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Internet Tax Bills in the 105th Congress

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ABSTRACT

This report tracks the evolution and content of the Internet Tax Freedom Act, enacted as Titles XI and XII of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (H.R. 4328, P.L. 105-277, 112 Stat. 2681). The Act imposed a three-year federal moratorium on the ability of state and local governments to levy taxes on certain aspects of the Internet. It established a temporary advisory commission on electronic commerce to study specified issues and make policy recommendations to Congress. This report traces the Internet tax bills considered in the 105th Congress. It presents background on issues of concern to different interest groups regarding state and local taxation of the Internet; identifies the major components of the legislation and compares the positions taken in each of the bills; explains reactions to the proposals; and summarizes congressional activity on each of the bills. For a description of the main elements of H.R. 4105, see CRS Report 98-597, *Internet Tax Freedom Act: H.R. 4105 as Passed by the House*, by Nonna A. Noto.

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Internet Tax Bills in the 105th Congress

Summary

The Internet Tax Freedom Act was enacted on October 21, 1998, as Titles XI and XII of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (H.R. 4328, P.L. 105-277, 112 Stat 2681). Prior to the final Act, several bills to regulate and study state and local taxation of the Internet were considered in the 105th Congress. The House passed its version of the Internet Tax Freedom Act, H.R. 4105, on June 23, 1998. H.R. 4105 was preceded by House Commerce and Judiciary Committee consideration of H.R. 1054, H.R. 3529, and H.R. 3849. The Senate passed S. 442 on October 8, 1998. S. 1888 also was introduced in the Senate. The original S. 442 was amended by the Commerce and Finance Committees and on the Senate floor. The final bill enacted largely follows the bill approved by the Senate (S. 442), rather than the bill approved by the House (H.R. 4105). There was substantial debate on the Senate floor, but none on the House floor.

The various bills agreed in their general structure, but differed in their details. Each bill would have placed a temporary moratorium on the ability of state and local governments to impose certain taxes on the Internet and related activities. The moratorium was intended to allow time for a study commission to study and make recommendations regarding taxation of the Internet and electronic commerce.

Apart from these points of agreement, there were significant differences among the bills on such basic issues as: the length of the moratorium; which aspects of the Internet are to be protected from taxation; which types of taxes would be prohibited and which permitted; whether existing taxes would be grandfathered; whether past tax liabilities could be enforced; the focus of the advisory commission; whether the issue of collecting taxes on out-of-state sales would be addressed by the commission; the membership of the commission; and what policy actions are expected at the end of the moratorium.

The Act imposes a 3-year moratorium on the ability of state and local governments to levy certain taxes on the Internet. It prohibits taxes on Internet access, unless such tax was generally imposed and actually enforced prior to October 1, 1998. It also prohibits multiple or discriminatory taxes on electronic commerce. Intangible or digital products or services delivered entirely over the Internet may not be taxed. Sales arranged over the Internet but delivered separately in tangible form are to be treated like mail order sales. This means that states will not be able to collect sales and use taxes on most interstate transactions arranged over the Internet, but could require sellers to collect sales taxes on within-state sales. The Act establishes a temporary Advisory Commission on Electronic Commerce, with 19 members representing the federal government, state and local governments, businesses and consumers. The Commission is to study and make recommendations to Congress about the taxation of transactions using the Internet (electronic commerce) in the U.S. and other countries, interstate sales (remote commerce), and telecommunications. Congress is not required to take action. The Act expresses Congress's opposition to enacting new federal taxes on the Internet during the moratorium. It also opposes regulatory, tariff, and tax barriers to international electronic commerce and asks the President to pursue international agreements to ban them.

Contents

State and Local Taxation of the Internet 2

Contents of the Bills 4
- House of Representatives 4
- Senate 4
- Conference 5
- Points of Difference 5
  - Length of the moratorium 5
  - What aspects of the Internet would be protected from taxation? 6
  - Would existing taxes be grandfathered? 7
  - Could past tax liabilities be enforced? 8
  - Exception for material harmful to minors 8
  - Focus of the commission 8
  - Membership of the commission 10
  - Staffing and funding the commission 15
  - International taxation and tariffs 15
  - Federal taxation 16
  - FCC and telecommunications issues 16
  - Timetable for recommendations and actions 17
  - What policy actions are expected at the end of the moratorium? 18

Reactions to the Proposals 19
- Arguments For and Against a Moratorium 19
- Collecting Out-of-State Sales Taxes 20
  - Nexus rules 20
  - The states want Congress's help 20
  - New issues raised by electronic commerce 21
  - Simplifying compliance for sellers 21
- Unfunded Mandate 22
- Ambiguity of Bill Language 23

Congressional Action on the Bills 24
- House of Representatives 25
- Senate 27
- Conference Report 29

Congressional Hearings, Reports, and Documents 29

For Additional Reading 30

Internet Tax Bills in the 105th Congress

The Internet Tax Freedom Act was enacted on October 21, 1998, as Titles XI and XII of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (H.R. 4328, P.L. 105-277, 112 Stat 2681). Prior to the final Act, several bills to regulate and study state and local taxation of the Internet were considered in the 105th Congress. The House passed its version of the Internet Tax Freedom Act, H.R. 4105, on June 23, 1998.[1] H.R. 4105 was preceded by House Commerce and Judiciary Committee consideration of H.R. 1054, H.R. 3529, and H.R. 3849. The Senate passed S. 442 on October 8, 1998. S. 1888 also was introduced in the Senate. The original S. 442 was amended by the Commerce and Finance Committees and on the Senate floor. There was substantial debate on the Senate floor, but none on the House floor. The final bill enacted largely follows the bill approved by the Senate (S. 442), rather than the bill approved by the House (H.R. 4105). The final version of the Internet tax legislation was agreed to by the conference on the omnibus spending act.

Each bill would have placed a temporary moratorium on the ability of state and local governments to impose certain taxes on the Internet and related activities. The moratorium was intended to allow time for a study commission to develop and make recommendations to Congress regarding taxation of transactions conducted using the Internet (electronic commerce) compared with other sales or transactions.

Apart from these points of agreement, there were significant differences among the bills on such basic issues as: the length of the moratorium; which aspects of the Internet were to be protected from taxation; which types of taxes would be prohibited and which permitted; whether existing taxes would be grandfathered; whether past tax liabilities could be enforced; topics to be addressed by the advisory commission; whether the issue of collecting taxes on out-of-state sales (remote commerce) would be addressed; the membership of the commission; and what policy actions would be expected at the end of the moratorium.

This report begins by highlighting issues underlying the legislation, represented by the concerns of four different interest groups. It then identifies the major components of the legislation and compares the positions taken in each of the bills. Next, it explains reactions to the proposals Finally, it summarizes congressional activity by bill number.

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[1]For summary of the bill, see CRS Report 98-597, *Internet Tax Freedom Act: H.R. 4105 as Passed by the House*, by Nonna A. Noto.

State and Local Taxation of the Internet

The current debate over state and local taxation of the Internet involves several quite different concerns, including those of the following four groups: the Internet business community, the Clinton Administration, state and local revenue officials, and competing sectors of the economy subject to tax. These concerns are reflected in the list of issues that the Internet Tax Freedom Act permits the Advisory Commission on Electronic Commerce to study.

The **Internet business community** has expressed concern that the states will design "discriminatory" taxes tailored to the Internet. It is also concerned that because Internet commerce transcends state boundaries, it will be subjected to multiple (overlapping) taxation, or taxes levied in a haphazard, nonuniform manner by myriad separate state and local taxing jurisdictions. It suggests that the high administrative cost of complying with disparate state and local tax laws will discourage the development of Internet enterprises, especially by small businesses. Some interpret this position as a request for a uniform system of state and local taxation (a model state code), with simplified compliance procedures. Others interpret it as a request for no taxation at all.

The **Clinton Administration** is concerned with promoting U.S. economic development and international trade by nurturing the development of electronic commerce in the United States. The Administration is sympathetic to the infant industry argument that fledgling efforts to develop Internet-related businesses could be stifled by complicated taxation and regulation of the Internet. The Administration is particularly concerned with protecting from taxation services that are delivered entirely over the Internet, as distinguished from products that are ordered over the Internet but delivered separately in tangible, physical form. Internationally, the Administration wants to forestall efforts by other countries to impose taxes, tariffs, and regulations on Internet commerce. Pre-empting state and local government taxation of the Internet is a way of setting at home the example the United States would like other countries to follow.[2]

For the federal government, opposing new forms of taxes on the Internet and electronic commerce currently appears to pose relatively little threat of revenue loss. Unlike many other industrialized countries which depend heavily on value added taxes, and the states which depend heavily on sales taxes, the U.S. Treasury does not depend much on sales or other transactions taxes. The federal government feels it will receive its fair share of revenues from business conducted over the Internet through income taxation of business profits. The Governors of some states (California, New York, Texas, South Carolina, and Virginia, among others) agree with this position.

