State of Wisconsin that applies to at least 40 other States. Beginning in November of 2006, the special grandfathered status enjoyed by Wisconsin since 1998 that allows the State to continue to tax Internet users will end, and my State like most every other State will have to abide by the Internet tax moratorium and stop taxing Wisconsinites' Internet service.

The House passed legislation reported by the Committee on the Judiciary, H.R. 49, that would have ended the special grandfathered status of all the 1998 States effective immediately.

The section of language added to S. 150 by this enrolling resolution affecting grandfathered taxation is intended to apply to all States that have imposed Internet access taxes via an administrative ruling made well after the 1998 moratorium was enacted that taxes Internet access as a telecommunications service. I find this type of ex post facto attempt to circumvent the general moratorium without new State legislative action to be offensive. However, out of the 1998 grandfathered States, I believe only Wisconsin's actions today meet the requisite objective criteria in this provision. Therefore, only Wisconsin will find its 1998 grandfather status revoked by this language.

The other change contained in the resolution adds a new section to the bill that would clarify that certain taxes and fees imposed by Texas municipalities are not included within the scope of the moratorium on Internet access and that such Texas municipalities could continue to collect franchising and right-of-way fees when telecommunications companies build infrastructure and use public rights of way. We believe that this provision clearly only applies to Texas.

Mr. Speaker, I urge Members to extend the Internet tax freedom once again to most of our citizens and join me in supporting this concurrent resolution and the underlying bill.

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

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

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and concur in the Senate concurrent resolution, S. Con. Res. 146.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

A motion to reconsider was laid on the table.

INTERNET TAX NONDISCRIMINATION ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 150) to make permanent the moratorium on taxes on Internet access and multiple and discriminatory taxes on electronic commerce imposed by the Internet Tax Freedom Act.

The Clerk read as follows:

S. 150

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet Tax Nondiscrimination Act''.

SEC. 2. FOUR-YEAR EXTENSION OF INTERNET TAX MORATORIUM.

(a) IN GENERAL.—Subsection (a) of section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows:

''(a) MORATORIUM.—No State or political subdivision thereof may impose any of the following taxes during the period beginning November 1, 2003, and ending November 1, 2007:

''(1) Taxes on Internet access.

''(2) Multiple or discriminatory taxes on electronic commerce.''.

(b) CONFORMING AMENDMENTS.—(1) Section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(2) Section 1104(10) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended to read as follows:

''(10) TAX ON INTERNET ACCESS.—

''(A) IN GENERAL.—The term 'tax on Internet access' means a tax on Internet access, regardless of whether such tax is imposed on a provider of Internet access or a buyer of Internet access and regardless of the terminology used to describe the tax.

''(B) GENERAL EXCEPTION.—The term 'tax on Internet access' does not include a tax levied upon or measured by net income, capital stock, net worth, or property value.''.

(3) Section 1104(2)(B)(i) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking ''except with respect to a tax (on Internet access) that was generally imposed and actually enforced prior to October 1, 1998,''.

(c) INTERNET ACCESS SERVICE; INTERNET ACCESS.—

(1) INTERNET ACCESS SERVICE.—Paragraph (3)(D) of section 1101(d) (as redesignated by subsection (b)(1) of this section) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking the second sentence and inserting ''The term 'Internet access service' does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.''.

(2) INTERNET ACCESS.—Section 1104(5) of that Act is amended by striking the second sentence and inserting ''The term 'Internet access' does not include telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.''.

SEC. 3. GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended—

(1) by redesignating section 1104 as section 1105; and

(2) by inserting after section 1103 the following:

''SEC. 1104. GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.

''(a) PRE-OCTOBER 1998 TAXES.—

''(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

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

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

''(2) TERMINATION.—This subsection shall not apply after November 1, 2007.

