SEC. 1532. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Section 9001 of the Solid Waste Disposal Act (42 U.S.C. 6991) is amended as follows:

(1) By striking ''For the purposes of this subtitle—'' and inserting ''In this subtitle:''.

(2) By redesignating paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) as paragraphs (10), (7), (4), (3), (8), (5), (2), and (6), respectively.

(3) By inserting before paragraph (2) (as redesignated by paragraph (2) of this subsection) the following:

''(1) INDIAN TRIBE.—

''(A) IN GENERAL.— The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community that is recognized as being eligible for special programs and services provided by the United States to Indians because of their status as Indians.

''(B) INCLUSIONS.—The term 'Indian tribe' includes an Alaska Native village, as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and''.

(4) By inserting after paragraph (8) (as redesignated by paragraph (2) of this subsection) the following:

''(9) TRUST FUND.— The term 'Trust Fund' means the Leaking Underground Storage Tank Trust Fund established by section 9508 of the Internal Revenue Code of 1986.''.

(b) CONFORMING AMENDMENTS.—The Solid Waste Disposal Act (42 U.S.C. 6901 and following) is amended as follows:

(1) Section 9003(f) (42 U.S.C. 6991b(f)) is amended—

(A) in paragraph (1), by striking ''9001(2)(B)'' and inserting ''9001(7)(B)''; and

(B) in paragraphs (2) and (3), by striking ''9001(2)(A)'' each place it appears and inserting ''9001(7)(A)''.

(2) Section 9003(h) (42 U.S.C. 6991b(h)) is amended in paragraphs (1), (2)(C), (7)(A), and (11) by striking ''Leaking Underground Storage Tank Trust Fund'' each place it appears and inserting ''Trust Fund''.

(3) Section 9009 (42 U.S.C. 6991h) is amended—

(A) in subsection (a), by striking ''9001(2)(B)'' and inserting ''9001(7)(B)''; and

(B) in subsection (d), by striking ''section 9001(1) (A) and (B)'' and inserting ''subparagraphs (A) and (B) of section 9001(10)''.

SEC. 1533. TECHNICAL AMENDMENTS.

The Solid Waste Disposal Act is amended as follows:

(1) Section 9001(4)(A) (42 U.S.C. 6991(4)(A)) is amended by striking ''sustances'' and inserting ''substances''.

(2) Section 9003(f)(1) (42 U.S.C. 6991b(f)(1)) is amended by striking ''subsection (c) and (d) of this section'' and inserting ''subsections (c) and (d)''.

(3) Section 9004(a) (42 U.S.C. 6991c(a)) is amended by striking ''in 9001(2) (A) or (B) or both'' and inserting ''in subparagraph (A) or (B) of section 9001(7)''.

(4) Section 9005 (42 U.S.C. 6991d) is amended—

(A) in subsection (a), by striking ''study taking'' and inserting ''study, taking'';

(B) in subsection (b)(1), by striking ''relevent'' and inserting ''relevant''; and

(C) in subsection (b)(4), by striking ''Evironmental'' and inserting ''Environmental''.

TEXT OF AMENDMENTS

SA 3052. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

On page 5, line 2, strike ''2006.'' and insert ''2007.''.

On page 5, line 20, strike ''2005.'' and insert ''2007.''.

SA 3053. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . BROADBAND INTERNET ACCESS TAX CREDIT.

(a) IN GENERAL.—Subpart E of part IV of chapter 1 of the Internal Revenue Code of 1986 (relating to rules for computing investment credit) is amended by inserting after section 48 the following:

''SEC. 48A. BROADBAND INTERNET ACCESS CREDIT.

''(a) GENERAL RULE.—For purposes of section 46, the broadband credit for any taxable year is the sum of—

''(1) the current generation broadband credit, plus

''(2) the next generation broadband credit.

''(b) CURRENT GENERATION BROADBAND CREDIT; NEXT GENERATION BROADBAND CREDIT.—For purposes of this section—

''(1) CURRENT GENERATION BROADBAND CREDIT.—The current generation broadband credit for any taxable year is equal to 10 percent of the qualified expenditures incurred with respect to qualified equipment providing current generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(2) NEXT GENERATION BROADBAND CREDIT.—The next generation broadband credit for any taxable year is equal to 20 percent of the qualified expenditures incurred with respect to qualified equipment providing next generation broadband services to qualified subscribers and taken into account with respect to such taxable year.

''(c) WHEN EXPENDITURES TAKEN INTO ACCOUNT.—For purposes of this section—

''(1) IN GENERAL.—Qualified expenditures with respect to qualified equipment shall be taken into account with respect to the first taxable year in which—

''(A) current generation broadband services are provided through such equipment to qualified subscribers, or

''(B) next generation broadband services are provided through such equipment to qualified subscribers.

''(2) LIMITATION.—

''(A) IN GENERAL.—Qualified expenditures shall be taken into account under paragraph (1) only with respect to qualified equipment—

''(i) the original use of which commences with the taxpayer, and

''(ii) which is placed in service, after December 31, 2003.

''(B) SALE-LEASEBACKS.—For purposes of subparagraph (A), if property—

''(i) is originally placed in service after December 31, 2003, by any person, and

''(ii) sold and leased back by such person within 3 months after the date such property was originally placed in service, such property shall be treated as originally placed in service not earlier than the date on which such property is used under the leaseback referred to in clause (ii).

''(d) SPECIAL ALLOCATION RULES.—

''(1) CURRENT GENERATION BROADBAND SERVICES.—For purposes of determining the current generation broadband credit under subsection (a)(1) with respect to qualified equipment through which current generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of the number of potential qualified subscribers within the rural areas and the underserved areas which the equipment is capable of serving with current generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with current generation broadband services.

''(2) NEXT GENERATION BROADBAND SERVICES.—For purposes of determining the next generation broadband credit under subsection (a)(2) with respect to qualified equipment through which next generation broadband services are provided, if the qualified equipment is capable of serving both qualified subscribers and other subscribers, the qualified expenditures shall be multiplied by a fraction—

''(A) the numerator of which is the sum of—

''(i) the number of potential qualified subscribers within the rural areas and underserved areas, plus

''(ii) the number of potential qualified subscribers within the area consisting only of residential subscribers not described in clause (i),

which the equipment is capable of serving with next generation broadband services, and

''(B) the denominator of which is the total potential subscriber population of the area which the equipment is capable of serving with next generation broadband services.

''(e) DEFINITIONS.—For purposes of this section—

''(1) ANTENNA.—The term 'antenna' means any device used to transmit or receive signals through the electromagnetic spectrum, including satellite equipment.

''(2) CABLE OPERATOR.—The term 'cable operator' has the meaning given such term by section 602(5) of the Communications Act of 1934 (47 U.S.C. 522(5)).

''(3) COMMERCIAL MOBILE SERVICE CARRIER.—The term 'commercial mobile service carrier' means any person authorized to provide commercial mobile radio service as defined in section 20.3 of title 47, Code of Federal Regulations.

''(4) CURRENT GENERATION BROADBAND SERVICE.—The term 'current generation broadband service' means the transmission of signals at a rate of at least 1,000,000 bits per second to the subscriber and at least 128,000 bits per second from the subscriber.

''(5) MULTIPLEXING OR DEMULTIPLEXING.—The term 'multiplexing' means the transmission of 2 or more signals over a single channel, and the term 'demultiplexing' means the separation of 2 or more signals previously combined by compatible multiplexing equipment.

''(6) NEXT GENERATION BROADBAND SERVICE.—The term 'next generation broadband service' means the transmission of signals at a rate of at least 22,000,000 bits per second to the subscriber (or its equivalent when the data rate is measured before being compressed for transmission) and at least 5,000,000 bits per second from the subscriber (or its equivalent as so measured).

''(7) NONRESIDENTIAL SUBSCRIBER.—The term 'nonresidential subscriber' means any

person who purchases broadband services which are delivered to the permanent place of business of such person.

''(8) OPEN VIDEO SYSTEM OPERATOR.—The term 'open video system operator' means any person authorized to provide service under section 653 of the Communications Act of 1934 (47 U.S.C. 573).

''(9) OTHER WIRELESS CARRIER.—The term 'other wireless carrier' means any person (other than a telecommunications carrier, commercial mobile service carrier, cable operator, open video system operator, or satellite carrier) providing current generation broadband services or next generation broadband service to subscribers through the wireless transmission of energy through radio or light waves.

''(10) PACKET SWITCHING.—The term 'packet switching' means controlling or routing the path of a digitized transmission signal which is assembled into packets or cells.

''(11) PROVIDER.—The term 'provider' means, with respect to any qualified equipment any—

''(A) cable operator,

''(B) commercial mobile service carrier,

''(C) open video system operator,

''(D) satellite carrier,

''(E) telecommunications carrier, or

''(F) other wireless carrier,

providing current generation broadband services or next generation broadband services to subscribers through such qualified equipment.

''(12) PROVISION OF SERVICES.—A provider shall be treated as providing services to 1 or more subscribers if—

''(A) such a subscriber has been passed by the provider's equipment and can be connected to such equipment for a standard connection fee,

''(B) the provider is physically able to deliver current generation broadband services or next generation broadband services, as applicable, to such a subscriber without making more than an insignificant investment with respect to such subscriber,

''(C) the provider has made reasonable efforts to make such subscribers aware of the availability of such services,

''(D) such services have been purchased by 1 or more such subscribers, and

''(E) such services are made available to such subscribers at average prices comparable to those at which the provider makes available similar services in any areas in which the provider makes available such services.

''(13) QUALIFIED EQUIPMENT.—

''(A) IN GENERAL.—The term 'qualified equipment' means equipment which provides current generation broadband services or next generation broadband services—

''(i) at least a majority of the time during periods of maximum demand to each subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(B) ONLY CERTAIN INVESTMENT TAKEN INTO ACCOUNT.—Except as provided in subparagraph (C) or (D), equipment shall be taken into account under subparagraph (A) only to the extent it—

''(i) extends from the last point of switching to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a telecommunications carrier,

''(ii) extends from the customer side of the mobile telephone switching office to a transmission/receive antenna (including such antenna) owned or leased by a subscriber in the case of a commercial mobile service carrier,

''(iii) extends from the customer side of the headend to the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a cable operator or open video system operator, or

''(iv) extends from a transmission/receive antenna (including such antenna) which transmits and receives signals to or from multiple subscribers, to a transmission/receive antenna (including such antenna) on the outside of the unit, building, dwelling, or office owned or leased by a subscriber in the case of a satellite carrier or other wireless carrier, unless such other wireless carrier is also a telecommunications carrier.

''(C) PACKET SWITCHING EQUIPMENT.—Packet switching equipment, regardless of location, shall be taken into account under subparagraph (A) only if it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of packet switching for current generation broadband services or next generation broadband services, but only if such packet switching is the last in a series of such functions performed in the transmission of a signal to a subscriber or the first in a series of such functions performed in the transmission of a signal from a subscriber.

''(D) MULTIPLEXING AND DEMULTIPLEXING EQUIPMENT.—Multiplexing and demultiplexing equipment shall be taken into account under subparagraph (A) only to the extent it is deployed in connection with equipment described in subparagraph (B) and is uniquely designed to perform the function of multiplexing and demultiplexing packets or cells of data and making associated application adaptions, but only if such multiplexing or demultiplexing equipment is located between packet switching equipment described in subparagraph (C) and the subscriber's premises.

''(14) QUALIFIED EXPENDITURE.—

''(A) IN GENERAL.—The term 'qualified expenditure' means any amount—

''(i) chargeable to capital account with respect to the purchase and installation of qualified equipment (including any upgrades thereto) for which depreciation is allowable under section 168, and

''(ii) incurred after December 31, 2003, and before January 1, 2008.

''(B) CERTAIN SATELLITE EXPENDITURES EXCLUDED.—Such term shall not include any expenditure with respect to the launching of any satellite equipment.

''(C) LEASED EQUIPMENT.—Such term shall include so much of the purchase price paid by the lessor of equipment subject to a lease described in subsection (c)(2)(B) as is attributable to expenditures incurred by the lessee which would otherwise be described in subparagraph (A).

''(15) QUALIFIED SUBSCRIBER.—The term 'qualified subscriber' means—

''(A) with respect to the provision of current generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area, or underserved area, or

''(ii) any residential subscriber residing in a dwelling located in a rural area or underserved area which is not a saturated market, and

''(B) with respect to the provision of next generation broadband services—

''(i) any nonresidential subscriber maintaining a permanent place of business in a rural area, or underserved area, or

''(ii) any residential subscriber.

