

Rather, I wish to make the case that a bill this important and this controversial deserves more careful deliberation than the House is providing.

The current moratorium does not expire until October 2001, a year and a half from now. There is no rush. We have the time to do this properly and responsibly.

Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. DOGGETT).

□ 1030

Mr. DOGGETT. I thank the gentleman for yielding me this time.

Mr. Speaker, from the travel industry to the food industry, Internet commerce has spurred growth in all sectors of our economy. I believe we should encourage this new economy by minimizing regulation and maximizing the freedom to innovate on the Internet. The bill that we will have before us through this rule, the Internet Nondiscrimination Act, furthers that purpose. The bill extends the Internet tax moratorium which was too short as originally approved in this Congress, and it eliminates the grandfather clause of the Internet Tax Freedom Act that has enabled a dozen States, including my own State of Texas, to impose access charges on the Internet.

I believe that access to the Internet must be free, that we must prevent discriminatory taxes from being imposed now or in the future that would impede the ability of individuals and of businesses to gain access to the Internet and access to electronic commerce. Electronic commerce is still very much in its infancy, and if we burden it with regulations, if we overburden it with taxes, it will not be able to expand and achieve its full potential.

As a strong supporter of the Internet Tax Freedom Act when it was approved in 1998, I realized then that, while 3 years was all we could get approved in this Congress, it was insufficient to do the job of exploring the complexities of how any taxation in the future of this type of commerce would be achieved. That became particularly apparent in the overpoliticized atmosphere of the Advisory Commission on Electronic Commerce, which we asked to look objectively at this issue, but which was not able to resolve this and make a recommendation to the Congress.

Now, if this Congress were, as my colleague has just indicated, to do what this particular House this year and last year has demonstrated that it is most experienced in, and that is, doing nothing or next to nothing, we would not incur any additional burden on electronic commerce this year, because the current moratorium does not expire until October of 2001. So if there is inaction, nothing will occur that would be disadvantageous.

It is, however, an election year, and so this measure has been rushed through the Congress in the manner that was described, and that is unfortunate, because it would be good if we could have a dispassionate, objective, bipartisan review of these issues.

Our Republican colleagues have found it necessary continually to bring up measures to try to drive a wedge between the new economy, the high technology portion of our economy, and the Democratic Party. That is unfortunate, because I believe that only if we move in a bipartisan fashion are we going to be able to resolve these issues.

The State of Texas is one of those that has had the highest access charges, and I am pleased that we can provide a tax cut through this measure to the people of the State of Texas. The Texas Legislature would have been the better avenue for accomplishing that. They could have done it last year. It is unfortunate they did not.

The minority leader, the gentleman from Missouri, has spoken out in favor of an extension of the moratorium. He suggested 2 years. Naturally being an election year, the Republicans have come in and said, no, make it 5. If the gentleman from Missouri had suggested 5 years, they would have come in and said, no, make it 10. This is not the kind of process that is going to lead to a bipartisan addressing of these issues and eventually resolving how any commerce that transpires on the Internet, the goods and services that are sold over it, might be taxed so that we are not faced with virtual public schools and virtual fire departments instead of the real thing in the future if we see the total erosion of the State and local tax base.

So I would prefer a more deliberate process than this, but I think it is important to have some extension of the moratorium. The Senate will have an opportunity to look and craft this measure more carefully and see what the appropriate time limits are.

The much greater danger to the Internet that this bill does not address the problem that is raised by the gentleman from Georgia's bill to impose a 59.5 percent sales tax not as a State and local source of revenue, but as a Federal source of revenue, something about which I and other Members of our high tech advisory group as Democrats have strongly approved.

We feel that using electronic commerce as a source of Federal sales tax revenue poses a much greater potential burden, which this moratorium does not really reach. There is a lingering danger that Republicans, in their dogmatic zeal to junk the income tax code, will impose a new sales tax on all electronic commerce that adds 60 percent to the price of every purchase made online. We must both reject that bad idea and extend this moratorium.

Mr. HALL of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield myself such time as I may consume.

I will just comment on the gentleman's comments who previously spoke about a 60 percent or 59.5 percent sales tax just to point out his own Democrat staff on the Committee on Ways and Means estimates that the next year

tax, revenue neutral, to be about 24 percent. He will pick the worst scenario.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

UNFUNDED MANDATE POINT OF ORDER

Mr. CONYERS. Mr. Speaker, I have a point of order that I would like to make about the bill that is pending.

