purchased, used, or sold by a provider of Internet access to provide Internet access.''.

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

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

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

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

(2) by inserting after section 1103 the following:

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

''(a) PRE-OCTOBER 1998 TAXES.—

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

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

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

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

''(b) PRE-NOVEMBER 2003 TAXES.—

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

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

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

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

SEC. 4. ACCOUNTING RULE.

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

''SEC. 1106. ACCOUNTING RULE.

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

''(b) DEFINITIONS.—In this section:

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

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

SEC. 5. EFFECT ON OTHER LAWS.

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

''SEC. 1107. EFFECT ON OTHER LAWS.

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

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

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

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

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

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

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

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

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

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

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

SEC. 8. EFFECTIVE DATE.

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

Mr. ALLEN. Mr. President, I move to reconsider the vote.

Mr. WYDEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. FRIST. Mr. President, I congratulate the two managers and all the many Senators on both sides of the aisle who helped bring this bill to conclusion. It has been a tough road, a difficult road. There has been tremendous debate. It wasn't both sides of the aisle but in the Chamber itself.

There are going to be no further votes this evening. The Senate will reconvene on Monday. At that time we will resume consideration of the JOBS bill, the FSC/ETI bill. The chairman and ranking member of the Finance Committee have lined up Senators to offer amendments on Monday and therefore we will make progress on the bill on Monday. Any votes ordered on amendments during Monday's session will be delayed until Tuesday.

MORNING BUSINESS

Mr. FRIST. I now ask unanimous consent there be a period for morning business with Senators to speak for up to 10 minutes each.

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

Mrs. HUTCHISON. Mr. President, I ask the distinguished Senator from Alaska if I could do a colloquy, without delaying him?

Mr. STEVENS. Fine.

INTERNET TAX NONDISCRIMINATION ACT

Mrs. HUTCHISON. Mr. President, I voted for the bill that has just passed because I have said all along I am against taxing Internet access. I think it is a disruption of interstate commerce. I have said that all along.

The reason I have been concerned about this bill is I have been very afraid that the city franchise taxes that are collected in my State of Texas were somehow going to be brought into the bill. I have now been working with the Senate leaders, the managers of the bill, Senators MCCAIN, ALLEN, WYDEN, and Senator DORGAN, to assure that it was not the intent to take the Texas franchise fee, which is called an access line fee in Texas, to be included in the ban on Internet access. It is not Internet access; it is a franchise fee.

I very much hope we can clarify the record on this point and assure that in conference the definition will be clear so it will be recognized under Federal law 47 U.S.C., section 1104(8)(B), that the Texas access line fee is included as a franchise fee or similar fee, and included in the exceptions from the definition of tax.

I hope we have an assurance from the managers of the bill that this Texas access line fee, which is a franchise fee, would not be included within the definition of Internet access tax.

Mr. WYDEN. Will the Senator yield?

Mrs. HUTCHISON. I am happy to yield.

Mr. WYDEN. I am glad to work with the Senator. I wish to consult with the chairman and also Senator ALLEN, but it has always been our intent—and as the prime Senate sponsor of the law back in 1998 it was always my intent—that franchise fees not be affected by the Internet tax moratorium.

As the Senator has correctly noted, I say to the distinguished Senator from Texas, Texas has changed the name of its franchise fee to an access line fee. It was never our intention that franchise fees be affected by the moratorium.

I am very happy to work with the Senator from Texas on it. I will have to consult with the Senator from Virginia, but he has always been very gracious working with our colleagues. The two of us will be consulting with the chairman of the committee. I want to make it clear I am very anxious to accommodate the distinguished Senator from Texas.

Mr. ALLEN. Will the Senator from Texas yield?

Mrs. HUTCHISON. I am happy to yield to the Senator from Virginia.

Mr. ALLEN. Mr. President, I state for the record that I concur with the Senator from Oregon, Mr. WYDEN, and the Senator from Texas, Mrs. HUTCHISON, that my intent as the author of the underlying bill, S. 150, is to prevent taxation of Internet access. Any modifications to the definition of Internet access taxes are not intended to include payments for franchising fees as described in section 1104(8)(B), including Texas' access line fees. I believe it is accurate to say the exemption for any franchise fee or similar fee in the definition of tax in section 1104(8)(B) of title 47 of the United States Code includes the tax line fees as established in Texas in 1999.

I thank the Senator from Texas for her strong advocacy for the people of Texas, making sure that this is brought up. I can assure the Senator from Texas that the Senator from Oregon and I, as this goes into conference, will work to make sure that express intent is effectuated when this measure comes back and is signed into law.

Mr. MCCAIN. I want to join my colleagues Senators ALLEN, WYDEN and HUTCHISON to include Texas access line fees collected by cities and local governments in the exception to the definition of ''tax'' in 47 U.S.C. section 1104(8).

Mrs. HUTCHISON. Mr. President, I thank the Senators from Virginia and Oregon, and say that I also have the assurance from Senator MCCAIN and Senator DORGAN that in the conference this issue will be addressed. It is a Texas-only issue, as I understand. It is a franchise fee but it is called an access line fee after Texas law was changed in 1999, which is why the moratorium puts it in question.

