

more than what the Congressional Budget Office said it was going to cost because we like to spend money. We want to spend more on Medicare prescription drugs.

The House Democratic proposal, for instance, last year would have cost \$1 trillion compared to the \$395 billion the President signed. The Senate Democratic proposal in 2002 cost \$200 billion more than the bill that was enacted into law.

Further, there were more than 50 amendments offered on the floor of the Senate during the debate on the Senate bill that would have increased the cost of the bill by tens of billions of dollars.

The bottom line is, there should be no doubt in anyone's mind we had as true a cost estimate—or if they want to put it in their words, the true cost estimate—for the prescription drug bill last year. Everyone had access to it before the vote.

But let me explain to the people of this country that whether it is the Congressional Budget Office or the Center for Medicare Services, when they look ahead 10 years, and the farther out you go, it is a fairly imprecise way of deciding what a bill we passed last year is actually going to cost. The true cost is going to be known on that 10th year.

But these professional people with green eyeshades, without any political predilection, study what we put on paper and they say: Senator GRASSLEY, as chairman of the Finance Committee, if you do this, it is going to cost X number of dollars. So if it does not all fit into \$400 billion, you kind of tailor it to fit, because if you do not, you are going to be subject to a point of order and you will have to have 60 votes to override it.

I hope I have once again cleared up any misunderstandings about these issues. We should move on and not lose sight of what really matters: helping our Nation's seniors get the drugs they need at lower prices through the Medicare discount card, and \$600 of additional assistance, which beneficiaries can begin enrolling in next week, and through the voluntary Part D drug benefit in 2006, which is what really matters.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER (Mr. TALBENT). Morning business is closed.

INTERNET TAX NONDISCRIMINATION ACT—MOTION TO PROCEED

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

The assistant legislative clerk read as follows:

A motion to proceed to the 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 PRESIDING OFFICER. Under the previous order, the Senator from Tennessee controls 2 hours of time.

Who seeks recognition?

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, yesterday we began our discussion of legislation which, if it should pass, would be a Federal law giving a tax break or a subsidy to the high-speed Internet industry, and the Federal law would then send the bill for that to State and local governments. There is a bipartisan group of us who object to that, who believe if Congress wants to give a subsidy to the fastest growing technology, high-speed Internet access, then Congress ought to pay for it and not send the bill to State and local governments.

I, for one, also question whether there is any need to spend additional taxpayer dollars on this sort of subsidy since, as far as I can tell, high-speed Internet access must already be the most heavily subsidized technology in the country. But, nevertheless, we have reached a point in the discussion where we are trying to create a compromise result.

To go back through a little bit of history, the House of Representatives sent a bill to the Senate toward the end of last year, and that bill, while it was named "Internet tax moratorium," did much more than that. It purported to make permanent the temporary time-out from taxes the Federal Government set in 1998, and then renewed in 2000, on State and local taxation of Internet access, but the bill did much more than that.

As I pointed out at length last night, the House bill exempted this industry from a great many State and local taxes—telephone taxes States currently collect, business taxes States currently collect, more business taxes, and then sales taxes. So for all of these, we had the Federal Government saying to the State governments: You cannot do this; You cannot collect these taxes.

We have a phrase for this. We call it unfunded Federal mandates. It means: Do no harm to State and local governments.

The Republican majority was elected in 1995, promising to end the practice of we Congressmen and Senators coming up with some big idea, taking credit for it, and then sending the bill to State and local governments. So we went to work to try to change the bill. Senator CARPER of Delaware and I and nine other Senators of both parties offered a compromise. We said: Since the Federal Communications Commission, and since Senator MCCAIN and the Commerce Committee, and Senator STEVENS, our President pro tempore, and others, have said we need to take a comprehensive look at this phenomenon of digital migration of services to the Internet that is being

caused by this new high-speed Internet access, since we want to do that, let's take a comprehensive look at it, so let's just extend the old moratorium for a couple more years.

In the meantime, let's try to create a level playing field so all high-speed Internet access providers are treated the same and do no harm to State and local governments. That is the Alexander-Carper proposal.

The majority leader and Senator MCCAIN and others asked me and Senator CARPER to work with Senator ALLEN and Senator WYDEN and others to see if we could narrow our differences. We did, but we still had differences.

As I pointed out yesterday, Senator ALLEN's bill, S. 150, which is the bill we are now considering, is permanent, not temporary. It still puts at risk \$3 to \$10 billion that State and local governments collect. It also causes the sales taxes that were being collected to expire.

Let's recall that what we are talking about is not lowering anybody's taxes. If you lower one tax, another tax is going to go up, or the government is going to be cut. Lower taxes for the service industry means higher taxes for somebody else. That is a fact.

Then Senator MCCAIN came to the floor yesterday and offered a new proposal. I want to comment for the next 3 or 4 minutes on that. I have written Senator MCCAIN a letter outlining my reaction to it, which I hope is being delivered now, but since we only received his proposal yesterday afternoon at about 2:15, I want to let the full Senate and others know my reaction to his proposal.

First, I appreciate his proposal and his efforts to create a compromise. We all want a result. That is why we are moving ahead at 2:15 to consider his proposal. Unfortunately, Senator MCCAIN's new proposal still harms States and still creates a huge loophole for the high-speed Internet industry.

Let me be specific. No. 1, the definition that the McCain proposal uses is the same definition the Allen-Wyden proposal uses. That definition eliminates \$500 million annually of telephone taxes, business taxes that State and local governments collect today. That is an unfunded mandate.

