr. FEINGOLD) was added as a cosponsor of S. 2302, a bill to improve access to physicians in medically underserved areas.

S. 2328

At the request of Mr. DORGAN, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Vermont (Mr. LEAHY) were added as cosponsors of S. 2328, a bill to amend the Federal Food, Drug, and Cosmetic Act with respect to the importation of prescription drugs, and for other purposes.

S. 2335

At the request of Mr. REED, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 2335, a bill to amend part A of title II of the Higher Education Act of 1965 to enhance teacher training and teacher preparation programs, and for other purposes.

S.J. RES. 23

At the request of Mr. CORNYN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S.J. Res. 23, a joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated.

S.J. RES. 33

At the request of Mr. BROWNBACK, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S.J. Res. 33, a joint resolution expressing support for freedom in Hong Kong.

S. CON. RES. 78

At the request of Mr. LIEBERMAN, the names of the Senator from Illinois (Mr. FITZGERALD) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of S. Con. Res. 78, a concurrent resolution condemning the repression of the Iranian Baha'i community and calling for the emancipation of Iranian Baha'is.

S. CON. RES. 90

At the request of Mr. LEVIN, the names of the Senator from North Dakota (Mr. CONRAD) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Con. Res. 90, a concurrent resolution expressing the Sense of the Congress regarding negotiating, in the United States-Thailand Free Trade Agreement, access to the United States automobile industry.

S. CON. RES. 99

At the request of Mr. BROWNBACK, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. Con. Res. 99, a concurrent resolution condemning the Government of the Republic of the Sudan for its participation and complicity in the attacks against innocent civilians in the impoverished Darfur region of western Sudan.

S. RES. 269

At the request of Mr. LEVIN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. Res. 269, a resolution urging the Government of Canada to end the commercial seal hunt that opened on November 15, 2003.

S. RES. 310

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. Res. 310, a resolution commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

At the request of Mr. CAMPBELL, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Res. 310, supra.

S. RES. 311

At the request of Mr. BROWNBACK, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 330

At the request of Mr. WYDEN, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. Res. 330, a resolution expressing the sense of the Senate that the President should communicate to the members of the Organization of Petroleum Exporting Countries ('OPEC') cartel and non-OPEC countries that participate in the cartel of crude oil producing countries the position of the United States in favor of increasing world crude oil supplies so as to achieve stable crude oil prices.

S. RES. 332

At the request of Mr. FEINGOLD, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. Res. 332, a resolution observing the tenth anniversary of the Rwandan Genocide of 1994.

S. RES. 336

At the request of Mr. AKAKA, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. Res. 336, a resolution expressing the sense of the Senate that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 3 through 9, 2004.

S. RES. 342

At the request of Mr. HATCH, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. Res. 342, a resolution designating April 30, 2004, as ''Dia de los Ninos: Celebrating Young Americans'', and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. AKAKA:

S. 2346. A bill to amend the Animal Welfare Act to ensure that all dogs and cats used by research facilities are obtained legally; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. AKAKA. Mr. President, I rise today to introduce the Pet Safety and Protection Act. My legislation amends the Animal Welfare Act to ensure that all companion animals such as dogs and cats used by research facilities are obtained legally.

Over 30 years ago, Congress passed the Animal Welfare Act (AWA) authorizing the Secretary of Agriculture to set and enforce standards protecting animals used in biomedical research, bred for commercial sale, exhibited to the public, or commercially transported from inhumane treatment. Despite the well-meaning intentions of the AWA and the enforcement efforts of the U.S. Department of Agriculture (USDA), the Act fails to provide reliable protection against the actions of some unethical animal dealers.

Under the AWA, Class B animal dealers are defined as individuals whose business includes the purchase, sale, or transport of animals in commerce, including dogs and cats intended for use at research facilities. To the dismay of animal welfare advocates and pet owners, some Class B, or ''random source,'' dealers have resorted to theft and deception to collect animals for resale. In many instances these animals were found living under inhumane conditions.

As recently as August of 2003, USDA agents executed a warrant to investigate a Class B dealer from Arkansas suspected of violations of the AWA for the second time in several years. Many claims have been levied against this dealer, and approximately 125 dogs were seized by Federal agents during this week-long search. The investigation of this facility is ongoing, and an indictment is pending.

The complaint being investigated by the USDA against the dealer alleges that the respondents' veterinarian provided for them falsified official health certificates for cats and dogs, and also provided them with blank, undated, and signed health certificates. It is also alleged that the dealer failed to provide the barest standards of care, husbandry, and housing for the animals on the premises. The undercover investigation of this facility has revealed that its proprietors were aware that some of the companion animals brought to the facility were stolen, and also revealed a list of over 50 ''bunchers,'' individuals who obtain animals and sell them to ''random source'' animal dealers. Bunchers have a variety of methods of obtaining companion animals, including responding to newspaper ads offering free animals, trespassing on private property to abduct the animals from yards, and house burglaries.