The SPEAKER pro tempore (Mr. SUNUNU). Since the Chair is about to declare the House resolved into Committee of the Whole, the gentleman is recognized to state his point of order.

Mr. CONYERS. Mr. Speaker, pursuant to section 425 of the Congressional Budget and Impoundment Control Act of 1974, I make a point of order against the consideration of the bill, H.R. 3709, the Internet Nondiscrimination Act of 2000. Section 425 states that a point of order lies against legislation which imposes an unfunded mandate in excess of \$50 million annually against State or local governments. Page 2, lines 24 and 25 of H.R. 3709 contains a violation of section 425. Therefore, I make a point of order that this measure may not be considered pursuant to section 425.

The SPEAKER pro tempore. The gentleman from Michigan makes a point of order that the bill violates section 425(a) of the Congressional Budget Act of 1974.

In accordance with section 426(b)(2) of the Act, the gentleman has met his threshold burden to identify the specific language of the bill on which he predicates the point of order.

Under section 426(b)(4) of the Act, the gentleman from Michigan (Mr. CONYERS) and a Member opposed each will control 10 minutes of debate on the question of consideration.

Pursuant to section 426(b)(3) of the Act, after that debate, the Chair will put the question of consideration, to wit: Will the House now consider the bill in Committee of the Whole?

The gentleman from Michigan (Mr. CONYERS) is recognized for 10 minutes and the gentleman from Pennsylvania (Mr. GEKAS) will also be recognized for 10 minutes.

The Chair recognizes the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have made this point of order because it is necessary that we obtain additional information regarding the impact that the bill's unfunded mandate will have on State and local governments before we approve the bill. This is absolutely necessary. I would submit that not a Member of this body has any clear idea regarding how much this legislation will cost the States. The reason is, is because we have not had a single day or even a single minute of hearings on the legislation. We are flying totally blind. The

Congressional Budget Office has taken a brief look at the issue and they have merely told us that it will cost the States upward of \$50 million a year. But they have not told us how much more it will really cost.

I can tell my colleagues that the National Governors Association, led by Republican Governor Leavitt of Utah, has estimated that a single provision in the bill eliminating the current grandfather clause concerning Internet access taxes will cost the States \$85 million in the first year alone. In Texas alone, the provision will cost \$50 million this year, and \$200 million by the year 2004. This could translate into 4,000 lost teachers and police officers in Texas alone.

Mr. Speaker, I reserve the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield myself such time as I may consume.

The issue at hand, the point of order, is one that involves, as has been stated, the so-called unfunded mandates. The purpose of the rule that we have adopted for ourselves on unfunded mandates, the procedure, is one to inform the Members, to let them know that what they are about to consider and eventually cast votes concerning contains unfunded mandates. So that the procedure will follow its natural course, then when it comes time to consider the bill, the Members can vote up or down on the bill, keeping in mind and considering and placing weight as they deem fit, placing weight on the fact that there are unfunded mandates contained in the bill.

For that reason, we have already adopted the rule, we ought to proceed with the debate on the bill, and the Members will decide by voting on the bill finally whether or not unfunded mandates has anything to do with their final decision on the vote.

Mr. Speaker, I yield back the balance of my time.

Mr. CONYERS. Mr. Speaker, I yield myself such time as I may consume.

Could I ask the gentleman from Pennsylvania if he can tell us how much this bill will cost the States?

I yield to the gentleman from Pennsylvania for this purpose.

Mr. GEKAS. Yes, the gentleman can ask that.

Mr. CONYERS. Yes. Can the gentleman answer it?

Mr. GEKAS. The gentleman has no answer. The question is one that could be answered by saying, more than a few dollars.

Mr. CONYERS. I thank the gentleman for as precise an answer as he can muster at the moment. Could I also further inquire of the gentleman, have we had any hearings to help us with this particular problem?

Mr. GEKAS. If the gentleman will yield further, the gentleman has in his possession, I assume, because it is in the report, the CBO estimates concerning the subject. I cannot improve on the work of the CBO, much as I would like to.

Mr. CONYERS. The problem is really, have we heard from the governors of any of these States that will be affected in the course of the committee process?