No. 2, the bill does not protect States and their ability to make a decision about whether to continue collecting taxes on telephone services. This is very important to State and local governments. Last year, according to the National Governors Association, State and local governments collected \$18 billion in taxes on telephone services. In the State of Tennessee, it was \$361 million. In California and Florida and Texas, it is more than \$1 billion. It is 5 percent of our State budget. Almost every State is affected by this. While Senator MCCAIN's legislation in one section appears to try to protect telephone calls made over the Internet so that States may choose to continue to

tax telephone services as opposed to food, for example, it doesn't do that. So that is the second problem with the bill. It takes away from the States a substantial tax base.

No. 3, the bill is 4 years in duration. We think 15 months, 2 years would be much better. Four years is better than permanent, but once you freeze into place these decisions, it is like trying to take a billboard down. You can prevent one going up, but you can't ever take it down. We believe 4 years is not much better than permanent. And then there is the grandfather clause. The moratorium is 4 years starting last November. The States that were already taxing Internet access with sales taxes before this legislation moratorium took effect in 1998, we think those States and other States now collecting taxes on high-speed Internet access should be permitted to continue to exercise their option to collect those taxes.

I have suggested to Senator McCAIN in my letter that there is a way to fix each of these four problems. The way to fix the definition problem is to use the language of the original moratorium. After all, if all we are doing is extending for 4 years the original moratorium on State and local taxation of Internet access, why not use the original moratorium?

No. 2, make the extension for no more than 2 years.

No. 3, express in plain English what I have heard the Senator from Virginia say, that he has no intention of trying to ban State and local taxation of telephone calls made over the Internet. So why not say, "nothing in this Act shall preclude State and local governments from taxing telephone services, including telephone calls made over the Internet"?

And, finally, all the grandfather clauses should end at the same time the moratorium expires.

I am glad Senator McCAIN worked to offer this new proposal. I regret that it still has many of the same problems of the original proposal. The term is a little better. The protection for State prerogatives on taxing telephone services is worse. But I would hope we could take the four suggestions I have made and correct the McCain proposal. If we can, we can pass a bill and get on to something else. I wanted to come to the floor quickly, after we have had a chance to review the proposal, to make those suggestions.

I will return to the floor within a few minutes with further comments. For now, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

The Chair wishes to inform the Senator he has approximately 81 minutes remaining.

Mr. ALEXANDER. Mr. President, sometimes when we talk about this Internet tax proposal, eyes glaze over. It is a hard subject for people to get into their brain because we are talking about a new way of doing things. We are talking about Internet access, how one connects their computer, for example, to the Internet, but we are especially, in this case, talking about high-speed Internet access.

High-speed Internet access has been known to us just for the last few years. When Congress passed the Telecommunications Act of 1996, it is possible that nobody in Congress had ever heard of high-speed Internet access. The commercial Internet was just a few years old at that time.

High-speed Internet access is another one of America's great adventures. The Industrial Revolution was caused by the internal combustion engine. That was a great invention.

The telephone was a great invention. Television was a great invention. The use of high-speed Internet access is a great discovery. What is possible with it is that suddenly a lot of the everyday services of life, such as making telephone calls as an example, downloading movies, even watching our regular television channels, may be done through the Internet. Maybe it will be easier; maybe it will be less expensive; maybe there will be some other advantages.

So for a long time, everybody has been excited about high-speed Internet access, which we call broadband. As a result of that excitement, there has been a phenomenal amount of subsidy of high-speed Internet access by the Government.

The Federal Government spends approximately \$4 billion a year already to encourage the spread of high-speed Internet access. Almost every State spends its taxpayers' money to encourage the growth of the high-speed Internet access industry.

The State of Texas, for example, has done at least two things. One is that it has a fund. Texas does things in a big way. So it is collecting \$1.5 billion over 10 years, which will be spent to encourage high-speed Internet access just in Texas.

Also, in 1999, when President Bush was Governor Bush, Texas decided it would give consumers a break on high-speed Internet access. Texas said the first \$25 a consumer pays for their high-speed Internet access bill each month is exempt from the State sales tax. That is what Texas has done since 1999.

Now, the irony is that the Governors and States of this country came to Congress and said, Why do we not make President Bush's Texas plan the national plan? That really helps consumers. It is pretty easy to understand.

I am in Tennessee, the Chair is in Missouri, somebody else is in Texas,

and we all get the bill each month from our Internet service provider. Now consumers can get this high-speed Internet access a lot of places. They can get it from their Internet service provider, such as America Online, for example, or they can get it from their cable company, the person who brings people television, or they can get it from their telephone company. They will charge about \$30 or \$40 a month for that.

In Manassas, VA, consumers can get it from their power company. That has helped us understand that there is not going to be any digital divide problem. Almost everybody, thanks to the rural electrification system, has a power wire running to their home or near their home and they can get their high-speed Internet access from the electric company. They do it in Manassas, VA. It costs \$25 a month, which is just the amount of money President Bush, when he was Governor Bush, thought ought to be the subsidy to consumers who decided to use this fastest growing new technology in the United States, high-speed Internet access.

The reason I raise that is, since we already had that in Texas, what if the States say to the Congress that we will accept that unfunded Federal mandate? We will ask for that one. You know, just exempt all of our 100 million consumers across the country from the \$1-to-\$3-a-month bill that they will pay in taxes on high-speed Internet access.