State and local revenue officials are concerned with retaining the authority to determine their own tax policy and adapt it to a changing economy. They generally opposed the idea of a federally imposed moratorium. They are particularly concerned about stemming further erosion of their sales tax base, as has already occurred with

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[2]The Clinton Administration's position is set forth in: The White House, "A Framework for Global Electronic Commerce," together with Background Paper, released July 1, 1997.

interstate mail order sales. State and local governments worry that the growth of commerce conducted over the Internet will increase the share of purchases their residents make out-of-state, tax-free, unless Congress changes the nexus rules governing interstate tax collection requirements. Under the enacted moratorium, they could also lose the ability to tax within-state sales transacted entirely over the Internet. State and local governments are also concerned about erosion of their telecommunications tax base.

Sectors of the economy that are otherwise subject to tax are concerned that they will face a competitive disadvantage and thus lose sales to business conducted tax-free over the Internet. The taxed group includes "Main Street" (storefront or "bricks and mortar") retailers, businesses that deliver their product in tangible rather than electronic form, and communications industries such as telephone and cable television that are subject to taxes and franchise fees or Federal Communications Commission (FCC) fees. These competing sectors seek equal treatment under the tax laws.

In addition, the state and local sales tax is already considered regressive — that is, it takes a larger percentage of income from low income than high income people. The Internet tax moratorium is likely to make the sales tax even more regressive. That is because higher income people are more likely to subscribe to Internet access, which is protected from new taxes, and to be able to shop over the Internet free of sales tax. Lower income people are more likely to continue to shop at local stores which are required to collect sales taxes from the customer.[3]

A basic conflict underlying the debate over state and local taxation of the Internet is between:

- what tax base will remain available to state and local governments as a growing fraction of the economy operates over the Internet;

versus

- the potential tax compliance burden for businesses conducting commerce over the Internet — throughout the nation and the world — if they are subject to the laws and filing requirements of numerous distinct taxing jurisdictions.

Among the tax administration issues of concern are:

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[3]Analysts point out that higher income consumers are more likely to have the computer, modem connection, Internet access, and credit card needed to charge purchases. In addition, the Internet is increasingly being used to purchase luxury items such as customized golf clubs and bicycles, and specialty wines and beers. Lower income people may also suffer disproportionately if state and local public services must be cut because of a loss in sales tax revenues.

See: Maserov, Michael and Iris J. Lav. *A Federal "Moratorium" on Internet Commerce Taxes Would Erode State and Local Revenues and Shift Burdens to Lower-Income Households*. Washington, Center on Budget and Policy Priorities, May 11, 1998. [http://www.cbpp.org/512webtax.htm]. Also published as: Problems with a 'Moratorium' on Internet Commerce Taxation. Special Report. *Tax Notes*, v. 79, no. 10, June 8, 1998. p. 1327-54.

- inconsistencies among tax jurisdictions in the terminology defining the tax base and in what is taxed and not taxed; and
- how to determine which jurisdiction is entitled to impose a tax when the geographic location of the Internet activity is ambiguous.

The justification for congressional intervention, expressed in the findings section of the original H.R. 1054 and S. 442 and other early versions of the bill,[4] is Congress's authority over interstate and foreign commerce, as provided by the Commerce Clause of the United States Constitution (article I, section 8, clause 3).

Contents of the Bills

The discussion that follows helps trace the evolution of the final Act and the range of proposals that were considered. It includes the following versions of the bill:

House of Representatives

- H.R. 1054 (Cox) as approved by the House Commerce and Judiciary subcommittees on October 9, 1997;
- H.R. 3529 (Chabot) as introduced in the House Judiciary Committee on March 23, 1998;
- H.R. 3849 (Cox and White/Commerce) as reported by the House Commerce Committee on May 14, 1998;[5] and
- H.R. 3529 (Judiciary substitute) as reported by the House Judiciary Committee on June 17, 1998.
- H.R. 4105 (Cox) as passed by the House on June 23, 1998.

Senate

- S. 442 (Wyden/Commerce substitute) as approved by the Senate Commerce Committee on November 4, 1997;
- S. 442 (Wyden/Finance substitute, from a sequential referral) as reported by the Senate Finance Committee on July 30, 1998;
- S. 1888 (Gregg and Lieberman) as introduced on March 31, 1998; and
- S. 442 (Senate) as passed by the Senate on October 8, 1998.

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[4]A findings section was included in the original H.R. 1054 and S. 442, H.R. 1054 as approved by the House Commerce and Judiciary subcommittees, S. 442 as approved by the Senate Commerce Committee, and H.R. 3529 as reported by the House Judiciary Committee. There is no findings section in the final Act.

[5]The amended version of H.R. 3849 reported by the Judiciary Committee on June 17, 1998, dropped entire sections of the bill reported by the Commerce Committee, but did not otherwise make changes in the bill language.

Conference

- H.R. 4328, P.L. 105-277 (final Act), Division C, Titles XI and XII of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999, as enacted October 21, 1998.

The final Act is identical to S. 442 as passed by the Senate, except for details describing the exception to the moratorium for material harmful to minors.

For further details on the chronology of the bills, see the section **Congressional Action on the Bills** at the end of this report.

Points of Difference

As explained above, the general approach taken in all the bills was to place a moratorium on the ability of state and local governments to impose certain taxes on the Internet and related activities. During the moratorium period, state and local governments would be prohibited or preempted from levying the taxes specified in the particular bill. The moratorium is intended to provide time for an appointed group to study the issues and make recommendations regarding taxation and regulation of the Internet. Apart from agreement on these general points, there were significant differences among the bills on such basic issues as:

- the length of the moratorium;
- which aspects of the Internet would be protected from taxation;
- which types of taxes would be prohibited and which permitted;
- whether existing taxes would be grandfathered;
- whether past tax liabilities could be enforced;
- the focus of the advisory commission;
- whether the issue of collecting taxes on out-of-state sales (remote sales) is to be addressed by the commission;
- membership of the commission;
- treatment of telecommunications and Federal Communications Commission (FCC) concerns; and
- what policy actions (by the commission, the President, and the Congress) are expected at the end of the moratorium.

Length of the moratorium. In the original bills, the moratorium was indefinite. Under H.R. 1054, it could last 8 years. Under H.R. 3529, H.R. 3529 (Judiciary substitute), H.R. 3849 (Commerce), and H.R. 4105 as passed by the House, it would last 3 years from the date of enactment. Under S. 442 as approved by the Commerce Committee, the moratorium would last until January 1, 2004 (more than 5 years). Under S. 1888, it would last until December 31, 2001 (more than 3 years). Under S. 442 as amended by the Finance Committee, it would last from July 29, 1998, until 2 years from the date of enactment. Under S. 442 as passed by the Senate and in the final Act (P.L. 105-277), the moratorium would last from October 1, 1998, until 3 years from the date of enactment, effectively October 21, 2001.

What aspects of the Internet would be protected from taxation? All of the bills would prohibit state and local taxation of *Internet access*, such as America Online's or Erol's monthly access charge.[6] H.R. 3849 (Commerce), H.R. 3529 (Judiciary substitute), H.R. 4105, and S. 442 (Finance) would exempt from the moratorium taxes on Internet services offered as part of a bundled package of services, only if the service provider separates the billing for services other than Internet access or online services; this distinction was dropped in S. 442 as passed by the Senate and in the final Act.

H.R. 3529, H.R. 3529 (Judiciary substitute), H.R. 3849, H.R. 4105, and S. 442 (Finance) also would prohibit *bit taxes* (on the volume of digital information transmitted over the Internet) and *multiple or discriminatory taxes on electronic commerce.* S. 442 (Senate) and the final Act drop the prohibition of bit taxes but keep its definition in the law. All these bills would prohibit sales and use taxes where the use of a computer server is used to determine nexus or agent status for a remote seller (included in the definition of discriminatory taxes). H.R. 3529 (Chabot) also would prohibit *bandwidth taxes* (on the capacity to transmit data over the Internet).[7]

Under H.R. 3529, H.R. 3529 (Judiciary substitute), H.R. 3849, H.R. 4105, and S. 442 (Finance) the prohibition against discriminatory taxation would prevent state and local governments from taxing products or services that are delivered uniquely over the Internet, in electronic form only. Under all the Internet bills (House and Senate), transactions arranged over the Internet but delivered separately in tangible form would be treated like mail order or telephone sales. This means that for most interstate sales arranged over the Internet, sellers could not be required to collect sales and use taxes from the customer.

