

I note that in the effort to try to find common ground, Senator ALLEN and I agreed to a number of requests that were made by State and local officials. We agreed, for example, to the request from State and local officials for new statutory language further tightening the definition of "Internet access."

We agreed to the request for new statutory language on what is called bundling, which is, in effect, where you have Internet access bundled with information technology services other than Internet access, and it is important to separate the two for taxable purposes.

In addition, we agreed to the requests from State and local officials for new statutory language protecting a variety of other taxes, such as property and income taxes, that were never affected by the original legislation we authored, but we thought in the name of trying to find common ground, we would add that as well.

We have agreed to a request for a savings clause on universal service and a variety of regulatory proceedings.

Finally, we have agreed to allow States grandfathered so as to protect existing treatment under their State laws of these services 3 more years of Internet access taxes.

I say as we begin tonight, Senator ALLEN and I in 2 months of negotiations agreed to five requests from State and local officials to try to find common ground on this matter, and I ask tonight, what has been offered in return? What have been offered in return are essentially these projections that say vast sums are going to be lost to the States if this legislation that Senator ALLEN and I have proposed is extended.

I just ask Senators to note the language associated with these projections. The language is always, this bill could cost such-and-such; and the sum is, of course, a very large number. Never is it presented in terms of any kind of independent study that this law has, in fact, cost revenue or would cause revenue to be lost in the future.

After Senator ALLEN and I made these five separate concessions in an effort to find common ground, we now have these various projections that, for all practical purposes, we are trying to convince the Senate that Western civilization is going to end if we urge that this law be updated.

I know colleagues are anxious to talk, and I certainly want to give them that opportunity. I close with one last point as we begin this discussion.

I think colleagues know the technology sector has taken a real pounding in the last couple of years, but what we have seen in the last few months is that the technology sector is beginning to have a resurgence. We have begun to see, both with respect to the stock market and capital investment in the sector, the technology area is really beginning to come back.

I say to my colleagues in the Senate, I think that if, in fact, the Senate

unravels the law of the last 5 years, fails to allow us to update this law, the progress that has been seen in the technology sector in the last few months could well unravel.

If, in fact, the more than 7,000 taxing jurisdictions in this country are allowed to take a bite out of the Internet, and we have the Internet access area broken down into its subparts and all of them are taxed, I think that could derail the very impressive progress we have seen in the technology sector in the last few months.

Let us not put in place a regime of multiple and discriminatory taxes on electronic commerce, if for no other reason than it would send a horrendous message to this sector where finally in the last few months we are beginning to see some resurgence.

I see my good friend from Virginia on his feet. I want to tell him how much I appreciate his cooperation. When I began this effort, he was a Governor and was supportive of our efforts then. I am pleased to have had a chance to team up with him as a member of the Commerce Committee.

I also say, because we have Senators who do not share the view of Senator ALLEN and myself—Senator VOINOVICH, Senator ALEXANDER, and Senator CARPER—that my door continues to be open to all Senators, including Senators who do not share our view, in an effort to try to find common ground.

Senator ALLEN and I thought the five concessions we made during 8 weeks of negotiations were part of an effort to be sensitive to the concerns of State and local bodies. Obviously, we have not done that to the satisfaction of all and our door remains open to all Senators.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Virginia.

Mr. REID. Will the Senator from Virginia yield for a unanimous consent request? In fact, I have two of them.

Mr. ALLEN. I yield.

UNANIMOUS CONSENT REQUEST—H.R. 2559

Mr. REID. I appreciate it very much. It will just take a few minutes. I have two unanimous consent requests. I ask unanimous consent that the Senate proceed to the conference report to accompany H.R. 2559, the Military Construction appropriations bill; that the conference report be agreed to and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. VOINOVICH. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. I would simply say that is unfortunate. This is a military construction conference report. I cannot believe there is any controversy on that. I appreciate my friend yielding to me.

UNANIMOUS CONSENT REQUEST—H.R. 1828

I ask unanimous consent that the order entered with respect to H.R. 1828, the Syria Accountability Act, be changed to reflect that the time for consideration of the measure be reduced to 60 minutes—the original time was 90 minutes—that the time be divided as follows: 30 minutes for Senator SPECTER and 15 minutes each under the control of Senators LUGAR or BOXER or their designees; that at 9 a.m., Friday, November 7, the Senate then proceed to consider the measure under the limitations as provided under the previous order as modified above, with the remaining provisions remaining in effect.

The PRESIDING OFFICER. Is there objection?

Mr. VOINOVICH. I object.

The PRESIDING OFFICER. The objection is heard.

Mr. REID. I, again, extend my appreciation to the Senator from Virginia for yielding. I will speak at more length at a later time on why I think it was important that these unanimous consents be approved tonight.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. ALLEN. Mr. President, I rise this evening to ask my colleagues to support S. 150, the Internet Tax Non-discrimination Act, and the substitute or managers' amendment that has recently been adopted.

I thank our chairman of the Commerce Committee, JOHN MCCAIN, our commodore, on his great navigational skills as we worked through this measure. I also thank my colleague from Oregon, Senator WYDEN, for his great leadership, assistance, and true partnership in trying to get this measure through for greater opportunity for Americans.

I also thank others who are on this amendment, Senators GRASSLEY, HATCH, SUNUNU, LEAHY, BAUCUS, BOXER, LINCOLN, SMITH, the high-tech task force chairman, Senator JOHN ENSIGN, Senator WARNER of Virginia, Senator BURNS, who is chairman of the Internet Caucus, and the Senator who is in the chair right now, Mr. CHAMBLISS. All have helped work on this reasonable compromise.

There have been a number of concerns to this measure raised by our opponents. We have had several months of negotiations. I am confident the bill as it is presented to us on the Senate floor strikes an appropriate balance between protecting every American from harmful regressive taxes on Internet access while ensuring that necessary protections are in place for State and local governments to maintain their existing revenue base.

The fundamental principle driving this legislation is very simple and clear, and that is the Internet must remain as accessible as possible to all people in all parts of America forever. This was a principle established in the 1998 legislation when Congress passed the Internet Tax Freedom Act and it is the principle I ask all Senators to keep

in mind as we consider this legislation this evening and tomorrow.

My colleagues have heard me say on many occasions that I believe we ought to be promoting freedom and opportunities for all Americans. We need to be advancing ideas, concepts, and policies that help create more jobs and prosperity rather than more taxes and burdens.

The Internet itself is one of our country's greatest tools and symbols of innovation and individual empowerment. In my view, the Internet is the greatest invention for the dissemination of ideas and thoughts since the Gutenberg press. When Martin Luther nailed his 95 theses to the church at Wittenberg, if it were not for the Gutenberg press no one would have read those documents and those thoughts.

So today, we have the Internet for the dissemination of ideas. It is an individualized empowerment zone where individuals are able to access information, communicate, get knowledge, information, as well as engage in commerce. It is a tool for education. It is a tool for information and commerce. And when we are looking at that, I ask, why would there be some who would want to burden that? I think we ought to be trusting free people and free enterprise. We ought to be on the side of freedom, because that is what has allowed the Internet to flourish, rather than the side of those who would want to make this advancement in technology easier to tax for tax collectors.

Some people ask, why is the Federal Government involved in this? Well, heck, if there is anything that is in interstate commerce by its architecture, by its design, by its structure, it is the Internet. One of the great things about the Internet is that it is not confined to boundaries of States or even countries for that matter. For those of us who thought opening up to China was a question that we needed to broach, I thought the fact that the Internet was available and to the extent that the Chinese people could get more ideas from outside of China and not filtered through their government, that was a reason to hopefully open up China for greater prosperity and freedom.

This legislation provides and promotes equal access to the Internet for all Americans. It obviously is designed to protect Americans from harmful and regressive taxes on Internet access services, as well as preventing duplicative and predatory taxes on Internet transactions. Specifically, as this measure is before us now, it does several things.

First, it extends permanently the current Federal prohibition of State and local taxation of Internet access service.

Second, it makes permanent the ban on all multiple and discriminatory taxes relating to electronic commerce. It ensures that several jurisdictions, for example, cannot tax the same transaction simply because the trans-

action happens to occur over the Internet.

Third, our legislation repeals the so-called grandfathering provision over a 3-year period.

Fourth, we make clear the original intent of the Internet Tax Freedom Act by updating the definition of Internet access to ensure that the moratorium applies consistently to all consumers.

If we are going to exempt Internet access services from taxation permanently, then I believe it makes sense to do so in a manner that applies to all methods of Internet access, regardless of how a consumer chooses to access the Internet, whether by digital subscriber line, otherwise known as DSL connections, by wireless connection, cable modem service, satellite, or dial-up service.

Fifth, and lastly, this legislation makes very clear that nothing in this measure prevents the collection or remittance of State and Federal universal service fees. The Internet tax moratorium that has been in place for 5 years has contributed to the extending of Internet access to over 127 million citizens, about 45 percent of the population of America. Unfortunately, that did expire Friday. Every day that it lapses, there is the opportunity for consumers to be susceptible to pestering new taxes on Internet access services as well as taxes on e-mail, instant messages, spam filters, and even Web searches. For every dollar in taxation added to the cost of Internet access, we can expect to see the loss of utilization of the Internet by thousands of American families, especially lower income families.