Inadequate veterinary care is one of the worst violations of the AWA committed against these animals. The expense for quality veterinary care is one that irresponsible Class B dealers do not wish to incur, and animals often die as a result of their untreated injuries or diseases. This was one of the violations uncovered by the investigation, and often resulted from another violation of the AWA that requires compatible grouping of animals. Vicious or diseased animals were not separated from the general population and posed a risk to all of the animals housed with them. In addition, this particular dealer also provided inadequate housing facilities that exposed the animals to injury from sharp wires. Fecal waste was allowed to accumulate in the housing facility, and often dead dogs were left where they fell in cages with other living animals. Food receptacles were found to be contaminated with moldy and rotten food, and potable water was not readily available to the animals. All of these are direct violations of the Animal Welfare Act. In addition to neglect, these animals often suffer abuse at the hands of dealers. Evidence of gross cruelty is being uncovered while the USDA continues to investigate this case.

The Pet Safety and Protection Act strengthens the AWA by prohibiting the use of Class B dealers as suppliers of dogs and cats to research laboratories. My legislation would not be a burden on research facilities because only two percent of the approximately 2,051 Class B dealers in the United States currently sell cats and dogs to research facilities. I am not here to argue whether animals should or should not be used in research. Medical research is an invaluable weapon in the battle against disease. New drugs and surgical techniques offer promise in the fight against cancer, Alzheimer's, tuberculosis, AIDS, and a host of other life-threatening diseases. Animal research has been, and continues to be, fundamental to advancements in medicine. However, I am concerned with the sale of stolen pets and stray animals to research facilities and the poor treatment of these animals by some Class B dealers.

My legislation preserves the integrity of animal research by encouraging research laboratories to obtain animals from legitimate sources that comply with the AWA. Legitimate sources for animals include USDA-licensed Class A dealers, breeders, and research facilities, municipal pounds and shelters, and legitimate pet owners who want to donate their animals to research. These sources are capable of meeting the demand for research animals. The National Institutes of Health, in an effort to curb abuse and deception, have already adopted policies against the acquisition of dogs and cats from Class B dealers.

The Pet Safety and Protection Act also reduces the Department of Agriculture's regulatory burden by allowing the Department to use its resources more efficiently and effectively. Each year, thousands of dollars are spent on regulating dealers. To discourage any future violations of the AWA, my bill increases the penalties to a minimum of $1,000 per violation.

I reiterate that this bill in no way impairs or impedes research, but will end the fraudulent practices of some Class B dealers, as well as the unnecessary suffering of these animals in their care. I urge my colleagues to support this important legislation. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2346

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Pet Safety and Protection Act of 2004''.

SEC. 2. PROTECTION OF PETS.

(a) RESEARCH FACILITIES.—Section 7 of the Animal Welfare Act (7 U.S.C. 2137) is amended to read as follows:

''SEC. 7. SOURCES OF DOGS AND CATS FOR RESEARCH FACILITIES.

''(a) DEFINITION OF PERSON.—In this section, the term 'person' means any individual, partnership, firm, joint stock company, corporation, association, trust, estate, pound, shelter, or other legal entity.

''(b) USE OF DOGS AND CATS.—No research facility or Federal research facility may use a dog or cat for research or educational purposes if the dog or cat was obtained from a person other than a person described in subsection (d).

''(c) SELLING, DONATING, OR OFFERING DOGS AND CATS.—No person, other than a person described in subsection (d), may sell, donate, or offer a dog or cat to any research facility or Federal research facility.

''(d) PERMISSIBLE SOURCES.—A person from whom a research facility or a Federal research facility may obtain a dog or cat for research or educational purposes under subsection (b), and a person who may sell, donate, or offer a dog or cat to a research facility or a Federal research facility under subsection (c), shall be—

''(1) a dealer licensed under section 3 that has bred and raised the dog or cat;

''(2) a publicly owned and operated pound or shelter that—

''(A) is registered with the Secretary;

''(B) is in compliance with section 28(a)(1) and with the requirements for dealers in subsections (b) and (c) of section 28; and

''(C) obtained the dog or cat from its legal owner, other than a pound or shelter;

''(3) a person that is donating the dog or cat and that—

''(A) bred and raised the dog or cat; or

''(B) owned the dog or cat for not less than 1 year immediately preceding the donation;

''(4) a research facility licensed by the Secretary; and

''(5) a Federal research facility licensed by the Secretary.