It has been pointed out that a combination of language in H.R. 4105 opens the possibility for retail stores to set up "Internet sales subsidiaries" and encourage customers to place orders with the Internet subsidiaries from in-store computer terminals. There would be no obligation to charge the sales tax except in the state where the subsidiary is located.[8]

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[6]In early versions of the bill (H.R. 1054, S. 442, H.R. 3529 (Chabot), and H.R. 3849 (Commerce), taxes on online services were also explicitly prohibited. H.R. 3529 (Judiciary substitute) and H.R. 4105 (Cox) dropped explicit reference to online services in the list of prohibited taxes, but referred to them in the definition of Internet access. There is no separate reference to online services in S. 442 as passed by the Senate or in the final Act.

[7]No bit or bandwidth taxes have yet been imposed in the United States. They have been discussed in Europe.

[8]"This loophole arises from the combination of a definition of an 'Internet access' provider that would encompass a store making available to customers a computer linked to the Internet, and an explicit prohibition on states' requiring Internet merchants to charge sales tax when they use in-state Internet service providers to 'process orders.'" [The processing of orders provision is under the definition of discriminatory tax.] See Maserov, Michael. House Version of the "Internet Tax Freedom Act" Poses Revenue Risks for State and Local Governments. Washington, Center on Budget and Policy Priorities, July 9, 1998. p. 4.

With respect to the taxation of activities conducted over the Internet, H.R. 1054 would also prohibit taxes on the transmission or communication, and use or consumption, of data acquired through the Internet or online services. S. 442 (Commerce) would prohibit taxes on communications or transactions using the Internet.

S. 1888 would broadly prohibit taxes directly or indirectly on the use of the Internet or Internet-related services, as the original versions of H.R. 1054 and S. 442 did. Because this prohibition could be interpreted so broadly, these three bills specifically exempt from the moratorium a list of types of taxes commonly applied to businesses.

S. 442 (Senate) and the final Act (P.L. 105-277) prohibit state or local governments from imposing any taxes on Internet access, unless the tax was generally imposed and actually enforced prior to October 1, 1998, and multiple or discriminatory taxes on electronic commerce. This applies for the 3-year moratorium, which lasts until October 21, 2001.

Would existing taxes be grandfathered? H.R. 1054, S. 442 (Commerce and Finance), and S. 1888 would place the moratorium (on the types of taxes enumerated in the bill) on existing as well as new taxes. There is no provision in these bills to grandfather taxes already in effect for states or local governments.

H.R. 3529 attempted to place the moratorium only on new taxes. An issue was that the bill language of the original H.R. 3529 (Chabot) exempted existing taxes on Internet access or online services only if they have been implemented by state statute. The 12 states now taxing Internet access have done so by applying existing taxes[9] through rulings or other decisions made by state revenue departments, and not by statutory action.

Addressing this issue, H.R. 3849 (Commerce) exempted from the moratorium taxes on Internet access or online services "generally imposed and actually enforced" under state law before March 1, 1998. For the tax to remain enforceable, however, a state would need to enact a law expressly imposing such a tax within one year from the date of enactment of H.R. 3849. Concern was expressed at the House Commerce Committee markup that existing local taxes, if any, were not grandfathered as well.

H.R. 3529 (Judiciary substitute) and H.R. 4105 as passed by the House exempt from the moratorium the taxes on Internet access in effect on the date of enactment in 8 states enumerated in the bill — if, within one year from enactment of this federal legislation, the state enacts a law affirming that it imposes such a tax on Internet access. (Opponents thought this provision was tantamount to disallowing the tax because it would be difficult to get legislatures to pass such legislation.) The bill would not grandfather local taxes, including taxes levied by the District of Columbia.[10]

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[9]These are typically state sales taxes on telecommunications services or on information or data-processing services.

[10]The 8 grandfathered states are Connecticut, Wisconsin, Iowa, North Dakota, South Dakota, (continued...)

S. 442 (Senate) and the final Act (P.L. 105-277) permit taxes on Internet access that were "generally imposed and actually enforced prior to October 1, 1998." This encompasses local as well as state taxes. It does not require states to enact any legislation affirming such a tax.

Could past tax liabilities be enforced? H.R. 3849 was the only House bill to explicitly uphold tax liabilities incurred prior to the moratorium. Under H.R. 3849, tax liabilities accrued prior to March 1, 1998, and related ongoing litigation would remain unaffected. S. 442 (Finance), by stating that the moratorium begins on July 29, 19998, implicitly upholds tax liabilities incurred before that date. (Numerous companies have challenged their tax liabilities. America Online, probably the largest example, has refused to collect from customers and remit to state and local governments what now amounts to millions of dollars in sales taxes on Internet services.[11])

S. 442 (Senate) and the final Act (P.L. 105-277) explicitly provide that liability for taxes accrued and enforced before enactment or ongoing litigation relating to such taxes is not affected by the Internet Tax Freedom Act.

Exception for material harmful to minors. Under S. 442 (Senate) and the final Act (P.L. 105-277), the moratorium would *not* apply to a person or entity who does not offer a customer (at the time of entering a service agreement) screening software designed to permit the customer to limit access to material on the Internet that is harmful to minors (under 17 years of age). This applies to anyone who knowingly supplies such harmful material in communication for commercial purposes that is available to minors, in interstate or foreign commerce, by means of the World Wide Web. This provision takes effect for service agreements entered into on or after 6 months after enactment. The only differences between S. 442 (Senate) and the final Act were in the wording of this subsection (Section 1101(e) of P.L. 105-277).

Focus of the commission. H.R. 1054 and S. 442 (Commerce) would establish a single consultative group and broadly direct it to study domestic (state and local) and international taxation of the Internet and make recommendations to the President. The group is not expected to draft proposed federal or state law. H.R. 1054 goes into a far more detailed description than S. 442 (Commerce) of what topics should be addressed in the study and recommendations.

H.R. 3529 (Chabot) would establish two groups: a consultative group to examine international tax policy toward the Internet, and a separate commission on electronic commerce. The commission on electronic commerce would focus on the application of sales and use taxes to remote commerce. The commission is expected to develop

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[10](...continued)
New Mexico, Tennessee, and Ohio. The Governors of South Carolina and Texas reportedly voluntarily withdrew their states from the exemption. The Judiciary Committee approved an amendment that eliminated the exemption for the District of Columbia and certain named home-rule cities in Colorado that had been included in their original substitute language.

[11]Johnston, David Cay. Senate Panel Would Reduce Tax Moratorium on Internet. *New York Times*, August 3, 1998. P. D5.

proposed legislation to submit to Congress regarding expanded authority for states to require vendors to collect use taxes on out-of-state sales.

H.R. 3849 (Commerce) would create a single advisory commission on electronic commerce. The commission is expected to develop proposed legislation to submit to Congress regarding expanded authority for states to require vendors to collect use taxes on out of state sales. Unlike H.R. 3529 which refers to all remote sellers, for committee jurisdictional reasons H.R. 3849 focuses the proposed legislation on sales conducted using the Internet. H.R. 3849 separately assigns the Secretary of Commerce the task of examining barriers in foreign markets to U.S. businesses engaged in electronic commerce or U.S. providers of telecommunications services.

H.R. 3529 (Judiciary substitute) would create an advisory commission on electronic commerce. As under H.R. 3529 (Chabot) and H.R. 3849 (Commerce), the commission is expected to develop proposed legislation to submit to Congress regarding expanded authority for states to require remote sellers to collect use taxes on out of state sales. The Judiciary Committee separately approved an amended version of H.R. 3849 that retained the abovementioned provision for the Secretary of Commerce to examine barriers in foreign markets to U.S. electronic commerce or telecommunications services.

Like H.R. 3849, H.R. 4105 as passed by the House both establishes an advisory commission on electronic commerce and directs the Secretary of Commerce to study and prepare a report on foreign electronic commerce. Like H.R. 3529, H.R. 4105 would have the advisory commission examine, and propose federal legislation on, sales and use taxation of all remote sales, whether arranged by the Internet or other by means such as mail order or telephone.

S. 1888 would create a commission on Internet taxation and regulation focused on developing model legislation for a uniform commercial code for the Internet. It would remain up to each state to adopt the model legislation. The commission is also to study the effect of current federal statutes and regulations on the Internet and recommend appropriate modifications, and to identify any inconsistencies in state and local taxation and regulation of the Internet and Internet-related services.