According to the Pew Internet and American Life Project, 30 percent of non-Internet users say cost is a major reason they remain offline. Additionally, another 43 percent of non-Internet users agreed with the statement that the Internet is too expensive.

So, for about half the country who are still not on line, keeping access affordable is vital, and that means keeping access free from State, local, and Federal taxation. The guiding principle is clear, of course: To keep it accessible to all people in all parts of the country forever. This is the position I have held since 1997, since my days as Governor in Virginia when I was one of only four Governors with this position.

I cannot ever envision a time where we believe it desirable for any government, State, local, or Federal, to tax access to the Internet. I cannot envision any time in our future where it will make sense to have multiple taxes on the Internet. Nor can I imagine any time in the future where there ought to be discriminatory taxes or predatory taxes on the Internet.

Yet if the Senate fails to take action or vote for this legislation, such Members of this body will be permitting and in effect advocating taxing the Internet.

There are more people empowered by the Internet today because the Federal

policy of the United States has consciously allowed Internet innovators, investors, entrepreneurs, and consumers to remain free from onerous taxation of access to the Internet.

As many of you know, when this was first enacted there were dozens of States and local taxing commissars who were, back then, right in the beginning, imposing disparate taxes on a consumer's ability to surf the Internet. Since the last expiration of the Internet Tax Freedom Act in 2001, some States have begun taxing the high-speed component of broadband Internet access services. They are asserting that certain portions of high-speed broadband Internet access are telecommunications services rather than Internet access and the States are thereby circumventing the original intentions of the law.

Working with Chairman MCCAIN and Senator WYDEN and Senator SUNUNU in the Commerce Committee, we updated the definition of Internet access to assure that all access services, regardless of the technology used to deliver the service, are covered by the moratorium and therefore exempt from State and local taxation.

There have been some misleading statements, some clever hyperbole, and some statements that are just flat-out wrong. I want to set the record straight.

They have raised a number of concerns, the proponents of higher taxes, with this legislation, indicating that we have expanded the moratorium on Internet access to include all telecommunications services making tax free even traditional services like local and long distance telephone communications.

They have also raised a question of whether or not this bill would prohibit States from imposing property taxes, income taxes, or corporate taxes on telecommunications carriers and Internet service providers.

I want Members of this body to understand and be clear on the facts and the truth about this legislation. This bill does not affect traditional voice or long distance telephone services or any other communications service that is not directly used to provide Internet access. This bill, S. 150, does not affect a State's ability to collect income taxes, property taxes, or other corporate taxes, such as franchising fees, that are unrelated to Internet access.

The facts are, S. 150 does not unnecessarily expand the moratorium on Internet access; rather, the legislation clarifies and updates the original intentions of the Internet Tax Freedom Act to include high-speed Internet access services. Only because some States and localities have attempted, and in fact are circumventing the original law by taxing portions of high-speed Internet access, did the definition of Internet access need to be updated.

The impact of broadband and efforts to stop broadband from being deployed by this taxing approach that is going

on, that we are trying to cure, will have a very significant impact on small towns and rural areas. Our colleague, CONRAD BURNS of Montana, likes to talk about how you have to get broadband out in the country, and he would say there is a lot of dirt you have to dig through just to get from one light bulb to another. The same applies to getting broadband out into the communities and out into the country. If you have higher costs imposed on Internet access and then on top of it all you are putting higher costs on the investment for the transport, that means fewer people in a less populated area will be able to afford broadband, thereby denying them opportunities that one would have, whether it is for information, for education, for knowledge, or for commerce, for small businesses and people who live in rural areas.

Another fact: In this bill it only makes permanent the tax moratorium on Internet access services, which is simply the ability to get access to the Internet. Once a consumer has accessed the Internet, the moratorium does not affect the services that are purchased, used, or sold over the Internet that would otherwise be taxable, even if such services are bundled together with Internet access services.

So, in summary, the fact is, by allowing this moratorium to expire, the Senate has opened the door for States and localities to begin imposing regressive taxes on Internet access services. By taxing Internet access, States and localities are actually contributing, and would be contributing, to the economic digital divide. The more expensive we allow the State and local tax commissars to make Internet access, the less likely people are going to be able to buy these advanced services, such as high-speed broadband connections, Internet protocol software, wireless or WiFi devices, and many other multimedia applications.

At a time when technology, as my friend Senator WYDEN has said, and the Internet are growing and improving almost every aspect of our daily lives, where access to the Internet is not a nicety but a necessity for Americans, imposing new taxes on access or levying taxes that discriminate against the Internet as a form of commerce will never be sound policy for America. As a tool, the Internet breaks down economic and educational barriers, leveling the playing field for millions of Americans.

There are those who say it shouldn't be permanent; let's make it shorter. When you talk to business investors—and let's go back to rural and small town areas. When someone is making a business investment they want to have some credibility and stability and predictability as to making these millions of dollars of investment to get into a smaller market. What is going to be our rate of return? When are we going to recoup the tens of millions of dollars it takes to get into these areas?

We just heard an argument on the Agriculture bill about loans to get

broadband. It is a lifeline for folks out in the country, in rural areas. There are all sorts of incentives that people are for.

Businesses making those investments have to figure out when are they going to get a return on the investment. If you tax a transport or make it for a short duration of time, they are going to say: Gosh, there are going to be taxes on it in a few years so there will be fewer customers. We just can't risk that investment to get out into those areas.

So, more than ever, I really do believe we ought to listen to good, sound business reasoning, common sense and logic. In fact, most economists and technology experts agree that we need to be encouraging the deployment of the next generation broadband Internet connections and bring our communications infrastructure into the 21st century.

Economists at the Brookings Institution estimate that widespread high-speed broadband access would increase our national gross domestic product by \$500 billion annually by 2006.

Failure to pass this legislation with a permanent moratorium and with an updated and clear definition of Internet access like the one this amendment provides, will leave broadband Internet access susceptible and open to harmful taxation. In many States and localities, those taxes could go up as high as 25 percent.

Any additional tax burdens on the Internet will mean additional costs many Americans cannot afford, forcing the poor in our society to reduce or even forego their use of the Internet as a tool for exploration, information, education, and individual opportunity.

More than ever before, when our economy is finally moving forward in the right direction, the people of this country need security with regard to their financial future. Businesses need certainty that prices for Internet access will remain affordable to consumers if they are expected to build out high-speed networks to rural and small-town communities. In a society, indeed a world, where the quality of life and economic power is directly proportionate to one's access to knowledge, we must close the economic digital divide rather than exacerbate it with State and local taxes.

I call on my colleagues to join with the chairman, our commodore, Senator MCCAIN, Senator WYDEN, and all of us in supporting the Internet Tax Non-discrimination Act and permanently extending the Internet moratorium on tax access and multiple and discriminatory taxes. As we vote on amendments to what would be this Internet access tax issue—and there will be amendments—I respectfully ask my colleagues as we look at these amendments to be leaders who stand strong for freedom and opportunity for all Americans.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, like my friend from Virginia, I am a former Governor, as were Senator ALEXANDER, Senator GRAHAM, and Senator VOINOVICH. We served as chief executives of our States. I loved being Governor. I have never talked to anybody who didn't like the job. As a matter of fact, I enjoy being here and working with my friends JOHN MCCAIN, RON WYDEN, and others.

When I was privileged to be Governor of Delaware, we actually cut taxes 7 out of 8 years. We also balanced our budget 8 years in a row. Among the things I didn't like as Governor was when the Federal Government came in and tried to tell us in Delaware we had to spend money for some purpose but never provided the revenues to pay for that expenditure. Similarly, I never liked it when the Federal Government came in and unilaterally reduced our revenue base for programs we needed in our State to educate our kids, to provide health care, child care, environmental protection, and transportation. I never liked it when the Federal Government came in and tried to undercut our ability to raise revenues for those purposes and never provided an offset to make up the difference in the revenue that was taken away by the Federal action.

I remember as Governor coming here and testifying in the early to mid 1990s. I believe Governor Voinovich did as well. We called on the Federal Government to stop placing unfunded mandates on State and local governments. The message is pretty simple. Don't tell us to spend money for things and expect us to use our revenues. Don't come in and restrict our ability to collect revenues without providing something to make up for it. Our voices were heard. In 1995, legislation was adopted to stop unfunded mandates and dictates by the Federal Government which had an adverse effect on my State and other States.

I believe—correct me if I am wrong—that 91 Senators voted in 1995 for the unfunded mandates bill. Sixty-three of the 91 Senators who voted for that bill in 1995 are still here in the Senate.

In 1998, when Congress adopted an Internet tax moratorium, it was in essence on an unfunded mandate. The Congress agreed to restrict the ability of State and local governments to raise revenues in three areas. The moratorium which was adopted in 1998 said State and local governments could not tax access to the Internet. For the monthly bills we receive from AOL and other Internet providers, State and local governments cannot add a tax to that Internet access bill.

Similarly, if there was an Internet transaction multiple States would like to tax or multiple counties within a State would like to tax, those multiple taxes were essentially stopped by the 1998 moratorium.