''(b) PRE-NOVEMBER 2003 TAXES.—

''(1) IN GENERAL.—Section 1101(a) does not apply to a tax on Internet access that was generally imposed and actually enforced as of November 1, 2003, if, as of that date, the tax was authorized by statute and—

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

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

''(2) TERMINATION.—This subsection shall not apply after November 1, 2005.''.

SEC. 4. ACCOUNTING RULE.

The Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by adding at the end the following:

''SEC. 1106. ACCOUNTING RULE.

''(a) IN GENERAL.—If charges for Internet access are aggregated with and not separately stated from charges for telecommunications services or other charges that are subject to taxation, then the charges for Internet access may be subject to taxation unless the Internet access provider can reasonably identify the charges for Internet access from its books and records kept in the regular course of business.

''(b) DEFINITIONS.—In this section:

''(1) CHARGES FOR INTERNET ACCESS.—The term 'charges for Internet access' means all charges for Internet access as defined in section 1105(5).

''(2) CHARGES FOR TELECOMMUNICATIONS SERVICES.—The term 'charges for telecommunications services' means all charges for telecommunications services, except to the extent such services are purchased, used, or sold by a provider of Internet access to provide Internet access.''.

SEC. 5. EFFECT ON OTHER LAWS.

The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 4, is amended by adding at the end the following:

''SEC. 1107. EFFECT ON OTHER LAWS.

''(a) UNIVERSAL SERVICE.—Nothing in this Act shall prevent the imposition or collection of any fees or charges used to preserve and advance Federal universal service or similar State programs—

''(1) authorized by section 254 of the Communications Act of 1934 (47 U.S.C. 254); or

''(2) in effect on February 8, 1996.

''(b) 911 AND E–911 SERVICES.—Nothing in this Act shall prevent the imposition or collection, on a service used for access to 911 or E–911 services, of any fee or charge specifically designated or presented as dedicated by a State or political subdivision thereof for the support of 911 or E–911 services if no portion of the revenue derived from such fee or charge is obligated or expended for any purpose other than support of 911 or E–911 services.

''(c) NON-TAX REGULATORY PROCEEDINGS.—Nothing in this Act shall be construed to affect any Federal or State regulatory proceeding that is not related to taxation.''.

SEC. 6. EXCEPTION FOR VOICE AND OTHER SERVICES OVER THE INTERNET.

The Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by section 5, is amended by adding at the end the following:

''SEC. 1108. EXCEPTION FOR VOICE SERVICES OVER THE INTERNET.

''Nothing in this Act shall be construed to affect the imposition of tax on a charge for voice or similar service utilizing Internet Protocol or any successor protocol. This section shall not apply to any services that are incidental to Internet access, such as voice-capable e-mail or instant messaging.''.

SEC. 7. GAO STUDY OF EFFECTS OF INTERNET TAX MORATORIUM ON STATE AND LOCAL GOVERNMENTS AND ON BROADBAND DEPLOYMENT.

The Comptroller General shall conduct a study of the impact of the Internet tax moratorium, including its effects on the revenues of State and local governments and on the deployment and adoption of broadband technologies for Internet access throughout the United States, including the impact of the Internet Tax Freedom Act (47 U.S.C. 151 note) on build-out of broadband technology resources in rural under served areas of the country. The study shall compare deployment and adoption rates in States that tax broadband Internet access service with States that do not tax such service, and take into account other factors to determine whether the Internet Tax Freedom Act has had an impact on the deployment or adoption of broadband Internet access services. The Comptroller General shall report the findings, conclusions, and any recommendations from the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce no later than November 1, 2005.

SEC. 8. EFFECTIVE DATE.

The amendments made by this Act take effect on November 1, 2003.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from North Carolina (Mr. WATT) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 150, the Senate bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

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

Mr. Speaker, I rise today in support of S. 150, the Internet Tax Nondiscrimination Act.

In 1998, Congress passed the Internet Tax Freedom Act to protect the Internet from crippling taxation and piecemeal regulation. The act prohibited States from imposing multiple and discriminatory taxes on electronic commerce and shielded consumers from new Internet access taxes. However, some States that had already begun taxing on Internet access by 1998 were allowed to continue such taxation temporarily.