''(16) RESIDENTIAL SUBSCRIBER.—The term 'residential subscriber' means any individual who purchases broadband services which are delivered to such individual's dwelling.

''(17) RURAL AREA.—The term 'rural area' means any census tract which—

''(A) is not within 10 miles of any incorporated or census designated place containing more than 25,000 people, and

''(B) is not within a county or county equivalent which has an overall population density of more than 500 people per square mile of land.

''(18) RURAL SUBSCRIBER.—The term 'rural subscriber' means any residential subscriber residing in a dwelling located in a rural area or nonresidential subscriber maintaining a permanent place of business located in a rural area.

''(19) SATELLITE CARRIER.—The terns 'satellite carrier' means any person using the facilities of a satellite or satellite service licensed by the Federal Communications Commission and operating in the Fixed-Satellite Service under part 25 of title 47 of the Code of Federal Regulations or the Direct Broadcast Satellite Service under part 100 of title 47 of such Code to establish and operate a channel of communications for distribution of signals, and owning or leasing a capacity or service on a satellite in order to provide such distribution.

''(20) SATURATED MARKET.—The term 'saturated market' means any census tract in which; as of the date of the enactment of this section—

''(A) current generation broadband services have been provided by a, single provider to 85 percent or more of the total number of potential residential subscribers residing in dwellings located within such census tract, and

''(B) such services can be utilized—

''(i) at least a majority of the time during periods of maximum demand by each such subscriber who is utilizing such services, and

''(ii) in a manner substantially the same as such services are provided by the provider to subscribers through equipment with respect to which no credit is allowed under subsection (a)(1).

''(21) SUBSCRIBER.—The term 'subscriber' means any person who purchases current generation broadband services or next generation broadband services.

''(22) TELECOMMUNICATIONS CARRIER.—The term 'telecommunications carrier' has the meaning given such term by section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)), but—

''(A) includes all members of an affiliated group of which a telecommunications carrier is a member, and

''(B) does not include any commercial mobile service carrier.

''(23) TOTAL POTENTIAL SUBSCRIBER POPULATION.—The term 'total potential subscriber population' means, with respect to any area and based on the most recent census data, the total number of potential residential subscribers residing in dwellings located in such area and potential nonresidential subscribers maintaining permanent places of business located in such area.

''(24) UNDERSERVED AREA.—The term 'underserved area,' means any census tract which is located in—

''(A) an empowerment zone or enterprise community designated under section 1391,

''(B) the District of Columbia. Enterprise Zone established under section 1400,

''(C) a renewal community designated under section 1400E, or

''(D) a low-income community designated under section 45D.

''(25) UNDERSERVED SUBSCRIBER.— The term 'underserved subscriber' means any residential subscriber residing in a dwelling located in an underserved area or nonresidential subscriber maintaining a permanent place of business located in an underserved area.''.

(b) CREDIT TO BE PART OF INVESTMENT CREDIT.—Section 46 of the Internal Revenue Code of 1986 (relating to the amount of investment credit) is amended by striking

''and'' at the end of paragraph (2), by striking the period at the end of paragraph (3) and inserting '', and'', and by adding at the end the following:

''(4) the broadband Internet access credit.''

(c) SPECIAL RULE FOR MUTUAL OR COOPERATIVE TELEPHONE COMPANIES.—Section 501(c)(12)(B) of the Internal Revenue Code of 1986 (relating to list of exempt organizations) is amended by striking ''or'' at the end of clause (iii), by striking the period at the end of clause (iv) and inserting '', or'', and by adding at the end the following new clause:

''(v) from the sale of property subject to a lease described in section 48A(c)(2)(B), but only to the extent such income does not in any year exceed amount equal to the credit for qualified expenditures which would be determined under section 48A for such year if the mutual or cooperative telephone company was not exempt from taxation and was treated as the owner of the property subject to such lease.''.

(d) CONFORMING AMENDMENT.—The table of sections for subpart E of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by inserting after the item relating to section 48 the following:

''Sec. 48A. Broadband internet access credit.''.

(e) DESIGNATION OF CENSUS TRACTS.—

(1) IN GENERAL.—The Secretary of the Treasury shall, not later than 90 days after the date of the enactment of this Act, designate and publish those census tracts meeting the criteria described in paragraphs (17) and (24) of section 48A(e) of the Internal Revenue Code of 1986 (as added by this section). In making such designations, the Secretary of the Treasury shall consult with such other departments and agencies as the Secretary determines appropriate.

(2) SATURATED MARKET.—

(A) IN GENERAL.—For purposes of designating and publishing those census tracts meeting the criteria described in subsection (e)(20) of such section 48A—

(i) the Secretary of the Treasury shall prescribe not later than 30 days after the date of the enactment of this Act the form upon which any provider which takes the position that it meets such criteria with respect to any census tract shall submit a list of such census tracts (and any other information required by the Secretary) not later, than 60 days after the date of the publication of such form, and

(ii) the Secretary of the Treasury shall publish an aggregate list of such census tracts submitted and the applicable providers not later than 30 days after the last date such submissions are allowed under clause (i).

(B) NO SUBSEQUENT LISTS REQUIRED.—The Secretary of the Treasury shall not be required to publish any list of census tracts meeting such criteria subsequent to the list described in subparagraph (A)(ii).

(C) AUTHORITY TO DISREGARD FALSE SUBMISSIONS.—In addition to imposing any other applicable penalties, the Secretary of the Treasury shall have the discretion to disregard any form described in subparagraph (A)(i) on which a provider knowingly submitted false information.

(f) OTHER REGULATORY MATTERS.—

(1) PROHIBITION.—No Federal or State agency or, instrumentality shall adopt regulations or rate making procedures that would have the effect of confiscating any credit or portion thereof allowed under section 48A of the Internal Revenue Code of 1986 (as added by this section) or otherwise subverting the purpose of this section.

(2) TREASURY REGULATORY AUTHORITY.—It is the intent of Congress in providing the broadband Internet access credit under section 48A of the Internal Revenue Code of 1986 (as added by this section) to provide incentives for the purchase, installation, and connection of equipment and facilities offering expanded broadband access to the Internet for users in certain low income and rural areas of the United States, as well as to residential users nationwide, in a manner that maintains competitive neutrality among the various classes of providers of broadband services. Accordingly, the Secretary of the Treasury shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of section 48A of such Code, including—

(A) regulations to determine how and when a taxpayer that incurs qualified expenditures satisfies the requirements of section 48A of such Code to provide broadband services, and (B) regulations describing the information, records, and data taxpayers are required to provide the Secretary to substantiate compliance with the requirements of section 48A of such Code.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to expenditures incurred after December 31, 2003.

SA 3054. Mr. ROCKEFELLER submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

At the end add the following:

TITLE —PHONE BILL FAIRNESS ACT.

SECTION—01. SHORT TITLE.

This title may be cited as the ''Phone Bill Fairness Act''.

SEC.—02. FINDINGS; PURPOSE.

(a) FINDINGS.—Congress makes the following findings:

(1) Customer bills for telecommunications services are unreasonably complicated, and many Americans are unable to understand the nature of services provided to them and the charges for which they are responsible.

(2) One of the purposes of the Telecommunications Act of 1996 (Public Law 104–104) was to unleash competitive and market forces for telecommunications services.

(3) Unless customers can understand their telecommunications bills they cannot take advantage of the newly competitive market for telecommunications services.

(4) Confusing telecommunications bills allow a small minority of providers of telecommunications services to commit fraud more easily. The best defense against telecommunications fraud is a well informed consumer. Consumers cannot be well informed when their telecommunications bills are incomprehensible.

(5) Certain providers of telecommunications services have established new, specific charges on customer bills commonly known as ''line-item charges''.

(6) These line-item charges have proliferated and are often described with inaccurate and confusing names.

(7) These line-item charges have generated significant confusion among customers regarding the nature and scope of universal service and of the fees associated with universal service.

(8) The National Association of Regulatory Utility Commissioners adopted a resolution in February 1998 supporting action by the Federal Communications Commission to require interstate telecommunications carriers to provide accurate customer notice regarding the implementation and purpose of end-user charges for telecommunications services.

(b) PURPOSE.—It is the purpose of this Act to require the Federal Communications Commission and the Federal Trade Commission to protect and empower consumers of telecommunications services by assuring that telecommunications bills, including line-item charges, issued by telecommunications carriers nationwide are both accurate and comprehensible.

SEC.—03. INVESTIGATION OF TELECOMMUNICATIONS CARRIER BILLING PRACTICES.

(a) INVESTIGATION.—

(1) REQUIREMENT.—The Federal Communications Commission and the Federal Trade Commission shall jointly conduct an investigation of the billing practices of telecommunications carriers.

(2) PURPOSE.—The purpose of the investigation is to determine whether the bills sent by telecommunications carriers to their customers accurately assess and correctly characterize the services received and fees charged for such services, including any fees imposed as line-item charges.

(b) DETERMINATIONS.—In carrying out the investigation under subsection (a), the Federal Communications Commission and the Federal Trade Commission shall determine the following:

(1) The prevalence of incomprehensible or confusing telecommunications bills.

(2) The most frequent causes for confusion on telecommunications bills.

(3) Whether or not any best practices exist, which, if utilized as an industry standard, would reduce confusion and improve comprehension of telecommunications bills.

(4) Whether or not telecommunications bills that impose fees through line-item charges characterize correctly the nature and basis of such fees, including, in particular, whether or not such fees are required by the Federal Government or State governments.

(c) REVIEW OF RECORDS.—

(1) AUTHORITY.—For purposes of the investigation under subsection (a), the Federal Communications Commission and the Federal Trade Commission may obtain from any telecommunications carrier any record of such carrier that is relevant to the investigation, including any record supporting such carrier's basis for setting fee levels or percentages.

(2) USE.—The Federal Communications Commission and the Federal Trade Commission may use records obtained under this subsection only for purposes of the investigation.

(d) DISCIPLINARY ACTIONS.—

(1) IN GENERAL.—If the Federal Communications Commission or the Federal Trade Commission determines as a result of the investigation under subsection (a) that the bills sent by a telecommunications carrier to its customers do not accurately assess or correctly characterize any service or fee contained in such bills, the Federal Communications Commission or the Federal Trade Commission, as the case may be, may take such action against such carrier as such Commission is authorized to take under law.

(2) CHARACTERIZATION OF FEES.—If the Federal Communications Commission or the Federal Trade Commission determines as a result of the investigation under subsection (a) that a telecommunications carrier has characterized a fee on bills sent to its customers as mandated or otherwise required by the Federal Government or a State and that such characterization is incorrect, the Federal Communications Commission or the Federal Trade Commission, as the case may

be, may require the carrier to discontinue such characterization.

(3) ADDITIONAL ACTIONS.—If the Federal Communications Commission or the Federal Trade Commission determines that such Commission does not have authority under law to take actions under paragraph (1) that would be appropriate in light of a determination described in paragraph (1), the Federal Communications Commission or the Federal Trade Commission, as the case may be, shall notify Congress of the determination under this paragraph in the report under subsection (e).

(e) REPORT.—Not later than one year after the date of the enactment of this Act, the Federal Communications Commission and the Federal Trade Commissions shall jointly submit to Congress a report on the results of the investigation under subsection (a). The report shall include the determination, if any, of either Commission under subsection (d)(3) and any recommendations for further legislative action that such Commissions consider appropriate.

SEC. __04. TREATMENT OF MISLEADING TELECOMMUNICATIONS BILLS AND TELECOMMUNICATIONS RATE PLANS.

(a) FEDERAL TRADE COMMISSION.—The Federal Trade Commission shall treat any telecommunications billing practice or telecommunications rate plan that the Commission determines to be intentionally misleading as an unfair business practice under the Federal Trade Commission Act (15 U.S.C. 41 et seq.).

(b) FEDERAL COMMUNICATIONS COMMISSION.—The Federal Communications Commissions shall, upon finding that any holder of a license under the Commission has repeatedly and intentionally engaged in a telephone billing practice, or has repeatedly and intentionally utilized a telephone rate plan, that is misleading, treat such holder as acting against the public interest for purposes of the Communications Act of 1934 (47 U.S.C. 151 et seq.).

SEC. __05. REQUIREMENTS FOR ALL BILLS FOR TELECOMMUNICATIONS SERVICES.

