

CHANGE OF VOTE

Mr. HELMS. Mr. President, on roll-call vote No. 296, I was recorded as having voted "nay." It was my intention to vote "aye." I ask unanimous consent that I be recorded as a "aye." This would not affect the outcome of the vote.

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

(The foregoing tally has been changed to reflect the above order.)

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, thank you very much.

Mr. President, let me take just a few minutes to talk about where we are with respect to the Internet tax bill and also to express my thanks to—who may have left the floor—but to express my thanks to Senator BUMPERS.

Senator BUMPERS could have filibustered this legislation. He could have insisted on his rights as a Senator to speak at length on this past amendment that he feels very strongly about, as do a number of Senators, and I want to thank him for not doing that. He has been exceptionally kind to me. He knows that I feel strongly about this legislation. And he has been very constructive in working with the bipartisan group pursuing the legislation.

Let me also just state, as I did, it is our intent—it is clearly spelled out in the legislation—that if a firm or a home-based business—I have thousands of them in Oregon; I know our colleagues do as well—if they are liable for a tax today, they are going to be liable under this legislation if that sale is conducted on the Internet. It is just that simple.

So what it comes down to, is if you have a question from a mayor or a Governor who asks you about this subject at home—any Senator who is asked about this issue should simply say that this legislation does no harm to the States or to the localities, and it simply treats Internet commerce like any other kind of commerce. That was something that I, as the bill's sponsor, felt very strongly about.

With respect to the legislation, I know other Senators wish to speak as well, and Senator DORGAN wants to address the Internet issue this afternoon as well. I am very hopeful we will be able to resolve the one remaining issue, and that is the question of the commission and what they are going to be looking at.

The Senator from North Dakota, Senator DORGAN, has been very helpful on this matter in an effort to try to get an agreement—Senator GRAHAM has as well. I am very hopeful that we will be able to, now that we have addressed the major amendment, the Bumpers amendment, I hope that we will be able to get an agreement on exactly the duties of the commission and be able to go forward with the managers' amendment.

Senator MCCAIN and myself and others have been anxious to try to address concerns that Senators have had with respect to the length of the moratorium, other issues surrounding the managers' amendment. I think we can do that.

So, again, let me say that I very much appreciate, especially on a Friday with Senators having a busy schedule, the opportunity to discuss this issue. We made considerable progress. I especially thank Senator BUMPERS who could have spoken at length, filibustered this legislation, and he has been especially kind to me. I express my appreciation to him.

I see the Senator from North Dakota who has worked many, many hours in an effort to try to get this issue to the floor, along with me and others, and I express my appreciation to him and say that I especially appreciate his effort to bring the parties together with respect to the commission and the issues that they will be pursuing there in an effort to make sure that as we look to the digital economy in the 21st century that we have a chance to examine those questions.

Does the Senator from North Dakota wish to pursue a question at this time?

Mr. DORGAN. Mr. President, it is my intention—I did not provide an opening statement as we brought the bill to the floor. Senator MCCAIN, who is managing the legislation, and I and Senator WYDEN and Senator BUMPERS and others talked about the schedule. I wanted the vote to be able to occur in a way that would allow Members to cast their vote and catch their airplanes, so I deferred on an opening statement. It is my intention to provide an opening statement to discuss the framework of, I think, some of the amendments that we will be debating as we continue this legislation this afternoon and also perhaps next week.

Let me, if I can, describe the circumstances that brought this legislation to the floor.

Mr. President, we are not under a time limit at this moment, are we?

The PRESIDING OFFICER. Has the Senator from Oregon yielded the floor? He still has control.

Mr. WYDEN. I thought the Senator from North Dakota had a question he wanted to postulate. I do want to address the concern that he has on the Internet tax bill. He has been very fair in working with the sponsors on this matter.

Mr. DORGAN. If I might, I would like to provide my opening statement. If the Senator would yield the floor so I might provide the opening statement on this side. There are a number of things I would like to discuss with the Senator from Oregon, but I think it would be appropriate for me to give the statement that I deferred previously.

Mr. WYDEN. Parliamentary inquiry, Mr. President.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Would that be possible—I would like to accommodate the

Senator from North Dakota—if I were to yield the floor at this point, given the fact that he had asked earlier for time to give his opening statement, that he be recognized if I yielded the floor?

The PRESIDING OFFICER. The Senator from North Dakota is the minority manager of this legislation and does have priority.

Mr. WYDEN. Mr. President, I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, as I indicated, along with Senator MCCAIN, when we brought the legislation to the floor today, I was interested in trying to accommodate the schedules that Members had. And the second vote this morning was able to be held at a time that would allow some Members the opportunity to catch airplanes back to their home States. But I did want to discuss the circumstances that allowed us to get this legislation to the floor. And I would like to review with the Senator from Oregon some of the provisions of the bill that are yet to be completed.