During the 107th Congress, we extended the moratorium until November 1, 2003. On July 24, 2003, well before the November expiration deadline, the House Committee on the Judiciary reported H.R. 49, the Internet Tax Nondiscrimination Act. Introduced by the gentleman from California (Mr. COX), H.R. 49 made permanent the ban on taxes that targeted the Internet for discriminatory treatment and immediately ended all taxes on Internet access by all States and localities.

Unlike the Senate bill, H.R. 49 also eliminated the so-called grandfather clause for States that taxed Internet access prior to October 1, 1998; and through a bipartisan amendment offered in subcommittee by the gentleman from Utah (Mr. CANNON) and the gentleman from North Carolina (Mr. WATT), the House bill preserved the original intent of the law by not punishing broadband users, then providing tax freedom for all forms of Internet access, whether by dial-up, cable, or DSL line. H.R. 49 passed the House by voice vote on September 17, 2003. Unfortunately, the other body was unable to pass legislation extending the moratorium until April 29, 2004, 6 months after the moratorium expires.

The Senate bill differs from H.R. 49 in several ways. First, rather than a permanent moratorium, it creates a temporary 4-year moratorium on Internet access taxes running retroactively from November 1, 2003, until November 1, 2007. Secondly, it extends the 1998 grandfather clause for the life of the moratorium so that all those States currently taxing Internet access will continue to do so with the one notable exception of Wisconsin, which I already addressed fully when we considered the related enrolling resolution.

□ 1215

Third, it creates a new, 2-year grandfather clause for States that tax Internet access after the expiration of the moratorium.

Despite these weaknesses which I believe to be substantial, passing the Senate bill extending the Internet tax moratorium is still a big win for the vast majority of American Internet users. Without any action by this Congress, Internet commerce would still be subject to State and local taxes in thousands of jurisdictions. The digital economy and its participants are more vulnerable if we do not act, even if we must act on a weaker bill.

For those reasons I support passage of S. 150, which will extend the benefits of the moratorium until 2007.

At this time, let me put everyone on notice that in the next Congress, even though the moratorium does not expire during the life of the 109th Congress, I will attempt, once again, to make this moratorium permanent so that no State, when it puts together its budget in January of 2007, will fall into the trap of counting Internet access taxes as revenue.

The bill, together with the enrolling resolution just passed, will at least temporarily protect against those States and localities taxing our e-mail and taxing Web service. The extension of the moratorium will help vitalize the Internet economy, provide tax relief to consumers no matter how they get their Internet access, and will stimulate equal access to this increasingly important medium. I will continue to assess future avenues that will promote greater Internet access at higher speeds and at less cost for all Americans. Let everybody be on notice that that is going to happen sooner rather than later.

For now, I urge my colleagues to join me in supporting S. 150 and making the Internet a less taxing and more productive experience.

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

Mr. WATT. Mr. Speaker, I yield myself such time as I may consume, which will be a very short amount of time, just to make two points.

Number one, the chairman of my committee and I have served so long together that he did not even flinch when I was debating a bill that I thought was all part of one big parcel, because he has seen me many times debate something that we were not discussing in committee, so it did not come as any surprise to him at all. He did not even flinch.

So I think on that what I will do is roll the statement that I read on S. 150 into this debate. That was the discussion on the last bill. I thought we were doing this, all this part and parcel of one big bill here, rather than in two stages. So I hope I can just roll that last statement on to this debate and save myself from having to read it again.

Second, I would just say to the gentleman on his ''do not surprise us in the next Congress'' that I think there has been a long-term agreement and commitment to making the Internet exempt from taxation a permanent moratorium. The thing that has held that up is that, at the same time, States and local governments have wanted to work out a national uniform system for taxing remote sales that take place over the Internet so that they do not lose substantial revenues from that source. So I think if we could come up with a system to put into place some uniform standards for taxation of remote sales over the Internet, making the moratorium on Internet access would be a no-brainer and a very noncontroversial step.

