

But we were also assured by Secretary Rumsfeld that we could get the money for reconstruction from Iraqi oil. Well, let's get it. I support the kind of thinking that Senator DORGAN has presented, which is to replace the \$20 billion in grants for Iraqi reconstruction with loans, and to also create a framework for other nations to participate in those loans.

On a bipartisan basis, Senator KAY BAILEY HUTCHISON is working on an amendment to make \$10 billion in American aid work via a loan through the World Bank, a \$10 billion loan through the World Bank, with other nations contributing to the World Bank's Iraq reconstruction trust fund. That is the kind of thinking we need, and we need to work on a bipartisan basis. America needs to know we are trying to work on a bipartisan basis. But I repeat: We need loans, not give-aways.

Now, there are others who say: Oh, my gosh, Iraq is shackled with debt.

That debt was created by an illegitimate government in Iraq. And who is the money owed to? Well, the money is owed to Russia, to Saudi Arabia, to France. Why can't they forgive the debt? Make that their share. Just forgive the debt. Rather than giving more money, let France forgive the debt. Let Russia forgive the debt. Let Saudi Arabia forgive the debt. Let Iraq start with a clean slate and pay back America for what it is doing.

My constituents in Maryland are very patriotic, and they will do whatever is necessary to defend this Nation. But they have families and children to educate, mothers and fathers who are grappling with the health care costs of being older, retirement plans to do, and homes to buy. It is not fair to ask the American taxpayer to share the full burden of fighting this war.

While we are worried about Russia's debt, what about our debt? If we are worried about Iraq being too burdened with debt, what about our debt?

Now we need a debt of gratitude for what we are doing around the world. I think the way it can be repaid is to forgive the Iraqi debt. Let them start with a clean slate just as they are starting with a clean government, and move on.

When you look at the way they are spending money on reconstruction, they have money for schools, they have money for tech centers, they have money for job training and job centers, water and sewer grants—all of what we need in our own communities.

We know the people in Iraq have suffered. They have suffered under Saddam Hussein. They are now suffering under what looks like an internal civil war going on now among the different tribes.

I know the children need health care, the communities need electricity, and they need to have an economy to get back on their feet. But, my gosh, I sure wish some of this money was also being spent here at home.

The request for Iraq includes 250 tech centers with 20 laptop computers each, and computer training. They are going to build seven communities, with 3,500 units of affordable housing. And—guess what—we are going to build a primary school, two secondary schools, a health clinic, a place of worship, and a market in each community.

Yet at the same time, HOPE VI and other programs to revitalize American cities have been zeroed out. Technical centers to get our kids ready for the new century is sharply reduced. Infrastructure that we desperately need to protect public health and the environment, such as water and sewer grants, is so spartan and skimpy in my own VA-HUD bill.

So we have to look at where we are spending our money, and we have to look at where we are creating debt. If we are creating debt to improve our economy, to get our jobs going, I think we know that a little borrowing today might create jobs tomorrow. But now we are doing massive borrowing to rebuild Iraq, while others tell us they cannot afford to send troops and they cannot afford to spend money. I am saying we are beginning to not be able to afford this war in Iraq.

So I hope we can work on some solutions to have Iraq emerge as a democracy and bring our troops back home. We have to concentrate on how we can have our national honor abroad but restore our national Treasury.

I look forward to working on a bipartisan basis with my colleagues. We have to get down to business and get strategy on how we are getting out of Iraq, and also how we are getting out of debt.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Oregon is recognized for 10 minutes.

INTERNET TAX FREEDOM ACT

Mr. WYDEN. Mr. President, the Senate knows, 5 years ago I was the sponsor in the Senate of the Internet Tax Freedom Act. This is law that was designed to ensure that the Internet be free of discriminatory taxes on Internet commerce and a variety of Internet activities. And it was designed to encourage the growth of the Internet.

The law has unquestionably worked. There is absolutely no evidence of anyone who has been harmed by the inability to discriminate against electronic commerce.

For many months now, Senators of both political parties have been working together to try to ensure the law that expires shortly would be reauthorized, and Senators have been working on a cooperative and bipartisan basis to go forward and reauthorize this law that has worked.