First, with respect to this general subject of the Internet, my orientation of this issue is that, like most Americans, I view the Internet as something new and exciting and wonderful in a lot of ways and troublesome in other ways. The technology without question is remarkable and wonderful.

Obviously, there are some things on the Internet these days that are troublesome and that is why we struggle with this question of the Decency Act that we wrote in the Commerce Committee and was struck down by the Supreme Court. I think the Senator from Indiana, Senator COATS, is going to offer an amendment similar to something we have discussed previously with respect to the Internet and decency.

But leaving that aside, the Internet itself and the telecommunications revolution that exists in this country, and the information superhighway that comes from that revolution, is really quite remarkable.

I come from a town of 300 people. I have a very different background than the Senator from Wyoming or the Senator from Arizona for that matter. I come from a town of 300 people. I went to a very small school. Obviously, a school in a town of 300 people is not going to be big under any circumstance. But my high school graduating class was nine students. And we had a library in my high school that was a very small coat closet, and that contained all of our books. And that was it. That is the way life was in my school. Would I trade it for another experience? No. I thought it was a wonderful school, a wonderful hometown, and a wonderful education.

But now when I go back to my hometown it is slightly smaller than it was

when I left. Some of those rural communities are shrinking. I go back to that wonderful community and go to the school. The library is not much larger than it was then except—that school is now connected to the information superhighway. Computers in those small schools can now access the information superhighway.

And what does that mean? It means in my hometown of Regent, ND, there is a student today who is able to use a computer and access the Library of Congress. Now, the Library of Congress has the largest repository of human knowledge that exists anywhere on Earth. Of all of the accumulated knowledge in human history—the largest body of that knowledge exists in the Library of Congress. In Regent, ND, that small library is now augmented by the largest library on Earth as a result of the information superhighway and the new revolution in telecommunications.

Is that wonderful? It is more than wonderful. It changes our ability to educate. It changes our ability to do a whole series of things. In fact, as an aside, I read a while ago that the CEO of IBM Corporation gave a speech to shareholders. He said they are on the cusp of discovery in researching storage density sufficient so that he expects we will soon be able to put all of that information from the Library of Congress—14 to 16 million volumes of work, the largest repository of human knowledge on Earth—on a wafer the size of a penny. Think of that, a computer storage wafer the size of a penny encompassing all of the works of the Library of Congress.

What does that mean? It is a wonderful opportunity in our future to use the Internet and to use telecommunications to enhance education and a whole range of things.

I wanted to provide that framework simply to say, especially coming from a very small community in North Dakota, we understand the wonders and the technological marvels that exist in what we are talking about here and how it changes things.

My hometown, 120 miles southwest of Bismarck, ND, 50 miles from Dickinson, and, for those who want to pinpoint it more precisely, 14 miles west of Mott, ND—my hometown is as close to the Hudson River as downtown Manhattan with telecommunications. Just like that, you can transmit data off the Internet. We have erased geography as a disadvantage.

Now, in addition to the advantages of education that I have described with respect to the Internet and the information superhighway, there is another entire area of commerce that also provides significant advantages to people in my hometown and people in every hometown in our country.

When I was a young boy, from my hometown we had to drive nearly 60 miles to go to a hospital. We had to drive 60 miles to a sporting goods store. When I was a young boy, that is what

I wanted to do when my parents took me to the big town, Dickinson, ND, 10,000 people. I wanted to go to a sporting goods store. It was a small store with baseball mitts and merchandise. In my hometown, we had none. So I would go there and get lost in the sporting goods store, picking up the new baseball gloves, feeling and nurturing them, and wondering, what if I owned one of them? That was a big deal to me.

It was true with respect to a Dairy Queen—50, 60 miles to a Dairy Queen; 60 miles to a clothing store. That is the way it was.

Now, however, in my hometown you can't order a Dairy Queen over the Internet, but that sporting goods store is brought to my hometown by the Internet. The Internet changes commerce. Now someone in my hometown can dial up on the Internet a sporting goods store, a clothing store. Want to buy some new athletic shoes? That is available. How about a book? Amazon.com—we all know the success story of that company.

My point is, we are seeing dramatic new areas of commerce available to people around the country, and around the world for that matter, which will improve their lives. I agree with that.

We had a disagreement, the Senator from Oregon and I, about the piece of legislation in the Commerce Committee. I felt very strongly that what was proposed was dead wrong and he felt strongly it was right on target. We didn't disagree because we differed about the policy of what the Internet could mean to our country and to our people. I fully understand the full flow of benefits that will come from this. I understand and recognize that. Members know my interest is not in any way, ever, to impede the growth of the Internet or the growth of opportunity that people want to take advantage of on the Internet to market their goods, to build their business, and to do those kinds of things.