(a) AVERAGE PER MINUTE RATE CALCULATION.—Each telecommunications carrier shall display on the first page of each customer bill for telecommunications services the average per-minute charge of telecommunications services of such customer for the billing period covered by such bill.

(b) CALLING PATTERNS.—Each telecommunications carrier shall display on the first page of each customer bill for telecommunications services the percentage of the total number of telephone calls of such customer for the billing period covered by such bill as follows:

(1) That began on a weekday.

(2) That began on a weekend.

(3) That began from 8 a.m. to 8 p.m.

(4) That began from 8:01 p.m. to 7:59 a.m.

(5) That were billed to a calling card.

(c) AVERAGE PER-MINUTE CHARGE DEFINED.—IN THIS SECTION, THE TERM ''AVERAGE PER-MINUTE CHARGE'', IN THE CASE OF A BILL OF A CUSTOMER FOR A BILLING PERIOD, MEANS

(1) the sum of—

(A) the aggregate amount of monthly or other recurring charges, if any, for telecommunications services imposed on the customer by the bill for the billing period; and

(B) the total amount of all per-minute charges for telecommunications services imposed on the customer by the bill for the billing period; divided by

(2) the total number of minutes of telecommunications services provided to the customer during the billing period and covered by the bill.

SEC. __06. REQUIREMENTS FOR TELECOMMUNICATIONS CARRIERS IMPOSING CERTAIN CHARGES FOR SERVICES.

(a) BILLING REQUIREMENTS.—Any telecommunications carrier shall include on the bills for telecommunications services sent to its customers the following:

(1) An accurate name and description of any covered charge.

(2) The recipient or class of recipients of the monies collected through each such charge.

(3) A statement whether each such charge is required by law or collected pursuant to a requirement imposed by a governmental entity under its discretionary authority.

(4) A specific explanation of any reduction in charges or fees to customers, and the class of telephone customer that such reduction, that are related to each such charge.

(b) UNIVERSAL SERVICE CONTRIBUTIONS AND RECEIPTS.—Not later than January 31 each year, each telecommunications carrier required to contribute to universal service during the previous year under section 254(d) of the Communications Act of 1934 (47 U.S.C. 254(d)) shall submit to the Federal Communications Commission a report on the following:

(1) The total contributions of the carrier to the universal service fund during the previous year.

(2) The total receipts from customers during such year designed to recover contributions to the fund.

(c) ACTION ON UNIVERSAL SERVICE CONTRIBUTIONS AND RECEIPTS DATA.—

(1) REVIEW.—The Federal Communications Commission shall review the reports submitted to the Commission under subsection (b) in order to determine whether or not the amount of the contributions of a telecommunications carrier to the universal service fund in any year is equal to the amount of the receipts of the telecommunications carrier from its customers in such year for purposes of contributions to the fund.

(2) ADDITIONAL CONTRIBUTIONS.—If the Commission determines as a result of a review under paragraph (1) that the amount of the receipts of a telecommunications carrier from its customers in a year for purposes of contributions to the universal service fund exceeded the amount contributed by the carrier in such year to the fund, the Commission shall have the authority to require the carrier to deposit in the fund an amount equal to the amount of such excess.

(d) COVERED CHARGES.—For purposes of subsection (a), a covered charge shall include any charge on a bill for telecommunications services that is separate from a per-minute rate charge, including a universal service charge, a subscriber line charge, and a resubscribed interchange carrier charge.

SEC. __07. TELECOMMUNICATIONS CARRIER DEFINED.

In this Act, the term ''telecommunications carrier'' has the meaning given that term in section 3(44) of the Communications Act of 1934 (47 U.S.C. 153(44)).

SA 3055. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

On page 5, line 2, strike ''2006.'' and insert ''2005.''.

SA 3056. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

On page 4, beginning with line 9, strike through line 20 on page 5, and insert the following:

''SEC. 1104. GRANDFATHERING OF PRE-OCTOBER 1998 TAXES.

''(a) 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—

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

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

''(b) TERMINATION.—Subsection (a) shall not apply after November 1, 2006.''.

SA 3057. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

On page 2, strike lines 1 through 6, and insert the following:

''(a) MORATORIA.—

''(1) MULTIPLE OR DISCRIMINATORY TAXES ON ELECTRONIC COMMERCE.—No State or political subdivision thereof may impose multiple or discriminatory taxes on electronic commerce.

''(2) TAXES ON INTERNET ACCESS.—No State or political subdivision thereof may impose a tax on Internet access during the period beginning November 1, 2003, and ending November 1, 2007.''.

SA 3058. Mr. ALLEN submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

On page 2, strike lines 1 through 7, and insert the following:

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

''(1) Taxes on Intenet access.

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

On page 8, between lines 9 and 10, insert the following:

SEC. 7. RESTORATION OF ORIGINAL DEFINITION OF INTERNET ACCESS AFTER 4 YEARS.

''(a) IN GENERAL.—

''(1) Paragraph (3)(D) of section 1101(d) (as redesignated by section 2(b)(1) of this Act) is amended by striking the second sentence and

inserting ''Such term does not include telecommunications services.''.

''(2) Paragraph (5) of section 1105 (as redesignated by section 3(1) of this Act) is amended by striking the second sentence and inserting ''Such term does not include telecommunications services.''.

''(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on November 2, 2007.

On page 8, line 10, strike ''**SEC. 7.**'' and insert ''**SEC. 8.**''.

On page 8, line 11, strike ''The'' and insert ''Except as provided in section 7(b), the''.

SA 3059. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

On page 5, line 2, strike ''2006'' and insert ''2007''.

SA 3060. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _. INTERNET TAX PROVIDERS MUST PAY OTHER STATE TAXES THEY ARE REQUIRED TO PAY.

Nothing in the Internet Tax Freedom Act (47 U.S.C. 151 note) may be construed to exempt an Internet access provider (within the meaning of that Act) from liability to pay any tax that is—

(1) generally applied under the authority of State law; and

(2) the legal liability of that Internet access provider.

SA 3061. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

On page 2, line 1, strike ''No State or political subdivision thereof may'' and insert ''The Federal Government and a State or political subdivision thereof may not''.

SA 3062. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that the Unfunded Mandates Reform Act of 1995 (P.L. 104–4) was passed—

(1) ''to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate Federal funding, in a manner that may displace other essential State, local, and tribal governmental priorities'';

(2) to provide ''for the development of information about the nature and size of mandates in proposed legislation'';

(3) ''to establish a point-of-order vote on the consideration in the Senate and House of Representatives of legislation containing significant Federal intergovernmental mandates without providing adequate funding to comply with such mandates'';

(4) to require that ''Federal agencies prepare and consider better estimates of the budgetary impact of regulations containing Federal mandates upon State, local, and tribal governments before adopting such regulations, and ensuring that small governments are given special consideration in that process''; and

(5) to establish the general rule that Congress shall not impose Federal mandates on State, local, and tribal governments without providing adequate funding to comply with such mandates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Unfunded Mandates Reform Act of 1995 constituted an important pledge on the part of the Federal Government, in general, and Congress, in particular, to refrain from imposing Federal mandates on State, local, and tribal governments without providing adequate resources to compensate State, local, and tribal governments for the cost of complying with such mandates;

(2) at this time when State, local, and tribal governments are struggling to cope with the worst State and local fiscal crisis since World War II, it is urgently important that Congress adhere to its commitments under the Unfunded Mandates Reform Act of 1995; and

(3) Congress should not pass laws mandating that States or localities spend new money or forgo collecting currently collected revenues, unless Congress—

(A) has clear and precise estimates of the budgetary impacts of such mandates upon States, local governments, and tribal governments; and

(B) provides adequate funding to cover the cost to States and localities of complying with such mandates.

SA 3063. Mr. CARPER submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE II—CORPORATE SUBSIDY REFORM

SEC. 201. SHORT TITLE.

This title may be cited as the ''Corporate Subsidy Reform Commission Act of 2004''.

SEC. 202. FINDINGS.

The Congress finds that—

(1) Federal subsidies, including tax advantages, which may have been enacted with a valid purpose for specific industries or industry segments can—

(A) fall subject to abuse, causing unanticipated and unjustified windfalls to some industries and industry segments; or

(B) become obsolete, anticompetitive, or no longer in the public interest, making such subsidies unnecessary or undesired;

(2) it is unfair to force the United States taxpayer to support unnecessary subsidies, including tax advantages, that do not provide a substantial public benefit or serve the public interest;

(3) the Congress has been unable to evaluate methodically those Federal subsidies that are unfair and unnecessary and require reform or elimination; and

(4) a Commission to advise the Congress is essential to a comprehensive review of such unfair corporate subsidies and to the reform or elimination of such subsidies.

SEC. 203. PURPOSE.

The purpose of this title is to establish a fair and deliberative process that will result in the timely identification, review, and reform or elimination of unnecessary and inequitable subsidies, including tax advantages, provided by the Federal Government to entities or industries engaged in profit-making enterprises.

SEC. 204. DEFINITION.

For purposes of this title, the term ''inequitable Federal subsidy''—

(1) except as provided in paragraph (2), means a payment, benefit, service, or tax advantage that—

(A) is provided by the Federal Government to any corporation, partnership, joint venture, association, or business trust other than—

(i) a nonprofit organization described under section 501(c)(3) of the Internal Revenue Code of 1986 that is exempt from taxation under section 501(a) of the Internal Revenue Code of 1986; or

(ii) a State or local government or Indian Tribe; and

(B) provides an unfair competitive advantage or financial windfall; and

(2) does not include a payment, benefit, service, or tax advantage that is awarded for the purposes of research and development in the broad public interest on the basis of a peer reviewed or other open, competitive, merit-based procedure.

SEC. 205. THE COMMISSION.

(a) ESTABLISHMENT.—There is established an independent commission to be known as the ''Corporate Subsidy Reform Commission'' (hereafter in this title referred to as the ''Commission'').

(b) DUTIES.—The Commission shall—

(1) examine the programs and laws of the Federal Government and identify such programs and laws that provide inequitable Federal subsidies;

(2) review inequitable Federal subsidies; and

(3) submit the report required under section 206(c) to the Congress, making recommendations regarding the termination, modification, or retention of inequitable Federal subsidies.

(c) LIMITATIONS.—

(1) CREATION OF NEW PROGRAMS OR TAXES.—This title is not intended to result in the creation of new programs or taxes. The Commission established in this section shall limit its activities to reviewing existing programs or laws with the goal of ensuring fairness and equity in the operation and application thereof.

(2) ELIMINATION OF AGENCIES AND DEPARTMENTS.—The Commission—

(A) shall limit its recommendations to the termination or reform of payments, benefits, services, or tax advantages; and

(B) shall not recommend the termination of any Federal agency or department.

(d) ADVISORY COMMITTEE.—The Commission shall be considered an advisory committee within the meaning of that term in the Federal Advisory Committee Act (5 U.S.C. App.).

(e) APPOINTMENT.—

(1) MEMBERS.—The members of the Commission—

(A) shall be appointed for the life of the Commission; and

(B) shall be composed of 8 members, of whom—

(i) 2 shall be appointed by the Speaker of the House of Representatives;

(ii) 2 shall be appointed by the minority leader of the House of Representatives;

(iii) 2 shall be appointed by the majority leader of the Senate, one of whom shall be designated by the majority leader to serve as a co-chair; and

(iv) 2 shall be appointed by the minority leader of the Senate, one of whom shall be designated by the minority leader to serve as a co-chair.

(2) CONSULTATION REQUIRED.—The Speaker of the House of Representatives, the minority leader of the House of Representatives, the majority leader of the Senate, and the minority leader of the Senate shall consult among themselves prior to the appointment of the members of the Commission in order to achieve, to the maximum extent possible, fair and equitable representation of various points of view with respect to the matters to be studied by the Commission under subsection (b).

(3) BACKGROUND.—The members shall represent a broad array of expertise covering, to the extent practical, all subject matter, programs, and laws the Commission is likely to review.

(f) MEETINGS.—

(1) INITIAL MEETING.—No later than April 1, 2004, the Commission shall conduct its first meeting.

(2) OPEN MEETINGS.—Each meeting of the Commission shall be open to the public, except that in cases in which classified information, trade secrets, or personnel matters are discussed, the co-chairs may close the meeting. All proceedings, information, and deliberations of the Commission shall be available, upon request, to the Chairman and ranking minority member of the relevant Committee of the Congress having jurisdiction to report legislation regarding the subject matter thereof.