Thirdly, discriminatory taxes against transactions over the Internet were banned as well. For example, we don't

have a sales tax in our State, but in my State you could, of course, buy from a local merchant a good or a product and not pay a sales tax or tax of any kind. If any State were to pass a law that said if we were to make the purchase of the same good over the Internet we would have to pay a tax, that would be a discriminatory tax. That is not permitted under the 1998 Internet tax moratorium.

The Internet tax moratorium which was adopted 5 years ago was adopted in order to give Internet commerce a chance to grow and to mature. States didn't like having their ability to raise revenues as they saw fit restricted by the Federal Government. But they excepted 11 States that were actually doing that kind of thing, and their ability to raise revenues was grandfathered in.

For the last 5 years—initially the Internet tax moratorium was for, I think, 2 or maybe 3 years—when it was about to expire, the question was, should we renew it? I believe it was in 2001 when it was about to expire that Congress renewed it for an additional 2 years. It did not broaden the kind of three principal activities that were covered in the initial moratorium that said the same three applied. State and local governments, unless they are grandfathered in, can't begin taxing access to the Internet. State and local governments could not have multiple taxes on the same transactions over the Internet. Further, this ban on discriminatory taxes was upheld for another 2 years. Last Friday that 5-year ban expired, as I think most of us know. Certainly Senators VOINOVICH and ALEXANDER and I would like to see the moratorium, the ban, on the Internet tax access, multiple taxes, and the ban on discriminatory taxes extended.

This is not an argument about taxes on access to the Internet. I think we actually agree on that. There should not be taxes imposed by State and local governments unless they are already grandfathered in on access to the Internet. That is not what this is all about. This is not about whether or not we are going to tax anybody's e-mail. We are not going to do that. We are not interested in that. One of our colleagues, Senator VOINOVICH, will have more to say about that later. He may offer a sense of the Senate to make it absolutely clear that nobody around here is interested in taxing access to the Internet.

But as we look to nurture our economy and economic activity that is driven in part by commerce over the Internet, let us remember there is another set of voices that need to be heard. They are the voices of the people who are running our State governments, the folks who are running our cities and our counties and trying to do so in an environment where their revenue base continues to diminish. Their responsibilities to educate our kids don't diminish. In fact, those responsibilities are getting tougher as we im-

pose academic standards and raise our expectations in our schools. We need to provide some kind of health care for people, young and old. Those needs are not diminishing. In fact, the burden through Medicaid on State and local governments, if anything, is increasing, not diminishing.

I was Governor during good times. I don't know if it was easy to be Governor from 1992 to 2000, but it was a heck of a lot easier than today. Today, instead of dealing with budget surpluses and figuring out how to invest or use the budget surpluses or how to cut taxes in order to return a portion of the surpluses, State and local governments are scraping for every dime to try to meet the needs of their States.

The question to consider today and tomorrow and perhaps next week is, What right do we have as a Federal legislature, as a Congress, to step in and mandate the reduction in the tax base, the revenue base, of State and local governments? What right do we have to do that? What right do we have to do that in the face of the Constitution? What right do we have to do that in light of the legislation adopted in 1995 banning unfunded mandates? We have heard from Governors and mayors from every corner, county council men and women, commissioners, we heard from folks from every corner of this country saying, Abide by the law you voted for in 1995 banning unfunded mandates.

I close with where I started. I have not talked to one Senator who says he or she is for taxing access to the Internet. We are not. I have not heard from any Senator, Democrat or Republican, from any part of this country, who says they are for taxing any person's e-mails. We are not. By the same token, my friends, I don't believe we should be for stepping in, beyond a very narrow moratorium on which we already spoke in those three areas, to broaden that moratorium to further undermine the revenue base of our State and local governments, during very difficult times for all of them, without giving that action in this proposal a whole lot more thought and debate and discussion. We will have that opportunity today and tomorrow.

I say to Senator VOINOVICH, Senator GRAHAM, Senator ALEXANDER, and others who have joined and will join in offering an amendment tomorrow, including Senator HOLLINGS, Senator STEVENS, Senator DORGAN, Senator FEINSTEIN, Senator LAUTENBERG, and others, I am proud to join in this initiative. It is possible in the end, I believe, to come up with a policy that is fair to State and local governments and is fair to those who would seek to expand our economy and to do so through Internet commerce.

Tomorrow we will have the opportunity to vote on an amendment offered by Senator ALEXANDER, Senator GRAHAM, Senator VOINOVICH, and myself to do just that. I look forward to further debate on that amendment and

the opportunity for an up-or-down vote on that amendment.

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. VOINOVICH. Mr. President, I thank my colleague from Delaware, my colleague from the State of Tennessee, and my colleague from the State of Florida for standing up—all of us former Governors—to deal with a matter that will have great impact on our respective citizens for many years ahead. We want to make sure that whatever we do makes sense.

Before I begin, I would like to set the record straight that this debate is about federalism, unfunded mandates, and protecting States' ability to collect taxes. It has nothing to do with taxing e-mail.

I have made the issue of unfunded Federal mandates a top priority during my 36 years of public service. At every level of government—as a State representative, county auditor, county commissioner, lieutenant governor, mayor of the City of Cleveland, Governor of Ohio for 8 years—I have seen firsthand how the relationship of the Federal Government with its State and local counterparts affects our citizens and the communities in which they live. My background has fueled my passion for the issue of federalism and the need to balance the Federal Government's power with powers that our Founding Fathers envisioned to the States.

This very body was created, in part, to guarantee that States had adequate, equal means to assert their interest before the Federal Government. Our forefathers provided that each State has two Senators to protect States rights and federalism, and prior to 1913 those Senators were elected by their legislatures to guarantee that they would protect federalism. I believe strongly that the relationship between the Federal Government and State and local governments should be one of partnership. That is why I vowed when I was elected to the Senate, I would work to find ways in which the Federal Government can improve the way it works with these levels of government to serve the American people.

I have also been 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 the funding to pay for these new responsibilities.

Seventeen years ago, in 1986, I spoke to the Volunteers of the National Archives regarding the relationship of the Constitution to America's cities and the revolution of federalism. I brought to the attention of the audience my observation, since my early days in government, regarding the course American government has been taking:

We have seen the expansion of the federal government into new, non-traditional domestic policy areas. We have experienced a

tremendous increase in the proclivity of Washington both to preempt state and local authority and to mandate actions on state and local governments. The cumulative effect of a series of actions by the Congress, the Executive Branch and the U.S. Supreme Court have caused some legal scholars to observe that while constitutional federalism is alive in scholarly treatises, it has expired as a practical political reality.

In 1991, I started a long crusade when I became a member of the National Governors Association, working with the State and Local Government Coalition to do something about unfunded mandates. In fact, as Governor of Ohio, I requested that a study be done to examine unfunded mandates. It was the first of its kind in any State. It captured just how bad the mandate problem was in real dollars. Between 1992 and 1995, Ohio had unfunded mandates of almost \$2 billion. These efforts were strongly supported by Senator Kempthorne, Senator Roth, Senator Glenn, Congressmen Robert Portman, Tom Davis, and Bill Clinger and culminated with the passage of the unfunded mandates legislation in the Senate on March 15, 1995.

As a matter of fact, for the first time in my life I set foot in the Senate when the Senate passed that Unfunded Mandate Relief Act. I was in the Rose Garden representing State and local government when President Clinton signed the legislation on March 22, 1995. In fact, I have that pen proudly displayed in my Senate office.

This milestone concluded a lengthy and coordinated effort by State and local government officials and their congressional allies to reduce the economic burden of Federal unfunded mandates and the adverse impact they have on State and local services.

By the way, this was the second plank in the Contract With America that was developed in 1994. I will never forget when we were in Williamsburg and committed ourselves to the Contract With America. The Senator from Virginia was present at that time in the capacity of Governor of Virginia.

I believed then and I believe today that mandates forced us to cut vital services and cut taxes. Mandates also rob our citizens and elected officials of perhaps the most fundamental responsibility of government, prioritizing government services. The Unfunded Mandates Reform Act does not prohibit unfunded mandates, but it does slow down the process of enacting a mandate and forces each Senator and House Member to go on record that we want to mandate or prevent action by State or local governments without providing the resources with which to pay for it. It ensures that Congress is informed and accountable when considering an unfunded mandate for pending legislation. The law was designed specifically to ensure an up-or-down vote on whether to impose a mandate.

The mandate we are debating is exactly what the Unfunded Mandates Reform Act was designed to address. This is the first time this Act has been used

on the Senate floor since it was enacted in 1995. When this legislation passed the Senate in March of 1995, the vote was an overwhelming 91-to-9 vote. Of the 91 Senators supporting the bill, 50 are still here today, and of the 9 nay, 7 Senators are still in office. In addition, 14 Members of the House—voting in favor of unfunded mandates reform—have moved over to the Senate. So we have 64 Senators today who voted for this bill in 1995 in their respective Chambers.

The bill currently under consideration, the Internet Tax Nondiscrimination Act of 2003, sponsored by my good friend from Virginia, Senator ALLEN, and Senator WYDEN and Senator MCCAIN, has included unfunded mandates by the Congressional Budget Office.

In fact, I want to quote from the Commerce Committee's report dated September 29, 2003, in which 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 relief legislation]. While there is some uncertainty about the number of states affected, CBO estimates that the direct costs to states and local governments would probably total between \$80 and \$120 million annually. . . .