So I would hope that I would be able to join the chairman of the full committee in supporting a permanent moratorium on Internet access taxes, but I would be able to do that only if we can work out this other deal having to do

with putting in place a taxation system for taxation of remote sales that are taking place over the Internet.

Because what is happening now is that brick and mortar retailers in all of our communities are collecting sales taxes on sales that are taking place in those brick and mortar stores and, at the same time, people are able to buy over the Internet the same product and be exempt from paying taxes on it because there is no uniform way for collecting those taxes at remote locations. That is costing local governments and State governments in some cases enormous amounts of tax revenues, because most of them are supported by sales taxes or local property taxes, and this is eroding a primary base of tax income for local communities and State communities.

So if we can get that part of this equation worked out, I think the chairman would see a virtual landslide of support for making the moratorium on Internet access a permanent moratorium, and I would be right in the lead of the march with my chairman, and I hope he will join us in trying to make that happen in the next term of Congress.

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

Mr. Speaker, I rise in support of S. 150, the Internet Tax Nondiscrimination Act, and urge my colleagues to support its passage. It has been a long journey to get here, but I believe that the compromise forged in the Senate preserves the goals we sought here in the House both at the subcommittee and full committee levels.

Specifically, S. 150 extends the existing moratorium against taxes on Internet access by all State and local governments, including those that were previously grandfathered by the Internet Tax Freedom Act, and there is a new grandfather for States that imposed taxes on access to the Internet until November 1, 2005. Although this bill will necessarily result in the potential loss of some revenue to some States, it will promote the continued development, emergence, and widespread access to the Internet; and it will do so in a fair and technologically neutral manner.

During the proceedings on this bill in the House, I, together with the gentleman from Utah (Mr. CANNON), the chairman of the Subcommittee on Commercial and Administrative Law, on which I am the ranking member, offered an amendment to help clarify the meaning of Internet access and to put an end to the current confusion that has led to discriminatory and inconsistent State taxation on Internet access. The bill before us today represents a compromise on that amendment which is supported by the relevant stakeholders, including the industry and the State and local government representatives.

The principle I pursued in offering the amendment was simple: If we are to prohibit taxes on Internet access, we must do so regardless of how that access is provided. Otherwise, we would give a competitive advantage to those providers covered by the moratorium over those providers that remain subject to taxation. This would limit the choices of consumers and raise the cost of alternative means of accessing the Internet such as DSL. By making the moratorium applicable to all Internet service providers, we have created a level playing field for the consumer. In the process, we have had no intention to otherwise undermine State and local telecommunications tax bases.

With this issue now behind us if we pass this bill, this Congress must turn to the issue of State sales and use taxes. I, along with the gentleman from Massachusetts (Mr. DELAHUNT) and other colleagues on our subcommittee, have insisted throughout our deliberations to ban Internet access taxes that we remain mindful of the fiscal crisis currently confronting many of our States. Toward that end, the States' attempt to establish a unified tax system that would enable them to impose and collect sales taxes on transactions over the Internet in a manner that is fair and manageable has progressed; and I believe that during the next term of Congress we will be able to work toward a sensible solution to solve the remote sales tax issue when remote sales are taking place over the Internet.

In closing, I believe that S. 150 will ensure that the ban on Internet access taxes is neutral as to technology, speed, and provider. I urge my colleagues to vote in favor of this bill.

I thank the gentleman for his hard work on this and certainly thank the gentleman from Utah (Mr. CANNON), my subcommittee Chair, in his absence, for the tremendous amount of work he has put into this issue.

Mr. Speaker, I have no further requests for time either on S. Con. Res. 146, which I thought I was debating the last time, or on S. 150, which I understand we are debating now, so I will be happy, unless the chairman wants to promise me he is going to work with me on this remote sales tax issue and wants to have a dialogue about that, I am happy to yield back the balance of my time, or yield to the chairman if he wants to comment on it.