But, no, from the House comes this legislation last year that would drive a Mack truck through the State budgets of virtually every State. It would drive it through the State of Texas, too. The State of Texas collects \$1.7 billion a year in taxes on telephone services. That comes from the National Governors Association. This year they called up all the States and got this information. State and local governments, in taxes, collect \$1.7 billion a year on telephone services.

Under the proposal that is coming to the floor this afternoon that Senator McCAIN has suggested, as those telephone calls are made over the Internet, they would be tax free. That sounds good at first, until you think about what comes next. Let's say Texas loses a third of its revenues from telecommunications taxes. Let's be conservative about this. Of the \$1.7 billion that Texas collects on taxes on telephone services, only about a billion comes from telephone calls. These are the monthly bills that you get.

So Texas collects \$1 billion a year. According to the Congressional Budget Office, in a letter to the Senate that I had printed in the RECORD yesterday, the estimate is that within the next 5 years at least a third of all the telephone calls will be made over the Internet.

I think it is coming faster than that. I believe Michael Powell, the Chairman of the Federal Communications Commission, believes it is coming faster than that.

So under the McCain proposal, Texas loses one-third of the revenues it collects in telephone services. That is \$300 million a year. In Tennessee, it is \$100 million.

Then that keeps going. So gradually if you are the Governor of Texas, you are the legislators of Texas—and I know right now they, as most States, are going through a difficult time financially—they are talking about other taxes in Texas so they can pay for their schools.

But I can predict what is going to happen in Texas and in Tennessee and in Washington State and in Florida. Florida collects \$1.4 billion in taxes a year on telephone services. About \$1 billion of that is from telephone calls.

Take all that out and what happens, dancing in the streets because people aren't paying taxes on telephone calls over the Internet? No. What is going to happen is that some unfortunate Governor in Texas and in Florida is going to have to propose a State income tax.

You may stand up and say we should reduce taxes by \$1 billion in Texas, or reduce it by \$1 billion in Florida, and maybe you can. Maybe you can. But that is a substantial challenge to those States.

What we are really doing here is something I never thought I would see. We have legislation which has zoomed through the House and which the distinguished chairman of the Commerce Committee, despite his efforts to have meetings and to compromise, is still insisting on, is that we in the Congress give a big subsidy to the high-speed Internet access industry and send the bill to State and local governments, and it is a potentially big bill.

I suggested in my earlier remarks that the McCain proposal can be easily fixed. For example, we can just say: Nothing in this act shall preclude State and local governments from taxing telephone services, including telephone calls made over the Internet. That is very plain English.

I don't know why we don't try plain English in a statute every now and then. That would remove a lot of that problem. Then we could make it a 2-year extension instead of 4 and that only leaves two problems. One is the definition of Internet access. They have cooked up a new one. We had one since 1998. We banned taxes on Internet access in 1998. We did it again in 2000. I supported that. Instead of really banning taxes on Internet access, they are creating a big tax subsidy to a whole industry. We could fix the definition problem by going to the Alexander-Carper definition, which we suggested in December, or just by going to the 1998 definition. Then we could make all the grandfather clauses expire at the same time the moratorium ends, that would be it, and we could pass the bill and be on to reducing taxes for manufacturing companies.

Sometimes I think I have not been able to get my point across as effectively as I would like. I was thinking

about it this way. The Presiding Officer is the Senator from Kentucky. Kentucky has a big Toyota plant. I visited with the chairman of Toyota in Tokyo a few weeks ago. Toyota is leading the way—Ford is doing a lot, Nissan is doing a great deal, other companies are—in hybrid cars. I see the Senator from Delaware, and I am going to yield to him within 3 or 4 minutes. They tell me at Toyota in Tokyo that Toyota is selling hybrid cars in America this year at the rate of 100,000 this year. That is very important in Tennessee because we have a big clean air problem and hybrid cars have electric motors and internal combustion engines both and burn less gas and pollute the air less, so the air would be cleaner in Tennessee. So I am thinking about, perhaps, recommending a Federal law that tells Kentucky and Tennessee and Delaware they cannot tax hybrid cars.

Why wouldn't that be a good idea? That would clean the air.

The reason it would not be a good idea is that in Delaware and Kentucky and Tennessee, some unfortunate Governor and some unfortunate mayor is going to have to figure out what to do about the property tax to pay for the schools and whether to raise the tax on food if you can't raise it on telephones. And even though he or she might want to lower taxes, if we give a big break to one industry, if we give them lower taxes, it is going to be higher taxes at some tax level for somebody else.

Whether it is hybrid cars or whether it is solving the obesity problem by passing a Federal law that we can't tax low-carb foods, or solving the energy problem by saying we can't have a State tax on solar panels on the roof—all those things sound good, but it is not our responsibility in a Federal system to tell State and local governments what services they can provide and what taxes they can charge. And especially that is true when already the Congress and the States are subsidizing this industry.

I believe if Congress wants to give a big subsidy to the high-speed Internet access business, Congress ought to pay for it. The way to do it is to adopt the George W. Bush Texas proposal that was enacted in 1999. That is relatively inexpensive. It benefits consumers. It would say to everybody in the country, the first \$25 you pay on high-speed Internet access every month is tax exempt. The States have asked us to do it. Why don't we do it? Why do we insist on rushing through the Congress legislation that gives a big break to the industry that is already, at least as far as my research shows, the most highly subsidized and fastest growing new technology in America today?

The Department of Commerce and the Congressional Budget Office both have advised us it is growing so fast it needs no subsidy, that there is no need to spend more taxpayer money on that.