S. 442 (Finance) would create an advisory commission on electronic commerce whose duty is to transmit to Congress a report reflecting the results of its study. The commission is not expected to draft federal legislation regarding taxation of remote sales (unlike H.R. 4105) or to draft model state legislation for a commercial code for the Internet (unlike S. 1888). However, these issues are both on the list of topics that the commission may study. Another issue that may be studied by the commission is most of the assignment given to the Secretary of Commerce under H.R. 4105 to report on foreign commerce. The possible topics for the commission includes many of those listed in H.R. 4105, such as the administration of consumption taxes on interstate commerce in other countries and the U.S., comparing when the transaction uses the Internet and when it does not; ways to simplify the administration of sales and use taxes on interstate sales; and ways to simplify taxes on the provision of telecommunications services. S. 442 (Finance) is distinct from the other bills in including the study of federal (in addition to state and local) tax treatment of the Internet and of telecommunications, plus an examination of the impact of the Internet

and Internet access (particularly of voice transmission) on the revenue base for the federal tax on communications services (the telephone excise tax).

S. 442 (Senate) and the final Act (P.L. 105-277) made some changes to the language of S. 442 (Finance) regarding the study of the taxation of interstate sales, but are otherwise similar to the Finance Committee bill. The Act creates a single advisory commission on electronic commerce. The duty of the commission is to conduct a study and transmit a report to Congress on the results of its study. The report may include legislative recommendations, but is not required to. Any recommendations agreed to by the commission are to be "tax and technologically neutral and apply to all forms of remote commerce."

In general, the commission is to conduct a thorough study of federal, state and local, and international taxation and tariff treatment of transactions using the Internet and Internet access and other comparable intrastate, interstate or international sales activities. In addition, the Act describes 6 specific issue areas that the commission may examine in its study: 2 focus on international issues, 2 on the taxation of telecommunications, and 2 on interstate sales taxation.

Under international issues, the commission may examine barriers in foreign markets on U.S. providers (of property, goods, services, or information) engaged in electronic commerce or telecommunications services, and how imposing such barriers will affect U.S. consumers, the competitiveness of U.S. citizens producing for foreign markets, and the growth of the Internet. The commission may also examine the coolection and administration of consumption taxes on electronic commerce in other countries and the United States and the impact on the global economy, including a comparison when the transaction uses the Interent and when it does not.

Under taxation of telecommunications, the commission may examine the impact of the Internet and Internet access (particularly voice transmission) on the revenue base fort he federal telephone excise tax (the 3% federal tax on local and long distance telephone calls). The commission may also examine ways to simplify federal and state and local taxes on telecommunications services.

Under taxation of interstate sales, the commission may examine model state legislation that would provide uniform definitions of categories subject to, or exempt from, sales and use taxes, and ensure that Internet-related services would be treated in a tax and technologically neutral manner relative to other forms of remote states. The commission also may examine the effects of taxation, or the absence of taxation, on interstate sales transactions including those using the Internet, on retail business and on the sales and use tax revenues of state and local governments. This may include a review of the efforts of state and local governments to collect sales and use taxes owed on in-state purchases from out-of-state sellers. This is the mail order sales taxation issues that was a major point of contention on the Senate floor. Absent from the final Act is the provision in the Senate Finance Committee bill (and some of the House bills) to examine ways to simplify the interstate administration of sales and use taxes on interstate commerce.

Membership of the commission. There is some difference among the bills about which cabinet secretaries would be members of the commission. There are also

differences in the number of members, the method of selecting the representatives of state and local government interests and business interests, and the selection of the chair.

All of the bills name the Secretaries of Treasury and Commerce as members of the consultative groups or commissions. H.R. 1054 and S. 442 (Commerce and Finance) also include the Secretary of State. H.R. 3529 (Chabot) includes the Secretary of State in the consultative group to study international tax policy toward electronic commerce, but not in the (domestic) commission on electronic commerce. Like H.R. 3529 (Judiciary substitute), H.R. 4105 as passed by the House includes the Attorney General with the Secretaries of Treasury and Commerce on the advisory commission on electronic commerce. Like H.R. 3849 (Commerce), H.R. 4105 gives the Secretary of Commerce, and not the Secretary of State, the responsibility for studying foreign electronic commerce. S. 442 (Finance) adds the U.S. Trade Representative.

H.R. 1054 and S. 442 (Commerce) name as members of the consultative group two organizations that are already independently working on these issues: the National Tax Association (NTA)-sponsored Joint Communications and Electronic Commerce Tax Project, and the American Bar Association (ABA)-sponsored National Conference of Commissioners of Uniform State Laws (NCCUSL). H.R. 4105, like H.R. 3529 and H.R. 3529 (Judiciary substitute), indicates that its advisory commission is to consult with the NTA project. S. 1888 and S. 442 (Finance) do not mention either group. S. 442 (Senate) and the final Act (P.L. 105-277) state that the Commission shall, to the extent possible, ensure that its work does not undermine the efforts of the NTA project.

H.R. 1054 and S. 442 (Commerce) make only general reference to having the cabinet secretaries consult with representatives of consumer and business groups, states and political subdivisions thereof, and other appropriate groups. The bills introduced in the spring of 1998 give much more specific instruction on the membership of the group to study state and local policies. H.R. 3529's commission on electronic commerce would have 29 members:

- the Secretaries of Treasury, Commerce, and State;
- 14 representatives of state and local governments, including 2 representatives each from 7 named state and local organizations;
- 12 representatives of consumers and business, 2 each appointed by the President and the 5 congressional leaders (Senate majority leader, the Senate minority leader, the Speaker of the House, the House majority leader, and the House minority leader).

The chair would be appointed upon joint recommendation of the 4 party leaders, based on nominations from the National Governors' Association.

H.R. 3849's (Commerce) temporary Advisory Commission on Electronic Commerce would be composed of 29 members:

- the Secretaries of Commerce and Treasury, or their respective representatives;

- 14 representatives from state, local, and county governments, comprised of 2 representatives each from 6 named state and local government organizations, and 1 representative each from 2 other organizations;
- 13 representatives of taxpayers and business, 3 appointed by the President, and 2 each by the 5 congressional leaders.

Two of the members would be named as co-chairpersons. One chairperson would be a representative selected by the National Governors' Association from one of the state and local interest group representatives. The other would be selected jointly by the Speaker of the House and the Senate majority leader from the taxpayer-business group. Although 15 members constitute a quorum, 18 members (a supermajority) would need to approve the proposed legislation. The commission would sunset when the last of the committees of jurisdiction concludes consideration of the proposed legislation, or 3 years after the date of enactment, whichever occurs first.

H.R. 4105 adopts the provisions of H.R. 3529 (Judiciary substitute). Under H.R. 4105 as passed by the House, the temporary Advisory Commission on Electronic Commerce would have 31 members:

- 3 representatives from the federal government:
  the Attorney General,
  the Secretary of Commerce, and
  the Secretary of Treasury, or their respective representatives;

- 14 representatives from state, local, and county governments:
  2 each from:
    the National Governors' Association
    the National Conference of State Legislatures
    the Council of State Governments
    the National Association of Counties
    the National League of Cities
    the United States Conference of Mayors;
  1 each from:
    the International City/County Managers Association
    the American Legislative Exchange Council);

- 14 representatives of taxpayers and business, 7 appointed by the majority (jointly by the Speaker of the House and the majority leader of the Senate) and 7 by the minority (jointly by the minority leader of the House and the minority leader of the Senate) leadership of the Congress. (The President would not make any of the appointments.) Within each group of 7, there should be
    3 engaged in providing Internet access, or communications or transactions that use the Internet;
    3 engaged in electronic commerce, including at least 1 in mail order commerce; and
    1 engaged in software publishing.

The chair would be selected from among the membership. Sixteen members would constitute a quorum, but 19 members (a supermajority) would be needed to approve the proposed legislation. The commission would sunset when the last of the

committees of jurisdiction concludes consideration of the proposed legislation, or 3 years after the date of enactment, whichever occurs first.

S. 1888's Commission on Internet Taxation and Regulation would have 15 members:

- the Secretaries of Treasury, Commerce, and State;
- 3 Governors (including one from a state that does not impose a sales tax);
- 3 chief executive officers of a political subdivision of a state (including one from a subdivision that does not impose a sales tax);
- 3 individuals employed by of affiliated with companies engaged in computer manufacturing activities, software activities, or activities related to the Internet or the provision of Internet-related services; and
- 3 individuals employed by or affiliated with companies engaged in electronic commerce (including at least one who is employed by or affiliated with a company engaged in mail order commerce).