At the same time, however, I recognize that while the Internet might bring a sporting goods store to my hometown, it will also bring some merchandise to my hometown that those few merchants in my hometown sell and must now collect a sales tax on when they sell it. I want to make sure, relative to the previous amendment and also some other amendments we will discuss, that what we do with respect to this form of new commerce has some relationship to fairness, fairness tied to selling on Main Street, sales from mail-order catalogs, selling on the Internet. I want to make sure what we are doing here is fair to all areas of commerce.

That is why when Senator WYDEN—who has been a leader on this, no question about that; he was the author in the Senate Commerce Committee of the underlying legislation—brought this legislation to the committee, I felt very strongly that the way it was constructed was going to cause a lot of

problems. I opposed it vigorously, as he well knows.

Since that time when it was passed out of the Commerce Committee, it has changed substantially. We now, I think, agree on one central principle, and that principle embodied in the underlying legislation is that we ought to have a moratorium of sorts so that we don't have State or local governments creating regimes of taxation here that could be punitive or could retard opportunities on the Internet in a punitive or discriminatory way. We agree with that and we have constructed legislation which I think will accomplish that and doesn't disadvantage any State or any local government. If there is a State or local government that has plans today to say let me be punitive in the way I apply a tax or construct a tax dealing with the Internet, I say I am not in your corner. I am not on your side on that. You are wrong; you ought not do that.

I didn't want to snare in the net the kinds of State and local taxes that are applied to virtually all other kinds of commerce and do it in a way that would say to those who are at home on Main Street that you will be at a disadvantage because we have created a special safe harbor or special tax haven for certain kinds of electronic commerce. That has always been my concern.

As long as the Senator from Oregon is here, I will engage him in this conversation. I think we are coming to the same point, Senator MCCAIN, Senator WYDEN, myself, and others, with respect to what we want to accomplish with this legislation. It is a system which, as we see the Internet begin to grow in its infancy—and it still is in its infancy—is nondiscriminating with respect to how taxes are imposed among different forms of commerce.

I yield for a comment from the Senator from Oregon about whether he sees us coming to that same point and whether he shares that goal.

Mr. WYDEN. I thank the Senator from North Dakota for his thoughtful comments, as well. I think there has been a considerable effort in the last few months to address this in a bipartisan way.

I think the Senator from North Dakota is exactly right; what we want is technological neutrality. We don't want the Internet to get a preference. We don't want the Internet to be discriminated against. We want to be able to say, as we look to the brand new economy, the digital economy, that we don't make some of the mistakes that we made as we tried to sort out some of the issues, for example, with respect to mail order. I think the Senator from North Dakota has been very persistent in terms of trying to work with all the parties in making sure that the commission studies these issues fairly. That is certainly what I want.

I was very interested in my friend's comments with respect to his town in North Dakota and how the Internet

would allow, for example, somebody to log on in North Dakota and get goods from a sporting goods store far away and have them shipped to a small town in North Dakota. That is clearly one of the benefits. But what we also hope to do with the Internet Tax Freedom Act is make it possible to grow small businesses in North Dakota that will be able to furnish some of those goods and services.

My friend from North Dakota has many small communities in North Dakota, as I do in Oregon. I want to make sure that Burns and Wagonire and other small towns in Oregon can compete. My view is that sensible Internet policies will make those small businesses more competitive than they are today.

The reason that Main Street businesses support the Internet Tax Freedom Act, the bill that is before the Senate today, is that Main Street businesses, those small stores, recognize right now they are having a lot of difficulty competing with the Wal-Mart giants and certainly major corporations that are located overseas.

And once you make geography irrelevant, which the Internet does, once you get a fair tax policy for a home-based business in Oregon or North Dakota, rather than those businesses facing discriminatory taxes, as we have been addressing today, I think we will grow more small businesses in North Dakota and Oregon on Main Street, and that is the hope of the sponsors of this legislation.

So let me yield back to the Senator from North Dakota, as this Senator has to head off for a 7 or 8-hour flight home. I want to again express my thanks to the Senator from North Dakota. He and his staff have spent many, many hours toiling over what is arcane language, at best, with respect to the digital economy and these new issues. I think the Senator from North Dakota is right in saying that this is just the beginning of this whole discussion. We had another initiative yesterday that was very sensible—Senator BRYAN's initiative dealing with on-line privacy as it relates to children. So we are just at the beginning of these issues.