I had been under the impression that we were just about ready to bring this bill to the floor, but in the last few days a proposal that I find truly alarming has been brought forward by some

of the State and local officials. I come to the floor this morning to make sure the Senate is actually familiar with the language that is being brought forward.

Mr. President, I ask unanimous consent that this legislation I am going to discuss be printed in the RECORD.

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

NON-TEXAS MARKUP

MORATORIUM ON INTERNET TAXES

Pub. L. 105-277, div. C, title XI, Oct. 21, 1998, 112 Stat. 2681-719, provided that:

SEC. 1101. MORATORIUM.

(a) MORATORIUM.—No State or political subdivision thereof shall impose any of the following taxes:

(1) taxes on Internet access.

(2) multiple or discriminatory taxes on electronic commerce.

(b) PRESERVATION OF STATE AND LOCAL TAXING AUTHORITY.—

(1) IN GENERAL.—Except as provided in this section, nothing in this title shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or superseding of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States other Federal law [and in effect] on the date of enactment of this Act (Oct. 21, 1998).

(2) SPECIAL RULES.—If charges for Internet access are aggregated with and not separately stated from charges that are subject to taxation, then the charges for Internet access may be subject to taxation unless the Internet access service provider can reasonably identify Internet access charges not subject to taxation from its books and records kept in the regular course of business for other purposes.

(c) LIABILITIES AND PENDING CASES.—Nothing in this title affects liability for taxes accrued and enforced before the date of enactment of this Act, nor does this title affect ongoing litigation relating to such taxes.

(d) DEFINITION OF GENERALLY IMPOSED AND ACTUALLY ENFORCED.—For purposes of this section, a tax has been generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

(1) a provider of Internet access services had a reasonable opportunity to know by virtue of a rule or other public proclamation made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

(2) a State or political subdivision thereof generally collected such tax on charges for Internet access.]

(e) EXCEPTION TO MORATORIUM.—

(1) IN GENERAL.—Subsection (a) shall also not apply in the case of any person or entity who knowingly and with knowledge of the character of the material, in interstate or foreign commerce by means of the World Wide Web, makes any communication for commercial purposes that is available to any minor and that includes any material that is harmful to minors unless such person or entity has restricted access by minors to material that is harmful to minors—

(A) by requiring use a credit card, debit account, adult access code, or adult personal identification number;

(B) by accepting a digital certificate that verifies age; or

(C) by any other reasonable measures that are feasible under available technology.

(2) SCOPE OF EXCEPTION.—For purposes of paragraph (1), a person shall not be considered to (be) making a communication for commercial purposes of material to the extent that the person is—

(A) a telecommunications carrier engaged in the provision of a telecommunications service;

(B) a person engaged in the business of providing an Internet access service;

(C) a person engaged in the business of providing an Internet information location tool; or

(D) similarly engaged in the transmission, storage retrieval, hosting, formatting, or translation (or any combination thereof) of a communication made by another person, without selection or alteration of the communication.

(3) DEFINITIONS.—In this subsection:

(A) BY MEANS OF THE WORLD WIDE WEB.—The term “by means of the World Wide Web” means by placement of material in a computer server-based file archive so that it is publicly accessible, over the Internet, using hypertext transfer protocol, file transfer protocol, or other similar protocols.

(B) COMMERCIAL PURPOSES; ENGAGED IN THE BUSINESS.—

(i) COMMERCIAL PURPOSES.—A person shall be considered to make a communication for commercial purposes only if such person is engaged in the business of making such communications.

(ii) ENGAGED IN THE BUSINESS.—The term “engaged in the business” means that the person who makes a communication, or offers to make a communication, by means of the World Wide Web, that includes any material that is harmful to minors, devotes time, attention, or labor to such activities, as a regular course of such person’s trade or business, with the objective of earning a profit as a result of such activities (although it is not necessary that the person make a profit or that the making or offering to make such communications be the person’s sole or principal business or source of income). A person may be considered to be engaged in the business of making, by means of the World Wide Web, communications for commercial purposes that include material that is harmful to minors, only if the person knowingly causes the material that is harmful to minors to be posted on the World Wide Web or knowingly solicits such material to be posted on the World Wide Web.

