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## Senate

### Statement of Senator Dianne Feinstein

#### *"On the Carper-Alexander Amendment to the Internet Tax Moratorium Legislation"*

Mrs. FEINSTEIN. Mr. President, I very much hope we do not pass the underlying bill today. I believe it is premature. In my 10 years in the Senate, I have never heard from more California cities, specifically 104 of them, indicating their concerns about what the underlying bill would do to the budgets of their cities.

Here in my hand are some of the letters. This issue has energized cities in my State like no other. City mayors are incensed that we would pass a law without knowing with certainty how it would impact local revenues.

I have received letters from the League of California Cities, which represents all of California's 478 cities, from county administrators, police officer associations, firefighter associations, all of whom are concerned about this bill - and I cannot answer their questions about it.

But, they understand the larger issue. They are telling us the bill contains language that threatens their ability to collect existing taxes on certain telecommunications services. And, again, I cannot answer these questions, and these questions cannot be answered on the floor of the Senate today. They are too complex.

This is precisely why the Carper-Alexander amendment is the most

appropriate approach: extend the moratorium for another 2 years and do a study. Bring the cities together with the professionals, and see exactly what taxes are impacted by the underlying bill.

I want to take a moment to commend Senators Allen and Wyden for their work and also to thank Senators McCain and Hollings for guiding the issue through the Commerce Committee.

I also know the minority and majority staff on the Commerce and Finance Committees have been working to provide the Senate with the information it needs to weigh the competing views, and I thank them. But the competing views are still there, and there are no answers for the cities.

Since we originally passed the Internet Tax Freedom Act, we knew this day would come, the day when we would need either to extend the tax moratorium or allow the temporary moratorium to expire.

California has a passionate interest in maintaining unfettered access to the Internet. We have a globally recognized concentration of high-tech and telecommunications firms. We provide much of the infrastructure required to gain access to the Internet and many of the services that make the Internet so useful. However, we have to make sure that maintaining tax-free

access to the Internet does not inadvertently destroy the budgets of cities and counties throughout my State and the Nation. Many of them have come to rely on a variety of telecommunications services fees and taxes as an important part of their revenue base.

Now, I support the permanent extension of the Internet Tax Freedom Act, but if I had to vote today on it, I would have to vote no. I am a cosponsor of Senator Wyden's original legislation that would make permanent the current moratorium. But if I had to vote today on the Allen/Wyden bill, I would vote no because a number of uncertainties have arisen and nobody can answer those uncertainties.

Additionally, as a letter circulating through the Senate today indicates, we have been told that we violate the Unfunded Mandates Act. I was here when that Act was passed in 1995. I voted for that Act. Now we hear from the Congressional Budget Office that the underlying bill would, in fact, create an unfunded mandate on States and local jurisdictions. I think we need to find out how and what can be done to prevent that from happening.

If this bill's definition of telecommunications services is interpreted in an overly broad way, as many of us think it may be, it

will negatively impact local budgets. It will lead to the possibility of reduced preparedness in our firehouses and our police stations and less money for our schools, and it will do so at a time when States and cities face large budget deficits.

Right now, in San Diego, California, a huge debate is going on as to whether the San Diego County firefighting forces are adequate; whether they have the vehicles, whether they have the training, whether they have the ability to really respond to fire conflagration. If we move ahead precipitously today, this bill will make that situation worse.

I must tell you, as a former mayor, these are my concerns. For San Francisco, the city in which I served, the bill's current definition of telecommunications services could lead to a loss of \$30 million annually. San Francisco, as their experts compute, will lose \$30 million of existing taxes if we pass this bill in its present form. That translates into 300 police and firefighters.

In the city of Pasadena, the mayor, Bill Bogaard, says this would cost his city \$11.4 million. That is the legislation before this body today. Let me quote from his letter:

“By using vague language to include broadband Internet access under the moratorium, we fear that the bill will allow telephone and cable companies to use that protection to avoid paying local franchise or utility fees.”

He goes on to state:

“It is our understanding that it was not the intent of the bill's sponsors to endanger local franchising authority, but the legislation has yet to be changed to correct these unintended consequences.”