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

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 15 seconds to say that access taxes and remote sales tax collections are two separate issues. It is like apples and oranges, and when you mix apple juice and orange juice in the same concoction, frequently it is not very tasty. But we will deal with both of those issues and consider them in the next Congress.

Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. COX), the author of H.R. 49.

Mr. COX. Mr. Speaker, I thank the gentleman from Wisconsin (Chairman SENSENBRENNER) and thanks also to the gentleman from Michigan (Ranking Member CONYERS) for the Committee on the Judiciary's staunch leadership on this issue. Special thanks also to the chairman of the Subcommittee on Commercial and Administrative Law of the Committee on the Judiciary, the gentleman from Utah (Mr. CANNON), and, of course, to the Ranking Member, the gentleman from North Carolina (Mr. WATT), the author of a critical amendment to this bill which makes it explicit that the Internet tax moratorium provides consumers with tax freedom from all forms of Internet access, regardless of the technology, wired or wireless, broadband or dial-up, or any pathway yet to be invented.

While I am proud to be the author of the Internet Tax Freedom Act, which created the Internet tax moratorium in 1998, and the Internet Tax Nondiscrimination Act, which passed this Congress unanimously last year, this is the work of a great bipartisan team led on the Senate side by GEORGE ALLEN of Virginia and my original moratorium coauthor, who was then a member of the House, RON WYDEN of Oregon, and by President Bush who urged this Congress to extend this most valuable of consumer protections from taxation.

Republicans and Democrats have come together to say that, no matter how we might choose to fund government services, we all agree that the worst way to do it would be to create new taxes on the Internet. That would be harmful to consumers, destructive to technological innovation, and bad for our economy.

The case for allowing Internet access to remain tax-free has never been stronger. With 200 million Americans now online, a new tax on access would be a tax on working families. Our citizens recognize the danger. Eighty-eight percent of Americans oppose new Internet access taxes. So one might say that this legislation, the Internet Tax Freedom Act and the Internet Nondiscrimination Act, this moratorium, are the most popular tax issues in America.

New Internet taxes would also be highly destructive to the American economy. Studies from the Brookings Institution, the University of California, Harvard, Stanford, MIT, the Congressional Budget Office, the Department of Commerce, and the Federal Reserve all confirm the positive role of the Internet in making Americans more productive. New taxes can only slow this valuable and powerful engine of our economy and job growth, productivity and prosperity in America.

Finally, Mr. Speaker, the United States of America needs to regain world leadership in encouraging other countries around the world to keep taxes off of the World Wide Web. The Internet is truly global commerce. The original Internet Tax Freedom Act instructed the executive branch to negotiate bilateral understandings with

other countries, and our executive branch has done so. During the period of time when this moratorium was expired, America could hardly lead when our own policy was not clear that we forbid taxation of the Internet. Now we are back where we belong in our role of world leadership, and the Bush administration can once again resume with confidence negotiations with other countries to make sure that when we go online it is not just other foreign states that will not be taxing you, your Internet activities will not be prey to predatory tax policies from other countries as well.

Mr. Speaker, I urge all Members to vote yes on this excellent legislation, S. 150, and yes on the enrolling resolution. I thank the chairman for this great success for consumers.

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

Mr. Speaker, I would just like to assure the gentleman from California (Mr. COX) that he did not really say anything that I disagree with. Neither did the chairman say anything that I disagree with.

I agree that taxation of Internet access and taxation of remote sales are like apples and oranges. But both of them have economic impact on State and local communities, and just because they are apples and oranges does not mean that they do not have an economic impact. So what has been keeping this from moving forward is that if you take away the Internet access issue and you do not resolve the remote sales issue, then local and State communities are being doubly impacted in some cases, and they would like us to resolve both of those issues. They do not necessarily want us to mix orange juice and apple juice together, but they do want us to be able to drink apple juice at one point and drink orange juice at the other point, and they are not mutually exclusive, and they have a similar impact in local communities.