The chair and vice-chair would be selected from among the membership. A majority of the members would constitute a quorum, but 10 (a supermajority) would need to approve the model legislation.

S. 442's (Finance) selection process for commission favors the majority party in Congress. The President would not make any of the appointments. Among the bills introduced or approved in the spring of 1998, S. 442 (Finance) is the least specific about describing the representation from state and local governments and business interests. S. 442's (Finance) Advisory Commission on Electronic Commerce would have 16 members:

- 4 representatives from the federal government: the Secretaries of Commerce, State, and Treasury, and the U.S. Trade Representative, or their respective representatives;
- 6 representatives from state and local governments, and
- 6 representatives of the electronic industry and consumer groups.
- Within each group of 6:
  2 appointed by the Majority Leader of the Senate;
  1 by the Minority Leader of the Senate;
  2 by the Majority Leader of the House; and
  1 by the Minority Leader of the House.

The chair would be selected from among the membership. Nine members would constitute a quorum, but any finding or recommendation included in the final report must be agreed to by at least 2/3 of the members of the commission serving at the time. The commission would sunset 18 months after the date of enactment.

Under S. 442 (Senate) and the final Act (P.L. 105-277), the Advisory Commission on Electronic Commerce is to have 19 members:

- 3 representatives from the federal government: the Secretary of Commerce, the Secretary of the Treasury, and the U.S. Trade Representative (or their respective delegates);

- 8 representatives from state and local governments (one from a state or local government that does not impose a sales tax and one from a state that does not impose an income tax), and
- 8 representatives of the electronic commerce industry (including small business), telecommunications carriers, local retail businesses, and consumer groups.
- Within this group of 16:
  - 5 appointed by the Majority Leader of the Senate;
  - 3 by the Minority Leader of the Senate;
  - 5 by the Speaker of the House; and
  - 3 by the Minority Leader of the House.

The President would not make any of the appointments. The chair would be selected from among the membership. Nine members would constitute a quorum (9 is less than a majority of the 19 commission members; this is likely to be a drafting oversight), but any finding or recommendation included in the final report must be agreed to by at least 2/3 of the members of the commission serving at the time. Appointments to the commission are to be made within 45 days of enactment (by December 5, 1998). The chairperson is to be selected within 60 days of enactment (by December 20, 1998). The commission is to sunset 18 months after the date of enactment (which will be April 21, 2000).

The law does not specify which Member of the congressional leadership should appoint which of the non-federal representatives. This caused delay in establishing a commission that met the criteria for the number of representatives from state and local governments versus business interests. As a consequence, the deadlines for establishing a commission and selecting a chairperson were missed.

Compared with the bill approved by the Senate Finance Committee, the bills approved by the full Senate and enacted:

- increased the total membership of the commission from 16 to 19;
- dropped the Secretary of State from the federal representatives;
- added 2 representatives from state and local governments;
- specified that among the 8 representatives of state and local governments, 1 should be from a state or local government that does not impose a sales tax (an element from S. 1888), and 1 should be from a state that does not impose an income tax;
- added two representatives of consumer and business interests;
- was more specific about the representatives of consumers and business: changed electronic industry to electronic commerce industry, noted that small business within the electronic commerce industry should be included, listed telecommunications carriers, and listed local retail business (an important constituency in the negotiations with the National Governors' Association (NGA); this elaboration is similar in spirit to S. 1888, although the specific list of businesses is different;
- substituted the Speaker of the House for the Majority Leader of the House in making appointments;

- increased the political margin of appointment of non-federal commission members from 8 by the Majority and 4 by the Minority, to 10 by the Majority and 6 by the Minority;
- neglected to increase from 9 (to 10 or more) the number of commission members needed to constitute a quorum.

Staffing and funding the commission. S. 1888 was the only one of the bills to explicitly authorize staff, compensation, and travel expenses for the commission. All the other bills and the final Act (P.L 105-277) provide no funding, but do permit the commission to receive private grants and gifts and to borrow resources from the federal agencies whose cabinet secretaries are named to the commission and the Department of Justice, and to use the facilities of those agencies for meetings. Any grants or gifts that are unused at the expiration of the commission are to be returned to the donor or grantor.

International taxation and tariffs. With the exceptions of H.R. 3529 (Judiciary substitute), all of the bills and the final Act state that the President should seek bilateral and multilateral agreements, through certain named international organizations,[12] to establish that commercial activity on the Internet is free from tariffs and taxation. H.R. 4105, like H.R. 3849, adds a concern for freedom from undue and discriminatory regulation for Internet access and online services, and from discriminatory regulation and discriminatory taxation (in contrast to the reference to all taxation found in the other bills) of electronic commerce in the international arena.

S. 442 (Finance) amends section 181 of the Trade Act of 1974 to ensure that the U.S. Trade Representative will include barriers to U.S. electronic commerce among the items catalogued in the annual National Trade Estimates report on foreign barrier to trade. Going beyond the general statement found in the other bills that it is the sense of Congress that the President seek international agreements to remove barriers to global economic commerce, the Finance Committee bills lays out the objectives (which are similar to those in H.R. 4105) as negotiating objectives. These are: to assure that electronic commerce is free from a) tariff and nontariff barriers; b) burdensome and discriminatory regulation and standards; and c) discriminatory taxation. Another objective is to accelerate the growth of electronic commerce by expanding (presumably international) opportunities for four specified industry sectors, many of which are related to telecommunications (see section on FCC and telecommunications issues.). These provisions are included in S. 442 (Senate) and the final Act (P.L. 105-277).

H.R. 1054, S. 442 (Commerce, Finance, and Senate), and the final Act all instruct their consultative group or commission to study international as well as domestic taxation of the Internet. H.R. 3529 (Chabot) establishes a separate consultative group to focus exclusively on the international taxation of electronic commerce. H.R. 3849 and H.R. 4105 assign the Secretary of Commerce the task of

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[12]H.R. 4105 and H.R. 3849 add the International Telecommunications Union and the Free Trade Area of the Americas to the list of organizations found in the other bills: the World Trade Organization, the Organization for Economic Cooperation and Development, the Asia Pacific Economic Cooperation Council, or other appropriate international fora.

examining barriers in foreign markets to U.S. businesses engaged in electronic commerce or U.S. providers of telecommunications services. S. 1888 does not list international taxation as a topic for its commission on regulation and taxation to study.

For jurisdictional reasons, H.R. 3529 (Judiciary substitute) does not mention the study of international issues, except for having the advisory commission examine the collection and administration of consumption taxes on remote commerce in other countries and the United States. However, the Judiciary Committee separately approved an amended version of H.R. 3849, which preserves the provision for the Secretary of Commerce to examine barriers in foreign markets and the declaration regarding international treatment of the Internet. H.R. 4105 as passed by the House includes these two foreign provisions from H.R. 3849.

Federal taxation. The review of federal taxation of the Internet was not a point of emphasis in any of the bills until S. 442 (Finance). It was retained in S. 442 (Senate) and the final Act (P.L. 105-277). H.R. 1054 and S. 442 (Commerce) refer to studying domestic taxation of the Internet, but they do not specifically mention federal taxes. H.R. 3529 recommends that there be no federal taxation of the Internet and does not assign the subject of federal taxation for evaluation. H.R. 3849 refers to identifying taxes, fees, and charges on electronic commerce in the U.S. but does not specifically mention federal taxes. H.R. 3529 (Judiciary substitute) and H.R. 4105 do not mention studying federal taxes. S. 1888 recommends no federal, state, or local taxation of the Internet; although taxation is in the name of the commission on regulation and taxation, it is not enumerated as an area to be studied. S. 442 (Finance and Senate) and the final Act explicitly state that it is the sense of Congress that no new federal taxes similar to the taxes under the moratorium for state and local governments should be enacted with respect to the Internet and Internet access during the moratorium. S. 442 (Finance and Senate) and the final Act also explicitly mention federal taxation of the Internet as a possible topic for the advisory commission to study.

FCC and telecommunications issues. H.R. 4105 includes provisions from H.R. 3849 (Commerce) specifically addressing telecommunications issues. H.R. 4105, like H.R. 3849, would prevent both the Federal Communications Commission (FCC) and state commissions from regulating the prices or charges paid by subscribers for Internet access or online services. The FCC also would be prevented from imposing regulatory fees on such services. However, the FCC and state commissions would not be prevented from otherwise implementing the 1996 Telecommunications Act or from regulating telecommunications carriers that offer Internet access or online services bundled with other telecommunications services.