''(e) PENALTIES.—

''(1) IN GENERAL.—A person that violates this section shall be fined $1,000 for each violation.

''(2) ADDITIONAL PENALTY.—A penalty under this subsection shall be in addition to any other applicable penalty.

''(f) NO REQUIRED SALE OR DONATION.—Nothing in this section requires a pound or shelter to sell, donate, or offer a dog or cat to a research facility or Federal research facility.''.

(b) FEDERAL RESEARCH FACILITIES.—Section 8 of the Animal Welfare Act (7 U.S.C. 2138) is amended—

(1) by striking ''Sec. 8. No department'' and inserting the following:

''SEC. 8. FEDERAL RESEARCH FACILITIES.

''Except as provided in section 7, no department'';

(2) by striking ''research or experimentation or''; and

(3) by striking ''such purposes'' and inserting ''that purpose''.

(c) CERTIFICATION.—Section 28(b)(1) of the Animal Welfare Act (7 U.S.C. 2158(b)(1)) is amended by striking ''individual or entity'' and inserting ''research facility or Federal research facility''.

SEC. 3. EFFECTIVE DATE.

The amendments made by section 2 take effect on the date that is 90 days after the date of enactment of this Act.

By Mr. VOINOVICH (for himself, Mr. DURBIN, Mr. JEFFORDS, and Mr. LIEBERMAN):

S. 2347. A bill to amend the District of Columbia Access Act of 1999 to permanently authorize the public school and private school tuition assistance programs established under the Act; to the Committee on Governmental Affairs.

Mr. VOINOVICH. Mr. President, leveling the playing field for high school graduates in the District of Columbia continues to be a top priority of the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia which I chair. Today I would like to highlight the tremendous impact the District of Columbia Tuition Assistance Program—D.C. TAG—has had on promoting higher education for high school graduates in the Nation's Capital and introduce legislation that would permanently authorize the District of Columbia College Access Act of 1999.

In 1999, I worked with the House and fellow Senators JEFFORDS and DURBIN to craft the District of Columbia College Access Act which was signed into law on November 12, 1999. Soon after, under the direction of Mayor Anthony Williams, the D.C. TAG Program was created to implement this important legislation. The first grants were awarded in 2000.

The aim of the Program was to afford D.C. high school graduates the same opportunity that high school seniors in each of the 50 States have, the ability to attend public universities and colleges at in-State tuition rates in all 50 States and participating private schools—Historically Black Colleges and Universities (HBCU) nationwide or private colleges or universities in Virginia or Maryland. The program has made it possible for D.C. residents to attend college who did not have access to similar State-supported systems.

The D.C. TAG scholarships are used by D.C. residents to pay the difference between in-State and out-of-State tuition, up to $10,000 per student per

school year with a cumulative cap of $50,000 per student. In addition, as of March 2002, D.C. residents attending participating private institutions started receiving tuition grants under the program of $2,500 per student per school year with a cumulative cap of $12,500 per student.

To date, D.C. TAG has dispersed more than $63 million to a total of 6,527 students, many of whom are the first in their family to attend college. All current high school students who are D.C. residents are eligible for these scholarships and participation is increasing.

The powerful impact of the program on high school graduates continuing on to college is hard to deny. Data from the Department of Education's Integrated Postsecondary Education Data System show that the number of D.C. high school graduates continuing on to college increased from 1,750 in 1998 to 2,230 in 2002. That's a 28 percent increase since the program was created. This is the highest level of college attendance of District students and exceeds the national average, over the same period, of a 5-percent increase.

Mayor Williams stated that ''No State in the Union can make that claim. This unprecedented figure is due in large part, if not almost exclusively, I believe, to D.C. TAG.''

According to a survey conducted by the D.C. TAG Office, the grants have become an essential part of higher education planning for D.C. residents. The majority of students who have received assistance through the program have indicated that the existence of the grants made a difference in their decision to attend college, and also played a role in deciding which college to attend.

It is important for my colleagues to know that thousands of D.C. students have taken advantage of this program. It can help to turn around years of economic and educational despair in the District.

We are now coming to the end of the 5-year authorization for the program which expires in November 2005. Because of this and the success of the program, Senators DURBIN, JEFFORDS, LIEBERMAN, and I are introducing this bill to permanently reauthorize the D.C. College Access Act.

In closing I would like to quote two D.C. Residents. La Rue Purry, currently a freshman at the University of Alabama states that ''This program gave me the opportunity to get the education I always wanted, the education my family couldn't have provided for me.''

Brian Ford, a former D.C. TAG recipient, who testified at the House committee on Government Reform Hearing on March 25, 2004, stated that ''The D.C. Tuition Assistance Program is a necessity for the city of Washington, DC, and for its residents. I urge Congress to please continue to provide financial support to the D.C. TAG program so one day students like myself can have a college diploma hanging on the wall for the world to see.''