I think that this point of order should lie ahead of time, Mr. Speaker, not after the vote. That is the whole point of a point of order under section 425, because it lies against legislation which imposes an unfunded mandate in excess of \$50 million annually against State or local governments.

The cost of deferring consideration of the larger issue of the State tax simplification, which this bill effectively does, has been estimated as creating a State revenue loss of \$20 billion per year, to say nothing of the private sector cost of complying with the complex State tax system. All of this lost revenue is going to have to come from somewhere, either in the form of reduced services such as police, fire and education, or increased income and property taxes. Neither is a very desirable policy outcome.

□ 1045

Now, I do not know if any of these estimates are correct or not, but I do know that we owe it to ourselves as legislators to learn the facts and determine the costs of the measure before we vote on it. Clearly, there is no rush concerning this matter. The current moratorium does not expire until October 21, 2001, 17 months from today.

I need not remind the Members that it was the majority party which passed the unfunded mandates legislation in the first place as the very first measure in the Contract With America during the 104th Congress. We were told with much fanfare that the Republican Party was going to stop passing mandates on the State, or, at the very least, we would be aware of the cost of a mandate before they enacted them.

Today, we will have an opportunity to see whether the majority will remain true to its promise to the States and the American people and uphold my point of order. We ought to look before we leap, and we certainly ought to know how much a bill will cost the States before we pass it.

Mr. Speaker, I urge Members to vote "no" on any effort to disregard this point of order and proceed with the consideration of the bill before us. I urge that the point of order be supported.

Mr. Speaker, I yield back the balance of my time.

Mr. GEKAS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SUNUNU). The question is, Will the House now consider the bill in the Committee of the Whole?

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CONYERS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 271, nays 129, not voting 34, as follows:

[Roll No. 154]

YEAS—271

| | | |
|----------------|---------------|---------------|
| Aderholt | Goodlatte | Oxley |
| Archer | Goodling | Packard |
| Armey | Goss | Paul |
| Bachus | Graham | Pease |
| Baker | Granger | Pelosi |
| Ballenger | Green (WI) | Peterson (PA) |
| Barr | Greenwood | Petri |
| Barrett (NE) | Gutknecht | Pickering |
| Barrett (WI) | Hall (TX) | Pickett |
| Bartlett | Hansen | Pitts |
| Barton | Hastings (WA) | Pombo |
| Bass | Hayes | Porter |
| Bateman | Hayworth | Portman |
| Becerra | Hefley | Price (NC) |
| Bereuter | Herger | Pryce (OH) |
| Berman | Hill (MT) | Quinn |
| Biggert | Hilleary | Radanovich |
| Bilbray | Hinojosa | Ramstad |
| Billirakis | Hobson | Regula |
| Bishop | Hoeffel | Reynolds |
| Blagojevich | Hoekstra | Riley |
| Bliley | Holt | Rivers |
| Blunt | Hooley | Roemer |
| Boehlert | Horn | Rogan |
| Boehner | Hostettler | Rogers |
| Bonilla | Hoyer | Rohrabacher |
| Bono | Hulshof | Ros-Lehtinen |
| Brady (TX) | Hunter | Roukema |
| Bryant | Hutchinson | Royce |
| Burr | Hyde | Ryan (WI) |
| Burton | Inslee | Ryun (KS) |
| Buyer | Isakson | Salmon |
| Callahan | Jefferson | Sandlin |
| Calvert | Jenkins | Sanford |
| Camp | John | Saxton |
| Canady | Johnson (CT) | Scarborough |
| Cannon | Johnson, Sam | Schaffer |
| Castle | Jones (NC) | Sensenbrenner |
| Chabot | Kaptur | Sessions |
| Chambliss | Kasich | Shadegg |
| Chenoweth-Hage | Kelly | Shaw |
| Coble | Kildee | Shays |
| Coburn | Kind (WI) | Sherman |
| Combest | King (NY) | Sherwood |
| Cook | Kingston | Shimkus |
| Cooksey | Knollenberg | Shows |
| Cox | Kolbe | Shuster |
| Crane | Kuykendall | Simpson |
| Cunningham | LaHood | Sisisky |
| Davis (VA) | Largent | Skeen |
| Deal | Latham | Skelton |
| DeFazio | LaTourette | Smith (MI) |
| DeGette | Lazio | Smith (NJ) |
| DeLay | Leach | Smith (TX) |
| DeMint | Lewis (CA) | Smith (WA) |
| Diaz-Balart | Lewis (KY) | Snyder |
| Dickey | Linder | Souder |
| Dixon | LoBiondo | Spence |
| Doolittle | Lofgren | Spratt |
| Doyle | Lucas (KY) | Stabenow |
| Dreier | Manzullo | Stearns |
| Duncan | Martinez | Strickland |
| Dunn | McCarthy (NY) | Stump |
| Edwards | McCollum | Sununu |
| Ehlers | McCrery | Sweeney |
| Ehrlich | McHugh | Talent |
| Emerson | McInnis | Tancredo |
| English | McIntosh | Tanner |
| Eshoo | McIntyre | Tauscher |
| Etheridge | McKeon | Tauzin |
| Everett | McKinney | Taylor (MS) |
| Ewing | Meehan | Taylor (NC) |
| Fletcher | Menendez | Terry |
| Foley | Metcalf | Thomas |
| Forbes | Mica | Thornberry |
| Fowler | Miller (FL) | Tiaht |
| Franks (NJ) | Miller, Gary | Toomey |
| Frelinghuysen | Mink | Trafigant |
| Gallegly | Mollohan | Udall (CO) |
| Ganske | Morella | Upton |
| Gejdenson | Nadler | Vitter |
| Gekas | Nethercutt | Walden |
| Gibbons | Ney | Walsh |
| Gilchrest | Northup | Wamp |
| Gillmor | Norwood | Watkins |
| Gilman | Nussle | Watts (OK) |
| Goode | Ose | Weiner |