I see the distinguished Senator from Delaware, former chairman of the National Governors Association. He has

been a leader in the fight to remind us we have a Federal system, and that it is not up to us to come up with big ideas, take credit for it, and send the bill to the local governments. I would like to yield to him whatever time he may require.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. CARPER. Mr. President, I thank the Senator from Tennessee for yielding the time. Let me say how much I enjoyed the opportunity to work with the Senator on this issue and, frankly, on a number of other issues. I think he has shown a lot of courage, and I am grateful to him. I thank him for the opportunity to be his partner.

I take some time this morning to address one of the important arguments made by our colleagues on the other side of this debate. Proponents of the legislation argue the only way to encourage broadband deployment is to provide subsidies to telecommunication industries with no strings attached. Furthermore, they argue the only way to create such subsidies is to pass a large, new, unfunded Federal mandate. I submit if what all of us here want to do is determine the taxes and spending policies of our State governments, then we should do what Senator ALEXANDER did, what Senator VOINOVICH did, what Senator HOLLINGS, I, and others did. We ran for Governor. We were elected. As a result we had the opportunity—in my case for 8 years—to decide what the taxing and spending policies of our States' governments should be. That is what we did.

The authority we are granted here in the Senate by the Constitution is to decide the taxes and spending policies of the Federal Government, not the taxing and spending policies of the State governments, and not the spending and taxing policies of local governments. Our job is to determine the taxing and spending policies of the Federal Government.

That being said, it is not as if we the Senate are somehow without the power to create incentives for industries to encourage certain activities we deem to be desirable. Senator ALEXANDER mentioned a couple of areas where we are involved with tax policies in other cases and with spending policies to encourage the development of fuel cell vehicles, or to develop the creation of leaner burning diesel vehicles, or to incentivize creation of coal-fired plants that don't pollute a great deal. We have that spending and taxing authority, and we are using it—some would argue not to great effect, but that is our responsibility. We have the authority, after all, of a Federal budget. It is over \$2 trillion.

If we believe telecommunications companies need more money to build and market their broadband networks, and if we believe we can do better than the private sector in providing that money, then there are any number of ways we can provide money at the Federal level. After we do that, first of all,

we could provide Federal grants. We can provide Federal tax breaks. We can provide loan guarantees. We can provide additional spectrum for unlicensed use. The only reason not to provide the money in these ways, if it is needed, is because Congress would have to find a way to pay for it rather than simply sending the bill to our friends in our State and local governments. If we pass a new unfunded mandate this week or next week, it will be a matter of choice rather than a matter of necessity.

In case anyone doubts that, I would like to bring to the attention of our colleagues here in the Senate a few of the many bills that have been introduced in the Congress to create Federal incentives for broadband deployment. These bills have already been written. These bills have already been introduced. Many of them have a rather broad cosponsorship. If we wanted to, we could bring one or several of them to the floor today, debate them, and perhaps pass them.

I will mention a number of those bills. I want to start first with bills that have been introduced by Senators who have joined us in opposing the unfunded Federal mandate we are debating here today. I do so because there has been some suggestion made by our colleague on the other side of this issue that those of us who oppose unfunded mandates also oppose the Internet, or oppose efforts to encourage the development of broadband. That is not true. While I doubt many of our colleagues believe this to be the case, I do believe it is important we clarify matters for the record.

Let me start with a bill authored by Senator HOLLINGS, a distinguished ranking member of the Commerce Committee. One year ago, Senator HOLLINGS introduced the Broadband Deployment Act. It is a true Federal broadband bill, and as such it would be a much more appropriate piece of legislation for us to be debating here today. Instead of handing State and local governments an unfunded mandate, Senator HOLLINGS' bill would provide broadband to support State and local broadband initiatives. Rather than being unfunded, Senator HOLLINGS' proposal would be financed by moneys from the Federal telephone access tax.

Besides block grants, Senator HOLLINGS' bill would also provide direct grants for broadband deployment. It would also support university research on next-generation broadband technology and pilot projects deploying new wireless broadband technology. I think that sounds like a worthwhile proposal.

However, for Senators who are opposed to providing outright grants, perhaps we should consider another proposal; that is, one by Senator DORGAN.

His proposal is to make low-interest loans available to companies that are deploying broadband technologies in rural areas such as North Dakota. We have rural areas in Kentucky. There are rural areas in Tennessee. Believe it

or not, we still have rural areas in Delaware. That proposal might be of some interest to a lot of us, and I suspect to other of our colleagues.

On the other hand, if Senators would rather provide tax incentives and either grants or loans, then perhaps we should be debating Senator ROCKEFELLER's Broadband Internet Access Act. Senator ROCKEFELLER's legislation would provide tax credits for companies investing in broadband equipment. It would provide a 10-percent tax credit for investments in so-called "current generation" broadband services.

For investment in higher speeds for next-generation broadband services, his bill would provide a 20-percent tax credit.

If it is a Republican tax proposal my colleagues are looking for, we could always turn to Montana and Senator BURNS' proposal to allow the expensing of broadband investments by companies. That might work. I find that attractive.

If party affiliation is not the hangup, but Senators are uncomfortable with providing tax incentives directly to companies, perhaps they would prefer the approach suggested by our colleague from New York, Senator CLINTON. She proposes a different approach. She proposes providing an income tax credit to holders of bonds that are used to finance the deployment of broadband technology.