I urge all of my colleagues to support this legislation and I'm confident that it can be enacted this year. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2347

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT AUTHORIZATION OF TUITION ASSISTANCE PROGRAMS.

(a) PUBLIC SCHOOL PROGRAM.—Section 3(i) of the District of Columbia College Access Act of 1999 (sec. 38—2702(i), D.C. Official Code) is amended by striking ''each of the five succeeding fiscal years'' and inserting ''each succeeding fiscal year''.

(b) PRIVATE SCHOOL PROGRAM.—Section 5(f) of such Act (sec. 38—2704(f), D.C. Official Code) is amended by striking ''each of the five succeeding fiscal years'' and inserting ''each succeeding fiscal year''.

By Mr. HATCH (for himself and Mr. KENNEDY):

S. 2349. A bill to modify the application of the antitrust laws to permit collective development and implementation of a standard contract form for playwrights for the licensing of their plays; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today to introduce S. 2349, ''The Playwrights Licensing Antitrust Initiative'' or ''PLAI [play] Act.''

This legislation is designed to ensure the continued vitality of American theater. When the theater is crowded and the curtain rises, it is easy to forget that the entire show began with one person: the lone playwright who put pen to paper. While this artistic independence—and the individual expression it fosters—are absolutely central to the continuing vitality of quality live theater in America, it has resulted in individual playwrights being increasingly forced into a situation where they bargain alone against corporate behemoths and organized labor groups over terms of compensation and artistic control when their works are performed on Broadway.

Due to the interaction of Federal labor law, the antitrust laws, and the Copyright Act, playwrights and their voluntary peer membership organization, the Dramatists Guild of America, operate under the shadow of possible antitrust litigation, which has substantially and detrimentally decreased their ability to coordinate their actions in protecting their artistic and financial interests. This has impeded the ability of playwrights to act collectively in dealing with highly-organized and unionized groups—such as actors, directors, and choreographers on the one hand—and the increasingly consolidated producers and investors on the other.

Playwrights contribute enduring, thoughtful entertainment and cultural enrichment to our lives. I know that many of my colleagues here in the Senate share my appreciation for the creative work they do. Despite the importance of their work, our current antitrust laws prevent them from negotiating a standard form contract for the production of their works. As a result, playwrights—who are frequently at a substantial bargaining disadvantage—are forced to accept contracts on a take it or leave it basis.

If we truly want the American stage to flourish, we must remedy this situation. The PLAI Act is a narrow measure that allows playwrights, composers and lyricists—through either the Dramatists Guild or any other voluntary peer organization—to act collectively in dealing with other industry groups that operate both under and behind the bright lights of the American stage.

The PLAI Act enables playwrights to act collectively without violating the antitrust laws. It allows these men and women to sit down with their creative colleagues in the industry to negotiate, adopt and implement a standard form contract for the production of their works. Actors, stagehands, directors, producers and venue owners of live theater—nearly all other theater workers and artists—already have this right. Importantly, this extends only to the adoption and implementation—but not any collective enforcement—of an updated standard form contract. Thus, it would merely allow dramatists to replace the terms of the current standard contract—which I am given to understand has remained virtually unchanged for several decades—with amended terms that reflect the changing business and artistic landscape on Broadway.

My hope is that the basic ability to develop a standard form contract as well as provisions ensuring that certain artists' rights are respected in the production of their plays will encourage young, struggling playwrights to continue working in the field. Too often, playwrights with great potential abandon their writing—or choose to write for a different audience or venue—because they are powerless to negotiate even minimum levels of compensation or artistic copyright protection for their work. William Shakespeare himself was paid no more than eight pounds apiece for his plays, and was not able to make his living from writing. This was, of course, back in the late 16th century.

We should not allow today's antitrust laws to be used to discourage some of our most creative citizens from pursuing careers in live theater. When talented individuals are pushed away from their craft because of the unintended consequences of legislation, it is incumbent upon those of us in Congress to set things right.

As a long time enthusiast of live theater, and a lyricist myself, I am proud to co-sponsor this bill. It is my belief that the PLAI Act will help foster the next Arthur Miller, the next Andrew

Lloyd Webber, or the next Wendy Wasserstein. By helping playwrights in this way we encourage the continued vibrancy of American live theater and artistic and literary culture.

I commend my co-sponsor Senator KENNEDY for his efforts on this bill. His leadership and support represent a significant step forward in preserving the future of live theater in America. I urge my colleagues to join Senator KENNEDY and me in supporting the PLAI Act.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2349

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Playwrights Licensing Antitrust Initiative Act of 2004''.

SEC. 2. NONAPPLICATION OF ANTITRUST LAWS.