I would like to assure that we get this definition in conference. I know now, from talking to the four managers, that it was not the intention to take our access fee as a part of the major bill, but in fact treat it as a franchise fee, which is what it is.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

PLAYING POLITICS WITH IRAQ

Mr. STEVENS. Mr. President, as President pro tempore and presiding over the Senate, I have found the overheated rhetoric on Iraq over the last few days at best disappointing and at worst misleading, harshly partisan, and motivated by election year politics. I have simply had enough of this. I have come to the floor to ask my Senate colleagues to restore the level of debate that this institution demands. I urge the Senate to not play politics with Iraq.

Do not seek to gain some slim, fleeting advantage at the ballot box by making our country appear divided, and by making reckless accusations.

Our troops in Iraq deserve better than this. They deserve much better. If there is debate, let it be reasoned and measured, and focused on the way forward in this war on terrorism.

When our forces are deployed and in the field, they deserve nothing less than our absolute, unwavering commitment to their success. Nothing less.

I take strong issue with three particular themes: First, the analogy that Iraq is somehow like Vietnam. This analogy is wrong, and simply inflammatory; second, that the President was wrong when he made his speech on the USS *Abraham Lincoln* a year ago on May 1; and third, that somehow our action to remove the brutal regime of Saddam Hussein was in any regard ''unprovoked.'' That is simply and plainly not true.

Iraq is not Vietnam. It is wildly irresponsible—even reckless—to compare the situation in Iraq to the war in Vietnam. Those who make that false claim are engaging in dangerous rhetoric, and are ill informed about history and facts of the two conflicts.

Comparing Iraq to Vietnam does not advance the debate, it simply inflames the issue, obscures the facts and, unfortunately, misleads the American people.

My colleague, the senior Senator from Massachusetts, started this Iraq is Vietnam spin in a speech a few weeks ago. Of all people, he knows better than to make that bogus comparison.

I encourage my colleagues to turn down the rhetoric on Vietnam, and get the facts right. Here are some of those facts:

In Vietnam, President Kennedy sent ''advisers'' to Vietnam in 1961, but they were not authorized to use force until 1964, 3 years later. Then, in 1971, Congress repealed that authority.

In Iraq, this very Congress approved a resolution that authorized the use of force in October, 2002, well in advance of any forces being deployed. That resolution still stands today.

In Vietnam, eight nations joined with the United States.

In Iraq, over 30 nations are in our coalition, including 16 of 26 NATO allies.

In Vietnam, Ho Chi Minh violated zero U.N. Security Council resolutions—none.

In Iraq, Saddam Hussein violated seventeen—seventeen—U.N. Security Council resolutions, beginning immediately after the 1991 Gulf war cease fire agreement.

In Vietnam, how many draftees were sent to that country? About two million draftees, all young men.

In Iraq, how many draftees are there? Zero, none. We have an all-volunteer force. They know the risks, they know their duty, and they volunteer to step forward and serve our country.

I have yet to meet one at the hospitals here who hasn't asked me the question: How can I go back to my unit? How can I go back to Iraq? They ask that despite the many serious wounds they have.

In Vietnam, against how many Vietnamese, Cambodians, and Laotians did Ho Chi Minh use chemical and biological weapons? Were there chemical and biological weapons used by North Vietnam? No, none.

In Iraq, against how many Iraqis, Iranians, and Kurds did Saddam Hussein use chemical and biological weapons? Thousands and thousands of people—the Kurds, the Iraqis, and Iranians—were the subject of chemical and biological weapons used by Saddam Hussein.

I have an article here from last Sunday's Providence Journal-Bulletin, and the headline of that article is this: ''Historians, Soldiers Hesitant to Call Iraq another Vietnam: the purposes, strategy, terrain and players in the Vietnam war were far different than those in Iraq, many experts say.''

Far different than those in Iraq, indeed.

That is a true statement by the Providence Journal-Bulletin. In this article, Anthony Cordesman, a military expert and former diplomat, says ''I really worry about the analogy between Vietnam and Iraq, where we're not really fighting a foreign enemy.''

Mr. Cordesman, who is now at the Center for Strategic and International Studies, goes on to say:

> There is as yet no massive insurgency [confronting coalition forces]. We're not dealing with massive external powers supporting the insurgents. We do not have a situation where we have lost a majority of the population as we did in Vietnam when we lost the Buddhists. We are not attempting to get around the reality of a need to create a legitimate government, which we did after the fall of the South Vietnam's Diem regime.

I hope that cooler heads and cooler rhetoric will prevail here in the Senate. My colleague from Delaware, the ranking member of the Senate Foreign Relations committee, has found the Vietnam analogy, ''misleading'' because, as he says, ''The vast majority of Iraqis share our vision for a participatory, representative democracy.''

President Bush is absolutely right when he says that the Vietnam-Iraq analogy is false. And he is right that brandishing that false analogy as a rhetorical weapon, ''sends the wrong message to our troops and sends the wrong message to the enemy.''