FCC issues and the telecommunications services industry are included in the instructions for all 3 studies mandated by H.R. 3849 and H.R. 4105. The existing National Telecommunications and Information Administration is asked to determine whether any direct or indirect federal regulatory fees are imposed on Internet providers and make recommendations to Congress regarding whether such fees should be modified or eliminated. The Advisory Commission on Electronic Commerce (that would be created by the bill) is asked to examine ways to simplify state and local taxes imposed on the provision of telecommunications services. U.S. providers of telecommunications services are specifically mentioned among the topics for the Secretary of Commerce to examine with respect to barriers in foreign markets.

H.R. 3529 (Judiciary substitute), drafted in recognition of the jurisdictional conflict with the Commerce Committee includes a few items acknowledging the telecommunications and FCC regulatory fee concerns of the Commerce Committee. In addition, the Judiciary Committee reported an amended version of H.R. 3849 which preserves the abovementioned sections relating to FCC and telecommunications concerns. H.R. 4105 adopted those provisions.

S. 442 (Commerce) would exempt from the moratorium taxes imposed on or collected by a common carrier or by a provider of telecommunications services. The term tax is defined to include any license or fee imposed by a governmental entity.

S. 442 (Finance and Senate) and the final Act (P.L. 105-277) list among the topics that may be studied by the advisory commission an examination of the barriers imposed in foreign markets on U.S. providers engaged in electronic commerce and providers of telecommunications services, and how the imposition of such barriers will affect U.S. consumers, producers, and the growth and maturing of the Internet. (In H.R. 4105 these topics are assigned to the report to be prepared by the Secretary of Commerce.) In its listing of negotiating objectives for international agreements on trade, S. 442 (Finance) explicitly mentions expanding market access opportunities for a) the development of telecommunications infrastructure; the procurement of telecommunications equipment; c) the provision of Internet access and telecommunications services; and d) the exchange of goods, services, and digitalized information. Among the topics the advisory commission may examine are ways to simplify federal, state, and local taxes imposed on the provision of telecommunications services and the impact of the Internet and Internet access (particularly of voice transmission) on the revenue base for the federal tax on communications services (the telephone excise tax). Like H.R. 4105 and H.R. 3849 (Commerce), S. 442 (Finance and Senate) and the final Act indicate that nothing in the Act shall limit the implementation of the Telecommunications Act of 1996 or the amendments made by the Act.

Timetable for recommendations and actions. Under H.R. 1054, the Secretary of the Treasury has 4 years from enactment to submit a final report and recommendations. The Congress is then given 4 years to consider the recommendations submitted by the President. There is no time limit on the President to transmit recommendations to Congress, and no requirement for Congress to act. It is not clear whether the moratorium would go on indefinitely if the President submitted no recommendations, or sunset if the Congress took no action upon the President's recommendations.

Under S. 442, the consultative group would have 18 months from enactment to submit policy recommendations to the President. The President would have 2 years from enactment (another 6 months) to transmit recommendations to Congress. The moratorium would not expire for another 4 years (January 1, 2004). Congress is not required to take any action.

Under S. 1888, the commission has until December 31, 2000 (approximately 2 years), to submit its report, a year before the end of the moratorium (December 31, 2001). No time or other requirements are set on the President or the Congress to act on the commission's recommendations.

Under H.R. 4105 passed by the House, as under H.R. 3529 (Chabot and Judiciary substitute) and H.R. 3849 (Commerce), the commission would have 2 years from enactment to develop and transmit proposed legislation. This is 1 year before the end of the moratorium. The President is given a 45-day review period. The Congress is given 90 days from the commission's submission to take some action as described under the expedited procedure provisions of each bill.

Under S. 442 (Finance), S. 442 (Senate), and the final Act, the commission would have 18 months from the date of enactment to submit a report to Congress reflecting the findings of its study. The commission is to terminate 18 months after the date of enactment. (This was only six months before the end of the two-year moratorium under the Senate Finance Committee bill, but is 18 months before the end of the three-year moratorium under the Senate bill and final Act.) The President has no role. Congress is not required to take any action. Under the final Act, the 18-month deadline by which the report is to be submitted and the commission is to terminate is April 21, 2000.

What policy actions are expected at the end of the moratorium? It is not clear what policy actions any of the bills expect at the end of the moratorium. All of the bills require that a consultative group conduct a study and make recommendations. H.R. 1054, S. 442, and H.R. 3529 (Chabot) require that the recommendations be made to the President and that the President, in turn, submit recommendations to the Congress. H.R. 4105 as passed, H.R. 3529 (Judiciary substitute), H.R. 3849, and S. 1888 permit their commissions to submit recommendations directly to the Congress as well as to the President. S. 442 (Finance) requires that the commission's report be submitted to Congress only.

None of the bills requires Congress to take action regarding the recommendations submitted by the President or the commission. However, the spring 1998 House bills include two different forms of expedited congressional procedure for the proposed federal legislation to be submitted by the commission on electronic commerce regarding collection of interstate sales taxes.

H.R. 3529 (Chabot) provides that the commission submit its proposed legislation directly to Congress at the end of a 45-day presidential review period. After 90 legislative days the respective committees would automatically be discharged from considering the legislation, and it would be placed on the floor calendar of each chamber. This provision would make it impossible for committees formally to prevent floor consideration of the legislation, but would not ensure that either house would actually proceed to consider it. H.R. 3529 does not specify how the legislation would be formally introduced and referred after being transmitted to Congress in draft.

Like H.R. 3849 (Commerce) and H.R. 3529 (Judiciary substitute), H.R. 4105 provides that not later than 90 legislative days after its transmission to Congress the proposed legislation shall be considered by the respective committees of jurisdiction in the House and Senate, and, if reported, referred to the proper calendar on the floor of each House for final action. Unlike H.R. 3529 (Chabot), H.R. 4105 as passed by the House provides no guarantee that the proposed legislation will be forwarded from the committees for floor consideration. The committees would retain control over the content of any bill that might be forwarded.

Under S. 442 (Finance and Senate) and the final Act (P.L. 105-277), the commission is not required to submit any legislative recommendations with its report to Congress, although it may. There are no expedited procedures for Congressional consideration of the commission's recommendations, if any.

Reactions to the Proposals

Arguments For and Against a Moratorium

Supporters of a federally imposed moratorium want to forestall new efforts by state and local governments to tax the Internet and business conducted over the Internet and, where possible, prohibit existing taxes on the Internet and Internet access. Some supporters are committed to using the moratorium period to develop nationwide standards for state and local taxation of the Internet with reasonable compliance procedures. Others view the temporary moratorium as setting a precedent for a permanent prohibition on Internet taxation.

Opponents are concerned that if the moratorium lasts a long time, the Internet industry will be substantially larger and able to lobby even more strongly than today against being subject to taxes. Opponents are also concerned that having once endorsed a moratorium on certain taxes, Congress would be reluctant to permit those taxes to be imposed in the future and might make the moratorium permanent.

Opponents view the concern about Internet taxation as mostly a prospective one. Although a few examples of aggressive taxation were cited at congressional hearings, to date most state and local governments have refrained from imposing taxes on the Internet. Currently only 12 states tax Internet access. No state or local governments levy bit taxes. CBO could not identify any current state or local taxes that would clearly meet the definition in H.R. 3849 (Commerce) of multiple or discriminatory taxes on electronic commerce.[13]

State and local representatives generally opposed the initial versions of H.R. 1054 and S. 442, and oppose S. 1888. They object to the idea of a federally imposed moratorium. Instead, they support an effort already begun by the National Tax Association's (NTA) Communications and Electronic Commerce Project to reach a voluntary government-industry agreement and develop technical guidelines for a consistent and administratively simplified policy for state and local sales and use taxation of interstate sales. They are concerned that a moratorium would reduce the industry's incentive to participate in the effort to reach an agreement on tax policy. But supporters of the moratorium are concerned that haphazard taxes would proliferate during the many years it could take for the NTA group to reach an agreement and then to get the states to adopt and implement those policies.

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[13]Congressional Budget Office Mandates Statement, reprinted in: U.S. Congress. House. Committee on Commerce. *Internet Tax Freedom Act*. Report together with Additional Views to accompany H.R. 3849. 105th Cong., 2d Sess., Report 105-570, Part I, June 5, 1998. Washington, 1998. p. 19.

