

Last week, the Senate Indian Affairs Committee held a hearing on a settlement bill where both parties agreed to mediation. The House Resources Committee has been holding field hearings on settlement. This is the way the trust fund dispute should be resolved—not in back-room deals.

Third and finally, this provision perpetuates a shameful pattern of neglect of American Indians and tribes and a failure of the Federal Government to meet its legal and moral obligations to them.

Mr. President, there's another shameful truth about this bill—and that is what is not in it.

Earlier this month, during Senate debate on the Interior appropriations bill, Democrats offered an amendment to address a critical funding shortfall for the Indian Health Service—a shortfall so acute that Indian people are frequently turned away from IHS clinics and hospitals unless they are literally in danger of losing a life or limb. They are denied earlier, less expensive care that might prevent such a dangerous condition in the first place.

We asked our Republican colleagues to restore the \$292 million that they had promised, during the budget debate, to support. They refused. The actual shortfall in IHS clinical services is over \$2.9 billion. And our colleagues refused to provide one-tenth of that amount in this bill. They refused to support one-tenth of what is needed to provide basic health services to American Indians.

Our Republican colleagues said they agreed on the need for better health care for Indian people; they said they agreed that much of the care being denied is truly essential; but they said, we simply can't afford to do more. Given some of the spending we've seen lately, that excuse rings pretty hollow to Indian people. And it rings pretty hollow to me, too.

We spend twice as much on health care for Federal prisoners as we spend for American Indians. The Indian Health Service has to ration care because of lack of funding. That is inexcusable.

Despite these deep flaws with the Indian trust fund and the Indian Health Service, the Senate has approved this rider, in part because this conference report contains many other programs that are urgently needed. But this is not the end. This in no way absolves the Interior Department of its legal and moral obligation to restore integrity to trust fund management as soon as possible. We will continue to press for a full and fair accounting of all assets in the Indian trust funds. And we will continue to push for full funding of Indian health care. It is long past time that we keep the promises we have made to American Indians and tribes.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### ORDER OF BUSINESS

Mr. LOTT. Mr. President, for clarification for those of us who have an interest in the proceedings from this point forward, if I could inquire, do we have anything scheduled now other than morning business?

The PRESIDING OFFICER. We do not.

Mr. LOTT. Do we have any idea how long morning business will last?

The PRESIDING OFFICER. We are not in morning business yet.

Mr. LOTT. Do we anticipate morning business of 15 minutes—or how long? I would like to keep an eye on this place. I just as soon it not be any longer than necessary. I would like the staff to be able to go home.

The PRESIDING OFFICER. The Chair does not have any orders at this point in time.

Mr. LOTT. Mr. President, could I inquire of the leadership? Do we have any idea what the schedule for the remainder of the evening will be?

Mr. FRIST. Mr. President, through the Chair, we are working on the schedule right now. We just cleared the Syria Accountability Act and we are going to be making some plans shortly. We will be in morning business for a while. I wouldn't send staff home until we have planned out exactly what we will be doing. We should know in about 20 minutes or so. We have gotten a lot of things cleared. Right now we are working on this. We will get the schedule planned in a very few minutes. We will be in morning business and may be doing a little more business tonight as we go forward. I do not expect to have any more rollcall votes tonight.

Mr. LOTT. Mr. President, I thank the leader for that information.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask that there now be a period of morning business with Senators permitted to speak therein for up to 10 minutes each.

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

#### THE INTERNET TAX NONDISCRIMINATION ACT—S. 150

Mr. ALLEN. Mr. President, I rise today to ask my colleagues to support

S. 150, the Internet Tax Nondiscrimination Act.

As many of my colleagues have heard me say on many occasions, I believe it is important that we—and I tried to do it myself—advocate policies and ideas that promote freedom and opportunity for all Americans. We in the Senate must advance ideas that help create more investment, thereby creating more jobs and prosperity rather than more burdens from taxation and regulation.

This measure permanently extends the moratorium banning access taxes and taxes that discriminate against the Internet. It is one of my priorities. I know the Senator presiding shares that same philosophy and has been a great leader in that regard.

As we all know, the Internet is one of our country's greatest tools and symbols of innovation and individual empowerment. I look at the invention of the Internet as profoundly transforming and revolutionary for the dissemination of ideas and information, as important as was the Gutenberg Press.