(g) VACANCIES.—A vacancy on the Commission shall be filled in the same manner as the original appointment.

(h) PAY AND TRAVEL EXPENSES.—

(1) PAY.—Notwithstanding section 7 of the Federal Advisory Committee Act (5 App. U.S.C.), each member of the Commission, other than the co-chairs, shall be paid at a rate equal to the daily equivalent of the minimum annual rate of basic pay for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which the member is engaged in the actual performance of duties vested in the Commission.

(2) CHAIRMEN.—Notwithstanding section 7 of the Federal Advisory Committee Act (5 App. U.S.C.), the co-chairs shall be paid for each day referred to in paragraph (1) at a rate equal to the daily payment of the minimum annual rate of basic pay payable for level III of the Executive Schedule under section 5314 of title 5, United States Code.

(3) TRAVEL EXPENSES.—Members of the Commission shall receive travel expenses, including per diem in lieu of subsistence, in accordance with section 5702 and 5703 of title 5, United States Code.

(i) DIRECTOR OF STAFF.—

(1) QUALIFICATIONS.—The co-chairs shall appoint as Director an individual who has not, during the 12 months preceding the date of such appointment, served in any of the entities or industries that the Commission intends to review.

(2) PAY.—Notwithstanding section 7 of the Federal Advisory Committee Act (5 App. U.S.C.), the Director shall be paid at the rate of basic pay payable for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(3) REPORTS.—The Director shall submit periodic reports on administrative and personnel matters to the co-chairs of the Commission and the Chairman and ranking minority member of the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(j) STAFF.—

(1) ADDITIONAL PERSONNEL.—Subject to paragraphs (2) and (4), the Director, with the approval of the Commission, may appoint and fix the pay of additional personnel.

(2) APPOINTMENTS.—The Director may make such appointments without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and any personnel so appointed may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates.

(3) LEGAL STAFF.—The Director shall appoint under paragraph (2) such professional legal staff as are necessary for the performance of the functions of the Commission.

(4) DETAILEES.—Upon the request of the Director, the head of any Federal department or agency may detail any of the personnel of that department or agency to the Commission to assist the Commission in accordance with an agreement entered into with the Commission.

(5) RESTRICTIONS ON PERSONNEL AND DETAILEES.—The following restrictions shall apply to personnel and detailees of the Commission:

(A) PERSONNEL.—No more than one-third of the personnel detailed to the Commission may be on detail from Federal agencies that deal directly or indirectly with the Federal subsidies the Commission intends to review.

(B) ANALYSTS.—No more than one-fifth of the professional analysts of the Commission may be persons detailed from a Federal agency that deals directly or indirectly with the Federal subsidies the Commission intends to review.

(C) LEAD ANALYST.—No person detailed from a Federal agency to the Commission may be assigned as the lead professional analyst with respect to an entity or industry the Commission intends to review if the person has been involved in regulatory or policy-making decisions affecting any such entity or industry in the 12 months preceding such assignment.

(D) DETAILEE.—A person may not be detailed from a Federal agency to the Commission if, within 12 months before the detail is to begin, that person participated personally and substantially in any matter within that particular agency concerning the preparation of recommendations under this title.

(E) FEDERAL OFFICER OR EMPLOYEE.—No officer or employee of a Federal agency may—

(i) prepare any report concerning the effectiveness, fitness, or efficiency of the performance on the staff of the Commission of any person detailed from a Federal agency to that staff;

(ii) review the preparation of such report; or

(iii) approve or disapprove such a report.

(F) LIMITATION ON STAFF SIZE.—(i) Subject to clause (ii), there may not be more than 25 persons (including any detailees) on the staff at any time.

(ii) The Commission may increase the member of its personnel in excess of the limitation under clause (i), 15 days after submitting notification of such increase to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives.

(G) LIMITATION ON FEDERAL OFFICER.—No member of a Federal agency and no employee of a Federal agency may serve as a member of the Commission or as a paid member of its staff.

(6) ASSISTANCE.—

(A) IN GENERAL.—The Comptroller General of the United States may provide assistance, including the detailing of employees, to the Commission in accordance with an agreement entered into with the Commission.

(B) CONSULTATION.—The Commission and the Comptroller General of the United States shall consult with the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives on the agreement referred to under subparagraph (A) before entering into such agreement.

(k) OTHER AUTHORITY.—

(1) EXPERTS AND CONSULTANTS.—The Commission may procure by contract, to the extent funds are available, the temporary or intermittent services of experts or consultants pursuant to section 3109 of title 5, United States Code.

(2) LEASING.—The Commission may lease space and acquire personal property to the extent that funds are available.

(l) FUNDING.—There is authorized to be appropriated to the Commission $4,000,000 to carry out its duties under this title.

(m) TERMINATION.—The Commission shall terminate on January 1, 2006.

SEC. 206. PROCEDURE FOR MAKING RECOMMENDATIONS TO TERMINATE CORPORATE SUBSIDIES.

(a) AGENCY PLAN.—

(1) IN GENERAL.—The head of each Federal department or agency shall include in the documents submitted in support of the budget of the agency for fiscal year 2005 a list identifying all programs and laws administered by that department or agency that the head of the department or agency determines provide inequitable Federal subsidies.

(2) CONTENTS.—Such list shall include—

(A) a detailed description of each program or law in question;

(B) a statement identifying and detailing the extent to which each payment, benefit, service, or tax advantage under such program or law is an inequitable Federal subsidy;

(C) a statement summarizing the legislative history and purpose of such payment, benefit, service, or tax advantage, and the laws or policies directly or indirectly giving rise to the need for such programs or law; and

(D) a recommendation to the Commission regarding the termination, modification, or retention of each inequitable Federal subsidy identified in the list.

(b) REVIEW BY THE COMMISSION.—

(1) IN GENERAL.—At any time after the submission of the budget documents to the Congress, the Commission shall conduct public hearings on the termination, modification, or retention of inequitable Federal subsidies, including the recommendations included in the lists required under subsection (a).

(2) TESTIMONY UNDER OATH.—All testimony before the Commission at a public hearing conducted under this paragraph shall be presented under oath.

(c) REPORT AND RECOMMENDATIONS OF COMMISSION.—

(1) REPORT TO CONGRESS.—

(A) REQUIREMENT.—No later than March 31, 2005, the Commission shall submit a report to the Congress containing the Commission's findings and recommendations for termination, modification, or retention of each of the inequitable Federal subsidies reviewed by the Commission.

(B) CONTENTS.—Such findings and recommendations shall specify—

(i) all actions, circumstances, and considerations relating to or bearing upon the recommendations; and

(ii) to the maximum extent practicable, the estimated effect of the recommendations upon the policies, laws, and programs directly or indirectly affected by the recommendations.

(C) SUPERMAJORITY REQUIREMENT.—The Commission may not include a recommendation in the report unless inclusion of the recommendation is approved by at least 6 members of the Commission.

(2) INFORMATION AND JUSTIFICATIONS.—The Commission shall include in its report information specifying—

(A) the reasons and justifications for the recommendations of the Commission;

(B) to the maximum extent practicable, the estimated fiscal, economic, and budgetary impact of accepting its recommendations;

(C) the amount of the projected savings resulting from each of its recommendations;

(D) all actions, circumstances, and considerations relating to or bearing upon the recommendations and to the maximum extent practicable, the estimated effect of the recommendations upon the policies, laws and programs directly or indirectly affected by the recommendations; and

(E) the specific changes in Federal statutes necessary to implement the recommendations, including citation of the relevant provisions of existing law.

(3) SUBMISSION TO CONGRESS.—The report submitted to the Congress under this subsection shall be submitted to the Senate and the House of Representatives on the same day, and shall be delivered to the Secretary of the Senate if the Senate is not in session, and to the Clerk of the House of the Representatives if the House is not in session.

(4) FEDERAL REGISTER.—The report submitted under this subsection shall be printed in the first issue of the Federal Register after such submission.

(5) CHANGES IN AGENCY OR DEPARTMENT RECOMMENDATIONS.—

(A) IN GENERAL.—Subject to the deadline in paragraph (1) and to subparagraphs (B) and (C) of this paragraph, in making its recommendations, the Commission may make changes in any of the recommendations made by a department or agency if the Commission determines that such department or agency, in treating any matter as an inequitable Federal subsidy, deviated substantially from the provisions of section 204.

(B) LIMITATION.—The Commission may make a change in the recommendations made by a department or agency, only if the Commission—

(i) makes the determination required under subparagraph (B); and

(ii) conducts a public hearing on the Commission's proposed changes.

(C) APPLICATION OF LIMITATION.—Subparagraph (B) shall apply only to a change by the Commission in a department or agency recommendation that would—

(i) add or delete a payment, benefit, service, or tax advantage to or from, respectively, the list recommended for termination;

(ii) add or delete a payment, benefit, service, or tax advantage to or from, respectively, the list recommended for modification; or

(iii) increase or decrease the extent of a recommendation to modify a payment, benefit, service, or tax advantage included in a department's or agency's recommendation.

(D) JUSTIFICATION.—The Commission shall explain and justify in the report submitted to the Congress under this subsection any recommendation made by the Commission that is different from a recommendation made by an agency under subsection (a).

(6) PROVISION OF INFORMATION TO MEMBERS OF CONGRESS.—After March 31, 2005, the Commission shall, upon request, promptly provide to any Member of Congress the information used by the Commission in making its recommendations.

(7) COMPTROLLER GENERAL.—The Comptroller General of the United States shall—

(A) assist the Commission, to the extent requested, in the Commission's review and analysis of the lists, statements, and recommendations made by departments and agencies under subsection (a); and

(B) no later than 60 days after April 1, 2004, or the public release of the President's budget documents in 2004, whichever is earlier, submit to the Congress and to the Commission a report containing a detailed analysis of the list, statements, and recommendations of each department or agency.

SEC. 207. CONGRESSIONAL ACTION ON COMMISSION RECOMMENDATIONS.

It is the sense of the Congress that, following submission of the report of the Corporate Subsidy Reform Commission under section 206, the House of Representatives and the Senate should promptly consider legislation that would enact changes in Federal statutes necessary to implement the recommendations of the Commission.

SA 3064. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. . 4–YEAR GRANDFATHER FOR EXISTING TAXES.

(a) IN GENERAL.—Notwithstanding any provision of the Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by this Act, to the contrary section 1101(a) of that Act does not apply to—

(1) 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; or

(2) 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.

(b) TERMINATION.—This section shall not apply after November l, 2007.

SA 3065. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her 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; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

SEC. . GRANDFATHER FOR EXISTING TAXES.

(a) IN GENERAL.—Notwithstanding any provision of the Internet Tax Freedom Act (47 U.S.C. 151 note), as amended by this Act, to the contrary section 1101(a) of that Act does not apply to—

(1) 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; or

(2) 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.

SA 3066. Mr. DORGAN submitted an amendment intended to be proposed by him 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . RESTORATION OF EXISTING DEFINITION OF INTERNET ACCESS.

(a) IN GENERAL.—

(1) Paragraph (3)(D) of section 1101(d) (as redesignated by section 2(b)(1) of this Act) is amended by striking the second sentence and inserting ''Such term does not include telecommunications services.''.

(2) Paragraph (5) of section 1105 (as redesignated by section 3(1) of this Act) is amended by striking the second sentence and inserting ''Such term does not include telecommunications services.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on November 3, 2003.

SEC. . LIMITATION ON TAXATION OF TELECOMMUNICATIONS SERVICES RELATED TO ADVANCED TELECOMMUNICATIONS CAPABILITY.

Notwithstanding any provision of the Internet Tax Freedom Act (47 U.S.C. 151 note) to the contrary, no State or political subdivision thereof may impose a tax on the retail provision of advanced telecommunications capability (as defined in section 706(c)(1) of the Telecommunications Act of 1996 (47 U.S.C. 157 note)) to consumers during the period specified in section 1101(a) of that Act.

SEC. . VOIP AND BROADBAND TELEPHONY EXCLUSION.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) shall not apply to the imposition or collection of any tax, fee, or charge on a service advertised or offered to consumers for the provision of realtime voice telecommunications regardless of whether such service employs circuit-switched technology, packet switched technology, or any successor technology or transmission protocol.

SEC. . GRANDFATHERING OF EXISTING TAXES.

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

"SEC. 1104. EXCEPTIONS FOR CERTAIN TAXES.