Collecting Out-of-State Sales Taxes

Nexus rules. For many years, the states have been looking to Congress for help in collecting sales and use taxes due on out-of-state mail order sales. Under the current legal interpretation of nexus rules, a seller is required to collect and remit sales taxes only on behalf of the jurisdiction in which it has a "physical presence."[14] Thus, a retailer is responsible for collecting and remitting sales taxes only to the jurisdiction(s) in which it is physically located (the state and possibly the county or city, if it levies a sales tax). This tax collection rule applies to mail-order or telephone vendors as well as store-front retailers.[15]

If a sale is made and delivered to a purchaser in another state, the seller is not obligated to collect a sales tax on the transaction. Technically, under state law, it remains the purchaser's obligation to remit a parallel "use" tax to his home jurisdiction, equivalent to the sales tax that would be due if the purchase had been made in the home state. In practice, however, it is difficult for governments to enforce and collect use taxes from individual purchasers; businesses purchasers are more likely to comply. States would like Congress to change the nexus rules regarding interstate sales so that more sellers (large sellers in particular) could be required to collect the use tax from the customer at the time of the purchase and then remit the revenues to the customer's home state.

It is because of these current nexus restrictions that state and local governments found little consolation in the proposed exemption from the moratorium for sales or use taxes found in the early versions of H.R. 1054, S. 442, and S. 1888. These three bills made no effort to reconsider the nexus rules governing tax collection on remote (interstate) sales made by mail order or over the Internet. The exemption from the moratorium proposed in those bills would apply to sales or use taxes on sales or other transactions effected over the Internet — but only if they are levied in the same way, and on the same person or entity, as in the case of sales or transactions effected by mail order, telephone, or other remote means within its taxing jurisdiction. Thus, as with mail-order sales, states would not be able to require Internet vendors to collect and remit use taxes on out-of-state sales. This remains the situation under the moratorium created by the final Act (P.L. 105-277).

The states want Congress's help. State and local officials were more willing to support a bill like H.R. 3529 (Chabot and Judiciary substitute), H.R. 3849 (Commerce), or H.R. 4105 as passed by the House. These bills included provisions not found in the original bills, reflecting the compromise reached with state Governors in March 1998 on addressing out-of-state sales tax collection issues. These bills would create a temporary commission on electronic commerce and direct it to examine certain topics and develop proposed federal legislation including specified elements.

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[14]See CRS Report 92-487, *Quill v. North Dakota*: The Mail Order Tax Case, by Thomas B. Ripy.

[15]For example, if a mail-order purchase is being made from a vendor located solely in California, the instructions on the order form are likely to indicate, "Residents of California, add 6.0% sales tax." Residents of other states do not need to include any payment for a sales or use tax.

The legislation to be proposed could authorize a state to impose on remote sellers the duty to collect sales or use tax from the customer and remit the revenue to the purchaser's home state. However, the duty of sellers to collect would apply if, and only if, the state had adopted a single, combined state and local sales and use tax rate for remote commerce, as well as other simplified procedures for the administration of its sales and use tax.[16] The final Act (P.L. 105-277) permits the commission to study the issue of taxation of interstate sales, but does not require that legislative recommendations be submitted to Congress.

For committee jurisdictional reasons, under H.R. 3849 (Commerce), the term remote seller is restricted to a person selling interstate using the Internet. Under H.R. 3529 (Chabot and Judiciary substitute) and H.R. 4105, a remote seller includes any person selling from one state to a purchaser in another state, without regard to the method of sale. Thus, under H.R. 4105 as passed by the House, the proposed obligation for the seller to collect and remit taxes would apply to mail order sales as well as sales arranged over the Internet. The term "mail order" is used here in a general sense that encompasses catalog sales, and sales arranged by telephone or fax, as well as by mail. The final Act emphasizes that any recommendations should apply to all forms of remote commerce.

New issues raised by electronic commerce. A new question is whether there should be a difference in the sales tax treatment of:

- communications or transactions transmitted entirely over the Internet (e.g., products, services, information, or data delivered in electronic form);

versus

- transactions arranged over the Internet, but delivered separately in physical form (the Internet-equivalent of mail-order or telephone sales of tangible items).

Under the definition of discriminatory taxation in H.R. 4105, S. 442 (Finance and Senate), and the final Act during the moratorium, products or services delivered uniquely over the Internet (with no tangible counterpart) could not be taxed at all. Sales arranged over the Internet but delivered separately in physical form would be treated like mail order or telephone sales. This means that sales and use taxes could not be collected on interstate transactions of goods arranged over the Internet (unless the out-of-state vendor also had a physical presence in the buyer's state), but states could require Internet vendors to collect sales taxes on within-state sales.

Simplifying compliance for sellers. The world of mail-order, telephone, fax, and now Internet sales has opened up the possibility that even a small business may be selling to customers anywhere in the United States or, for that matter, anywhere in the world. Even the states are willing to admit the potential legal complexity and high administrative costs facing an entity that conducts business in numerous state, let alone local, taxing jurisdictions. In the interest of reducing tax compliance costs, voluntary

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[16]The streamlined interstate sales tax collection proposal within these Internet tax bills partly reflects ideas advanced in several Congresses by Senator Dale Bumpers, most recently as S. 1586, the Consumer and Main Street Protection Act of 1998, introduced on January 29, 1998. S. 1586 focuses on mail-order sales and does not address electronic commerce.

membership organizations like the Multistate Tax Commission (MTC) and the American Bar Association's National Conference of Commissioners on Uniform State Laws (NCCUSL) have long been working toward the goal of getting the states and their local jurisdictions to adopt more nationally uniform definitions in their tax codes. But state and local governments have often resisted cooperating with these uniformity efforts in the interest of maintaining their independence in setting tax policy.

Simplifying the process of state, and especially local, tax collection and remittance was part of the sales tax proposal advanced by the National Governors' Association and is included in the instructions that H.R. 3529 (Chabot and Judiciary substitute), H.R. 3849 (Commerce), and H.R. 4105 give to the commission drafting proposed federal legislation. Remote sellers would not be expected to administer the sales taxes of individual local jurisdictions.

To benefit from any expanded nexus rules proposed by the commission, each state could choose its own combined state-local sales tax rate, but that rate would have to apply uniformly for all local jurisdictions throughout the state. (A state without sales taxes could choose a zero rate.) In addition, a state would need to agree to certain streamlined procedures for the administration of its sales and use taxes, including uniform registration, tax returns, remittance requirements, and filing procedures. States which did not adopt a single tax rate and simplified administrative procedures within four years of enactment would be considered to have a zero sales tax rate on remote commerce.

H.R. 3529 (Chabot and Judiciary substitute), H.R. 3849 (Commerce), and H.R. 4105 instruct the commission to examine a method of distributing an appropriate share of the revenues to individual local governments within a state. The commission is also to examine the possibility of using an independent third-party tax-collection system (so that sellers could remit taxes to a single collection entity that would be responsible for forwarding the revenues to the appropriate state, and possible local, government). The commission is also expected to recommend criteria for establishing sufficient nexus for imposing the duty to collect taxes on the seller.

This administrative simplification effort is not part of the final Act (P.L. 105-277).

Unfunded Mandate

The Congressional Budget Office reviewed several versions of the Internet tax bills and concluded the federal preemption of state and local governments' ability to levy certain taxes, without offsetting federal compensation, would be an intergovernmental mandate.[17] Consequently, under the terms of the Unfunded

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[17] CBO prepared a mandates statement on S. 442 as introduced and as ordered reported by the full committee, H.R. 1054 as approved by the subcommittee, and H.R. 3849 as approved by the full committee. Because of ambiguities, CBO could not in all cases determine whether the $50 million threshold for an intergovernmental mandate was exceeded. U.S. Congress. House. Committee on Commerce. *Internet Tax Freedom Act.* Report together with Additional Views to accompany H.R. 3849. 105th Cong., 2d Sess., Report 105-570, Part I, (continued...)

Mandates Reform Act of 1995 (UMRA, P.L 104-3, U.S.C. 1501-1571), a point of order could have been raised against the Internet Tax Freedom bill when it came to the House or Senate floor for a vote, but was not.[18]

Ambiguity of Bill Language

It proved difficult to draft bill language that expresses the intent of the legislation in a simple yet legally unambiguous way.[19] There was a particular problem with enumerating the taxes which would be exempt from the moratorium under H.R. 1054, S. 442 (Commerce), and S. 1888, all of which placed a broad ban on taxing the Internet. The stated intent of the sponsors was that the moratorium would prohibit discriminatory taxes on the Internet, but permit the taxes typically paid by other types of businesses. The problem is that with so many possible state and local tax structures, the list of exempted taxes under H.R. 1054 and S. 442 (Commerce) grew long and was likely still insufficient to accomplish the bills' intent. In its mandates statement evaluating the November 4, 1997 version of S. 442 (Commerce), the Congressional Budget Office (CBO) noted that it was unclear how the criteria in the bill regarding exemptions would apply to the state and local taxes that are currently levied on Internet-related transactions or services. CBO anticipated that this would likely be the subject of litigation.[20]

The final Act (P.L. 105-277) took a simpler approach to defining the taxes subject to the moratorium. However, there may still be ambiguity in the definitions of multiple and discriminatory taxation.