(C) INTERNET.—The term “Internet” means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(D) INTERNET ACCESS SERVICE.—The term “Internet access service” means a service that enables users to access content, information, electronic mail, or other services offered over the Internet and may also include access to proprietary content, information, and other services as part of a package of services offered to consumers. Such term does not include telecommunications services, except to the extent such services are used to provide Internet access.

(E) INTERNET INFORMATION LOCATION TOOL.—The term “Internet information location tool” means a service that refers or links users to an online location on the World Wide Web. Such term includes directories, indices, references, pointers, and hypertext links.

(F) MATERIAL THAT IS HARMFUL TO MINORS.—The term “material that is harmful to minors” means any communication, pic-

ture, image, graphic image file, article, recording, writing, or other matter of any kind that is obscene or that—

(i) the average person, applying contemporary community standards, would find, taking the material as a whole and with respect to minors, is designed to appeal to, or is designed to pander to, the prurient interest;

(ii) depicts, describes, or represents, in a manner patently offensive with respect to minors, an actual or simulated sexual act or sexual contact, an actual or simulated normal or perverted sexual act, or a lewd exhibition of the genitals or post-pubescent female breast; and

(iii) taken as a whole, lacks serious literary, artistic, political, or scientific value for minors.

(G) MINOR.—The term “minor” means any person under 17 years of age.

(H) TELECOMMUNICATIONS CARRIER; TELECOMMUNICATIONS SERVICE.—The terms “telecommunications carrier” and “telecommunications service” have the meanings given such terms in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(f) ADDITIONAL EXCEPTION TO MORATORIUM.—

(1) IN GENERAL.—Subsection (a) shall also not apply with respect to an Internet access provider, unless, at the time of entering into an agreement with a customer for the provision of Internet access services, such provider offers such customer (either for a fee or at no charge) screening software that is designed to permit the customer to limit access to material on the Internet that is harmful to minors.

(2) DEFINITIONS.—In this subsection:

(A) INTERNET ACCESS PROVIDER.—The term “Internet access provider” means a person engaged in the business of providing a computer and communications facility through which a customer may obtain access to the Internet, but does not include a common carrier to the extent that it provides only telecommunications services.

(B) INTERNET ACCESS SERVICES.—The term “Internet access services” means the provision of computer and communications services through which a customer using a computer and modem or other communications device may obtain access to the Internet, but does not include telecommunications service provided by a common carrier.

(C) SCREENING SOFTWARE.—The term “screening software” means software that is designed to permit a person to limit access to material on the Internet that is harmful to minors.

(3) APPLICABILITY.—Paragraph (1) shall apply to agreements for the provision of Internet access services entered into on or after the date that is 6 months after the date of enactment of this Act (Oct. 21, 1998).

SEC. 1105. [“SEC. 1104.”] DEFINITIONS.

For the purposes of this title:

(1) BIT TAX.—The term “bit tax” means any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically, but does not include taxes imposed on the provision of telecommunications services.

(2) DISCRIMINATORY TAX.—The term “discriminatory tax” means

(A) any tax imposed by a State or political subdivision thereof on electronic commerce that—

(i) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means;

(ii) is not generally imposed and legally collectible at the same rate by such State or

such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period;

(iii) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving similar property, goods, services, or information accomplished through other means;

(iv) establishes a classification of Internet access service providers or online service providers for purposes of establishing a higher tax rate to be imposed on such providers than the tax rate generally applied to providers of similar information services delivered through other means; or

(B) any tax imposed by a State or political subdivision thereof, if—

(i) [except with respect to a tax (on Internet access) that was generally imposed and actually enforced prior to October 1, 1998,] the sole ability to access a site on a remote seller’s out-of-State computer server is considered a factor in determining a remote seller’s tax collection obligation; or

(ii) a provider of Internet access service or online services is deemed to be the agent of a remote seller for determining tax collection obligations solely as a result of

(I) the display of a remote seller’s information or content on the out-of-State computer server of a provider of Internet access service or online services; or

(II) the processing of orders through the out-of-State computer server of a provider of Internet access service or online services.