Furthermore, they went on to say:

Depending on how the language altering the definition of what telecommunications services 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.

Finally, the report states that CBO cannot estimate the magnitude of these losses.

Mr. President, let me reiterate, CBO said: Depending on how the definition is interpreted, the loss of revenue to the States and local governments could be substantial.

If CBO cannot calculate the potential loss of revenue to the States, why in the world would we change the definition of Internet access? And why in the world would we make the new definition permanent?

Even FCC Commissioner Michael Powell said the telecommunications industry is in flux and that few industry experts could agree on a definition in view of the rapid changes in technology.

Senator WYDEN, in his presentation earlier this evening, made the allegation that no State will lose money under this proposal. We asked the National Governors Association to contact the tax commissioners from various States and here are some of the findings: Kentucky will lose \$265 million; Iowa, \$45 to \$50 million; Maine, \$35 million; Michigan, \$360 million; New Jersey, \$600 million; Ohio, \$55 million;

Oklahoma, \$159 million; Tennessee, \$358 million; Utah, \$92 million; Washington, \$33 million.

That is a lot of money—a lot of money—and States will lose tax revenue under this proposal.

In my own State, I spent a lot of time with our Ohio Tax Commissioners Office and the Office of Budget and Management. According to the Department of Taxation in Ohio, we will be losing about \$700 million over our 2-year biannual budget period.

Last week, my staff was on a conference call with SBC Communications, Bell South, Sprint, the Tennessee Revenue Director, and the Ohio Tax Commissioner's Office. The telecommunications companies did not dispute the Ohio Tax Department's estimates.

So let's be honest about it. If this permanent moratorium goes through with the current definition, there is no question in the world that States are going to lose money.

At the end of that conversation, by the way, the only thing we got out of it was that there was uncertainty, confusion, and speculation regarding what this all meant.

In addition, we are going to be losing \$350 million, at least, as a result of this proposal today.

If we pass S. 150, Congress will, in effect, force States to raise taxes or cut services in order to make up the difference. In other words, all 50 States will be forced to debate whether to raise taxes, cut services, or come to Congress for more money. Mr. President, unlike Congress, by law all states must balance their budgets. They don't have the option of printing more money like the federal government.

States have to balance their budgets and if they don't spend within their means, they are forced to make a choice to either cut services or raise taxes. Of course, that is something we have not done. And I mention, that some of my colleagues say States are not fiscally responsible. I would like to say that most of the States in the United States of America are much more fiscally responsible than this body, in which we have increased spending and added to our burgeoning deficit.

Mr. President, the newspapers in Ohio get it. The Cincinnati Enquirer, one of the most conservative papers in Ohio, understands:

One reason governors, mayors and county officials oppose expanding the Internet tax ban is that telecom companies are racing as fast as they can to convert most services to the Internet. If just about everything gets tax-exempt under a broader "Internet access" definition, states and localities would take a huge tax revenue hit.

The development of DSL, broadband and cable Internet service were just the sort of new access technology that Voinovich and others hoped would result from the tax moratorium, but they don't want it expanded to kill existing tax revenues.

The Akron Beacon-Journal also understands:

In short, critical programs would be put in jeopardy, from mental health care to public schools.

Even the Washington Post understands:

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.

And they go on—I will finish the quote—

Proponents of the law are busy demagoguing the issue, suggesting, as Senate sponsor Ron Wyden (D-OR) put it the other day, that users "could be taxed 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.

Mr. President, I ask unanimous consent that these articles be printed in the RECORD.

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

[From the Cincinnati Enquirer, Oct. 31, 2003]

HALLOWEEN SCARE: INTERNET TAXES

(By Tony Lang)

Sen. George Voinovich of Ohio has been boiled in a witches' cauldron this week by critics angered that he helped block an expanded ban of taxes on Internet services. The current Internet Tax Moratorium, which he supports, expires Saturday.

Anti-tax groups making Voinovich out to be the devil incarnate are roasting the wrong guy. Voinovich favors keeping the tax moratorium on Internet access. He helped negotiate the Internet Tax Freedom Act of 1997, supported its renewal in 2001 and opposes new taxes on telecommunication services. And yes, he strongly opposes a tax on e-mail.

But he and other senators do object to new legislation which would expand the definition of "Internet access" and not only exempt some telecom services now taxed but also some income, property and other business taxes. That legislative change could cost state and local governments between \$4 billion and \$8.75 billion a year by 2006, the Multistate Tax Commission estimates. The Congressional Budget Office agrees losses would be substantial.

Voinovich, a states-rights federalist, argues it would be unconstitutional for the Federal government to abolish existing State and local tax revenue streams. It also would violate the 1995 Unfunded Mandates Relief Act, which then-Gov. Voinovich lobbied for and U.S. Rep. Rob Portman of Ter-

race Park sponsored. That law attempts to bar Congress from imposing a mandate on states without paying for it.

One reason governors, mayors and county officials oppose expanding the Internet tax ban is that telecom companies are racing as fast as they can to convert most services to the Internet. If just about everything gets tax-exempted under a broader "Internet access" definition, States and localities would take a huge tax revenue hit. The development of DSL broadband and coaxial cable Internet service were just the sort of new access technology that Voinovich and others hoped would result from the tax moratorium, but they don't want it expanded to kill existing tax revenues. The loss in Ohio services is calculated at \$450 million.

The world won't end tomorrow if the tax moratorium expires. It lapsed for a month in 2001 before Congress extended it. The House already passed a bill (H.R. 49) on Sept. 17 making the Internet tax ban permanent. This week, Sens. Voinovich, Lamar Alexander of Tennessee, Ernest Hollings of South Carolina, Frank Lautenberg of New Jersey and Maria Cantwell of Washington State put a legislative "hold" on S. 150, and according to Senate rules of "unanimous consent," it will take some cutting and pasting before all agree to bring it to a floor vote.

Ohio Gov. Bob Taft wrote to urge the Senate Finance Committee to limit the tax ban to Internet access only. Internet sales are a different matter. The Capitol Hill in-fighting over taxing e-commerce is even more blood-curdling, and as rife with falsehoods. The tax ban doesn't mean the Internet is a tax-free zone. But Internet sales, according to the Department of Commerce, accounted for only 1.3 percent of all retail sales in 2002. Still it's no wonder Lamar Alexander is leery of sales tax bans. Tennessee has no State income tax. Someday, States may settle on some simple point-of-origin sales tax system for mail order, catalog and Internet sales, but meantime Congress should keep its hands off and limit itself to protecting interstate commerce and lively tax competition between states.

[From the Beacan Journal, Oct. 30, 2003]

RESPONSIBLE GEORGE

Sen. George Voinovich finds himself in a familiar position. The Ohio Republican has angered many in his party. His offense? He wants Congress to act responsibly. He has correctly questioned aspects of legislation that would extend the Internet Tax Freedom Act, the five-year-old moratorium on State and local taxation of Internet services set to expire on Saturday.

Voinovich isn't alone. Sen. Lamar Alexander, a Tennessee Republican, has echoed his concerns. So have many Republican governors, including Bob Taft of Ohio. They do not oppose the ban. (Voinovich helped to negotiate the original moratorium.) They recognize the need to encourage Web businesses. What they find troubling is the breadth of the extension.

In September, the House approved legislation that would make the ban permanent. The Senate is considering a similar bill. Both would expand the definition of Internet services to such an extent that State and local governments would risk a substantial erosion of their tax base. Not surprisingly, the revised definition was inserted in haste, more ideologically driven than practical.

No surprise, either, that Voinovich, a former governor, would spot the difficulty ahead. States collect taxes on local and long-distance telephone services. Telecommunications companies are increasingly looking to "bundle" products, offering a collection of

services, including Internet access. The proposed extension would permit the bundled items to be viewed as one product. Thus, products that currently are taxed, such as a local phone service, would be exempt.

The amount of revenue lost? Ohio would surrender an estimated \$350 million a year. The potential bleeding explains why Bob Taft fired a letter to Charles Grassley of Iowa, the chairman of the Senate Finance Committee. The governor stressed the "devastating" impact on States.

The Multistate Tax Commission (an association of State tax directors) estimates the proposed extension would drain at least \$4 billion a year from all State treasuries and as much as \$8.75 billion by 2006. Again, these are funds States already collect, and many States face a fiscal crunch as severe as any in the past 50 years.

In short, critical programs would be put in jeopardy, from mental health care to public schools.

George Voinovich certainly knows unfunded mandates. He has long railed against the feds making demands and leaving States to pick up the tab. In this instance, Congress would tamper with established ways of States raising essential revenue, leaving governors and State lawmakers to cover the difference.

Better, the responsible argument goes, to extend the current ban on taxing Internet services for a period of time, allowing lawmakers to think harder about their next step.

[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, the 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 unnecessary—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 families—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.

Mr. VOINOVICH. Mr. President, I have made the point that I have strong concerns with the pending legislation because it is an unfunded mandate. At the same time, I think it would be wrong for Congress to do nothing and allow taxes on Internet access.