| | | |
|-------------|--------|------------|
| Weldon (FL) | Wicker | Young (AK) |
| Weldon (PA) | Wilson | Young (FL) |
| Weller | Wolf | |
| Whitfield | Wu | |

NAYS—129

| | | |
|-------------|----------------|---------------|
| Abercrombie | Frost | Napolitano |
| Ackerman | Gonzalez | Neal |
| Andrews | Gordon | Obey |
| Baird | Gutierrez | Olver |
| Baldwin | Hall (OH) | Ortiz |
| Bentsen | Hastings (FL) | Owens |
| Berkley | Hill (IN) | Pascarell |
| Berry | Hilliard | Pastor |
| Blumenauer | Holden | Payne |
| Bonior | Istook | Peterson (MN) |
| Borski | Jackson (IL) | Phelps |
| Boswell | Jackson-Lee | Pomeroy |
| Boucher | (TX) | Rahall |
| Boyd | Johnson, E. B. | Rangel |
| Brady (PA) | Jones (OH) | Reyes |
| Brown (FL) | Kennedy | Rodriguez |
| Brown (OH) | Klecicka | Rothman |
| Capuano | Klink | Roybal-Allard |
| Cardin | Kucinich | Sabo |
| Carson | LaFalce | Sanchez |
| Clay | Lampson | Sanders |
| Clayton | Lantos | Sawyer |
| Clement | Larson | Schakowsky |
| Clyburn | Lee | Scott |
| Condit | Levin | Serrano |
| Conyers | Lipinski | Slaughter |
| Costello | Lowey | Stark |
| Coyne | Luther | Stenholm |
| Cramer | Maloney (CT) | Stupak |
| Crowley | Maloney (NY) | Thompson (CA) |
| Cummings | Markey | Thompson (MS) |
| Danner | Matsui | Thune |
| Davis (FL) | McCarthy (MO) | Thurman |
| Davis (IL) | McDermott | Tierney |
| Delahunt | McGovern | Towns |
| DeLauro | McNulty | Udall (NM) |
| Dicks | Meeks (NY) | Velazquez |
| Doggett | Millender | Vento |
| Dooley | McDonald | Visclosky |
| Evans | Miller, George | Waters |
| Farr | Minge | Watt (NC) |
| Filner | Moore | Wexler |
| Ford | Moran (KS) | Weygand |
| Frank (MA) | Murtha | |

NOT VOTING—34

| | | |
|----------|------------|------------|
| Allen | Fossella | Moran (VA) |
| Baca | Gephardt | Myrick |
| Baldacci | Green (TX) | Oberstar |
| Barcia | Hinchey | Pallone |
| Campbell | Houghton | Rush |
| Capps | Kanjorski | Turner |
| Collins | Kilpatrick | Waxman |
| Cubin | Lewis (GA) | Wise |
| Deutsch | Lucas (OK) | Woolsey |
| Dingell | Mascara | Wynn |
| Engel | Meek (FL) | |
| Fattah | Moakley | |

□ 1114

Ms. MCCARTHY of Missouri, Ms. SANCHEZ, Ms. BERKLEY, Ms. CARSON, Ms. MILLENDER-McDONALD, and Messrs. CRAMER, MORAN of Kansas, and CROWLEY changed their vote from "yea" to "nay."