Accordingly, I think everyone in the Senate would want to help the Internet grow and flourish as a viable tool for education, information, and commerce. I stand on the side of freedom of the Internet, trusting free people and free entrepreneurs—not on the side of making this advancement in technology easier to tax for the tax collectors.

One of the great things about the Internet is that it is not limited by boundaries of State governments, local governments, not even limited by the boundary of this country. Clearly, the Internet is intrastate commerce. Thus, the Federal Government, Congress, has jurisdiction in the taxation and regulation of the Internet.

My legislation, S. 150, promotes equal access to the Internet for all Americans and protects every American from harmful, regressive taxes on Internet access services as well as duplicative and predatory taxes on Internet transactions. Specifically, as reported out of the Commerce Committee, S. 150 has five provisions.

First, it extends permanently the country's Federal prohibition of State and local taxation on Internet access service.

Second, it makes permanent the ban on all multiple and discriminatory taxes relating to electronic commerce. This ensures that several jurisdictions cannot tax the same transaction simply because the transaction happens to occur over the Internet.

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

Fourth, we make clear the original intent of the Internet Tax Freedom Act by updating the definition of Internet access to ensure the moratorium applies consistently to all consumers. If we are going to exempt Internet access services from taxation permanently, then it makes sense to do so in a manner that applies to all methods and

ways a consumer might have access to the Internet, regardless of how they choose to access it, whether by DSL—digital subscriber line connections—by wireless connections, by cable modem service, satellite, or dial-up service.

Fifth, and lastly, this legislation ensures that nothing prevents the collection or remittance of State and Federal universal service fees.

The Internet tax moratorium has contributed to extending Internet access to over 127 million citizens, approximately 45 percent of our country's population. Unfortunately, that moratorium expired Friday night. Every day that the moratorium lapses, consumers are susceptible to more pestering, burdensome new taxes on Internet access services, as well as taxes on e-mail, taxes on instant messages, spam filters, and even Web searches.

For every dollar in taxation—and most kids in elementary school will understand these economics—every dollar added in taxation adds to the cost of the Internet access. With that, you could expect to see lost utilization of the Internet by thousands of American families, especially lower income families.

According to the Pew Internet and American Life Project, 30 percent of non-internet users say cost is the major reason they remain off line. Additionally, 43 percent of non-internet users agreed with the statement, "Internet access is too expensive."

For roughly 55 percent of the American people who are still off line, keeping access affordable—and that means keeping access free from State, local, and Federal taxation—is vital.

The guiding principle of this legislation is simple and clear: The Internet should remain as accessible as possible to all people in all parts of the country forever. That has been the position I have taken on this and held since 1997 during my days as Governor of Virginia when I was one of only four Governors to share this position.

I cannot envision any time in our future where it will be desirable for any government to tax access to the Internet. I cannot envision any instance or event that would precipitate the justification for multiple or discriminatory taxes on the Internet by any government, whether large or small, local, State, or national.

Yet if the Senate fails to take action by the end of this week or any Senator votes against this legislation, such Member is in effect advocating taxing the Internet.

There are more Americans empowered by the Internet primarily because the Federal policy of the United States has consciously allowed Internet innovators, entrepreneurs, and consumers to remain free from onerous taxation.

As many know, Congress first enacted this moratorium with the Internet Tax Freedom Act in 1998 after dozens of State and local taxing commissars began to impose disparate

taxes on a consumer's ability to access the Internet.

Since the last extension of the Internet Tax Freedom Act in 2001, some States have begun taxing the high-speed component of broadband Internet access services by asserting that certain portions of high-speed broadband Internet access are telecommunication services rather than Internet access services. The States doing this are therefore circumventing the original intentions of the law.

Working with our chairman of the Commerce Committee, Senator JOHN MCCAIN, as well as Senator RON WYDEN and Senator JOHN SUNUNU in the Commerce Committee, we have updated the definition of Internet access to ensure that all Internet access services, regardless of the technology used to deliver that service, are covered by the moratorium and therefore exempt from State and local taxation.

I want to also address for my colleagues the misleading statements made regarding S. 150. I understand the proponents of higher taxes at the State and local level have raised a number of concerns about this legislation, indicating that we expanded the moratorium on Internet access to include all telecommunication services, making tax free even traditional services such as local and long-distance telephone communications. Additionally, they have raised the question whether or not this bill would prohibit States from imposing property and corporate income taxes on telecommunication carriers and Internet service providers. The false assertions come maybe from confusion, maybe from a misunderstanding, but in some cases they are intentionally, outright, and flat wrong statements. I am here to set the record straight.