As I have said emphatically, I am against taxes on e-mail and the Internet. It is no secret that my interest in the current moratorium dates back to my time as Governor. During my tenure as Governor, I was also chairman of the National Governors Association. As chairman, I asked Governor Mike Leavitt to be the lead Governor on the Internet economy and its effects on State government and federalism. The NGA efforts on this important topic led to the current moratorium on Internet taxes which was signed into law in 1998, and then again in 2001.

Our goal then is the same as my goal today: to encourage the growth of the Internet as a driving force in our economy.

Let's look at the facts.

Under the original 3-year moratorium from 1998 to 2001, the Internet rapidly expanded to all corners of our country. The point I am trying to make is that with the current moratorium that we have, we have seen unbelievable expansion in the Internet. That is what we wanted to have. That is why we put the moratorium in effect.

In February 2002, the National Telecommunications and Information Administration at the Department of Commerce issued a report entitled "a Nation Online: How Americans Are Expanding Their Use of the Internet." It is just unbelievable what has happened during that period of time. My point is,

the Internet flourished in all segments of society during the original moratorium, and I think it is safe to assume that Internet usage continues to increase every day.

The question is, how do we continue to support the growth of the Internet and bring parity for all Internet service providers without causing undue harm to our State and local governments that have been experiencing serious budget shortfalls?

S. 150 would, for the first time since 1998, change the definition of Internet access and, without a clear understanding of the definition's impact, rush to make it permanent.

The fact is, Internet technologies are changing more rapidly than ever. Companies are moving quickly to provide multiple services over a single line, including Internet access, voice communication, data service, and entertainment service. It does not make sense to change and make permanent the definition of Internet access when the technologies and the different ways Internet services are being offered is changing so rapidly.

My colleagues, Senators ALEXANDER, GRAHAM, and CARPER, and I will introduce an amendment that simply keeps current law in place and offers language to level the playing field for DSL, wireless, cable, and satellite Internet services. Basically, what we are offering will be a 2-year moratorium. We will amend the current definition of the Internet tax moratorium to preclude the taxing of DSL.

Many States today, under the grandfather clause of the tax moratorium, have been collecting taxes on DSL. Several other States, because of a loophole in the definition, have started collecting taxes on DSL connections. What we are proposing—and it is very fair—is that in consideration of this body extending this moratorium for only 2 years, States such as Ohio and others that are now collecting Internet taxes will give them up at the end of a 2-year period. This gives them adequate time to prepare, in terms of their budget, for the loss of the revenues.

Clearly, the States are willing to give up taxes that they are now collecting on the Internet in consideration of not going forward with a permanent moratorium with the definition that is now contained in the bill before us. In other words, the fear of what could happen under the definition of the bill that is before us today in the managers' amendment is so large that they are saying: We will give up that money just so it lasts for 2 years. During this time, we can work on a definition that will make sense.

I believe that is a very fair proposal. It means we will be reducing taxes on the Internet in many of our States that are now collecting taxes.

Last but not least, on October 29, the Wall Street Journal wrote an editorial entitled "Taxing Your E-Mail." The Journal claimed that a few Republicans have decided to dress up as tax-

and-spend Democrats for Halloween. The fact is, the Wall Street Journal article completely misstated what we are trying to do here tonight. The reference to taxing e-mail is nonsense.

In fact the Cincinnati Enquirer followed up the Wall Street Journal by saying on October 31, quote:

Anti-tax groups making VOINOVICH out to be the devil incarnate are roasting the wrong guy. VOINOVICH favors keeping the tax moratorium on Internet access. He helped negotiate the Internet Tax Freedom Act of 1998, supported its renewal in 2001 and opposes new taxes on telecommunication services. And yes, he strongly opposes a tax on e-mail.

In fact, I am going to be introducing an amendment tomorrow that is a Sense of the Senate to make it very clear that this is not about taxing e-mail. I think it is important my colleagues understand that. This is not what this legislation is about.

I am hoping tomorrow we will have an opportunity to vote on this bill and this amendment. I hope my colleagues will be fair enough to understand how serious this matter is to the future of our States and to federalism. I hope we are successful tomorrow with our amendment.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM of Florida. Mr. President, there have been some comments by my colleagues that the people who are concerned about this issue and who are at risk are Governors, State legislators, mayors, county commissioners, and other officials at the State and local level. I beg to disagree. The people who are at risk include that child who is in an overcrowded classroom. The people who are at risk are those persons who have suffered a heart attack and are waiting for the emergency medical service to arrive. The people who are at risk include that woman whose car is broken down on a dark highway and who is waiting for the State trooper to come give assistance.

Under this concept of federalism that our Government has followed since its beginning, those responsibilities—education, emergency response, law enforcement—have been placed in the hands of the States. It is their responsibility to provide for a governmental structure of State and local response that will fulfill those and literally thousands of other responsibilities.

It has been said that federalism is the most significant governmental concept which has been developed by the United States. It is a philosophy which has always been in flux. We are looked down upon in this Chamber by two of the figures who represent the divisions within federalism: Our first Vice President, John Adams, who was a strong advocate of a central government; Thomas Jefferson, our second Vice President, who was an equally strong advocate of responsibility being placed as close as possible to where the people affected by that action of government live.

Federalism depends upon certain fundamental principles. One, it depends

upon the principle of a respectful relationship between the central government and the States. It depends upon the ability to accept diversity.

Most countries have a ministry of education which is responsible for education on a nationwide basis. We have gone a different course. We have 50 States which have the primary responsibility for education from prekindergarten to graduate school. We have the concept that the States should be given significant latitude so they can be the laboratories for experimentation in our Nation.

We also believe under federalism that there should be, to the greatest degree possible, a matching of power and responsibility. If the States, for instance, have a certain set of responsibilities, they should have the commensurate power to organize to meet those responsibilities and to determine what level of revenues are going to be necessary to meet those responsibilities and from what source or sources those revenues should come.

We recognize that under our Constitution, the Federal Government has ultimate authority. If there is a conflict between the States and the national government, the national government prevails. That concept was engrained in our Nation through the Civil War which settled the question of which level of government was supreme.

The Federal Government should not use this power that it has in an arrogant manner but, rather, with discretion and respect. State governments have all power that is not delegated to the Federal Government. But they, too, should not use that residual power in an arrogant way but recognize that, while they are serving specifically the constituents of their State, they also are serving ends that benefit the Nation. Education is the most obvious example of a responsibility which has national service but which is directed at the State and local school district level.

Mr. President, the term "situational Federalist" has come into vogue to describe people who will be Federalist, particularly in representing the role of State and local government when the ends to be met will be achieved through decentralization, and they are not Federalist when the ends they seek to achieve will be better accomplished through centralizing power.

I reject the concept of "situational Federalism." I believe, for this great, large, diverse, dynamic country to best function, we in Washington should be very respectful of the role of the States, even when the end result of that may be a policy position with which we do not necessarily agree.

I think we have arrived at one of those moments tonight. In this case, almost everyone in this Chamber supports the principle that is in the national interest to have an expansion of access to this wonderful new world made possible by the Internet. But we

believe we should carry out that objective with discretion. That is what we have done to date. We have incrementally, 2 years at a time, extended the moratorium on the ability of State and local governments to have taxation of access to the Internet; and we have been carefully defining just what the range of that moratorium on taxation would be. And outside of that definition, we have given the States and local governments significant authority. That authority has resulted in a not insignificant totality of the revenue of State governments.

As an example, last year, on a nationwide basis, State governments collected between \$4 billion and \$9 billion of revenue from sources which this legislation would render immediately and permanently nontaxable. I believe that is not an example of the respectful way in which the Federal Government should deal with our Federal partners at the State level.

As Senator VOINOVICH has said, and as Senator CARPER and as Senator ALEXANDER will say, we will make a proposal tomorrow that I think represents that appropriate respectful relationship. It does what we have done now twice before—provide for a 2-year moratorium on Internet access. It keeps, with one exception, the same definition of interstate access that we have had from the beginning of this series of moratoriums. It does not preemptorily eliminate the ability of those States that were grandfathered in to continue to collect those taxes. It will anticipate a gradual phaseout of that grandfather status, but not one that could have a shock effect on the ability of those 11 States, which does not include my State, and which does not include the State of the Presiding Officer. We should not look at this parochially from our own interests but, rather, what best serves our responsibilities as Federalists.

Mr. President, I intend to speak at somewhat greater length tomorrow as we get into the details of why we believe S. 150, as submitted, is not in our tradition of federalism, and to suggest an alternative, which will be offered by four of us who are now colleagues, but previously in our life did have the responsibility of the chief executive of one of our 50 States, and therefore know from personal experience the challenges that States have in educating its young people, providing critical law enforcement and emergency services to our people, and the necessity of having the capacity to fund those services, which is the equivalent of the responsibility itself. I believe the proposal that will be offered tomorrow is a reasoned proposal that assures that there will be no further encroachment on access to the Internet through increased taxation, while at the same time respecting the fact that taxation on telecommunications revenues represents a significant capability of the States to meet their obligations.

Mr. President, with that somewhat philosophical introduction, I look for-

ward to a debate on the specifics of this issue when we meet again tomorrow.