(a) IN GENERAL.—Subject to subsection (c), the antitrust laws shall not apply to any joint discussion, consideration, review, action, or agreement for the express purpose of, and limited to, the development of a standard form contract containing minimum terms of artistic protection and levels of compensation for playwrights by means of—

(1) meetings, discussions, and negotiations between or among playwrights or their representatives and producers or their representatives; or

(2) joint or collective voluntary actions for the limited purposes of developing a standard form contract by playwrights or their representatives.

(b) ADOPTION AND IMPLEMENTATION.—Subject to subsection (c), the antitrust laws shall not apply to any joint discussion, consideration, review, or action for the express purpose of, and limited to, reaching a collective agreement among playwrights adopting a standard form contract developed pursuant to subsection (a) as the participating playwrights sole and exclusive means by which participating playwrights shall license their plays to producers.

(c) AMENDMENT OF CONTRACT.—A standard form of contract developed and implemented under subsections (a) and (b) shall be subject to amendment by individual playwrights and producers consistent with the terms of the standard form contract.

SEC. 3. DEFINITIONS.

In this Act:

(1) ANTITRUST LAWS.—The term ''antitrust laws'' has the meaning given it in section (a) of the first section of the Clayton Act (15 U.S.C. 12) except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent that such section applies to unfair methods of competition.

(2) PLAYWRIGHT.—The term ''playwright'' means the author, composer, or lyricist of a dramatic or musical work intended to be performed on the speaking stage and shall include, where appropriate, the adapter of a work from another medium.

(3) PRODUCER.—The term ''producer''—

(A) means any person who obtains the rights to present live stage productions of a play; and

(B) includes any person who presents a play as first class performances in major cities, as well as those who present plays in regional and not-for-profit theaters.

Mr. KENNEDY. Mr. President, it is a privilege to join in cosponsoring the Playwrights Licensing Antitrust Initiative Act, to permit the development of a standard, minimum contract for playwrights for the licensing and production of their work.

The bill will provide needed protection for playwrights whose work is the creative force behind so many memorable successes in the Nation's performing arts. The stunning creations that millions of Americans enjoy on Broadway, Off Broadway, and in local communities across the country reflect the special genius of our creative artists. They express our Nation's hopes, disappointments, achievements and its challenges for the years ahead.

If you travel to New York this week, you can attend any one of dozens of shows to entertain or enlighten us. There are classic musical productions—shows that we have loved all our lives such as Gypsy and 42nd Street and Fiddler on the Roof, and more recently, The Producers. There are other dramatic works on issues that are important to each of us—about personal struggles and individual achievement and growth, about immigration and race relations—Bridge and Tunnel, The Tricky Part and Caroline, or Change. They are the new classics from the emerging voices of theater.

The men and women who write these shows should be fairly compensated for their creative achievements. The bill that Senator HATCH and I introduce today will provide a measure of greater fairness for them. Currently, they are prohibited from entering into any collective negotiation for compensation or control of their work. Because they are not members of a union, they must negotiate individually with producers of their work.

For well-known authors, the negotiation can be challenging. For emerging authors, it can be impossible.

The bill we are proposing will grant a very limited modification of the antitrust laws, so that playwrights will be able to negotiate a minimum compensation package as fair reimbursement for their work. It will give playwrights similar rights to actors, actresses, dancers, composers, musicians and others who bring theater to life on America's stages.

Currently, writers who work in the film industry enjoy greater protection for their work than their counterparts in the theater. We need to do more to see that our talented playwrights are able to continue their work in our theaters, and end the alarming current trend away from writing for live theater.

As President Kennedy once said, ''I am certain that after the dust of centuries has passed over our cities, we, too, will be remembered not for victories or defeats in battle or politics, but for our contribution to the human spirit.''

I hope that we can take this opportunity to expand the creative arts in our country and contribute to the vital spirit of our citizens in communities across America with their performances in drama, comedy and music.

American theater is as lively, diverse, and exciting as any in the world. We must do all we can to protect this unique legacy and ensure a healthy theater community in the years ahead.

I urge my colleagues to join us in supporting this important legislation.

By Mr. CONRAD (for himself and Mr. DORGAN):

S.J. Res. 34. A joint resolution designating May 29, 2004, on the occasion of the dedication of the National World War II Memorial, as Remembrance of World War II Veterans Day; to the Committee on the Judiciary.

Mr. CONRAD. Mr. President, after 17 years of hard work on the part of many individuals, especially World War II veterans, the World War II memorial will become a reality on Saturday, May 29, 2004 with a dedication ceremony in Washington, D.C. Hundreds of thousands of World War II veterans and their families are expected to attend. In recognition of this important occasion, I am introducing a Senate Joint Resolution along with my distinguished colleague, Senator BYRON DORGAN, to honor our World War II veterans, their families and this dedication next month.