So I am in full agreement that we ought to make this moratorium permanent on Internet access. I am supporting both of these bills, and I do not think there is any controversy about that.

My only point is we also need to now roll up our sleeves in this next term of Congress and resolve the remote sales tax issue so that we can put all of this to rest, and then we can drink both apple juice and orange juice and enjoy both of them in due course.

Mr. Speaker, I have no other speakers, and I yield back the balance of my time.

Mr. PICKERING. Mr. Speaker, I rise today for two reasons: First, to support S. 150, ''The Internet Tax Nondiscrimination Act,'' and, second, to clarify a mischaracterization of a provision of S. 150 that has appeared in the media and perhaps in the minds of some of my colleagues concerning the affect of S. 150 on Voice over Internet Protocol or VoIP.

First, I support passage of S. 150 and commend my colleagues in both the House and the Senate for working vigorously to forge a compromise that addresses, albeit in a temporary fashion, the most important issue we face today concerning what's been termed the ''digital divide''—bridging the gap between those who have Internet access and those who do not by protecting such access for all Americans from overburdensome taxation by a multiplicity of State and local governments that would directly and substantially inhibit the growth and expansion of this still relatively young technology. This bill extends until November 2007 the current moratorium that prohibits States, or their political subdivisions, from taxing Internet access or imposing multiple or discriminatory taxes on electronic commerce. Both houses of Congress also compromised on the treatment of States who had been taxing Internet access even before 1998 when Congress passed the Internet Tax Freedom Act. The grandfathered status of those States to continue taxation of Internet access will be extended for 3 more years under S. 150. While I support the compromise we are voting on today because it accomplishes our intent to prohibit State and local taxation of Internet access in the interim, I still firmly believe that we should permanently prohibit State taxation of Internet access in the future. However, I do look forward to working with our State, county, and city leaders in the future to address the broader issue of taxation of goods and services over the Internet. Everyone recognizes that the Internet knows no borders, domestically or globally, and we should treat it as such by permanently prohibiting an estimated 30,000 different jurisdictions nationwide from imposing taxes on Internet access and stifling this innovative technology that has become not only a useful informational, educational, and recreational technology for most Americans but also an economical necessity for our business community.

Second, and more importantly for my purposes as the lead sponsor in the House of H.R. 4129, the ''VoIP Regulatory Freedom Act of 2004,'' S. 150 as passed by the Senate contains a provision specifying that Voice-over-Internet-Protocol (''VoIP'') services are not covered by the moratorium. That provision states:

SEC. 1108. EXCEPTION FOR VOICE SERVICES OVER THE INTERNET.

Nothing in this Act shall be construed to affect the imposition of tax on a charge for voice or similar service utilizing Internet Protocol or any successor protocol. This section shall not apply to any services that are incidental to Internet access, such as voice-capable e-mail or instant messaging.

While it has been misreported in the media and possibly misconstrued by others that this provision somehow specifically authorizes or requires the taxation of VoIP by States, nothing could be farther from the truth. This exception merely provides that the moratorium makes no inference as to the tax treatment of voice services provided over the Internet. Even Senator PATRICK LEAHY, Ranking Member of the Senate Judiciary Committee, has acknowledged the same when he stated during debate of S. 150 on the Senate floor on April 29, 2004, that ''the McCain amendment [S. 150] . . . does not affect the emerging technology of Voice over Internet Protocol, VoIP.'' This provision does not authorize State and local governments to impose a tax on customers or require the collection of the tax by vendors. Nor does it provide that state and local taxes currently apply to VoIP services. Whether these services meet the definition of taxable telecommunications or other services under state and local statutes is a question of law and will be determined at a future date by Congress.