The PRESIDING OFFICER (Mr. VOINOVICH). The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, I thank the Senator from Florida for his remarks and say to him and the Presiding Officer and Senator CARPER how much I appreciate the opportunity to work with them on this issue. They have been leaders in our country, in our States, among the best Governors we have had over the last number of years, and I welcome the chance to work with them. I thank Senators ALLEN and WYDEN for their hard work on this issue. They have been working at it for a long time. I respect that and appreciate it. I thank Senator MCCAIN for his congeniality and his efforts to move things along. He and the majority leader, last week, agreed to give us an opportunity, as they have done tonight, and for tomorrow, to make our case, state our issues, have votes that we want to have, and I am grateful for that during a busy season. It would have been easier to just let this go by. There are a lot of issues before the Senate, but there are a bipartisan group of us who think this is very important as well. Each of you have stated tonight—and I don't need to restate it—why that is so.

I think it is a part of the tradition of the Senate that it be the saucer in which the coffee cools. What we have found over the last several days is, as our colleagues on both sides of the aisle have looked at this unfunded Federal mandate that affects internet access, they have more questions about it. There are more people who are deeply concerned about the proposal of the distinguished Senators from Virginia and Oregon.

So I am appealing tonight, and will be doing so tomorrow, especially to those Members of the Senate who have been mayors and Governors, who have been legislators, city council men and women, to look at this and the issues of Federalism. In sort of a reverse partisanship, I want to appeal to my colleagues on this side of the aisle, for whom the idea of unfunded Federal mandates has been a central part of our beliefs. It was the center of our Republican resurgence in 1994, the heart of the Contract With America. S. 1, the No. 1 Senate bill that the new Republican majority leader, Bob Dole, introduced in 1995, was the Unfunded Mandates Reform Act. So this is important stuff for the Republican Party.

In listening, though, to the issues that are being discussed tonight, let me see if I can summarize some of what I believe I have heard and discuss for a moment the amendment that I will be sending to the desk, or have already forwarded to the desk, on behalf of several of us.

The question tonight is whether and to what extent we will allow State and local governments to tax Internet access. That is the issue. There are really

two arguments among those of us who are arguing. The first one is—and I may be alone in this, but I don't think so—I don't like any unfunded Federal mandate. I supported the idea of a moratorium on State and local taxation of access to the Internet when it all began. Most of us did. That was in the mid-nineties. It is hard to think back that far. The Internet was an infant in a crib then and none of us wanted it to be squashed in its infancy.

Then after 3 years, along came various advocates who said: Let's give it another 2 years. That very narrow ban on Internet access, which didn't cost very much money—probably so little money during that time it didn't qualify under the Unfunded Mandates Reform Act as an unfunded Federal mandate—so it was extended 2 years.

Now the advocates of the other position are coming along and saying: We want to make this ban permanent, and we want to broaden the definition of what we mean by "Internet access," so what we have here is not such a complex issue. We have really two questions: Do we want a permanent ban, or do we want a 2-year ban? The second is, Do we want to extend the same definition of "Internet access" we now have with a minor change, or do we want a broad definition of "Internet access" that might cost State and local governments billions of dollars? That is really the issue that will be presented when we vote most likely tomorrow.

I send to the desk, but do not call up, an amendment on behalf of myself, Mr. CARPER, Mr. HOLLINGS, Mr. STEVENS, Mr. VOINOVICH, Mr. GRAHAM, Mr. DORGAN, Mrs. FEINSTEIN, Mr. LAUTENBERG, and ask that it be filed.

I wish to discuss three issues. One is the strange case of amnesia that seems to have set in, especially on my side of the aisle, about unfunded Federal mandates. The Presiding Officer made an eloquent discussion of that issue. So did other speakers.

The second is, I would like to discuss specifically why this is an unfunded Federal mandate under the specific terms of the budget law which was amended in 1995.

Finally, I want to say a word about the amendment which we will offer, which we believe is a better extension of the ban on Internet access than that proposed by Senator ALLEN and Senator WYDEN.

I very well remember 1994 and 1995. Senator VOINOVICH remembered he was in Williamsburg, VA, when the Governors met. I remember that Senator VOINOVICH, then a Governor, was the acknowledged leader of State and local forces who were deeply concerned about the practice of Washington politicians passing laws claiming credit and then sending the bills to mayors and Governors. Nothing really made us Governors much madder than that, people getting elected to Congress and presuming they had suddenly arrived here in Washington, that they had a great idea about children with disabili-

ties, and they would order us to do it and then order us to pay for it, or at least pay for half of it.

We cared about children with disabilities, too, and we felt as if we were elected to make those decisions. We found nothing in our laws and constitutions about how the Federal Government ought to define for us what our tax base ought to be or ought to be telling us all of these things.

I vividly remember the new Republican majority leader of the Senate, Bob Dole, coming to Williamsburg that very meeting Senator VOINOVICH mentioned. Governor Allen, now Senator, was presiding. Thirty Republican Governors were there. Speaker Gingrich and Majority Leader Bob Dole came. Speaker Gingrich talked about the Contract With America. We Republicans can remember that—300 Republican candidates standing on the steps of this U.S. Capitol saying: Here is our 10-point plan; elect us, and if we break our promise, throw us out. That is what we said. That is what we Republicans said. What was our promise? The heart of that promise was no unfunded Federal mandates.

Senator Dole knew that. It wasn't just a matter of the House of Representatives. He came to Williamsburg, VA. He pulled out a copy of the Constitution. He must have done it 100 times in the next year because I was with him 100 times in the next year when he did it. We were both campaigning in Presidential primaries, and he would read the tenth amendment. He would read:

The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

That was Bob Dole in 1994 and 1995. He was good to his word.

We have a practice of the Senate. The majority leader will pick the most important bill and make it his bill and call it S. 1. S. 1 that year for Senator Dole, the new Republican majority leader, was the Unfunded Mandates Reform Act of 1995. As Senator VOINOVICH said earlier, it passed 91 to 9. Sixty-three of the Senators who voted for it then are serving in this body today. Twelve of them were House Members then.

There was a lot of steam in that argument then. I would like to read just a paragraph from a backgrounder put out by the Heritage Foundation in December of 1994. This is just a little while after the Governors met. This paragraph says:

Throughout much of American history, especially since the New Deal—

This is how they were looking at it—the Federal Government increasingly has encroached upon the fiscal and constitutional prerogatives of State and local government. Today this imbalance has reached a crisis point, and the States are fighting back. Through a variety of initiatives, they are demanding that Federal mandates be funded and, in many cases, even are challenging the authority of the Federal Government to impose these mandates, whether funded or not. With the new more State friendly Congress—

That is us, the Republican Congress—States and localities have a historic opportunity not only to effect mandate relief, but also to restore balance in State-Federal relations.

Then they begin to list in this Heritage Foundation document some of the ways States and localities that seemed to have reached their limit are fighting back. They are publicizing the costs of unfunded mandates. They are holding their Congressmen accountable. They are challenging Congress's authority to impose the mandates. They are suing the Government for the violation of the tenth amendment. They are lobbying Congress to pass mandate relief legislation—no-money, no-mandate constitutional amendments.

They are considering a collective action to challenge the Federal Government's right to pass laws that impose duties on States without paying the bill.

This was the mood in 1994 and 1995, and this was a major reason why the Republican majority was elected. I hope we don't forget that. I know at the time a great many of our colleagues remember it because they talked about it eloquently in their speeches when the Unfunded Mandates Reform Act was enacted in 1995.

Senator LOTT said:

It is things like unfunded mandates that drive good people out of office.

Senator THOMAS said: I served in the Wyoming Legislature and a good deal of our budget was committed, before we ever got to Cheyenne, to unfunded mandates.

Senator FEINSTEIN, a cosponsor of our amendment, said: I was president of the board of supervisors. I was mayor. I saw the development of these unfunded mandates firsthand and in doing so I probably speak for the mayors and local officials all across the Nation.

Senator NICKLES, chairman of the Budget Committee, said: I used to serve in the State legislature and we really resented the idea that the Federal Government would come in and mandate how we would spend our resources.

I am reading speeches from the CONGRESSIONAL RECORD of Members of this body in 1995, who voted to ban unfunded Federal mandates.

Senator HUTCHISON of Texas said: Almost one-third of the increase in the Texas State budget over the past 3 years has been the result of unfunded Federal mandates—one-third, she underlined.

Senator BURNS talked about the impact of unfunded mandates.

Senator BENNETT told a beautiful story about encountering a mayor during a campaign in his State in Utah, and he ended up with the mayor saying, well, if I had a U.S. Senator in front of me with his undivided attention, the one thing I would say to him is stop the unfunded mandates.

That is just a few of the things that were said. So the question now then is,

is this really an unfunded Federal mandate? Well, that is not too hard to figure out. Some of my colleagues seemed surprised when I suggested this might be, so I have put a letter on every Senator's desk.

I ask unanimous consent that the letter be printed in the RECORD.

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, November 5, 2003.

Hon. LAMAR ALEXANDER,
U.S. Senate, Washington, DC.

DEAR SENATOR: This letter responds to the three questions you posed in your letter of November 4, 2003, regarding S. 150, the Internet Tax Nondiscrimination Act.

1. How much revenue is being collected by state and local governments from taxes on DSL?

CBO estimates that state and local governments currently collect at least \$40 million per year in taxes on DSL service (Digital Subscriber Line—a high-speed data transmission over regular telephone wires). They are likely to collect revenues totaling more than \$80 million per year by 2008 due to growth in the use of high-speed Internet access. These collections are primarily sales and use taxes on DSL service.