The idea for the National World War II Memorial was first presented to Congresswomen MARCY KAPTUR during a conversation with a constituent and World War II veteran, Roger Durbin in 1987. Shortly after that conversation, Congresswoman KAPTUR introduced legislation to create a memorial, and Congress passed legislation authorizing the national memorial in 1993.

The National World War II Memorial will pay tribute to the more than 16,112,000 veterans of all military services—Army, Army Air Corps, Marine Corps, Navy, Coast Guard and Merchant Marine—who served in World War II between the invasion of Poland in 1939 and the surrender of Japan in 1945. Approximately 69,000 of these servicemen were from North Dakota. The memorial will acknowledge the supreme sacrifice of more than 400,000 military personnel, including 1,569 North Dakotans, who lost their lives between 1939 and 1945.

As veterans and their families visit Washington over the coming weeks, many will recall the heroism and sacrifices from some of the remarkable campaigns and famous battles of World War II, including the attack on Pearl Harbor, December, 1941; the Battle of Midway, June, 1942; the Allied campaign across North Africa, November, 1942; Operation Overlord (D-Day), June 1944; the capture of Iwo Jima, February, 1945; and the Tokyo bombing raids of March, 1945.

The Memorial will also have special meaning for North Dakotans as they remember the heroic efforts of the 164th Infantry Regiment of the American Division, a unit of the North Dakota Army National Guard and the

first unit of the United States Army to land on Guadalcanal in October, 1942. Some of the fiercest fighting of World War II took place in the effort to recapture the island.

The Memorial will also hold special meaning for Senators and Members of Congress of the 108th Congress as we recognize and honor current members including Senator DANIEL K. AKAKA, Senator ERNEST F. HOLLINGS, Senator DANIEL K. INOUYE, Senator FRANK R. LAUTENBERG, Senator TED STEVENS, Senator JOHN W. WARNER, Congressman CASS BALLENGER, Congressman JOHN D. DINGELL, Congressman RALPH M. HALL, Congressman AMO HOUGHTON, Congressman HENRY J. HYDE, and Congressman RALPH REGULA.

As we pause during the Memorial Day weekend to remember World War II veterans who served and sacrificed so much more than 59 years ago, it is my hope that Americans will honor and remember this ''Greatest Generation'' for the contributions that have enabled millions of Americans, for more than 50 years, to enjoy unparalled prosperity and the blessings of freedom. Let us also remember the ongoing sacrifices of our active duty military personnel who are currently serving in all parts of the world, but especially in Iraq and the conflict against terrorism in Afghanistan.

I ask unanimous consent that the text of the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 34

Whereas on May 29, 2004, thousands of veterans, their families, and friends will gather on the Mall in Washington, District of Columbia, to dedicate the National World War II Memorial;

Whereas on that day, Americans will pay tribute to the more than 16,112,000 veterans of all military services who served in World War II between the German invasion of Poland in 1939 and the surrender by Japan on V–J Day in 1945;

Whereas on that day, Americans will be reminded of the heroism and sacrifice of members of the Armed Forces who were on duty during some of the critical conflicts of World War II, including the attack on Pearl Harbor of December 7, 1941, the Battle of Midway of June 6, 1942, the invasion of Guadalcanal on August 7, 1942, the Allied campaign in North Africa in November 1942, Operation Overlord (D-Day) on June 6, 1944, the capture of Iwo Jima on February 23, 1945, and the Tokyo bombing raids of March 1945;

Whereas on that day, veterans and their families from North Dakota will honor the heroism and sacrifice of the approximately 69,000 North Dakota veterans who served in World War II, including 1,569 who made the ultimate sacrifice, and recognize the hardships and sacrifices of the 164th Regiment of the American Division, a unit of the North Dakota Army National Guard, who were the first unit of the United States Army to land on Guadalcanal on October 13, 1942, in the campaign to recapture that island;

Whereas on that day, America will acknowledge the supreme sacrifice of the more than 400,000 Army, Army Air Corps, Navy, Marine Corps, Coast Guard, and Merchant Marine personnel who were killed in action in World War II;

Whereas 12 distinguished Senators and Members of Congress serving in the 108th Congress, including Senator Daniel K. Akaka, Senator Ernest F. Hollings, Senator Daniel K. Inouye, Senator Frank R. Lautenberg, Senator Ted Stevens, Senator John W. Warner, Congressman Cass Ballenger, Congressman John D. Dingell, Congressman Ralph M. Hall, Congressman Amo Houghton, Congressman Henry J. Hyde, and Congressman Ralph Regula, served in World War II; and