(3) ELECTRONIC COMMERCE.—The term “electronic commerce” means any transaction conducted over the Internet or through Internet access, comprising the sale, lease, license, offer, or delivery of property, goods, services, or information, whether or not for consideration, and includes the provision of Internet access.

(4) INTERNET.—The term “Internet” means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(5) INTERNET ACCESS.—The term “Internet access”—

(A) [The term “Internet access” means a service that enables users to access content, information, electronic mail, or other services offered over the Internet, and may also include access to proprietary content, information, and other services as part of a package of services offered to users, [such term does not include telecommunications services, except to the extent such services are used to provide Internet access.]

(B) The term “Internet access” as described in subsection (A) above is a service directly employed by its purchaser, regardless of the medium by which such service is provided. The term “Internet access” does not include the provision of television programs, games, books, music, motion pictures, newspapers, magazines, software, telecommunications services, voice communication, financial services, research services, information services, or other such products or services, or products or services that are available for purchase in any form other than over the Internet. Nothing in this title shall be construed to modify, impair, or supersede, or authorize the modification, impairment, or superseding of, any State or local law pertaining to taxation that is otherwise permissible by or under the Constitution of the United States or other Federal

law as of the date of original enactment of this Act (Oct. 21, 1998).

(6) MULTIPLE TAX.—

(A) IN GENERAL.—The term “multiple tax” means any tax that is imposed by one State or political subdivision thereof on the same or essentially the same electronic commerce that is also subject to another tax imposed by another State or political subdivision thereof (whether or not at the same rate or on the same basis, without a credit (for example, a resale exemption certificate) for taxes paid in other jurisdictions).

(B) EXCEPTION.—Such term shall not include a sale or use tax imposed by a State and 1 or more political subdivisions thereof on the same electronic commerce or a tax on persons engaged in electronic commerce which also may have been subject to a sales or use tax thereon.

(C) SALES OR USE TAX.—For purposes of subparagraph (B), the term “sales or use tax” means a tax that is imposed on or incident to the sale, purchase, storage, consumption, distribution, or other use of tangible personal property or services as may be defined by laws imposing such tax and which is measured by the amount of the sales price or other charge for such property or service.

(7) STATE.—The term “State” means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States.

(8) TAX.—

(A) IN GENERAL.—The term “tax” means—
(i) any charge imposed by any governmental entity for the purpose of generating revenues for governmental purposes, and is not a fee imposed for a specific privilege, service, or benefit conferred; or

(ii) the imposition on a seller of an obligation to collect and to remit to a governmental entity any sales or use tax imposed on a buyer by a governmental entity.

(B) EXCEPTION.—Such term does not include any franchise fee or similar fee imposed by a State or local franchising fee or similar fee imposed by a State or local franchising authority, pursuant to section 622 or 653 of the Communications Act of 1934 (47 U.S.C. 542, 573), or any other fee related to obligations or telecommunications carriers under the Communications Act of 1934 (47 U.S.C. 151 et seq.).

(9) TELECOMMUNICATIONS SERVICE.—The term “telecommunications service” has the meaning given such term in section 3(46) of the Communications Act of 1934 (47 U.S.C. 153(46)) and includes communications services (as defined in section 4251 of the Internal Revenue Code of 1986 (26 U.S.C. 4251)).

(10) TAX ON INTERNET ACCESS.—The term “tax on Internet access” means [a tax on Internet access, including] the enforcement or application of any new or preexisting tax on the sale or use of Internet access [services unless such tax was generally imposed and actually enforced prior to October 1, 1998].

Mr. WYDEN. Mr. President, what some State and local officials now seek to do is to change the definition of “Internet access,” which, under current law, cannot be taxed. In doing so, what it would do is give States and localities explicit permission to tax what Internet users do once they get on line. That would mean you could have games, music, magazines, newspapers, information services, financial services, research services, or other products of services, in effect, facing a barrage of new taxes.

The phrase “you’ve got mail” would be replaced with “you owe taxes.” That is what this proposal would mean to 142 million Americans with household Internet access. Under this proposal,

the consumer 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.