Finally, if Senators don't want to provide grants, loans, or tax incentives, they can consider an approach advocated by one of our colleagues who happens to represent, among other places in California, Silicon Valley; that is, Senator BOXER. Senator BOXER has proposed we allocate additional spectrum for unlicensed use by wireless broadband devices.

Those are only a few of the proposals that have been made, introduced, discussed, and in some cases subject to hearings, and which have cosponsors.

Those are a sampling of the things we can do as Federal legislators in a proactive way if we are interested in strengthening the ability of companies to market and extend their broadband systems.

What I think this array of proposals indicates is there is no limit to the ways in which we could act, if we wanted to, to encourage broadband deployment at the Federal level. The Senators I have mentioned—I mentioned five of them—span the ideological spectrum, from liberal to conservative. They come from different parts of our country. Their proposals reflect their ideological diversity. Some would increase spending; others would cut taxes. Some would finance their proposals by reallocating existing resources; others would add to the deficit.

But what is clear is all these proposals are harder to pass here in Washington than an unfunded mandate because we would have to pay the bill

ourselves. We could not stick anyone else with the tab. We would have to pay the tab.

Admittedly, at a time when our Federal budget deficit is out of control, I have to confess passing the buck does have a certain amount of appeal. But it is not as though State and local governments are in much better shape financially than we are. State and local governments are struggling to cope with the worst financial crisis they have faced, I am told, since World War II. Classrooms are becoming overcrowded as school budgets are cut. Prisoners are being released from jails as correction budgets are cut. Governors and mayors are pushing through unpopular and frequently regressive tax increases.

New industry subsidies can be created for all sorts of wonderful purposes, but if they are conceived in Washington, and then the cost of those subsidies is passed on to State and local governments, what it all amounts to is political welfare. We spend, they pay.

If we are going to pass on our costs to our friends in State and local governments, we ought to at the very least have the courtesy to tell them how much expense we are planning to run up on their tab. Perhaps the worst part about this new unfunded Federal mandate we are proposing is we cannot honestly look our Governors in the eye, we cannot honestly look our mayors in the eye, we cannot honestly look our State legislators in the eye, and even tell them how much this unfunded mandate is going to cost them and their State or their city or their county. We cannot do that because, in truth, we have no idea.

I would ask how my colleagues would react to the following proposal from me: Suppose I proposed a bill to create new Federal subsidies for the poultry industry.

The poultry industry is big in our State and the entire Delmarva Peninsula. In fact, for every person living in Delaware, there are 300 chickens. Let's say I proposed a bill to create new Federal subsidies for the poultry industry, or any industry, for that matter. Suppose these subsidies would be provided in the form of mandatory spending outside the control of annual appropriations. Suppose CBO evaluated my proposal and indicated they could not estimate, they could not even guess how much my proposal would cost, except to say: We believe it could grow to be large. We believe it could grow to be large.

That is what CBO has said about S. 150: We believe its cost to State and local governments could grow to be large. But they are unable to say how large and how soon.

If I proposed some kind of proposal that helped our poultry industry, and CBO said, "We don't know how much this is going to cost," would my colleagues in the Senate pass that kind of a proposal? Would they even allow it to be considered on the floor of the Senate? As convincing as I might be, I do

not think they would. Yet this is exactly what we are asking our Governors to accept from us. This is why the Governors united—Republican and Democrat alike—in opposing the subsidies in the underlying bill we are debating today.

If my colleagues have not yet read CBO's analysis of this bill, I urge they do so. The Congressional Budget Office tells us this legislation is written in a way that is so broad and so vague they cannot even give us a rough estimate of what its effect will be on State and local governments, except to say: We expect it to grow to be large. They say the language in this legislation is so confusing that lawyers will ultimately have to get involved, and we will not know what the implications for State and local budgets will be until it all gets sorted out in the courts.

My friends, that is unacceptable. It is beneath us as the world's greatest deliberative body. It is an abdication of our responsibility as the body our Founders created in part to protect the interests of the respective States of our Union.

We can do better. We all agree the current moratorium on Internet access taxes should be extended. I say "the current moratorium." It is a moratorium that was in place for 5 years and expired last November. But we agree the moratorium should be restored. We disagree, though, on what should be done beyond that. But we all agree the moratorium should be extended.

If we are going to write this bill on the floor rather than negotiating a compromise everyone can live with, we ought to begin with what we can all agree on, and debate what to do beyond that. We ought to call up a bill that simply extends the old moratorium.

I want to expand that moratorium to make it technology neutral. Along with Senator ALEXANDER, I expect to offer an amendment to do that. If others want to add billions in new subsidies to the bill on top of that, then they can offer their own amendments. If we want to propose ways to pay for such subsidies, as others may propose, and to do so here at the Federal level rather than passing the bill to the States, then we should put our proposals forward. If others want to propose different inducements to industries, such as low-interest loans or allocations of spectrum, then they should bring those proposals forward as well.

That seems, to me at least, to be the fairest way to proceed. If the goal is to have a genuine debate on this issue and to let the Senate work its will, we would welcome that. On the other hand, if the intention is to proceed to a fundamentally flawed bill, and then immediately file cloture to close off debate, we have no choice but to use every procedure available to us to protect our rights and to protect the interests of our States.

My hope is we will still be able to work this one out and reach an accept-

able compromise, one that extends the moratorium and makes it neutral with respect to technology, but also one that first does no harm to State and local governments, that are struggling to cope, as I said earlier, with their worst financial crisis since World War II.