2. What would be the revenue loss to state and local governments under the managers' amendment to S. 150?

Based on the version of the proposed amendment CBO received late this afternoon (S150MGR.6), CBO has determined that the bill would create intergovernmental mandates as defined in the Unfunded Mandates Reform Act. We estimate that those mandates would impose costs on state and local governments in at least one of the next five years that would exceed the threshold established in that act (\$60 million in 2004, increasing to \$66 million in 2008). We have identified three major impacts, each of which would, by itself, exceed the threshold:

Revenue losses of \$80 million to \$120 million per year, starting in 2007, to state and local governments that are already taxing Internet access and were covered by the "grandfather clause" contained in the Internet Tax Freedom Act. Some of these are taxes on DSL services. We have no information to suggest that other states will impose taxes on Internet access in the near term.

Other states are currently imposing taxes on charges for the portions of DSL services they do not consider Internet access. Those states would lose at least \$40 million in sales and use taxes on DSL services in 2004, and at least \$75 million by 2008. The preemption of DSL taxes would stem from section 2(c) of the amendment, which defines "Internet access."

Substantial revenue losses that could result from:

(a) The inability of state and local governments to collect transactions taxes (including sales and use taxes and gross receipts taxes) on certain types of telecommunications services. For example, if technological change shifts traditional telecommunications services to the Internet, those services—for example local and long distance phone calls—could be included, for free, when a customer purchases Internet access;

(b) The free inclusion of content (movies, music, and written works) with Internet access in response to the tax exemption provided by this bill. Such content is subject to sales and use taxes under current law but might increasingly be available at no charge as part of an Internet access package.

CBO does not have sufficient information to estimate these revenue losses, but we be-

lieve they could grow to be large. There is some question, however, as to what types of transactions could not be taxed under the bill; under some interpretations, these revenue losses could remain quite small. The issue might ultimately have to be resolved in the courts.

3. How much tax revenues do state and local governments collect on telecommunications services?

Based on information from industry representatives, state and local governments, and federal statistical sources, CBO estimates that state and local governments currently collect more than \$20 billion annually from taxes on telecommunications services. Such taxes generally fall into two categories: transactions taxes and business taxes. Transactions taxes (for example, gross receipts taxes, sales taxes on consumers, and taxes on 911 service) account for about two-thirds of the total.

In arriving at this estimate, CBO took into account the fact that some companies are challenging the applicability of taxes to their services, and thus may not be collecting such taxes, even though states and local governments feel they are obligated to do so. Such potential liabilities are not included in the estimate.

If you would like further details on the information provided in this letter, we would be pleased to provide it. The staff contacts for this legislation are Sarah Puro and Theresa Gullo.

Sincerely,

ROBERT A. SUNSHINE

(For Douglas-Holtz-Eakin, Director).

Mr. ALEXANDER. There is a letter that I received yesterday from the Congressional Budget Office on every Senator's desk. It describes the three ways in which the proposed ban on State and local Internet access taxes by Senator ALLEN and Senator WYDEN violate the Federal Budget Act—specifically, the amendments of the Unfunded Mandates Reform Act of 1995.

These are the three ways: One, there is a revenue loss of \$80 million to \$120 million per year to State and local governments already taxing Internet access. There are 11 such States.

Second, there are losses of \$40 million to \$75 million of taxes on DSL services that States now collect. That is the second violation of an unfunded mandate.

Third, and this makes the point it is not only an unfunded mandate, it is potentially a great big unfunded mandate. The Congressional Budget Office says in its letter that the third way this proposal violates the Budget Act is "substantial revenue losses that could occur" when technological change shifts traditional communication services to the Internet—for example, local and long distance phone calls—or when content, music, movies, written works is provided free with Internet access.

This may sound complicated but it is not so complicated. Basically, what this says is it already is happening, that your telephone company or your cable TV company will provide your Internet access. CBO says that State and local governments today now collect more than \$20 billion annually from transaction sales and use taxes on telecommunications services.

What this letter further says is that the Allen-Wyden proposal will take an

undetermined amount of this \$20 billion and ban the ability of State and local governments to include that as part of their tax base. It is enough, according to the CBO letter, to define it as an unfunded Federal mandate. But they say they cannot tell the exact amount of the \$20 billion that might be exempt from State and local taxation.

The Multistate Tax Commission said it could tell. It estimated \$4 billion to \$5 billion. That is an awful lot of money. The Senator from Ohio, the Presiding Officer, in his argument read a list of what State revenue officers have told him, and what they estimate it might take.

The problem is the broader definition of Internet access, which is contained in the bill of the distinguished Senators from Virginia and Oregon, raises the likelihood that some—maybe a lot—of the \$20 billion that is now used by State and local governments to pay for schools, State parks and to keep other taxes down, would be taken away from their tax base.

What do we then do about it? Well, we think we have a suggestion which we hope tomorrow our colleagues in the Senate, if we are able to vote on it, then will agree with us. Our suggestion is an extension of the current ban on Internet access for 2 years, with the same narrow definition that we now have, with the exception that we would make sure that in 23 States which do not now tax DSL, that is telephone service that delivers broadband, they would not be allowed to do that.

So in taking the issues that I heard from the distinguished Senators from Virginia and Oregon, I would summarize them this way: They argue that the Internet is so valuable that we need to override this law we have against unfunded Federal mandates. I agree it is valuable but it is not an infant. It is a pretty big boy. It is out there in the world. We know what it is and it should stand on its own now.

The telephone is also a magnificent invention. We do not exempt it from taxation. The television is a magnificent invention. We do not exempt it from taxation.

If we really think in the Congress that the Internet deserves to be completely exempt from State and local taxation, then why do we not pay for it? Why do we not pass a law that we might call the Unfunded Federal Mandate Reimbursement Act and just let every mayor and every Governor send us a bill every year and we will send them a check. If it turns out to be \$20 billion, we will send them \$20 billion. If it turns out to be \$4 billion, we will send them \$4 billion because we will have said the Internet is so important that we in Congress think it ought to be subsidized, that there should be relief from taxation, and so we are going to pay for it. That would be the honest thing to do, rather than just to say we think it is important but you pay for it.

That is what we said with how we helped disabled children. That is what

we said with stormwater runoff. That is what we said with clean water. We think it is a great idea, you pay for it. That is why we are in Washington. We print money. You balance budgets. We think it is a good idea, you pay for it. That is what the fuss is about.

The second thing I have heard is it is in interstate commerce and we could not touch it. Telephones are in interstate commerce. We do not keep States and local governments from taxing telephones. Televisions are in interstate commerce. Buses are in interstate commerce. Planes are in interstate commerce. Catalog sales are in interstate commerce. Severance taxes are in interstate commerce. A great big part of every State and local government's budget is made up of a tax base that included items that are in interstate commerce. So that argument does not wash at all.

Taxing broadband, that is a good point. Broadband is coming fast. We do not want to interfere with that so our conclusion is, let us stop it in the 23 States that do not now tax broadband. Let us put DSL and cable—that is the broadband is delivered—on an equal playing field. In the States that do tax DSL, they can continue that for the 2 years of the ban.

Multiple taxation, that was raised by the Senator from Virginia. Well, we are extending the current language and it bans multiple taxation. Discriminatory taxation, we propose to extend the current language, and that bans discriminatory taxation.

State and local taxation on Internet access, we would propose to extend the ban on Internet access taxation for 2 years so we can think this through. So we have taken care of that as well. Tomorrow, when hopefully we will be voting on this, we will have this choice: Do you want a permanent ban on Internet access taxation, or do you want a 2-year ban? Do you want a broad definition of what we mean by Internet access, a definition that could cost States a significant share of their State or local tax base, or do you want a narrow definition, virtually the same one we have today?

I believe the prudent thing for us to do is to take the law that we have today, slightly modify it to put DSL and cable on an equal playing field, extend it for 2 years, and let us continue the debate we are having about how to define the two words "Internet access." That is really the problem. I agree with the Senator from Oregon. He has worked long and hard on this. There have been many meetings. We just don't agree on what the definition of Internet access is.

But until we can agree, we should not put this potentially huge unfunded Federal mandate into the law. So tomorrow I hope to bring up this amendment I have filed tonight. I hope our colleagues will compare it with the proposal of the Senator from Virginia and Oregon, and I hope they will adopt ours.

I also have a point of order I could raise, which would cause the Senate to consider whether the Allen-Wyden amendment is an unfunded Federal mandate. If there is a motion to waive the point of order, which I believe would be sustained by the Chair, then Senators would have an opportunity to cast a vote for or against an unfunded Federal mandate. But I am going to reserve that option and hope that sometime tomorrow we can have a clear up-or-down vote on the amendment which I offer with a number of other Senators.

I look forward to the debate tomorrow.

Mr. WYDEN. Mr. President, very briefly, because Senator LAUTENBERG has not had a chance to speak and he has been gracious enough to just give me a couple of minutes to respond to our friend from Tennessee, I think he knows we have a difference of opinion on this issue, but I want him to know how much I appreciate the way he has worked with this Senator. I think he is going to be a great addition to the Senate. I look forward to the many issues where we are going to find common ground, even though this is not one of them.