Whereas World War II veterans, members of the generation known as ''the Greatest Generation'', through their sacrifice and hard work over more than 50 years, have enabled millions of Americans to enjoy unparalleled prosperity and the blessings of freedom: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 29, 2004, is hereby designated as Remembrance of World War II Veterans Day, and the President is urged to call upon the people of the United States to celebrate the day with appropriate ceremonies and activities.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a legislative hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, May 5, at 2:30 p.m. in room SD–366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on the following bills: S. 155, to convey to the town of Frannie, WY, certain land withdrawn by the Commissioner of Reclamation; S. 2285, to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, UT, S. 1521, to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, NV, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community; S. 1826, to direct the Secretary of the Interior to convey certain land in Washoe County, NV, to the Board of Regents of the University and Community College System of Nevada; S. 2085, to modify the requirements of the land conveyance to the University of Nevada at Las Vegas Research Foundation; and H.R. 1658, to amend the Railroad Right-of-Way Conveyance Validation Act to validate additional conveyances of certain lands in the State of California that form part of the right-of-way granted by the United States to facilitate the construction of the transcontinental railway, and for other purposes.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, D.C. 20510–6150.

For further information, please contact Dick Bouts at 202–224–7545 or Amy Millet at 202–224–8276.

MEASURE PLACED ON THE CALENDAR—H.R. 2844

Mr. ALEXANDER. I understand there is a bill at the desk that is due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill for a second time by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2844) to require the States to hold special elections to fill vacancies in the House of Representatives, and for other purposes.

Mr. ALEXANDER. Mr. President, in order to place the bill on the calendar under provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

MEASURE READ THE FIRST TIME—S. 2348

Mr. ALEXANDER. Mr. President, I understand that S. 2348 is at the desk and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill for a first time by title.

The assistant legislative clerk read as follows:

A bill (S. 2348) to extend the Internet Tax Freedom Act.

Mr. ALEXANDER. I now ask for its second reading, and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read for a second time on the next legislative day.

PUBLIC SERVICE RECOGNITION WEEK

Mr. ALEXANDER. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of S. Res. 336, and the Senate proceed to its immediate consideration.

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

The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 336) expressing the sense of the Senate that public servants should be commended for their dedication and continued service to the Nation during Public Service Recognition Week, May 3 through May 9, 2004.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be

agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The resolution (S. Res. 336) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 336

Whereas Public Service Recognition Week provides an opportunity to honor and celebrate the commitment of men and women who meet the needs of the Nation through work at all levels of government;

Whereas over 18,000,000 individuals work in government service in every city, county, and State across America and in hundreds of cities abroad;

Whereas Federal, State, and local officials perform essential services the Nation relies upon every day;

Whereas the United States of America is a great and prosperous nation, and public service employees contribute significantly to that greatness and prosperity;

Whereas the Nation benefits daily from the knowledge and skills of these highly trained individuals;

Whereas public servants—

(1) help the Nation recover from natural disasters and terrorist attacks;

(2) provide vital strategic support functions to our military and serve in the National Guard and Reserves;

(3) fight crime and fire;

(4) deliver the United States mail;

(5) deliver social security and medicare benefits;

(6) fight disease and promote better health;

(7) protect the environment and the Nation's parks;

(8) defend and secure critical infrastructure;

(9) teach and work in our schools and libraries;

(10) improve and secure our transportation systems;

(11) keep the Nation's economy stable; and

(12) defend our freedom and advance United States interests around the world;

Whereas public servants at every level of government are hard-working men and women, committed to doing their jobs regardless of the circumstances;

Whereas members of the uniformed services and civilian employees at all levels of government make significant contributions to the general welfare of the United States, and are on the front lines in the fight against terrorism and in maintaining homeland security;

Whereas public servants work in a professional manner to build relationships with other countries and cultures in order to better represent America's interests and promote American ideals;

Whereas Federal, State, and local government employees have risen to the occasion and demonstrated professionalism, dedication, and courage while fighting the war against terrorism;

Whereas public servants alert Congress and the public to government waste, fraud, abuse, and dangers to public health;

Whereas the men and women serving in the Armed Forces of the United States, as well as those skilled trade and craft Federal employees who provide support to their efforts, contribute greatly to the security of the Nation and the world;

Whereas government workers have much to offer, as demonstrated by their expertise, and serve as examples by passing on institutional knowledge to train the next generation of public servants;

Whereas May 3 through 9, 2004, has been designated Public Service Recognition Week to honor America's Federal, State, and local government employees;

Whereas the theme for Public Service Recognition Week 2004 is Celebrating Government Workers Nationwide to highlight the important work civil servants perform throughout the Nation; and

Whereas Public Service Recognition Week is celebrating its 20th anniversary through job fairs, student activities, and agency exhibits: Now, therefore, be it

Resolved, That the Senate—

(1) commends public servants for their outstanding contributions to this great Nation;

(2) salutes their unyielding dedication and spirit for public service;

(3) honors those government employees who have given their lives in service to their country;

(4) calls upon a new generation of workers to consider a career in public service as an honorable profession; and

(5) encourages efforts to promote public service careers at all levels of government.