In 1995, when the Senate debated and, along with the House of Representatives, passed the unfunded mandates law, I was not working in the Senate. I had been a Member of the House of Representatives, but I left at the end of 1992. Former Governor Mike Castle and I sort of swapped jobs. He became a Congressman from Delaware, and I was privileged to become its Governor.

Starting in 1993, my first year as Governor, I began working with other Governors, including Senator VOINOVICH. What we sought to do was to work actually initially with a bunch of Republicans who were part of the so-called "Gingrich Revolution" which was able to capture the majorities in the House and Senate in 1994. One of the platforms of the "Gingrich Revolution" was the Federal Government should not tell the State and local governments what to spend their money on, and then not provide that money; nor should the Federal Government tell State and local governments what they could or could not tax without providing some offset if we cut their revenue base.

One of the first laws enacted in the year 1995, signed by then-President Clinton, is one that said: Unfunded mandates are wrong, whether they are on the spending side or on the revenue side.

In 1998, the Congress passed an unfunded mandate, not a big one but a little bitty one. The reason they did it, they said, was to make sure the Internet has an opportunity to get up on its feet and successful because we think it could mean good things for our economy. It has.

At a time when State and local governments were beginning to put taxes or fees in place on access to the Internet, the Congress and President Clinton said: State and local governments, if you are already imposing some kind of tax on access to the Internet or some fees on access to the Internet, essentially your AOL bills of consumers, if you already have one in place, you may keep it in place, but if you haven't done it, you are not going to be able to do so. So a moratorium was put in place in 1998. Most people thought it was a good idea. States went along with it. They were not crazy about the idea, but they went along with it.

After 3 years the moratorium was supposed to expire. When it was about to expire, it was extended, almost by acclamation, in 2001. The States were not crazy about the idea, but there was not a whole lot of push back. Then late last year, that 2-year extension expired.

With Senators ALEXANDER, VOINOVICH, GRAHAM of Florida, FEINSTEIN,

DORGAN, ENZI, HOLLINGS and I, and others opposing the underlying bill, I don't believe you would see that kind of opposition if some things were different.

If there had never been an unfunded mandates law in 1995, we may not feel so strongly, although the idea that the Federal Government is telling the States what to do and to pay for it, the Federal Government is taking away the revenue base of the States and not making up the difference, that still rubs me the wrong way. I find it galling. But if there were no unfunded mandates law, we would probably not be making this kind of fuss today over this issue.

If the Internet were still in its infancy, still struggling to hit its stride, not yet making the impact it does today in our economy here and around the world, we probably wouldn't be making the fuss we are today in opposition to the underlying bill.

If States today were awash in money and not facing the largest fiscal crisis they have faced in over 50 years, we probably would not be making the kind of noise we are in opposition to the underlying bill.

If telecom companies were not beginning to enjoy very decent profits as they are today—and the prospect is for more of the same—then we might not be making the kind of fuss we are in opposition to the underlying bill.

As it turns out, there is an unfunded mandate law, and even if there were not, what we are seeking to do in my judgment is morally wrong. The Internet is no longer in its infancy. It is a grown child, not just trying to walk or crawl. This grown child is running at full speed. The States are not awash in money. They are hurting. They are hurting in ways we have not seen in a long time.

It is not just the classrooms that are crowded. It is not just the prison doors being opened to let people out who frankly should still be incarcerated in many cases. It is not just the caseload burdens of folks whose job it is to work with families in trouble. All of those problems are facing State and local governments, and they do not have the revenues to cope with them in many cases.

The telecoms are doing pretty well these days. They went through a tough patch, but they seem to be coming through it.

I don't know if Senator ALEXANDER still has to go somewhere or not. Is he able to stay on the floor a bit longer?

Mr. ALEXANDER. I am going to leave within 4 or 5 minutes.

Mr. CARPER. Let me yield before the Senator leaves, if he would like to make some comments. I have a few more things I would like to say.

Mr. ALEXANDER. I have been listening to the Senator from Delaware carefully.

Mr. CARPER. You have heard some of this before.

Mr. ALEXANDER. What was going through my mind was: I don't recall a

time when I was Governor of Tennessee that I ever saw the Congress do anything like this. There were unfunded Federal mandates that we didn't like. Back in the early 1970s, before I was Governor, Congress said: We ought to help children with disabilities. We will pay for a certain percentage of it, but they never did. I hear about that all the time from local school boards and local people. But I cannot remember a time when the Congress passed a law saying: We have come up with a great idea here, and we are going to give a State tax break to somebody to pay for it. I think we would have laughed about that.

Then we would have gotten really mad about it. It is so farfetched.

We are having a very serious debate about this in the Congress. Everybody is going through the motions, making bills doing all these things. But what we are doing is, U.S. Senators are passing State laws. That is what we are doing.

If I had known that I could have run for the Senate in 2002, I could have probably been elected by a big margin in Tennessee. I could have said: When I get to Washington, I am going to pass a Federal law abolishing the State income tax, in case you ever pass it, making it illegal for Tennessee to pass a State income tax. We don't have one and people don't want one, although they may get one, if this bill passes. Or I could say, as we have said a little earlier, hybrid cars are a great invention. I think I will pass a Federal law telling Tennessee, Kentucky, and Delaware they can't tax cars. Car taxes are hated. Or obesity is a national problem. I think I will pass a Federal law saying: No sales taxes on low-carb or low-fat food.