VoIP services as transactions in electronic commerce should not be burdened by the multiple and discriminatory taxes that States and localities currently apply to telecommunications services. The Federal Communications Commission (FCC) has recently ruled that VoIP is inextricably interstate by its very nature and therefore States are specifically prevented from regulating the type of VoIP provided by Vonage Holdings Corporation. However, the FCC specifically expressed no opinion on the applicability of State general laws governing entities conducting business within the State, such as laws concerning taxation, to VoIP providers. The FCC's decision, however, has ensured an environment in which VoIP can develop, prosper and grow to provide more choices for consumers and a more competitive communications industry. The FCC's decision also has ensured a greater degree of market certainty, will encourage investment, will create jobs and will prevent a misguided approach to regulating VoIP. The drafters of S. 150 had the same intent and goals in mind. In the House, 61 members joined me in sending a letter to the FCC on October 5, 2004, calling on the Commission to rule that VoIP is an interstate application and thus subject to FCC jurisdiction. The letter, signed by a bipartisan majority of the House Energy and Commerce Committee, urged a ruling that VoIP is interstate in nature and subject to the Commission's exclusive jurisdiction.

I mention all this to make the point that, because S. 150 does not determine the taxable treatment of VoIP, the issue will be dealt with in the near future in Congress where I believe, based upon the facts and goals espoused above, that a majority of both houses will agree that taxation and regulation of VoIP, if any, should be left to the Federal Government. To avoid any confusion for the future, our approval of S. 150 today does not in any way imply any support for taxation of VoIP by the States or the Federal Government. The provision was merely inserted to clarify that the moratorium does not make a decision concerning the taxability of VoIP.

Again, thanks to all those involved in this great legislative accomplishment and I look forward to working with my colleagues here in Congress to address the issues of VoIP and taxation in the near future.

Mr. SMITH of Texas. Mr. Speaker, I support S. 150, the Internet Tax and Nondiscrimination Act.

This legislation would reinstate the moratorium on Internet access taxation and multiple or discriminatory taxes on electronic commerce for three years.

Internet commerce is still relatively new and has yet to reach its full potential. The imposition of taxes would threaten the future growth of e-commerce and would discourage companies from using the Internet to conduct business. Internet taxation would create regional and international barriers to global trade.

The Internet is also a major source of information and resources for many individuals and families. Taxes could make Internet access unaffordable for some Americans. Our goal should be to encourage and promote Internet access.

Americans should be able to access the Internet without being subject to state and local taxes.

□ 1230

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

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 150.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

RECOGNIZING THE BOY SCOUTS OF AMERICA FOR PUBLIC SERVICES PERFORMED ACROSS THE UNITED STATES

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 853) recognizing the Boy Scouts of America for the public service the organization performs for neighborhoods and communities across the United States.

The Clerk read as follows:

H. RES. 853

Whereas the Boy Scouts of America is one of the leading volunteer youth movements in the United States, serving more than 4,700,000 young people with the support of 1,200,000 volunteer adult leaders;

Whereas the Boy Scouts of America was incorporated on February 8, 1910, and recognized by Federal charter on June 15, 1916, to provide an educational program for youth to build character, train in the responsibilities of participatory citizenship, and develop personal fitness;

Whereas the Boy Scouts of America teaches the core values of duty to God and country, personal honor, respect for the beliefs of others, volunteerism, and the value of service and doing a ''good turn'' daily, principles which are conducive to good character, citizenship, and health; and

Whereas during the 95-year history of the Boy Scouts of America, the organization has partnered with the Salvation Army, Habitat for Humanity International, the American Red Cross, and thousands of other community and civic organizations to address critical issues facing communities in the United States, including the problems of hunger, inadequate housing, and poor health and youth obesity: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the Boy Scouts of America for the public service the organization performs for neighborhoods and communities across the United States; and

(2) commends the Boy Scouts of America for the Good Turn for America program and the work the organization has accomplished while partnering with the Salvation Army, Habitat for Humanity International, the American Red Cross, and thousands of other community and civic organizations across the United States to address critical issues facing communities in the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 853.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

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

Mr. Speaker, I rise today in support of House Resolution 853, recognizing the Boy Scouts of America for the public service the organization performs for neighborhoods and communities across the United States.