Those who are making this proposal are not going to come out publicly and talk about their ideas for taxing e-mail. There isn’t a headline in the language that I have put into the CONGRESSIONAL RECORD today that says: Watch out, our plan is going to tax e-mail. But there is no question that a clear reading of this legislative language will mean just that. Consumers could be taxed every time they check a bank statement online. They could be taxed for paying their bills online. They could be taxed each time they check the sports scores online or listen to the weather on streaming radio. Every time a consumer turns to Google research service, they could be taxed for each key stroke. If that happened, no question, some in my office would just go bankrupt.

As the Chair knows, being so instrumental in working with me and members of the Senate Commerce Committee, this law has worked. It has been a bipartisan law based on the simple proposition that you would treat activity online just as you treat activity online. Some made dire predictions about the law originally that States and localities would be denied the opportunity to gain revenue for essential services. It has been clear that they have been proven incorrect. Internet commerce is now just a small part of our economy. In fact, what we have seen is a merger of what I call bricks and clicks, traditional commerce with Internet commerce. We have not seen problems under current law.

But by redefining the definition of Internet access, as the proposal does that I have put into the CONGRESSIONAL RECORD today, in effect you give a green light to State and local authorities all across the country to tax services that are integral to Internet access, including e-mail.

I believe this proposal would make wider the digital divide in this country. I think the new taxes would restrict growth in the Internet. The American consumer needs to know exactly what some of these taxing authorities are really up to. What they really want is either to stop the ban on Internet access taxes from becoming permanent or they are looking for statutory language which would stick consumers with hundreds of millions of dollars in new taxes each year.

In my view, either option would be unacceptable to a majority of Senators. I hope, as the negotiations originally proceeded in the Commerce Committee and now in the Finance Committee, that there would be an effort to make the ban on discriminatory taxes on Internet commerce permanent and, in particular, let us ensure that the hard hit American consumer is protected from unfair tax schemes such as those I have outlined this morning.

I yield the floor.

The PRESIDENT pro tempore. Who yields time? The Senator from Texas.

Mrs. HUTCHISON. Mr. President, it is my understanding that our side took 3 minutes early. So how much time is remaining on the other side?

The PRESIDENT pro tempore. The majority has 26 minutes 58 seconds. The minority has 13 minutes 34 seconds.

Mrs. HUTCHISON. Mr. President, I will proceed. If a Member of the other side comes, I will be happy to yield to them under their time. But I will start with the majority time.

The PRESIDENT pro tempore. Without objection, the Senator from Texas is recognized.

SCHOOL FOR IRAQ’S CHILDREN

Mrs. HUTCHISON. Mr. President, one of the biggest successes in Iraq in the past month has been the first day of school for millions of Iraqi children. America’s service men and women worked with local partners to refurbish the schools that were destroyed under Saddam Hussein’s regime so these children could experience the freedom that comes with learning. One example of this progress involves soldiers from the 1st Armored Division’s 1st Squadron, 1st Cavalry Regiment, who did an immense amount to improve the quality of life for Iraqi children. Led by Squadron Commander LTC Charles Williams, the soldiers focused their efforts on 25 schools around the rim of Baghdad. The schools had been neglected by the former regime.

They were in a sad state when 1AD forces arrived in Baghdad several months ago. The desks were in pieces. The blackboards were broken. There were no doors on the rooms and there were no ceiling fans. There was very poor lighting or no lighting at all. The squadron took charge. Their engineers came forward. American contractors and local Iraqi contractors worked together to repair the schools.

Over the past few months the schools underwent a dramatic change: Walls were painted. Electrical wiring and plumbing were fixed. Glass was replaced. Security bars were installed in windows and school supplies were issued.

I have some pictures that show better than any words could some of the progress that is being made. This is a picture of Mahmoud Al-Jabouri, a former Iraqi Army general who worked with the 1st Squadron, 1st Cavalry Regiment, 1st Armored Division in repairing the schools in Baghdad. He is giving a speech for the first day of classes at Dufaf Al-Neil primary school. The progress our troops have been making in working with Iraqi citizens enabled this school to open. It was a joint effort. We can see the children at the opening day of the school with our soldiers and the former Iraqi general.

Look at the excitement on the Iraqi faces as soldiers from the 1st Squadron,