Housing is important to all of us in the United States and in the Senate, but we don't pass a Federal law lowering local property taxes in Louisville or Nashville or Wilmington in order to encourage housing. Why don't we do that? It is because we have a Federal system. We are not Belgium. We are not France. We have Governors. We have mayors. This is America. It is a part of the American character that we like to make our decisions at home.

When I go to a Lincoln Day dinner—I don't go to the Democratic meetings—I always say something about local control. If I were to go to any Republican meeting in Tennessee and say, I especially don't like it when a Congressman gets up and passes a Federal law and takes credit for the idea and sends the bill to the Governor or the mayor, I would get a big round of applause for that because we believe that in the Republican Party in Tennessee, and most Tennesseans do as well.

I was enjoying the remarks of the Senator, and that was going through my mind. I wish I could think of some way to convey to my colleagues that we are talking out of the box here. We are not talking about Federal taxes, Federal subsidies, or Federal programs;

we are talking about State programs. That is what we are doing here. It is totally inappropriate, against the spirit of the tenth amendment and Ronald Reagan and everything else we stood for on the Republican side in the Contract with America. It is offensive to that spirit. That is why I am here today.

Mr. CARPER. Mr. President, it is ironic. The Senator talks about some of us here who would like to almost usurp the responsibilities of our State and local officials.

I always describe myself, when people ask what I do, as a "recovering Governor." Although I love being in the Senate and working with particularly the folks we are engaged with on this particular issue, we are not Governors, we are not mayors, we are not county executives, and we are not State legislators; we are Federal legislators. We have the ability, the power, through the Federal purse, through our appropriations process, to offer grants and provide tax credits. We are in a position to nurture industries, promote them. We have talked about some of them today. This is one industry that should be nurtured and strengthened. We can do that and we should do that on our dime.

I see the Senator from New Hampshire on his feet. I will make one more comment and then I will yield the floor.

Senators ALEXANDER, VOINOVICH, and I just returned from a press conference upstairs a couple minutes ago. We were asked about the proposal Senator MCCAIN has offered. I have a huge respect for him. We were colleagues in the House together, and we served in the Navy at about the same time. I believe what he submitted is a proposal made in good faith. However, I also ask my colleagues to keep this in mind. Whether you look at the underlying bill, S. 150, considering the alternative Senator ALEXANDER and I offered, also on behalf of other colleagues, and consider what Senator MCCAIN offered and other proposals that may come to the floor, there are really four areas of contention. They include, No. 1, and maybe most important, what is the definition of what is tax exempt under the moratorium? I will say that again. The first area of contention may be the most important. It is the definition of what is tax exempt under whatever moratorium is being proposed.

Other areas of contention, though I think not as important, include the duration of the moratorium. Should it be 15 months, 2 years, 3 years, or 4 years? That is an area of contention. But it is not as critical as the definition of what is tax exempt under whatever moratorium is being proposed.

The third area of contention is, what is the duration of the grandfather clauses for State and local governments which would be deprived of revenue that they currently collect?

Finally, what is the application of the moratorium to traditional taxable

voice communications, when those communications are routed over the Internet? Those are really the four areas of contention.

If you look carefully at the proposal submitted by Senator MCCAIN, the definition of what is tax exempt under his proposal looks a whole lot like that which is included in the bill authored by Senators ALLEN and WYDEN. While the duration of the moratorium is a little different, it is shorter. That, in my judgment, is not really the key factor here. Of interest, though, is the duration of the grandfather clause. I think the moratorium under the McCain proposal is 4 years, but the grandfather clause protecting State and local governments is only for 3 years. There appears to be, superficially, an effort in the McCain bill to address the issue of the application of the moratorium to traditional taxable voice communications when those forms of communications are routed over the Internet. On the one hand, the legislation appears to address, with some sensitivity, that concern. But on the other hand, it takes it back. We have to look at the entire language as it pertains to this provision.

These are not easy issues to understand. I have spent a fair amount of time on them and they are not easy for me. For those of us not on the Commerce Committee and have not had the benefit of the extensive hearings, these are not easy issues. I have tried to come up to speed on these issues, and the rest of us in this body have struggled to come up to speed. I want to make sure we use the time before us this week, and maybe next week, to provide the kind of primer that I have been privileged to have for others of our colleagues, so that at the end of the day, when we vote, we are casting an informed vote.

I yield back my time.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I ask unanimous consent to be allowed to proceed for 5 minutes and that it not be charged to anyone's time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SUNUNU. Mr. President, I wanted to speak on this topic to address a couple points that have been made. I appreciate the sincerity and the interests of those who oppose this bill. They have opposed it vigorously and aggressively. But I believe very strongly, having seen this debate unfold, that this is not a question of their support for an alternative as much as it is their opposition to any legislation that protects the Internet from taxation.

I draw that conclusion because we are debating a motion to proceed. If there was a genuine interest in bringing different alternatives to the floor and having a vote on those alternatives or amendments, we would not be in what is effectively a stonewalling scenario, delaying tactic, if you will, to

have to force a cloture vote on simply proceeding to the bill. There are a handful of people who vehemently oppose any legislation that protects the Internet from taxation. I think that is why this has taken so long to move forward.

Some people do not support the underlying legislation, and it is certainly true that it would protect the Internet from taxation. But what it would not do is create special considerations for the Internet or broadband access. The legislation specifically says we will preempt, or prohibit, any discriminatory taxes, taxes that are specifically addressed to Internet service providers or broadband providers, but those businesses are still subject to State property taxes, sales taxes, capital gains taxes, and all of the other taxes that are levied broadly and uniformly within a State.