Despite the widespread respect the Boy Scouts of America have earned over their long history, the Boy Scouts have been and continue to be the targets of strident legal attacks simply because religious faith is part of the scouting program.

The purpose of the Boy Scouts of America, incorporated on February 8, 1910, and chartered by this Congress in 1916, is to provide an educational program for boys and young adults to build character, to train in the responsibilities of citizenship, and to develop personal fitness. The community-based organizations receive national charters they use to integrate the Scouting program into their own youth work.

These groups, which have goals compatible with those of the Boy Scouts of America, include religious, educational, civil, fraternal, business and labor organizations; governmental bodies; corporations; professional associations; and citizens' groups.

Several Presidents of the United States, including John F. Kennedy and Gerald R. Ford, have been ex-Scouts. Of the 108th Congress, 264 Members, nearly half the entire congressional membership, participated in Scouting. Membership in the Scouts since 1910 totals more than 110 million. As of December 31, 2003, the Boy Scouts of America included 3.2 million youth members and 1.2 million adult members.

The Scout Law sets forth 12 guiding principles, providing that a Scout is ''trustworthy, loyal, helpful, friendly, courteous, kind, obedient, cheerful, thrifty, brave, clean, and reverent.'' With regard to the final principle, the Scout Law says, ''A Scout is reverent. A Scout is reverent toward God. He is faithful in his religious duties. He respects the beliefs of others.'' All Boy Scouts must know and subscribe to the Scout Oath and Law, which embodies not only the ideals of Scouting but also those of our great Nation.

While many religious organizations charter Scouting units, Boy Scouts of America prohibits them from requiring boys who belong to other denominations or faith to take part in or observe their religious ceremonies. Rather, the Boy Scouts of America encourages its youth members to practice their religious beliefs as directed by their parents and their spiritual advisors.

In Boy Scouts of America vs. Dale, the Supreme Court held that ''during the time spent with the youth members, the scoutmasters and assistant scoutmasters inculcate them with the Boy Scouts' values, both expressly and by example. It seems indisputable that an association that seeks to transmit such a system of values engages in expressive activity.''

Whenever the Boy Scouts are singled out for unfavorable treatment because of their viewpoint, very serious constitutional issues are raised. And this Congress will do everything in its power to uphold the Boy Scouts' constitutional rights.

Despite affirmation of the Scouts' first amendment right of expressive association by the Supreme Court in the Dale case, the Boy Scouts have been attacked on a variety of legal fronts.

In 1999 the American Civil Liberties Union filed suit against the United States Department of Defense, the United States Department of Housing and Urban Development, and the Chicago School Reform Board of Trustees claiming that governmental support of the Boy Scouts violates the establishments clause because the Boy Scouts require a belief in God as a condition of membership. This lawsuit seeks to remove virtually all government support of the Boy Scouts of America.

Additionally, though the Supreme Court affirmed the Scouts' freedom of expressive association in the context of setting membership standards, the Scouts have been excluded from participating in Connecticut's charitable giving program for choosing to express this right.

The Scouts are also under attack in the city of San Diego. For decades the Scouts have used San Diego park property pursuant to a lease agreement with the city. However, the use of this property is currently in jeopardy due to claims by activist groups that the Scouts' use of the property violates the establishment clause.

The Scouts have also had to fight for equal access to school facilities for after-hour use. Shortly after the Supreme Court's decision in Dale, the Broward County School Board in Florida unanimously voted to exclude the Boy Scouts of America from utilizing school facilities for after-school use simply because of the Boy Scouts' religious principles, even though, for many years prior to this, the local arm of the Scouts had enjoyed the after-hours use of many Broward school facilities and numerous other organizations continued to use the school facilities.

Throughout the history of the Boy Scouts of America, the Boy Scouts have provided services to others, gathering food and clothing for needy