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

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

The impact of what the States and localities are trying to do in taxing broadband has implications that particularly are harmful to small communities and rural areas. We have always advocated that we have to get broadband to rural areas. Obviously, it costs a great deal of money. Our good

colleague, Senator CONRAD Burns, says out in the country there is a lot of dirt to dig between light bulbs.

If you are going to get broadband to rural areas, there is a great investment to get it there because you have a fewer number of customers to recoup your investment. In the event a tax is put on to broadband, it means obviously fewer people can afford it, thereby making it less likely that a company is going to invest the millions and millions of dollars it will take to get broadband deployed or high speed deployed to rural areas, thereby ruining, hindering, hampering the ability of people and small businesses in rural communities to get access to high-speed Internet services which is vital for them getting information, education, as well as conducting business.

The fact is, S. 150 only makes permanent the tax moratorium on Internet access services, which is simply the ability to get access to the Internet. Once a consumer has accessed the Internet, the moratorium does not affect the services that are purchased, used, or sold over the Internet that would otherwise be taxable, even if those services are bundled together with Internet access services.

Proponents of Internet taxes say this bill is an unfunded mandate. The fact is, the cost associated with S. 150 only affects those few States and localities that were grandfathered under the original Tax Freedom Act of 1998. Additionally, my legislation delays the repeal of the grandfathering provision for a 3-year period, ensuring that the moratorium on Internet access taxes applies equally in all 50 States, while giving these few taxing States and localities additional time to adjust their budgets accordingly.

Let's realize this has been now 5 years where these States and localities have had time—5 years—to remove these Internet access taxes. With my bill, S. 150, they will have, in effect, 8 years to repeal these regressive taxes on Internet access.

I would invite them to look at the record since the enactment of the 1998 moratorium where several States, plus the District of Columbia, have in fact chosen to move away from Internet taxes.

For example, in 1999, Iowa enacted a law specifically exempting Internet access from taxation. In South Carolina, after the enactment of the Federal moratorium in 1998, the Governor and tax department issued formal announcements indicating the State would abide by the national tax moratorium and would cease trying to collect taxes on Internet access services. Connecticut's State legislature approved a law that accelerated the phaseout of Internet access taxes in July of 2001. Additionally, in April of 2000, Arizona enacted a law exempting Internet access from State and local sales tax. Finally, in 1999, the District of Columbia also eliminated taxes on Internet access.

Meanwhile, we do have these other States—for example, Kentucky, Alabama, and others—that have attempted to tax the transport of high-speed broadband Internet access.

In summary, the fact is, by allowing the moratorium to expire, the Senate has opened the door for States and localities to begin imposing regressive taxes on Internet access services. By taxing Internet access, States and localities are actually contributing to the economic digital divide. The more expensive we allow the State and local tax commissars to make Internet access, the less likely people are to be able to buy these advanced services, such as high-speed broadband connections. It makes it harder for them to purchase Internet protocol software, wireless fidelity, or WiFi devices, or many other multimedia applications. These applications are all made less likely to be affordable for many millions of Americans.

In a time when technology and the Internet have grown into improving almost every aspect of our daily lives, and where access to the Internet is a necessity for Americans, it just seems to me that imposing new taxes on access or levying taxes that discriminate against the Internet as a form of commerce will just never be sound policy for our country.

As a tool, what is great about the Internet is it breaks down economic and educational barriers, leveling the playing field for millions of Americans.

You will also hear some say: Let's just have a short extension. Let's have a short extension. We do not need to make it permanent. Well, going back to the business model and understanding how businesses have to invest, they like to see some certainty. If you have a short moratorium, there is less certainty, there is less predictability for investment, therefore, fewer job opportunities, and less likelihood that broadband or high speed will get out to the smaller towns and communities in rural areas.

More than ever before, with our Nation's economy finally moving forward in the right direction, the people of this country need security with regard to their financial future. Any additional tax burdens on the Internet will mean additional costs many Americans cannot afford, forcing the poorest in our society to reduce or even forego the use of the Internet as a tool for commerce, education, information, exploration, and individual responsibility and opportunity.