''(a) PRE-OCTOBER, 1998, TAXES.—Section 1101(a) does not apply to a tax on Internet access (as that term was defined in section 1104(5) of this Act as that section was in effect on the day before the date of enactment of the Internet Tax Ban Extension and Improvement Act) that was generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

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

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

''(b) TAXES ON TELECOMMUNICATIONS SERVICES.—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 either—

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

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

(b) EFFECTIVE DATE.—The amendment made by subsection (a) takes effect on November 3, 2003.

SA 3067. Mr. DORGAN submitted an amendment intended to be proposed by him 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . RESTORATION OF EXISTING DEFINITION OF INTERNET ACCESS.

(a) IN GENERAL.—

(1) Paragraph (3)(D) of section 1101(d) (as redesignated by section 2(b)(1) of this Act) is amended by striking the second sentence and inserting ''Such term does not include telecommunications services.''.

(2) Paragraph (5) of section 1105 (as redesignated by section 3(l) of this Act) is amended by striking the second sentence and inserting ''Such term does not include telecommunications services.''.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on November 3, 2003.

SEC. . LIMITATION ON TAXATION OF TELECOMMUNICATIONS SERVICES RELATED TO ADVANCED TELECOMMUNICATIONS CAPABILITY.

Notwithstanding any provision of the Internet Tax Freedom Act (47 U.S.C. 151 note) to the contrary, no State or political subdivision thereof may impose a tax on the retail provision of advanced telecommunications capability (as defined in section 706(c)(1) of the Telecommunications Act of 1996 (47 U.S.C. 157 note)) to consumers during the period specified in section 1101 (a) of that Act.

SEC. . VOIP AND BROADBAND TELEPHONY EXCLUSION.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) shall not apply to the imposition or collection of any tax, fee, or charge on a service advertised or offered to consumers for the provision of realtime voice telecommunications regardless of whether such service employs circuit-switched technology, packet switched technology, or any successor technology or transmission protocol.

SA 3068. Mr. ALEXANDER submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . REIMBURSEMENT OF STATE AND LOCAL GOVERNMENTS FOR REVENUES FORGONE DUE TO INTERNET TAX FREEDOM ACT.

(a) APPLICATION.—Upon a proper accounting and showing, at such time, in such form, and containing such information as the Secretary of the Treasury shall require, each State, local government, or other taxing authority shall request reimbursement from the Treasury of the United States for tax revenues forgone by that State, local government, or other taxing authority because of section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151). Any such request shall be made by written application, signed under penalty of perjury, by the chief executive officer of the State, local government, or other taxing authority requesting reimbursement.

(b) CERTAIN TAXES INELIGIBLE FOR REIMBURSEMENT.—Subsection (a) shall not apply to revenues lost from—

(1) any tax imposed only on Internet access; or

(2) any rate of tax imposed on Internet access that exceeds the rate at which that tax is imposed on other taxable activities to which the tax applies.

(c) NO INTEREST OR PENALTIES.—No payment may be made under this section for any amount attributable to interest or penalties.

(d) AUTHORITY TO PAY.—The Secretary of the Treasury shall pay, upon application, such amounts as the Secretary determines to be requested in accordance with subsection (a) and supported by such documentation as the Secretary may require, to any State, local government, or other taxing authority that requests reimbursement under subsection (a).

(e) FUNDING.—Notwithstanding any other provision of law to the contrary, amounts received in the general fund of the Treasury attributable to taxes imposed and collected under subchapter B of chapter 33 of the Internal Revenue Code of 1986 shall be available, without further appropriation, to make payments under this section.

SA 3069. Mr. ALEXANDER submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . $25 PER MONTH CAP.

Notwithstanding any provision of the Internet Tax Freedom Act (47 U.S.C. 151 note) to the contrary, the prohibition on the imposition of tax on Internet access provided by section 1101(a) of that Act shall apply only with respect to the first $25 of charges per month per subscriber for Internet access.

SA 3070. Mr. ALEXANDER submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet Tax Ban Extension and Improvement Act''.

SEC. 2. 2–YEAR EXTENSION OF MORATORIUM.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 nt) is amended—

(1) by striking ''2003—'' and inserting ''2005:'';

(2) by striking paragraph (1) and inserting the following:

''(1) Taxes on Internet access.''; and

(3) by striking ''multiple'' in paragraph (2) and inserting ''Multiple''.

SEC. 3. EXCEPTIONS FOR CERTAIN TAXES.

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. EXCEPTIONS FOR CERTAIN TAXES.

''(a) PRE-OCTOBER, 1998, TAXES.—Section 1101(a) does not apply to a tax on Internet access (as that term was defined in section 1104(5) of this Act as that section was in effect on the day before the date of enactment of the Internet Tax Ban Extension and Improvement Act) that was generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

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

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

''(b) TAXES ON TELECOMMUNICATIONS SERVICES.—Section 1101(a) does not apply to a tag 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 either—

''(1) a provider of Internet access services had a reasonable opportunity to know by virtue of a rule or other public proclamation

made by the appropriate administrative agency of the State or political subdivision thereof, that such agency has interpreted and applied such tax to Internet access services; or

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

SEC. 4. CHANGE IN DEFINITIONS. OF INTERNET ACCESS SERVICE.

(a) IN GENERAL. Paragraph (3)(D) of section 1101(e) 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 an Internet access provider to connect a purchaser of Internet access to the Internet access provider.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2)(B)(1) of section 1105 of that Act, as redesignated by subsection (a), is amended by striking ''except with respect to a tax (on Inter net access) that was generally imposed and actually enforced prior to October 1, 1998,''.

(2) INTERNET ACCESS.—Paragraph (5) of section 1105 of that Act, as redesignated by subsection (a), 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 an Internet access provider to connect a purchaser of Internet access to the Internet access provider.''.

(3) Paragraph (10) of section 1105 of that Act, as redesignated by subsection (a), 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.''.

SEC. 5. 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 an Internet access provider to connect a purchaser of Internet access to the Internet access provider.''.

SEC. 6. EFFECT ON OTHER LAWS.

The Internet Tax Freedom Act (47 U.S.C. 151 note), 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. 7. EFFECTIVE DATE.

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

SA 3071. Mr. ALEXANDER submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. TWO-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, 2005:

''(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)(1) 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.—Paxagraph (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 an Internet access provider to connect a purchaser of Internet access to the Internet access provider.''.

(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 an Internet access provider to connect a purchaser of Internet access to the Internet access provider.''.

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 (as that term was defined in section 1104(5) of this Act as that section was in effect on the day before the date of enactment of the Internet Tax Nondiscrimination Act) 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, 2006.

''(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 an Internet access provider to connect a purchaser of Internet access to the Internet access provider.''.

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. TAXATION OF TELEPHONE SERVICE.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) shall not apply to the imposition or collection of any tax, fee, or charge on a service advertised or offered to consumers for the provision of realtime voice telecommunications regardless of whether such service employs circuit-switched technology, packet switched technology, or any successor technology or transmission protocol.

SEC. 7. EFFECTIVE DATE.

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

SA 3072. Mr. ALEXANDER submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. TWO-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, 2005:

''(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 an Internet access provider to connect a purchaser of Internet access to the Internet access provider.''.

(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 an Internet access provider to connect a purchaser of Internet access to the Internet access provider.''.

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 (as that term was defined in section 1104(5) of this Act as that section was in effect on the day before the date of enactment of the Internet Tax Nondiscrimination Act) 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, 2006.

''(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 an Internet access provider to connect a purchaser of Internet access to the Internet access provider.''.

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. TAXATION OF TELEPHONE SERVICE.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) shall not apply to the imposition or collection of any tax, fee, or charge on a service advertised or offered to consumers for the provision of realtime voice telecommunications regardless of whether such service employs circuit-switched technology, packet switched technology, or any successor technology or transmission protocol.

SEC. 7. EFFECTIVE DATE.

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

SA 3073. Mr. ALEXANDER submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Internet Tax Ban Extension and Improvement Act''.

SEC. 2. 2–YEAR EXTENSION OF MORATORIUM.

Section 1101 (a) of the Internet Tax Freedom Act (47 U.S.C. 151 nt) is amended—

(1) by striking ''2003—'' and inserting ''2005:'';

(2) by striking paragraph (1) and inserting the following:

''(1) Taxes on Internet access.''; and

(3) by striking ''multiple'' in paragraph (2) and inserting ''Multiple''.

SEC. 3. EXCEPTIONS FOR CERTAIN TAXES.

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. EXCEPTIONS FOR CERTAIN TAXES.

''(a) PRE-OCTOBER, 1998, TAXES.—Section 1101(a) does not apply to a tax on Internet access (as that term was defined in section 1104(5) of this Act as that section was in effect on the day before the date of enactment of the Internet Tax Ban Extension and Improvement Act) that generally imposed and actually enforced prior to October 1, 1998, if, before that date, the tax was authorized by statute and either—

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

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

''(b) TAXES ON TELECOMMUNICATIONS SERVICES.—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 either—

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

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

SEC. 4. CHANGE IN DEFINITIONS OF INTERNET ACCESS SERVICE.

(a) IN GENERAL.—Paragraph (3)(D) of section 1101(e) 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 an Internet access provider to connect a purchaser of Internet access to the Internet access provider.''.

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2)(B)(i) of section 1105 of that Act, as redesignated by subsection (a), 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,''.

(2) INTERNET ACCESS.—Paragraph (5) of section 1105 of that Act, as redesignated by subsection (a), 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 an Internet access provider to connect a purchaser of Internet access to the Internet access provider.''.

(3) Paragraph (10) of section 1105 of that Act, as redesignated by subsection (a), 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.''.

SEC. 5. 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 SERVICE.—The term 'charges for telecommunications services' means all charges for telecommunications services except to the extent such services are purchased, used, or sold by an Internet access provider to connect a purchaser of Internet access to the Internet access provider.''.

SEC. 6. 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. 7. EFFECTIVE DATE.

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

SEC. VOIP AND BROADBAND TELEPHONY EXCLUSION.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) shall not apply to the imposition or collection of any tax, fee, or charge on a service advertised or offered to consumers for the provision of realtime voice telecommunications regardless of whether such service employs circuit-switched technology, packet switched technology, or any successor technology or transmission protocol.

SA 3074. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

Whereas the United States, its people and its armed forces, are committed to winning the war on terrorism;

Whereas winning this global war will require a sustained sacrifice from our troops, an expensive commitment of U.S. resources, and effective and credible intelligence community, and considerable cooperation of the international community;

Whereas winning this global war will also require that our leaders correctly prioritize the national security threats facing this nation, develop a plan for defeating those threats, and urgently implement the measures required to defeat those threats;

Whereas senior Bush Administration officials have acknowledged that terrorism was not their top priority prior to September 11, 2001, their strategy to counter this threat took eight months to develop, and this strategy was not implemented until after September 11, 2001.

Whereas Richard Clarke, President Bush's former senior counter-terrorism advisor, has testified under oath that the Bush Administration did not consider terrorism the top priority and reports indicate that terrorism was discussed at only two of the 100 meetings of the Bush Administration's National Security Council prior to September 11, 2001;

Whereas Richard Clarke also testified that he provided Bush Administration officials a memo on January 25, 2001 outlining a counter-terrorism strategy and in September, 2001 the Administration approved a counter-terrorism strategy that, according to Clarke, was virtually identical to the strategy outlined in his January memo;

Whereas the terrorist attacks of September 11, 2001, were the deadliest ever directed against the United States and there have been more terrorist attacks by al-Qaeda and related groups in the 30 months since September 11, 2001 than there were in the 30 months before September 11;

Whereas the Administration's policies have generated growing hostility and resentment of the United States throughout the Middle East and the world and majorities in key Muslim countries have a more favorable opinion of Osama Bin Laden than they do the United States;

Whereas the assessment by David Kay, the Administration's chief weapons inspector, that there are no weapons of mass destruction in Iraq has eroded the confidence of the American people and the world in the assessment of our intelligence community and our policymakers;

Whereas the bipartisan, bicameral joint congressional inquiry into the intelligence

community's activities before and after September 11, 2001, discovered many strengths and weaknesses within the community pertaining to counter-terrorism;

Whereas many of the joint inquiry's testimony and documents remain classified and inaccessible, including June 11, 2002 testimony by Richard Clarke and a twenty-eight page section that addresses the involvement of a foreign government in supporting several of the hijackers who carried out the September 11 attacks;

Whereas Richard Clarke and the Majority and Minority Leaders of the United States Senate have requested that Clarke's June 11, 2002, testimony before the Joint Inquiry be declassified; and

Whereas an Administration decision to selectively declassify parts of documents or of individual documents will not present to our troops and the American people the complete information they need and deserve;

Now, therefore, be it

Resolved, that it is the sense of the Senate that—

(1) the June 11, 2002 testimony of Richard Clarke before the joint inquiry should immediately be declassified and publicly released in its entirety;

(2) the twenty-eight pages of the joint inquiry report discussing foreign government involvement in the September 11 terrorist plot should be immediately declassified and publicly released in their entirety, as well as any other joint inquiry documents and testimony whose classification can no longer be justified;

(3) the January 25, 2001 memorandum prepared by Richard Clarke outlining a plan of action against the al-Qaeda terrorist organization and the Bush Administration's September 4, 2001 National Security Directive addressing terrorism should be immediately declassified and publicly released in their entirety; and

(4) the Bush Administration should immediately prepare and publicly release a list of the dates and topics of all National Security Council meetings that took place before September 11, 2001.