Second, the suggestion was made that we are writing State law here, and that is simply wrong. This is an item and an interest and issue of interstate commerce. Just as the Federal Government exercises its prerogative to clarify legislation with regard to other interstate commerce activities, such as shipping, trucking, railroads, or aviation, the national and global Internet broadband communication system that has been established by entrepreneurs over the past 15 years ought to, at some level, be protected from multiple and discriminatory regulations and taxation because of its importance to interstate commerce.

We are writing Federal law here, not State law. I think it is a little bit disingenuous to suggest we are writing State law and to raise concerns about us writing State law, when in fact, when this bill is dispensed with—and I hope passed and signed into law—the very opponents of this bill who said they are worried about us writing State law will come right back to the floor of this Senate and support legislation to authorize States to collect taxes from businesses that do not reside or have facilities or domiciles in those States.

Many opponents of this bill also want the Federal Government to authorize the collection of taxation from businesses outside of their States, which is not only an intervention in States' rights or State laws, but it is effectively an authorization of taxation without representation because the residents of those States will then have to remit taxes to other States in which they do not have a voice.

We will have that debate and discussion. Some will support that process; some will oppose that process. But the very opponents of this bill who raise the concern about writing State law will come back and ask for that very power to be authorized and approved by the Congress because only Congress can give States that power.

I think there is a little bit of a mixed message here looking for an argument that might seem to be useful in stop-

ping or thwarting this bill, but it is an unfair argument and an improper argument.

Some people think that cities, counties, and States should have the right and the ability to tax the Internet. They want those cities and States to tax the Internet. I do not think that is right for consumers, it is not right for America, it is not right for investment, and it is not right for broadband access or deployment. If they want to take the floor and say, We don't support Internet taxes, we are looking out for the interest of these cities and States, I say think again because the whole reason they are raising the issue of the unfunded mandate and supporting a point of order against this bill because of the so-called unfunded mandate is precisely because of those States that are collecting the tax today.

If you support striking this bill on the unfunded mandate, then you are effectively standing up for those States, cities, towns, and counties that are taxing the Internet today. That should not be allowed to continue. It is not good for our economy, and it is certainly not the right incentive to create if we want to ensure broadband reaches throughout the country.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. SUNUNU. Mr. President, I ask unanimous consent that when the Senate resumes debate on the motion to proceed at 2:15 p.m., the debate time be allocated as follows: 20 minutes to Senator ALEXANDER, 20 minutes to Senator DORGAN, 20 minutes to Senator MCCAIN. I further ask unanimous consent that the Senate now recess until 2:15 p.m., subject to the previous order.

Mr. REID. Mr. President, reserving the right to object, what this does for Members and staff, so they fully understand, is this adds 20 minutes to the debate. That is all it does. I ask my friend modify his unanimous consent request to allow me to speak as in morning business, and following my remarks, we will go into our normal Tuesday recess.

Mr. SUNUNU. Mr. President, I have no objection to that request.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nevada.

MILITARY RECORD OF SENATOR JOHN KERRY

Mr. REID. Mr. President, I had the good fortune a week ago this past Saturday to be in Las Vegas. At that time, I spoke about the military record of Senator JOHN KERRY. In fact, I not only spoke about the military record of JOHN KERRY, but I read verbatim from the two citations for heroism he received.

The first citation for heroism he received was presented to him by Admiral Zumwalt. In that citation, it talked about what Senator KERRY did to earn the Silver Star. In effect, what he did is as follows:

Senator KERRY was the commander of a swift boat. A swift boat was a boat that would move very quickly, and they used it in the rivers of Southeast Asia. They were subject to ambushes and attacks, especially before there was something done to make sure the shoreline was free of foliage. They were attacked often.

In this instance, a rocket hit his swift boat, blew all the windows out of it, and, of course, injured people on board the boat. Senator KERRY at that time directed the swift boat to, rather than go away from the battle, go into the battle and go to shore. As soon as he got close enough to the shore to get off the boat, he got off the boat, and before the enemy had time to fire the second rocket, they were killed by Senator JOHN KERRY. This is the reason he was given his first Silver Star.

The Bronze Star was awarded when again his boat was hit from shore. One crewman was blown off the craft in the water. They were taking fire at this time. Senator KERRY, even though he was injured—his right arm was bleeding badly—directed fire toward the enemy, got the swift boat close enough to the man in the water, and he personally pulled the man out of the water.

These are, in synopsis, the two acts of heroism for which Senator KERRY was decorated. He was decorated with the Silver Star and the Bronze Star. He was, of course, also given three Purple Hearts. Purple Hearts are given when someone is injured in battle.

There is no question that what JOHN KERRY did in Southeast Asia, specifically in Vietnam, was heroic. That is why he was given these medals. I think it is outrageous for people to criticize his military service to our country.

It is obvious this administration knows America loves a war hero, and JOHN KERRY is a war hero. So what does the administration do? They do everything they can to denigrate this fine man rather than talk about policy in Iraq, tax policy, environmental policy, economic policy, and health care policy. I think it is wrong that they are doing this, and I think they should get back to talking about the issues that are important.

America knows JOHN KERRY is a war hero. No matter how many times the Vice President speaks at universities criticizing JOHN KERRY's military record, you cannot take away the facts. He was presented by the military authorities of our country two medals for heroism. They speak for themselves.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:37 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).