SACRIFICE OF LAW ENFORCEMENT OFFICERS

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 475, S. Res. 310.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 310) commemorating and acknowledging the dedication and sacrifice made by the men and women who have lost their lives while serving as law enforcement officers.

There being no objection, the Senate proceeded to consider the resolution.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

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

The resolution (S. Res. 310) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 310

Whereas the well-being of all citizens of the United States is preserved and enhanced as a direct result of the vigilance and dedication of law enforcement personnel;

Whereas more than 850,000 men and women, at great risk to their personal safety, presently serve their fellow citizens as guardians of peace;

Whereas peace officers are on the front line in preserving the right of the children of the United States to receive an education in a crime-free environment, a right that is all too often threatened by the insidious fear caused by violence in schools;

Whereas nearly 150 peace officers across the United States were killed in the line of duty during 2003, well below the decade-long average of 166 deaths annually;

Whereas a number of factors contributed to this reduction in deaths, including better equipment and the increased use of bullet-resistant vests, improved training, longer prison terms for violent offenders, and advanced emergency medical care;

Whereas every other day, 1 out of every 9 peace officers is assaulted, 1 out of every 25 peace officers is injured, and 1 out of every 6,000 peace officers is killed in the line of duty somewhere in the United States; and

Whereas on May 15, 2004, more than 20,000 peace officers are expected to gather in Washington, D.C. to join with the families of their recently fallen comrades to honor those comrades and all others who went before them: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes May 15, 2004, as Peace Officers Memorial Day, in honor of Federal, State, and local officers killed or disabled in the line of duty; and

(2) calls upon the people of the United States to observe this day with appropriate ceremonies and respect.

NATIONAL MILITARY APPRECIATION MONTH

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 476, H. Con. Res. 328.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 328) recognizing and honoring the United States Armed Forces and supporting the goals and objectives of a National Military Appreciation Month.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. ALEXANDER. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

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

The concurrent resolution (H. Con. Res. 328) was agreed to.

The preamble was agreed to.

ORDERS FOR TUESDAY, APRIL 27, 2004

Mr. ALEXANDER. Mr. President, on behalf of the majority leader, I ask unanimous consent when the Senate completes its business today, it adjourn until 9:45 a.m. on Tuesday, April 27. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and following the time for the two leaders, the Senate begin a period of morning business for up to 60 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the Republican leader or his designee; provided that following that 60-minute period, the Senate resume consideration of the motion to proceed to S. 150, the Internet tax bill, as under the previous

order. I further ask consent that the Senate recess from 12:45 until 2:15 p.m. for the weekly party luncheons.

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

PROGRAM

Mr. ALEXANDER. Tomorrow morning, the leader has asked me to say that following morning business the Senate will resume the consideration of the motion to proceed to the Internet tax bill. There will be an additional period of 2 hours and 40 minutes of possible debate prior to proceeding to the bill. Senators should therefore be aware that if all the time is used, the Senate should begin consideration of the bill shortly before 3 p.m. tomorrow. Rollcall votes are expected during tomorrow's session.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. ALEXANDER. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:29 p.m., adjourned until Tuesday, April 27, 2004, at 9:45 a.m.

NOMINATIONS

Executive nominations received by the Senate April 26, 2004:

DEPARTMENT OF STATE

JAMES D. MCGEE, OF FLORIDA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF MADAGASCAR.

JOHN D. NEGROPONTE, OF THE DISTRICT OF COLUMBIA, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO IRAQ.

DAVID MICHAEL SATTERFIELD, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE HASHEMITE KINGDOM OF JORDAN.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 1552 AND 12203:

To be colonel

GERALD V. HOWARD, 0000
DAVID L. WEBER, 0000

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

JOHN J. SEBASTYN, 0000

WITHDRAWALS

Executive message transmitted by the President to the Senate on April 26, 2004, withdrawing from further Senate consideration the following nominations:

BRADLEY D. BELT, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2008, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 3, 2003.

BRADLEY D. BELT, OF THE DISTRICT OF COLUMBIA, TO BE A MEMBER OF THE SOCIAL SECURITY ADVISORY BOARD FOR A TERM EXPIRING SEPTEMBER 30, 2008, WHICH WAS SENT TO THE SENATE ON JANUARY 21, 2004.