SA 3075. Mr. HOLLINGS submitted an amendment intended to be proposed by him 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; which was ordered to lie on the table; as follows:

At the appropriate place add the following:

TITLE —BROADBAND DEPLOYMENT

SEC.—01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the ''Broadband Telecommunications Deployment Act of 2004.''.

(b) TABLE OF CONTENTS.—

The table of contents for this title is as follows:

Sec. —01. Short title; table of contents.
Sec. —02. Findings.
Subtitle A—Trust Fund for Broadband Loans and Grants
Sec. —101. Broadband deployment trust fund.
Subtitle B—Access to Broadband Telecommunications Services in Rural Areas
Sec. — 201. Loan program.
Sec. — 202. Grants for planning and feasibility studies on broadband deployment.
Sec. — 203. Pilot program for wireless or satellite broadband trials in rural areas.
Sec. — 204. Rural and underserved community broadband technology initiative.
Sec. — 205. Report on universal service and competition.
Sec. — 206. Block grants to States for broadband deployment.
Sec. — 207. GAO to study broadband deployment in other countries.
Sec. — 208. Assessment of homeland security and public safety needs in rural and underserved areas.
Subtitle C—Research on Technical and Financial Requirements for Faster Broadband Services
Sec. — 301. Research enhancement of broadband telecommunications services.
Sec. — 302. Grants to colleges and universities to research faster broadband technology.
Subtitle D—Stimulating Demand for Broadband Services
Sec. — 401. Grants to colleges and universities for research.
Sec. — 402. Grants to libraries to digitize collections.
Sec. — 403. Grants to museums to digitize collections.
Sec. — 404. Grants for DTV conversion and programming.

SEC. —02. FINDINGS.

The Congress finds the following:

(1) Broadband service could revolutionize the way Americans live. Therefore, it is important that Congress examine the issues surrounding the availability and subscription to broadband service.

(2) The Federal Communications Commission recently concluded that advanced telecommunications capability is being deployed in a reasonable and timely manner and that although investment trends in general have slowed recently, investment in infrastructure for advanced telecommunications remains strong.

(3) Approximately 89 percent of Americans have access to broadband service provided by either the cable or telephone companies.

(4) Some communities, such as those in rural and urban areas do not have access to broadband service.

(5) According to numerous reports approximately 21 percent of consumers subscribe to broadband service, leading many to believe that the low adoption of broadband by consumers is not due to low availability, but instead to a lack of demand by consumers.

(6) Cable and telephone companies generally provide broadband service with speeds of up to 1.5 megabits per second to residential consumers. How ever, many in the technology industry state that higher speeds are needed to provide telemedicine, video conferencing, movie and music over the internet and other internet applications.

(7) The Federal Communications Commission's policies for promoting broadband deployment must not undermine competition or universal service.

(8) Congress must explore ways to ensure that broadband service is available to all Americans and that no one is left behind. This includes exploring ways to increase deployment in unserved and underserved areas, address consumer demand factors, facilitate innovation that results in higher service speeds, and promote consumer confidence when using the Internet.

Subtitle A—Trust Fund for Broadband Loans and Grants

SEC. —101. BROADBAND DEPLOYMENT TRUST FUND.

(a) IN GENERAL.—The National Telecommunications and Information Administration Organization Act is amended—

(1) by redesignating part C as part D; and

(2) by inserting after part B (47 U.S.C. 921 et seq.) the following new part:

''PART C—ASSISTANCE TO PROMOTE BROADBAND DEPLOYMENT AND DEMAND

''SEC. 131. BROADBAND DEPLOYMENT AND DEMAND TRUST FUND.

''(a) CREATION OF TRUST FUND.—There is established in the Treasury of the United States a trust fund to be known as the Broadband Deployment and Demand Trust Fund.

''(b) EXPENDITURES FROM TRUST FUND.—Amounts in the Trust Fund shall be available for making expenditures to carry out the provisions of the Broadband Telecommunications Deployment Act of 2004, and for such expenditures as may be necessary to administer the programs established therein.

''(c) TREATMENT AS TRUST FUND.—Subchapter B of chapter 98 of the Internal Revenue Code of 1986 shall apply to the administration of the Trust Fund.

''SEC. 132. REGULATIONS.

''The Secretary of Commerce may prescribe such regulations as may be necessary to carry out this part.

''SEC. 133. AUTHORIZATION OF APPROPRIATIONS.

''(a) AUTHORIZATION.—For each of fiscal years 2005 through 2009 there are authorized to be appropriated to the Broadband Deployment and Demand Trust Fund an amount equivalent to 50 percent of the taxes received in the Treasury after September 30, 2004, and before October 1, 2009, under section 4251 (relating to tax on communications) of the Internal Revenue Code of 1986.

''(b) SUNSET OF APPROPRIATIONS STREAM.—The authorization of appropriations by subsection (a) to the Trust Fund shall terminate at the end of fiscal year 2009, but any balances remaining in the Trust Fund at the close of that fiscal year, and any repayments of loans made from the Trust Fund received after fiscal year 2009, shall remain available for obligation and expenditure from the Trust Fund.''.

Subtitle B—Access to Broadband Telecommunications Services in Rural Areas

SEC. —201. LOAN PROGRAM.

(a) PURPOSE.—The purpose of this section is to provide loans to fund the costs of the construction, improvement, and acquisition of facilities and equipment for broadband service in eligible rural and underserved communities.

(b) DEFINITIONS.—In this section:

(1) BROADBAND SERVICE.—The term ''broadband service'' means any technology identified by the National Telecommunications and Information Administration, in consultation with the Rural Utilities Service of the Department of Agriculture, as having the capacity to transmit data to enable a subscriber to the service to originate and receive high-quality voice, high-speed data, graphics, or video.

(2) ELIGIBLE RURAL COMMUNITY.—The term ''eligible rural community'' means any incorporated or unincorporated place that—

(A) has not more than 50,000 inhabitants, based on the most recent available population statistics of the Bureau of the Census; and

(B) is not located in an area designated as a standard metropolitan statistical area.

(3) ELIGIBLE UNDERSERVED COMMUNITY.—The term ''eligible underserved community'' means any census tract located in—

(A) an empowerment zone or enterprise community designated under section 1391 of the Internal Revenue Code of 1986;

(B) the District of Columbia Enterprise Zone established under section 1400 of such Code;

(C) a renewal community designated under section 1400E of such Code; or

(D) a low-income community designated under section 45D of such Code.

(c) LOANS.—

(1) IN GENERAL.—The Rural Utilities Service, in consultation with National Telecommunications and Information Administration, shall make loans to eligible entities to provide funds for the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural and underserved communities.

(2) LOANS TO LECS.—The Rural Utilities Service, in consultation with National Telecommunications and Information Administration, shall make loans to local exchange carriers (as defined in section 3(26) of the Communications Act of 1934 (47 U.S.C. 151(26)) that are eligible entities to provide funds to upgrade or install remote terminals located more than 25,000 feet from the closest central office of the local exchange carrier, and for the installation of fiber optic cable or broadband wireless facilities between such remote terminals and the closest central office of a local exchange carrier, in order to provide broadband service to eligible rural and underserved communities.

(3) EFFECT OF COMMUNICATIONS POLICY.—Notwithstanding any other provision of this section, the Rural Utilities Service may not make a loan under this subsection if the National Telecommunications and Information Administration determines that the loan would have an adverse effect on communications policy, including competition in the communications marketplace.

(d) ELIGIBLE ENTITIES.—To be eligible to obtain a loan under this section, an entity shall—

(1) be able to furnish, improve, or extend a broadband service to an eligible rural or underserved community; and

(2) submit to the Rural Utilities Service a proposal for a project that meets the requirements of this section.

(e) BROADBAND SERVICE.—The National Telecommunications and Information Administration shall, from time to time as advances in technology warrant, re view and recommend modifications to the rate-of-data transmission criteria for purposes of the identification of broadband service technologies under subsection (b) (1).

(f) TECHNOLOGICAL NEUTRALITY.—For purposes of determining whether to make a loan for a project under this section, the Rural Utilities Service shall apply technologically neutral criteria and encourage the use of a variety of landline and wireless technologies among applications.

(g) TERMS AND CONDITIONS FOR LOANS.—A loan under subsection (d) shall—

(1) be made available in accordance with the requirements of the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.);

(2) bear interest at an annual rate, as determined by the National Telecommunications and Information Administration, in consultation with the Rural Utilities Service, of—

(A) 4 percent per annum; or

(B) the current applicable market rate; and

(3) have a term not to exceed the useful life of the assets constructed, improved, or acquired with the proceeds of the loan or extension of credit.

(h) USE OF LOAN PROCEEDS TO REFINANCE LOANS FOR DEPLOYMENT OF BROADBAND SERVICE.—Notwithstanding any other provision of this title, the proceeds of any loan made by the Rural Utilities Service under this title may be used by the recipient of the loan for the purpose of refinancing an outstanding obligation of the recipient on another telecommunications loan made under this title if the use of the proceeds for that purpose will further the construction, improvement, or acquisition of facilities and equipment for the provision of broadband service in eligible rural and underserved communities.

(i) INCUMBENT LOCAL EXCHANGE CARRIER MUST MAKE UPGRADED FACILITIES AVAILABLE.—In addition to any other requirement to provide unbundled network elements, any incumbent local exchange carrier (as defined in section 251(h) of the Communications Act of 1934 (47 U.S.C. 251(h))) that uses funds made available under subsection (c)(2) shall make remote terminals and fiber optic cable so funded, and any loop that includes such components, available to a requesting telecommunications carrier on an unbundled basis in accordance with the requirements of sections 251 and 252 of the Communications Act of 1934 (47 U.S.C. 251, 252).

(j) FUNDING.—

(1) IN GENERAL.—The Secretary of Commerce shall make available from amounts in the Broadband Deployment and Demand Trust Fund not more than $125,000,000 for each of fiscal years 2005 through 2009 for loans under this section, of which $25,000,000 shall be for loans under subsection (c) (2).

(2) VALUE OF LOANS OUTSTANDING.—The aggregate value of all loans made under this section shall be at least $2,500,000,000 for each such fiscal year, including not more than $500,000,000 for outstanding loans under subsection (c)(2).

(3) ALLOCATION OF FUNDS.—

(A) IN GENERAL.—From amounts made available for each fiscal year under paragraph (1), the Rural Utilities Service shall establish a national reserve for loans to eligible entities in States under this section.

(B) UNOBLIGATED AMOUNTS.—Any amounts in the reserve established for a State for a fiscal year under subparagraph (A) that are not obligated by April 1 of the fiscal year shall be available to the Rural Utilities Service to make loans under this section to eligible entities in any State, as determined by the Rural Utilities Service.

SEC. ___202. GRANTS FOR PLANNING AND FEASIBILITY STUDIES ON BROADBAND DEPLOYMENT.

(a) IN GENERAL.—The National Telecommunications and Information Administration shall make grants to non-profit organizations for planning and feasibility studies on the deployment of broadband services in different geographic areas, including towns, cities, counties, and States.

(b) ELIGIBILITY CRITERIA.—

(1) IN GENERAL.—The National Telecommunications and Information Administration may establish additional criteria for eligibility for grants under this section, including criteria for the scope of the planning and feasibility studies to be carried out with grants under this section.