Just briefly on this unfunded mandate question, I think it is clear that, with the more than 7,000 taxing jurisdictions in our country, if ever there was something that was inherently interstate in nature, it is the Internet. I think we can just imagine the kind of chaos if even a small fraction of these 7,600 taxing jurisdictions took a bite out of the Internet. We would have a crazy quilt of laws with respect to the Internet.

There are a whole host of activities where the Federal Government has essentially made it clear they were inherently interstate in nature and you do not hear the States expressing any grievances. You don't hear States complaining that they can't tax airline tickets or mail or a variety of other things because we are talking about something that is so crystal clear in terms of its very nature—in effect, the essence of article I, section 8, of the Constitution—that this has been an area where the Federal Government has said it is not appropriate to let thousands of local and State jurisdictions simply make a mishmash out of a regulatory regime that needs to be uniform in nature.

I know we are going to talk more about that tomorrow. I am going to go through, tomorrow, the history of the Unfunded Mandates Act that supports the position Senator ALLEN and I have taken.

Two other points very quickly and then I do want to let our friend from New Jersey have some time for which he has been patiently waiting. With respect to the telecommunications services issue which the Senator from Tennessee has discussed, I want to make it clear that Senator ALLEN and I have done everything but hire a sky writer

to fly over the Capitol, to make it clear that telecommunications services, which can be taxed today, would and should be taxed in the future. It is absolutely clear with respect to all the work we have tried to do, both in the committee and working with various State and local officials, we feel very strongly about it. It is what the bundling issue has been all about in terms of separating out Internet access, which should not be taxed, and telecommunications services, which ought to be taxed.

Senator ALLEN and I continue to be interested in working with colleagues to try to find common ground in this area, but the two of us have done everything except march down the street with a sandwich board, trying to argue that telecommunications services must be taxed and that it is Internet access about which we are concerned.

Finally, the last point I would make is we need to have a discussion in the Senate with respect to what the competitive playing field will look like under the amendment at least as outlined tonight by the Senator from Tennessee. We have already seen a competitive disadvantage established, given the developments in the last few years between cable and telecommunications. It is the view of the Senator from Virginia and I, as two Members of the Commerce Committee who have focused on this issue for many months, that we think the competitive disadvantage, which has been established in the last few years between cable and telecommunications, will widen under the proposal the Senate is going to be asked to look at tomorrow as an alternative. We are going to have a chance to discuss it.

Again, I express my appreciation to the Senator from Tennessee with respect to how he has handled this issue. We have a difference of opinion on it, but I admire the Senator from Tennessee very much and I look forward to working closely with him.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

UNANIMOUS CONSENT REQUEST—H.R. 2559

Mr. REID. Mr. President, I direct the attention of my friend from Tennessee to Homeland Security and to Leave No Child Behind. If he wants to find some unfunded mandates, have him come to Nevada and find out what those two pieces of legislation have done—I should say that piece of legislation, Leave No Child Behind, and what we have done to the State of Nevada and every other State by not properly funding the Leave No Child Behind Act and what we have done with all of our demands on State and local government with our unfunded mandates relating to homeland security. That is the subject of another speech.

Mr. President, I ask unanimous consent that the Senate proceed to the conference report to accompany H.R. 2559, the Military Construction appropriations bill.

I do this because, in the State of Nevada, Nellis Air Force Base and the Fallon Naval Air Training Center are desperately in need of construction starts and completion of jobs that are already underway.

So I hope my friends on the other side will allow this very important conference report to be agreed to and the motion to reconsider be laid upon the table, and that be done with no intervening action or debate.

I so move.

The PRESIDING OFFICER. Is there objection?

Mr. ALEXANDER. I object.

The PRESIDING OFFICER. Objection is heard.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, first I thank my colleague from Oregon and my colleague from Virginia for the hard work they did to get us to this point where we have an opportunity to review some of the problems we have seen in the Internet tax area. I had an early opportunity to review and carefully consider S. 150, and I support the stated purpose of this legislation. I agree that the American consumer should be encouraged and not taxed to access the Internet.

I also agree with the stated purpose of this legislation, that the Federal Government should ensure tax-free access to the Internet, irrespective of the technology the consumer uses, whether it is the regular dial-up modem, cable modem, DSL, wireless, or satellite.

My concerns with this legislation don't stem from its stated purposes. My concerns are with the legislation's unstated purposes and unintended consequences which most State, county, and local tax experts believe would jeopardize important revenue streams, such as the gross receipts tax, that were permitted under the first two iterations of the Internet tax moratorium.

The Internet tax moratorium bill was conceived in 1998 as a proconsumer legislative attempt aimed at increasing American access to the Internet. Now that the bill has been rewritten and greatly expanded, it has as a result become another corporate giveaway of potentially enormous and devastating proportions.

According to the Commerce Committee report accompanying S. 150, the original enactment of this legislation in 1998 imposed a temporary moratorium on "certain taxes that could have a detrimental effect on the continued expansion of Internet use in the United States."

In 1999, only 26 percent of United States households had Internet access, according to the Department of Commerce. In September 2001, 51 percent of United States households had Internet access. In 2002, according to the Forrester Research firm, 64 percent—quite a jump in a year—of U.S. households had Internet.

The number of households with Internet access has more than doubled in 4

years, from 26 percent in 1998 to 64 percent in 2002. I am sure the rate of Internet access today is even higher.

Many households, however, only have basic dial-up access to the Internet and haven't moved to the faster broadband access services.

Clearly, the supporters of this bill can't blame an access tax that isn't being imposed for the digital divide that exists between people who have Internet access and those who do not, or between households which can afford broadband or wireless Internet access service and those households which still use the narrowband dial-up.

Nevertheless, I would support an extension of the moratorium on Internet access taxes. By temporary, I am talking about a couple of years. But to make the moratorium permanent, as this bill would do, in my view is an abdication of responsibility on our part.

I cannot and will not support a permanent moratorium that is so poorly defined that it won't just apply to access taxes. I cannot and will not support a moratorium that will deprive the States of \$4 billion to \$9 billion in revenues by the year 2006, according to the Multi-State Tax Commission and the National Governors Association. Based on the language in the bill reported out of the Commerce Committee, my home State of New Jersey by itself stands to lose \$833 million in annual revenues. Other States also stand to lose hundreds of millions of dollars as well. Maybe some Senators are willing to look the other way and not address the problems with this bill. So be it. But I cannot do that. Even under the managers' amendment, which is a modest improvement, the annual revenue loss for New Jersey is believed to be somewhere around \$600 million. My question is: Why are we doing this to States when they are facing the biggest fiscal crisis they have seen since World War II or even the Depression years?

A permanent, poorly crafted moratorium? No way. I cannot in good conscience support something so far reaching.

That is why I support an amendment I believe will be offered by some of my colleagues, Senators ALEXANDER, CARPER, and VOINOVICH, to extend the existing moratorium for only 2 years, and to fix the discrepancy in the way DSL and cable modem are treated for tax purposes.

I realize even if this amendment is offered and agreed to, States such as New Jersey will still lose much-needed revenue, but at least we can and must minimize the impact.

I yield the floor.

Mr. WYDEN. Mr. President, 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. MCCAIN. 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. MCCAIN. Mr. President, prior to wrap-up, this completes the debate and discussion for this evening. It is my understanding that Senators from Tennessee, Ohio, and Delaware have an amendment that has been filed and they will call it up when we begin our continued debate on this legislation tomorrow morning at 9:30. I hope we can limit our debate on that amendment and have a vote on it and then take up other amendments. It is still the intention of the majority leader to finish this legislation tomorrow. I hope we can achieve that goal.

I know everybody would like to go home on Friday afternoon, but I have been assured by the majority leader we will remain until completion of the legislation.

I think it has been a good debate tonight. I thank all of my colleagues. I look forward to disposing of the amendments tomorrow when we reconvene at 9:30.

I yield the floor to the distinguished Senator from Nevada.

UNANIMOUS CONSENT REQUEST—
H.R. 1828

Mr. REID. Mr. President, I will propound a unanimous consent request regarding the Syria Accountability Act in just a minute.

This is an important piece of legislation that requires our immediate attention.

This bill would establish economic sanctions against Syria, unless the President certifies that Syria has ceased all support for international terrorism and has gotten out of the weapons of mass destruction business.

As we have known for some time, Syria supports and sponsors Hizballah and other terrorist groups. Hizballah, of course, was responsible for the deadly attack against 298 of our marines in Lebanon 20 years ago, and they have also been behind repeated attacks against Israeli civilians over the years.

It is also no secret that the Baathists of Syria and Iraq shared a common view of the world. They are anti-western, corrupt, and dangerous. Our intelligence experts have noted a significant amount of weapons and terror traffic between Iraq and Syria leading up to the war. This would be consistent with reports that Syria offered sanctuary to senior figures from the Iraqi regime.

And now, as our brave men and women fight a low-intensity conflict in Iraq, it is becoming clear that many of the threats that they face result from the porous border with Syria, and the failure of Syria to crack down on cross-border terrorism.

Make no mistake: This bill is critical to our troops, and to restoring peace in the Middle East. It is also critical to holding Syria accountable for their shabby record on terrorism and human rights.