I hope to be sitting next to the Senator from North Dakota on the Communications Subcommittee as we tackle these questions. I think we have made considerable progress. I specifically thank Senator GRAHAM, Senator BUMPERS, as well as the Senator from North Dakota. They have had strong views on this matter, and they know this bill has been important to me. They have all been very gracious in helping to move it along. Also, Senator MCCAIN will be back on the floor in a few moments. We simply could not have been here without the support of Senator MCCAIN and his staff. I am looking forward to seeing this legislation go to the President before we wrap up. I thank the Senator from North Dakota.

Mr. DORGAN. Mr. President, one of the issues that we have not completely

resolved is extending the moratorium. We have a moratorium in this legislation that says to the States that if you have not yet adopted or enforced an Internet tax, there is a moratorium; you will not be able to do that during this time out. During that period, a commission will meet and evaluate all of these issues. The Senate finance bill reported out a 2-year moratorium on bit taxes, discriminatory taxes, and on Internet taxes. The House-passed version of this legislation has a 3-year moratorium. My understanding is that there will be an amendment calling for a 5-year moratorium on the bill that is coming to the floor. The version passed out by the Senate Commerce Committee had a 6-year moratorium.

Keynes used to say, "In the long run, we are all dead." I don't know what the long run is, but when you talk about moratoriums here, 6 years is a large expanse of time. It seems to me that it is wholly inappropriate. I would more favor the Senate finance bill, which is a 2-year time out, or moratorium. We will likely have to agree to something more than that, but 5 or 6 years, in my judgment, is not reasonable. I think there is another amendment that was noticed, or at least will be offered, with a 3-year moratorium, which seems to me to be a more reasonable compromise. I ask the Senator from Oregon about that.

Mr. WYDEN. I thank the Senator. He has correctly laid out the various time periods. Let me say again, the Senator from North Dakota knows both the chairman of the Commerce Committee and I are still wanting to work with those who feel that 5 years is too long a period. We are anxious to try to get an agreement and, hopefully, this can all be resolved as part of a managers' amendment.

I think the concern of certainly myself and others is that 2 years is too short because it is going to take some time to work through a subject as complicated as this, and then there is going to need to be a period where the States have the chance to address it. I think we can come up with a period that is acceptable. Of course, the moratorium, such as it is, applies only to Internet access taxes. It does not apply to other spheres of economic activity. And with respect to other spheres of economic activity, again, Internet will be treated just like anything else. If a State and a locality has other means of raising revenue, we want to make it clear that, with respect to the Internet, the business conducted there will be treated like everything else.

So let me yield back to the Senator from North Dakota at this time, with an assurance that we are going to continue to try to negotiate on this point an acceptable time period for all parties. We have discussed 4 years, and we have discussed a variety of options. We are going to continue to do that. I want it understood that both Senator MCCAIN and I feel that the Senator from North Dakota is trying very hard

to be helpful here, and we are going to continue to move forward in working with him to get this resolved.

Mr. DORGAN. Mr. President, I say to the Senator that the way to be most helpful would be to agree with me.

Mr. WYDEN. I will say, having made 30 changes since we left the Commerce Committee, that this Senator, who is a good friend of the Senator from North Dakota, has a very high batting average—since we have been talking about baseball—in terms of agreeing with the Senator from North Dakota. We are going to continue to work with him, as he knows.

Mr. DORGAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BYRD. Mr. President, what is the business before the Senate?

The PRESIDING OFFICER. Senate bill 442, the Internet access bill.

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak out of order.

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

Mr. BYRD. Is there any time limit, Mr. President?

The PRESIDING OFFICER (Mr. THOMAS). Not that I know of.

Mr. BYRD. I thank the Chair.

TAX CUTS

Mr. BYRD. Mr. President, as all Senators are aware, at midnight on Wednesday, September 30, Fiscal Year 1998 expired. And with the expiration of the fiscal year came some most welcome and almost unbelievable news that, for the first time since 1969, the unified Federal budget was in surplus for Fiscal Year 1998. We do not know the exact figures yet. That will not be known until the Treasury Department completes its calculations of actual revenues and expenditures that occurred up through midnight, September 30, but we do know that the latest estimate by the Congressional Budget Office of that unified budget surplus is \$63 billion. The President has announced that the official administration projection of the Fiscal Year 1998 unified budget surplus is about \$70 billion. This unified budget surplus, whether it be \$63 billion, or \$70 billion, or some other figure, is a result of a dramatic turnaround from the massive budget deficits that were projected just a few short years ago.

Who should be given the lion's share of the credit for this dramatic turnaround in the country's fiscal fortunes? The President wants to claim a large share of the credit. The Republican-led Congress likes to say that things did not really change until they took over