(2) CONTRIBUTION BY GRANTEE.—An organization may not be awarded a grant under this section unless the entity agrees to contribute (out of funds other than the grant amount) to the planning and feasibility study to be funded by the grant an amount equal to the amount of the grant.

(c) APPLICATION.—An organization seeking a grant under this section shall submit an application for the grant to National Telecommunications and Information Administration that is in such form, and that contains such information, as the National Telecommunications and Information Administration shall require.

(d) LIMITATION ON USE OF GRANT AMOUNTS.—Grant amounts under this section may not be used for the acquisition of office equipment, the construction of buildings or other facilities, the acquisition or improvement of existing buildings or facilities, or the leasing of office space.

(e) RESERVATION OF FUNDS FOR GRANTS.—

(1) IN GENERAL.—The Secretary of Commerce shall make available from amounts in the Broadband Deployment and Demand Trust Fund not more than $60,000,000 for each of fiscal years 2005 through 2009 as a reserve for grants under this section.

(2) RELEASE.—Funds reserved under paragraph (1) for a fiscal year shall be reserved only until April 1 of the fiscal year.

(f) SUPPLEMENT NOT SUPPLANT.—

(1) IN GENERAL.—Eligibility for a grant under this section shall not affect eligibility for a grant or loan under another section of this title.

(2) CONSIDERATIONS.—The National Telecommunications and Information Administration may not take into account the award of a grant under this section, or the award of a grant or loan under another section of this title, in awarding a grant or loan under this section or another section of this title, as the case may be.

(g) TERMINATION OF AUTHORITY.—

(1) IN GENERAL.—No grant may be made under this section after September 30, 2009.

(2) EFFECT ON VALIDITY OF GRANT.—Notwithstanding paragraph (1), any grant made under this section before the date specified in paragraph (1) shall be valid.

SEC. ___203. PILOT PROGRAM FOR WIRELESS OR SATELLITE BROADBAND TRIALS IN RURAL AREAS.

(a) IN GENERAL.—The National Telecommunications and Information Administration shall support up to 7 pilot programs in each of fiscal years 2005 through 2009 for conducting innovative applications of wireless, satellite, and other non-wireline technologies capable of delivering broadband service (as defined in section ___201(b)(1)) to an eligible rural community (as defined in section ___201(b)(2)) or an eligible underserved community (as defined in section ___201(b)(3)). The National Telecommunications and Information Administration shall support 1 pilot program per year for fiber-to-the-home technology under this subsection except for any year for which no application is received for such a program.

(b) APPLICATION PROCEDURES AND CONDITIONS.—The National Telecommunications and Information Administration shall establish such application procedures and conditions for grants under this section as it deems appropriate.

(c) FUNDING.—The Secretary of Commerce shall make available from the Broadband Deployment and Demand Trust Fund up to $2,000,000 per year for each pilot program under subsection (a).

SEC. ___204. RURAL AND UNDERSERVED COMMUNITY BROADBAND TECHNOLOGY INITIATIVE.

The Director of the National Institute of Standards and Technology, through the Advanced Technology Program, may hold a portion of the Institute's competitions in thematic areas, selected after consultation with industry, academics, and other Federal Agencies, designed to develop and improve technical capabilities with respect to the speed, quality, and availability of technologies that will extend the reach of broadband Internet services to individuals living in eligible rural communities (as defined in section —201(b)(2)) and eligible underserved communities (as defined in section ___201(b)(3)).

SEC. ___205. REPORT ON UNIVERSAL SERVICE AND COMPETITION.

No later than May 1, 2005, a Federal-State Joint Board established pursuant to section 410(c) of the Communications Act of 1934 (47 U.S.C. 410(c)) and the National Exchange Carriers Association shall report to the Federal Communications Commission and to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce on—

(1) the effect of reclassifying telecommunications services provided by incumbent local exchange carriers on—

(A) the level of support available for universal service;

(B) the universal service contribution obligations of telecommunications carriers and other providers of telecommunications; and

(C) the ability of the Commission and State commissions to fulfill the requirements of subsections (b), (h), and (i) of section 254 of the Communications Act of 1934 (47 U.S.C. 254);

(2) the effect on universal service of—

(A) reducing the availability of network elements provided by incumbent local exchange carriers;

(B) modifying the rates, terms, and conditions for the purchasing or leasing of such elements; and

(C) reducing the oversight of the rates, charges, terms, and conditions for the purchasing or leasing of telecommunications services provided by such carriers; and

(3) the effect of such changes on competition in the provision of telecommunications services.

SEC. —206. BLOCK GRANTS TO STATES FOR BROADBAND DEPLOYMENT.

(a) IN GENERAL.—The Secretary of Commerce shall establish a grant program to provide funding to State and local governments to encourage and support the deployment of broadband technologies and services, particularly in eligible rural communities (as defined in section —201(b)(2)) and eligible underserved communities (as defined in section —201(b)(3)).

(b) PURPOSES.—State and local governments receiving grants under this section shall use the funds—

(1) to spur investment in broadband facilities;

(2) to stimulate deployment of broadband technology and services;

(3) to encourage the adoption of broadband in eligible rural communities (as defined in section —201(b)(2)) and eligible underserved communities (as defined in section —201(b)(3)); and

(4) to provide e-government services through improved access to government services through broadband Internet connections.

(c) APPLICATIONS.—To be eligible to receive a grant under this section, a State or local government shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require. The Secretary shall establish a procedure for accepting, processing, and evaluating applications and publish an announcement of the procedure, including a statement regarding the availability of funds, in the Federal Register.

(d) FUNDING.—The Secretary shall make available from amounts in the Broadband Deployment and Demand Trust Fund $1,000,000,000 for each of fiscal years 2005 through 2009 for grants under this section, of which $250,000,000 shall be made available for each such fiscal year for e-government enhancement activities described in subsection (b)(4) in all communities.

SEC. —207. GAO TO STUDY BROADBAND DEPLOYMENT IN OTHER COUNTRIES.

The Comptroller General shall survey countries with broadband deployment and subscriber rates that are similar to, or greater than, the broadband deployment and subscriber rates in the United States in order to determine the actions governments, carriers, and other parties have taken to facilitate the deployment of broadband (including the factors that encourage consumers to subscribe to broadband service) and report the results of his survey to the Congress by May 1, 2005.

SEC. —208. ASSESSMENT OF HOMELAND SECURITY AND PUBLIC SAFETY NEEDS IN RURAL AND UNDERSERVED AREAS.

(a) IN GENERAL.—No later than 6 months after the date of enactment of this title, the National Telecommunications and Information Administration shall issue a report on the potential role of broadband in rural and underserved areas in addressing homeland security and public safety needs, and, as necessary, make recommendations to enhance deployment to improve emergency response systems.

(b) FUNDING.—The Secretary of Commerce shall make available from the Broadband Deployment and Demand Trust Fund up to $500,000 for the study under subsection (a).

SUBTITLE C—RESEARCH ON TECHNICAL AND FINANCIAL REQUIREMENTS FOR FASTER BROADBAND SERVICES

SEC. —301. RESEARCH ENHANCEMENT OF BROADBAND TELECOMMUNICATIONS SERVICES.

(a) IN GENERAL.—

(1) NATIONAL SCIENCE BOARD RESEARCH.—The Director of the National Science Board, without considering any changes in telecommunications regulation, shall research—

(A) technical changes that would be necessary with respect to wireline, wireless facilities, and satellite facilities to provide broadband telecommunications services in order to provide speeds between 50 megabits-per-second and 100 megabits-per-second; and

(B) the financial cost of ensuring that all Americans have access to broadband services with speeds between 50 megabits-per-second and 100 megabits-per-second.

(2) ITS BROADBAND RESEARCH.—The Director of the Institute of Telecommunications Sciences of the National Telecommunications and Information Administration, in consultation with the Director of the National Institute of Science and Technology Laboratories, shall engage in research and development—

(A) of wireline, wireless facilities, and satellite facilities to provide broadband telecommunications services in order to provide speeds between 50 megabits-per-second and 100 megabits-per-second;

(B) of new broadband technologies to meet government and commercial needs; and

(C) with respect to the technical capabilities of existing technologies to improve their speed, quality, and availability and extend the reach of broadband services to individuals living in rural areas.

(3) SPECTRUM-SHARING AND INTERFERENCE ISSUES.—The Director of the Institute of Telecommunications Sciences shall also conduct research or studies—

(A) to enhance spectrum-sharing between governmental and private sector users of broadband services;

(B) to develop technologies that would enable government and private sector users to use spectrum more efficiently; and

(C) to provide recommendations to the Administrator of the National Telecommunications and Information Administration that would enhance—

(i) government and private sector spectrum sharing opportunities and coordination; and

(ii) private sector innovation of new wireless technologies that benefit government and private sector users.

(b) CONSULTATION AND COORDINATION.—The Directors of the National Science Board, the Institute of Telecommunications Sciences, and the National Institute of Science and Technology Laboratories shall—

(1) consult with governmental and commercial users of broadband services as appropriate to facilitate research under subsection (a); and

(2) consult with each other in order to coordinate their activities under subsection (a).

(c) RESULTS OF RESEARCH.—The Director shall make available to the public, in such manner as the Director considers appropriate, the results of any research carried out under this section.

(d) FUNDING.—The Secretary of Commerce shall make available from amounts in the Broadband Deployment and Demand Trust Fund for each of fiscal years 2005 through 2009 to carry out this section not more than—

(1) $60,000,000 to the Director of the Institute of Telecommunications Sciences of the National Telecommunications and Information Administration, of which not more than $10,000,000 shall be used to carry out subsection (a)(2);

(2) $15,000,000 to the Director of the National Institute of Science and Technology Laboratories; and

(3) $50,000,000 to the Director of the National Science Board.

SEC. —302. GRANTS TO COLLEGES AND UNIVERSITIES TO RESEARCH FASTER BROADBAND TECHNOLOGY.

(a) IN GENERAL.—The Director of the National Science Foundation shall establish and administer a grant program to fund research at colleges and universities into advancing the technical aspects of broadband technology in order to provide speeds between 50 megabits-per-second and 100 megabits-per-second. In carrying out this subsection, the Director shall ensure that grants are geographically distributed nationwide.

(b) FUNDING.—The Secretary of Commerce shall make available from amounts in the Broadband Deployment and Demand Trust Fund not more than $50,000,000 for each of fiscal years 2005 through 2009 to the National Science Board for purposes of activities under this section.

Subtitle D—Stimulating Demand for Broadband Services

SEC.—401. GRANTS TO COLLEGES AND UNIVERSITIES FOR RESEARCH.

(a) IN GENERAL.—The National Telecommunications and Information Administration shall establish and administer a grant program to fund research at colleges and universities to develop computer or Internet applications that require broadband facilities and are of particular use to residential consumers.

(b) FUNDING.—The Secretary of Commerce shall make available from amounts in the Broadband Deployment and Demand Trust Fund not more than $50,000,000 for each of fiscal years 2005 through 2009 for grants under this section.

SEC.—402. GRANTS TO LIBRARIES TO DIGITIZE COLLECTIONS.

(a) IN GENERAL.—The National Telecommunications and Information Administration shall establish and administer a grant program for libraries to enable them to make a record in digital format of their collections.

(b) CONSULTATION WITH KNOWLEDGEABLE PERSONS.—In making grants under subsection (a), the National Telecommunications and Information Administration shall consult with—

(1) the Librarian of Congress;

(2) the Archivist of the United States; and

(4) representatives of libraries, academic institutions, and other individuals with professional responsibilities related to collection, curation, preservation, and display of books, records, films, and other written or recorded matter of public interest.

(c) FUNDING.—The Secretary of Commerce shall make available from amounts in the Broadband Deployment and Demand Trust Fund not more than $100,000,000 for each of fiscal years 2005 through 2009 for grants under this section.

SEC.—403. GRANTS TO MUSEUMS TO DIGITIZE COLLECTIONS.

(a) IN GENERAL.—The National Telecommunications and Information Administration shall establish and administer a

grant program for museums to enable them to make a record in digital format of their collections.

(b) CONSULTATION WITH KNOWLEDGEABLE PERSONS.—In making grants under subsection (a), the National Telecommunications and Information Administration shall consult with—

(1) the Secretary of the Smithsonian Institution;

(2) the Chairman of the National Endowment for the Arts;

(3) the Chairman of the National Endowment for the Humanities; and

(4) representatives of museums, academic institutions, and other individuals with professional responsibilities related to collection, curation, preservation, and display of objects of significant public interest.