Mr. President, this is not the first

time in this debate we have heard someone mention unintended consequences. The distinguished Senator from New Jersey, Mr. Lautenberg, mentioned last night that since this debate has started we have been hearing it from all of our mayors and State officials all across this great land.

I wish to quote from one more of the letters I have received from our mayors. This is from Judith Valles, the mayor of the City of San Bernardino, which was the focus of one of California's main wildfires. She wrote to me to point out, and I quote:

“Currently, 150 cities in California levy a utility users tax, or what is called a UUT, which in many cases includes telephone and cable television services. Utility users taxes provide a critical contribution to local discretionary revenue, on average 15 percent of general purpose revenues, making the utility users tax vital in helping fund critical city services, particularly public safety.”

This comes from a mayor who is still dealing with the threat that her city faced due to the recent California wildfires. And why? Because we are afraid to step back and give the telecommunications industry and cities more time to work out a solution to this issue with which they can both live?

I appreciate Senator Wyden's frustration that if we let the debate rage on too long, it will never end. I appreciate that sometimes you have to make a decision, and that if it is not perfect, you fix it along the way. But this is not one of those times.

If you run the risk of repealing taxes that are already in place, you unavoidably affect local budgets, and I am not willing to do that at this time. I believe people want their tax dollars used on the local

level. They want better police. They want better fire protection. They want the emergency services for adequate protection, particularly at this point when America stands a risk from terror. And it makes no sense to rush to pass a bill when you have cities all across this country saying: Don't do it. It is going to inevitably impact what we now levy.

This will not affect the telecommunications companies because the Carper-Alexander amendment extends the current law with minor changes. Just extend the moratorium for 2 years, do the study, permit the parties to come together and work this out.

I do not think it is one Member's goal to undermine the existing tax base of local cities and counties across this great Nation in passing a permanent moratorium. We have never wanted to do that. We are told today that the underlying bill does, in fact, do that. So why -- why -- rush to pass it? My goodness.

I love my high-tech companies, but the cities and counties are where the people are, and they need police and fire and emergency services. In a day of cutbacks, it makes no sense, because we don't know what we are doing today -- and to simply willy-nilly pass a bill that may well do that makes no sense. We then will have to shuffle around and find a way to correct it at some point in the future. In the meantime, budgets are upset all across the Nation. That is not good government, it is not good public policy, and it is not good legislation.

I am here to add my support and the support of 104 cities in California to the Carper-Alexander amendment. I would be most happy to offer my services in any way I can to work with the committee chair, the ranking

member, and Senators Wyden and Allen, to try to find a solution. It makes no sense to pass something without an adequate study and the reconciliation of the industries.

I remember when we were working out a solution to the taxation of cellular phone calls. At that time, we told the parties that we needed them to develop a mutually agreeable solution to the problem of how to tax mobile phone calls and then present it to Congress. The cellular industry and local governments did exactly that. We now have a cellular phone tax standard in place that most people can live with. It is my understanding that the cities and States would be comfortable with this same approach to Internet access taxes. That is the kind of approach I believe will make this debate much more productive.

The debate on this issue should not be centered on who is right and who is wrong.

Unfortunately, that is where we are today. On one side we have the telecommunications industry saying the cities are overreacting to the impact this bill will have on their budgets. On the other side, we have the cities saying the telecommunications industry is seeking special, nearly unprecedented, tax treatment.

Why is it we would not want to give these two stakeholders time to put their heads together and bring Congress an agreement they can both live with?

Let me be clear: I want a permanent extension but not at the cost of laying off firefighters, police officers, and teachers.

Should the Carper-Alexander amendment not be adopted, I will offer my own amendment that simply strips out this confused language in the context of a permanent moratorium. While not a perfect solution to the complex problem we face, it is far better than forcing our cities and States to send out pink slips to public safety personnel.

I am hoping it will not come to that. Cities and their technical experts have my attention. This is true throughout the rest of the United States.

I hope the Carper-Alexander amendment will be passed and that the moratorium will continue for 2 years so a study can be conducted and a reconciliation of conflicts within this legislation settled so that we can move ahead knowing we have not inadvertently decimated up to 15 percent of the tax base of local communities.

I yield the floor.