In a society—indeed, a world—where the quality of life and an individual's opportunity for prosperity are directly related proportionately to one's access to and the acquisition of knowledge, we as a Senate must choose to close this economic digital divide rather than exacerbate it by allowing States and localities to further tax the Internet.

I call on my colleagues to join me in supporting S. 150, the Internet Tax Nondiscrimination Act, which perma-

nently extends the Internet moratorium on access, multiple, and discriminatory taxes.

In sum, I ask my colleagues to be leaders, leaders who stand strong for individual freedom and stand strong for opportunities for all Americans.

#### MODERN TELECOMMUNICATIONS SERVICES

Mr. DASCHLE. Mr. President, last week the Senate Committee on Commerce, Science, and Transportation held a hearing on Universal Service, taking testimony from Michael Powell, the Chairman of the Federal Communications Commission. I want to commend the committee for examining issues affecting the preservation and advancement of universal service. This is a discussion that is of great interest to me and great importance to my State.

We have long sought to ensure that telephone service is available in rural America, through direct infrastructure programs like those of the Rural Utilities Service, through internal telephone company cross-subsidies and, more recently, through the universal service fund. The low population density in so much of our Nation makes some assistance necessary; the costs of wiring such areas is simply too high. Phone service is simply too important to our social fabric to ignore this challenge. We must keep it affordable for all Americans. That is why we need universal service.

Access to modern telecommunications services is vital to the economy of my home State of South Dakota and in rural areas throughout the Nation. It helps new businesses develop, even if they are far away from their customers or clients. Telecommuting is already allowing many of my constituents to remain in, or move back to, their home towns rather than having to leave in search of employment. That is a trend we need to encourage and build upon. But it is only possible if rural America has a modern telecommunications infrastructure.

Universal service is vital to South Dakota. Yet universal service is not just about rural America. It also supports telephone service for low-income individuals throughout the country, and telecommunications services and Internet access in our schools and libraries. I believe it is important that the country remain committed to these goals and the principle of universal service.

Despite its importance, the future of universal service is uncertain. Some question the long-term viability of the current structure, as its funding base of interstate telephone revenue declines. I believe that we will need to re-evaluate the universal service structure and consider comprehensive legislation to ensure that the program remains effective and affordable in the future. I am pleased that the Commerce Committee has begun that process.

The committee includes the Senators who have been the most engaged on this front. I want to commend Senator BURNS for his leadership on the issue, along with Senator DORGAN, Senator STEVENS, Chairman MCCAIN, and Ranking Member HOLLINGS. I look forward to working with them to keep the universal service system strong and effective.

Senator GORDON SMITH has introduced legislation that addresses an important component of universal service, high cost funding for nonrural carriers. Today, I am cosponsoring that legislation, S. 1380, the Rural Universal Service Equity Act of 2003, which seeks to more equitably distribute that portion of universal service.

Today, telephone companies in only eight States receive all of these funds. Nonrural carriers in the rest of the country, even those in rural States like South Dakota, receive nothing. We should reevaluate that distribution as part of universal service reform.

I fully appreciate that S. 1380 only addresses one small, albeit significant, portion of Universal Service. It is important to focus attention on the need to understand and address it.

That point made, I favor reforming the high cost support program for nonrural companies within the context of reform of the entire system. Telephone service has developed in different ways throughout the country, with service provided to various degrees by the Regional Bell Operating Companies, independent phone companies, cooperatives, wireless, and competitive carriers. We should keep that in mind when we consider alternative approaches and look at the system as a whole, not just focus on each individual component of universal service separately.

When we do consider universal service legislation, I think the approach taken by S. 1380 shifting the basis of support for nonrural companies to costs at the wire center level, rather than statewide costs deserves consideration as part of a broader package. Using statewide costs makes it difficult for a company that serves a relatively large city to obtain support for rural areas that it serves in the same State. That can limit its ability to invest in and modernize its rural infrastructure.

I do want to raise a specific concern about S. 1380. In reallocating some universal service funding, the bill shifts funds around, creating winners and losers. I am worried that this approach pits carriers and regions against each other, rather than uniting in a common goal of protecting universal service and the people who depend upon it for affordable telephone service in rural and low-income communities throughout the country. We can and should fix that problem. That is another reason why I think the bill should be considered within the context of broader universal service reform.