(c) FUNDING.—The Secretary of Commerce shall make available from amounts in the Broadband Deployment and Demand Trust Fund not more than $100,000,000 for each of fiscal years 2005 through 2009 for grants under this section.

SEC.—404. GRANTS FOR DTV CONVERSION AND PROGRAMMING.

The Secretary of Commerce shall make available from amounts in the Broadband Deployment and Demand Trust Fund not more than $50,000,000 for each of fiscal years 2005 through 2009 to the National Telecommunications and Information Administration for grants under the Public Telecommunications Facilities Program for facility upgrades to transmit digital television programming and to develop educational and public interest digital programming.

SA 3076. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

At the appropriate place, add the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Sales and Use Tax Fairness Act''.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the November 12, 2002, Streamlined Sales and Use Tax Agreement establishes minimum requirements for a sales and use tax system that simplifies and harmonizes State sales and use tax laws and administrative procedures; and

(2) the Agreement, once implemented, will eliminate any undue burden on interstate commerce associated with requiring remote sellers to collect and remit sales and use taxes.

SEC. 3. SENSE OF THE CONGRESS.

It is the sense of the Congress that the sales and use tax system established by the Streamlined Sales and Use Tax Agreement provides sufficient simplification and uniformity to warrant Federal authorization to States that are parties to the Agreement to require remote sellers, subject to the conditions provided in this Act, to collect and remit the sales and use taxes of such States and of local taxing jurisdictions of such States.

SEC. 4. AUTHORIZATION TO REQUIRE COLLECTION OF SALES AND USE TAXES.

(a) GRANT OF AUTHORITY.—Once ten States comprising at least twenty percent of the total population of all States imposing a sales tax, as determined by the 2000 Federal census, have petitioned for membership under the Streamlined Sales and Use Tax Agreement in the manner required by the Agreement, have been found to be in compliance with the Agreement pursuant to the terms of the Agreement, and have become Member States under the Agreement, any Member State under the Agreement is authorized, notwithstanding any other provision of law, to require all sellers not qualifying for the small business exception provided under subsection (b) to collect and remit sales and use taxes with respect to remote sales to purchasers located in such State. Such authorization shall terminate if the requirements of the preceding sentence cease to be met. Such authorization shall also terminate for any Member State if such Member State no longer complies with the minimum requirements of the Agreement existing on November 12, 2002, or if such requirements are no longer complied with by ten States that otherwise meet the requirements of this subsection. Determinations regarding compliance with the requirements of this subsection shall be made by the Governing Board (or, where provided by the Agreement, the States petitioning for membership under the Agreement) subject to the governance provisions of Section 5.

(b) SMALL BUSINESS EXCEPTION.—No seller shall be subject to a requirement of any State to collect and remit sales and use taxes with respect to a remote sale where the seller and its affiliates collectively had gross sales nationwide of less than $5,000,000 in the calendar year preceding the date of such sale.

(c) REASONABLE SELLER COMPENSATION.—The authority provided in subsection (a) shall be conditioned on acceptance and implementation by all Member States under the Agreement of a requirement that such States provide reasonable and uniform compensation for expenses incurred by sellers related to the collection and remittance of the sales and use taxes of such States.

SEC. 5. GOVERNANCE.

(a) PETITION.—Any person who may be affected by the Agreement may petition the Governing Board for a determination on any issue relating to the implementation of the Agreement.

(b) REVIEW IN COURT OF FEDERAL CLAIMS.—Any person who has submitted a petition under subsection (a) may bring an action against the Governing Board in the United States Court of Federal Claims for judicial review of the action of the Governing Board on that petition if—

(1) The petition related to (A) an issue of whether a State has met or continues to meet the requirements for Member State status under the Agreement, or (B) an issue of whether the Governing Board has performed a non-discretionary duty of the Governing Board under the Agreement; and

(2) The petition was denied by the Governing Board in whole or in part with respect to that issue, or the Governing Board failed to act on the petition with respect to that issue within six months of the date on which the petition was submitted.

(c) TIMING OF ACTION FOR REVIEW.—An action for review under this section shall be initiated within 60 days of the Governing Board's denial of the petition as provided in subsection (b), or, if the Governing Board failed to act on the petition as provided in subsection (b), within 90 days following the expiration of the six-month period following the date on which the petition was submitted.

(d) STANDARD OF REVIEW.—In any action for review under this section, the court shall set aside the actions, findings, and conclusions of the Governing Board found to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

(e) JURISDICTION.—Chapter 91 of Title 28 of the United States Code is amended by adding at the end thereof:

§1510. Jurisdiction regarding the Streamlined Sales and Use Tax Agreement

The United States Court of Federal Claims shall have exclusive jurisdiction over actions for judicial review of determination of the Governing Board of the Streamlined Sales and Use Tax Agreement under the terms and conditions provided in section 5 of the Sales and Tax Fairness Act.

SEC. 6. LIMITATION.

(a) IN GENERAL.—Nothing in this Act shall be construed as subjecting sellers to franchise taxes, income taxes, or licensing requirements of a State or political subdivision thereof, nor shall anything in this Act be construed as affecting the application of such taxes or requirements or enlarging or reducing the authority of any State to impose such taxes or requirements.

(b) NO EFFECT ON NEXUS, ETC.—No obligation imposed by virtue of the authority granted by section 4 of this Act shall be considered in determining whether a seller has a nexus with any State for any other tax purpose. Except as provided in Section 4 of this Act, nothing in this Act permits or prohibits a State—

(1) to license or regulate any person;

(2) to require any person to qualify to transact intrastate business; or

(3) to subject any person to State taxes not related to the sale of goods or services.

SEC. 7. DEFINITIONS.

For the purposes of this Act—

(1) AFFILIATE.—The term ''affiliate'' means any entity that controls, is controlled by, or is under common control with a seller.

(2) GOVERNING BOARD.—The term ''Governing Board'' means the governing board established by the Streamlined Sales and Use Tax Agreement.

(3) MEMBER STATE.—The term ''Member State'' means a member state under the Streamlined Sales and Use Tax Agreement.

(4) PERSON.—The term ''person'' means an individual, trust, estate, fiduciary, partnership, corporation, or any other legal entity, and includes a State or local government.

(5) REMOTE SALE.—The terms ''remote sale'' and ''remote seller'' refer to a sale of goods or services attributed to a particular taxing jurisdiction with respect to which the seller did not have adequate nexus under the law existing on the day before the date of enactment of this Act to allow such jurisdiction to require the seller to collect and remit sales or use taxes with respect to such sale.

(6) STATE.—The term ''State'' means any State of the United States of America and includes the District of Columbia.

(7) STREAMLINED SALES AND USE TAX AGREEMENT.—The term ''Streamlined Sales and Use Tax Agreement'' (or ''the Agreement'') means the multistate agreement with the title adopted on November 12, 2002, and as amended from time to time.

SA 3077. Mr. LAUTENBERG submitted an amendment intended to be proposed by him 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; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. 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.

SA 3078. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. SHORT TITLE.

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

SEC. 2. TWO-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, 2005:

''(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 tag 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, 2005.

''(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 AND OTHER SERVICES OVER THE INTERNET.

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

SEC. 7. EFFECTIVE DATE.

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

SA 3079. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

At the appropriate place in Amdt. No. 3048, insert the following:

SEC. ___. SENSE OF THE SENATE.

(a) FINDINGS.—The Senate finds that the Unfunded Mandates Reform Act of 1995 (P.L. 104–4) was passed—

(1) ''to end the imposition, in the absence of full consideration by Congress, of Federal mandates on State, local, and tribal governments without adequate Federal funding, in a manner that may displace other essential State, local, and tribal governmental priorities'';

(2) to provide ''for the development of information about the nature and size of mandates in proposed legislation'';

(3) ''to establish a point-of-order vote on the consideration in the Senate and House of Representatives of legislation containing significant Federal intergovernmental mandates without providing adequate funding to comply with such mandates'';

(4) to require that ''Federal agencies prepare and consider better estimates of the budgetary impact of regulations containing Federal mandates upon State, local, and tribal governments before adopting such regulations, and ensuring that small governments are given special consideration in that process''; and

(5) to establish the general rule that Congress shall not impose Federal mandates on State, local, and tribal governments without providing adequate funding to comply with such mandates.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Unfunded Mandates Reform Act of 1995 constituted an important pledge on the part of the Federal Government, in general, and Congress, in particular, to refrain from imposing Federal mandates on State, local, and tribal governments without providing adequate resources to compensate State, local, and tribal governments for the cost of complying with such mandates;

(2) at this time when State, local, and tribal governments are struggling to cope with the worst State and local fiscal crisis since World War II, it is urgently important that Congress adhere to its commitments under the Unfunded Mandates Reform Act of 1995; and

(3) Congress should not pass laws mandating that States or localities spend new money or forgo collecting currently collected revenues, unless Congress—

(A) has clear and precise estimates of the budgetary impacts of such mandates upon States, local governments, and tribal governments; and

(B) provides adequate funding to cover the cost to States and localities of complying with such mandates.

SA 3080. Mr. ENZI submitted an amendment intended to be proposed by him 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; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SECTION 1. EXTENSION OF THE INTERNET TAX FREEDOM ACT.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking ''November 1, 2003'' and inserting ''May 31, 2005''.

SA 3081. Mr. ENZI submitted an amendment intended to be proposed by him 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; which was ordered to lie on the table; as follows:

Strike all after the first word and insert the following:

1. EXTENSION OF THE INTERNET TAX FREEDOM ACT.

Section 1101(a) of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking ''November 1, 2003'' and inserting ''June 1, 2005''.

SA 3082. Mr. LOTT submitted an amendment intended to be proposed to amendment SA 3048 proposed by Mr. MCCAIN 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; which was ordered to lie on the table; as follows:

On page 5, line 2, strike ''2006'' and insert ''2007''.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 28, 2004, at 11 a.m., in closed session, to receive a briefing regarding the performance of force protection equipment for ground forces in Iraq, including the up-armored HMMWV, and potential alternatives to meet force protection needs of the combatant commander.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, April 28, 2004, at 9:30 a.m., on Telecommunications Policy Review: A Look Ahead, in SR–253.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate, on Wednesday, April 28 at 11:30 a.m. to consider pending calendar business.

Agenda Item 1: S. 203—A bill to open certain withdrawn land in Big Horn County, WY to locatable mineral development for bentonite mining.

Agenda Item 5: S. 1071—A bill to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on a water conservation project within the Arch Hurley Conservancy District in the State of New Mexico, and for other purposes.

Agenda Item 6: S. 1097—A bill to authorize the Secretary of the Interior to implement the Calfed Bay-Delta Program.

Agenda Item 9: S. 1467—A bill to establish the Rio Grande Outstanding Natural Area in the State of Colorado, and for other purposes.

Agenda Item 10: S. 1582—A bill to amend the Valles Preservation Act to improve the preservation of the Valles Caldera, and for other purposes.

Agenda Item 11: S. 1649—A bill to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes.

Agenda Item 12: S. 1687—A bill to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

Agenda Item 13: S. 1778—A bill to authorize a land conveyance between the United States and the City of Craig, AK, and for other purposes.

Agenda Item 14: S. 1791—A bill to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes.

Agenda Item 15: S. 2180—A bill to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

Agenda Item 16: S. Res. 321—A resolution recognizing the loyal service and outstanding contributions of J. Robert Oppenheimer to the United States and calling on the Secretary of Energy to observe the 100th anniversary of Dr. Oppenheimer's birth with appropriate programs at the Department of Energy and the Los Alamos National Laboratory.

Agenda Item 20: H.R. 1521—To provide for additional lands to be included within the boundary of the Johnstown Flood National Memorial in the State of Pennsylvania, and for other purposes.

Agenda Item 21: H.R. 3249—To extend the term of the Forest Counties Payments Committee.

In addition, the Committee may turn to any other measures that are ready for consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to meet on Wednesday, April 28th at 9:30 a.m. to conduct a hearing to receive testimony on the reauthorization of the Economic Development Administration.

The hearing will be held in SD 406, hearing room.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session on Wednesday, April 28, 2004, at 10 a.m., in 215 Dirksen Senate Office Building, to hear testimony on ''Taking the Taxpayers for a Ride: Fraud and Abuse in the Power Wheelchair Program.''

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ALLEN. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, April 28, 2004 at 10 a.m. to hold a Nomination hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.