Mr. HINOJOSA and Mr. HOEKSTRA changed their vote from "nay" to "yea."

So the question of consideration was decided in the affirmative.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. SUNUNU). The House will consider the bill in the Committee of the Whole.

Stated for:

Mr. PALLONE. Mr. Speaker, on rollcall No. 154, I was not present, due to a meeting called by the President at the White House. Had I been present, I would have voted "yea."

Mrs. CAPPS. Mr. Speaker, I was unavoidably detained earlier today and missed rollcall vote No. 154. Had I been here I would have voted "yea."

Stated against.

Mr. BACA. Mr. Speaker, I was unavoidably detained for rollcall vote No. 154. Had I been here, I would have voted no.

□ 1115

GENERAL LEAVE

Mr. GEKAS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 3709.

The SPEAKER pro tempore (Mr. SUNUNU). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

INTERNET NONDISCRIMINATION
ACT OF 2000

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 496 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 3709.

□ 1115

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 3709) to make permanent the moratorium enacted by the Internet Tax Freedom Act as it applies to new, multiple, and discriminatory taxes on the Internet, with Mr. SUNUNU in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Illinois (Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS) each will control 30 minutes.

The Chair recognizes the gentleman from Illinois (Mr. HYDE).

Mr. GEKAS. Mr. Chairman, I ask unanimous consent that I may claim the time designated to the gentleman from Illinois (Mr. HYDE) as the proponent of the bill.

The CHAIRMAN. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. GEKAS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in the 105th Congress, we passed a piece of legislation that led to this day. The purport of that Internet Tax Freedom legislation of that Congress denoted that a study would have to be performed in order to determine the future of our new world of Internet.

One of the strongest recommendations made by the commission, the report to Congress being embodied in this beautiful blue book which I now place before the Chair, one of the strongest

commendations there and recommendations was for the extension of the moratorium that the first bill, the one to which I just alluded, included and which does not expire now until October 1, 2001.

The extension of the moratorium then is the core of the bill that is before us. It calls for a 5-year extension of the current moratorium. Why? Because that is what the commission recommended. Why did they recommend it? Because they were split on what different facets of the Internet world are going to carry with respect to access charges and all the other complexities having to do with Internet interstate commerce.

So the best of all worlds is to give the Congress and industry and business and telecommunications, to give them all time to sort this out.

Mr. Chairman, one thing that should be said to clear up things in anticipation of the debate that is to follow, this does not impact sales taxes as they now exist across the Nation. What we are talking about is a moratorium on Internet access charges, more than any other single facet of what is happening in the Internet world.

What might happen to sales taxes and other problems that are fomented at the outer edges of the Internet world will be topics of hearings that we will be conducting in the Committee on the Judiciary in the weeks to follow, even in this session.

So we are going to cover all the complexities that exist in this whole new world of exchange. But in the meantime, we are pressing for the main stem of this bill, which is a moratorium to extend 5 years beyond the current one.

Mr. Chairman, I reserve the balance of my time.

Mr. CONYERS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this measure, the Internet Nondiscrimination Act, is not really what it seems, because it merely addresses the most trivial of the Internet tax issues, the extension of the tax moratorium, and kicks the can down the road, so to speak, on the real issues, State simplification and the defining of what activity creates the necessary nexus for sales tax under the Supreme Court decision in Quill rendered in 1992.

By extending the current moratorium for 6 years, more than two presidential elections from today, there is far less of an incentive for the States and Congress to deal with these far more important simplification issues. Indeed, there is a real risk that by 2006, many interests will become so dependent on the current system that it will become impossible to ever revisit the issue of State tax simplification.

There can be no doubt that the present State system, which this legislation totally ignores, is a serious problem. First, the complexity of the system is daunting. There are over 6,500 taxing jurisdictions in this country. The jurisdictions generally require