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[17](...continued)
June 5, 1998. Washington, 1998. p. 16-19.

[18]The unfunded mandate issue did not come up in the House because H.R. 4105 was brought to the floor under a suspension of the rules under which no point of order may be raised. For an explanation of congressional procedures required under UMRA, see CRS Report 97-238. *Unfunded Mandates Reform Act of 1995*, by Sandra Osbourn, January 24, 1997. pp. 2-7. See also, U.S. Congressional Budget Office. *An Assessment of the Unfunded Mandates Reform Act in 1997*. February 1998. Box 1. Available through the CBO Home Page at http://www.cbo.gov.

[19]For detailed examples of ambiguities and possible unintended consequences in the bill language, see Maserov, Michael and Iris J. Lav. *A Federal "Moratorium" on Internet Commerce Taxes Would Erode State and Local Revenues and Shift Burdens to Lower-Income Households*. Washington, Center on Budget and Policy Priorities, May 11, 1998. http://www.cbpp.org/512webtax.htm.

[20]U.S. Congressional Budget Office. S. 442: Internet Tax Freedom Act. Mandates Statement, as ordered reported by the Senate Committee on Commerce, Science, and Transportation on November 4, 1997. Washington, Jan. 21, 1998. At issue, in particular, are existing sales, use, or other transaction taxes on Internet access and online services and on information and data processing services. The question is whether the taxes are also imposed and collected in the case of "similar sales, uses, or transactions not using the Internet, online services, or Internet access service," in which case they would be exempt from the moratorium.

Congressional Action on the Bills

This section summarizes congressional activity on each of the several bills introduced in the 105th Congress addressing state and local taxation of the Internet. H.R. 1054, H.R. 3529, H.R. 3849, H.R. 4105, S. 442 (Commerce and Finance), and the final Act (P.L. 105-277) are all called the Internet Tax Freedom Act. S. 1888 is called the Internet Fairness and Interstate Responsibility Act (Net FAIR Act). Although all of the bills would place a moratorium on state and local taxation of the Internet, the bills differ in many specific respects (discussed in the section **Contents of the Bills**).

In brief, the original companion bills, H.R. 1054 and S. 442, were introduced in March 1997. Subsequently, both were revised in response to criticisms by state and local government organizations. In the spring of 1998, in the House, two new bills were introduced in place of H.R. 1054: H.R. 3529 in the House Judiciary Committee and H.R. 3849 in the House Commerce Committee. Each bill incorporated a version of the proposal advanced by the National Governors' Association in February 1998: before the end of the moratorium, a study commission would propose legislation to Congress to help a state require out-of-state vendors to collect sales and use taxes—if the state simplifies its state and local tax administration procedures. H.R. 3849 also addressed telecommunications issues and regulation of the Internet.

The Commerce Committee reported H.R. 3849 on May 14, 1998. On June 17, 1998, the Judiciary Committee adopted an amendment in the nature of a substitute to H.R. 3529. Challenging the jurisdiction of the Commerce Committee over interstate tax matters, the Judiciary Committee also approved an amendment to H.R. 3849 which removed the Commerce Committee provisions relating to the tax moratorium and the advisory commission on electronic commerce. The Judiciary Committee reported both bills as amended, H.R. 3529 and H.R. 3849, on June 17.

On June 22, Representative Cox introduced H.R. 4105. This new consensus bill combined elements from H.R. 3529 and H.R. 3849. H.R. 4105 was brought to the House floor under a suspension of the rules and was approved by voice vote on June 23.

In the Senate, one version of S. 442 approved by the Senate Commerce Committee in November 1997. In July 1998, the bill was sequentially referred to the Finance Committee, which reported its substitute amendment on July 30. S. 1888 was introduced in May 1998 in objection to some of the revisions made to the original S. 442. The full Senate took up consideration of the Finance Committee's S. 442 from September 23 until it was passed on October 8 by a vote of 96 to 2; the bill was vigorously debated and amended numerous times on the Senate floor.

With time pressure to adjourn at the end of the second session of the 105th Congress, the Senate worked to persuade the House to approve the Senate version of the bill, rather than trying to reach a compromise with H.R. 4105 passed by the House. Titles I and II of S. 442 as passed by the Senate were included as Titles XI and XII of Division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (H.R. 4328, P.L. 105-277, 112 Stat 2681). The conference report on H.R.

4328 (H.Rept. 105-825) was released on October 19, approved by the House on October 20 (333 yeas - 95 nays), approved by the Senate on October 21 (65 yeas-29 nays), and enacted as P.L. 105-277 on October 21, 1998.

In the remainder of this section, the bills are discussed in chronological order of their introduction within each house.

House of Representatives

H.R. 1054 (Cox). Internet Tax Freedom Act. H.R. 1054 was introduced on March 13, 1997, as a companion bill to S. 442. The original bill included a section (dropped from subsequent versions of H.R. 1054) that would ban the regulation of Internet prices by the Federal Communications Commission (FCC). Because of that provision, the bill was referred to the House Committee on Commerce, in addition to the Committee on the Judiciary. A hearing on H.R. 1054 was held by the House Commerce Committee, Subcommittee on Telecommunications, Trade, and Consumer Protection, on July 11, 1997. The House Judiciary Committee, Subcommittee on Commercial and Administrative Law, held a hearing on July 17, 1997.

State and local interest groups objected to H.R. 1054 and S. 442, particularly to the language describing which taxes would be subject to the moratorium and which would be exempt. On October 9, 1997, revised versions of H.R. 1054 bill were approved by two House subcommittees: the Telecommunications, Trade, and Consumer Protection Subcommittee of the House Commerce Committee and the Commercial and Administrative Law Subcommittee of the House Judiciary Committee.

H.R. 1054 did not receive further consideration. Instead, the full House Commerce Committee reported H.R. 3849 on May 14, 1998. The full House Judiciary Committee substantially amended and reported H.R. 3529 and H.R. 3849 on June 17, 1998.

H.R. 3529 (Chabot). Internet Tax Freedom Act. H.R. 3529 was introduced March 23, 1998, and referred to the Committee on the Judiciary. H.R. 3529 was also referred to the House Ways and Means Committee (because of provisions regarding the study of international taxation) and the Committee on Rules (because of provisions regarding expedited congressional procedure of legislation to be proposed under the bill). Unlike H.R. 1054 and H.R. 3849, H.R. 3529 was not referred to the Committee on Commerce.

H.R. 3529 represents a compromise with the National Governors' Association. It includes a proposal for a commission to develop federal legislation to require remote (out-of-state) sellers to collect sales taxes and remit them to the home state of the purchaser, in exchange for a state's simplifying the administration of its sales tax. The tax proposed collection requirement would apply to sales arranged by mail order and telephone as well as over the Internet.

H.R. 3529 (Judiciary Committee substitute for Chabot bill). Internet Tax Freedom Act of 1998. On June 17, 1998, the House Judiciary Committee adopted an amendment in the nature of a substitute to H.R. 3529, previously introduced in that

committee by Representative Chabot. The Committee approved one amendment that eliminated the proposed grandfathering of taxes on Internet access by certain local governments in Oregon and the District of Columbia. In an effort to develop a consensus bill, the substitute bill drew upon elements of several bills: H.R. 3529, H.R. 3849, and S. 1888. The Judiciary Committee substitute for H.R. 3529 addresses a few of the concerns related to taxation of telecommunications and Federal Communications Commission (FCC) fees that were raised by the Commerce Committee in H.R. 3849. It also raises special concerns about small sellers in the examination of sales taxation of remote commerce. It was expected that the bill would be revised further and considered in conjunction with the Judiciary Committee amendment to H.R 3849 (see below).

H.R. 3849 (Cox and White/Commerce Committee). Internet Tax Freedom Act. H.R. 3849 was introduced May 12, 1998, and referred jointly to four committees: Commerce, Ways and Means, the Judiciary, and Rules. It was approved unanimously by the Commerce Committee by a vote of 41-0, with one technical amendment, on May 14, 1998.

Like H.R. 3529, H.R. 3849 represents a compromise with the National Governors' Association. It includes the proposal for a commission to develop federal legislation to require remote (out-of-state) sellers to collect sales taxes and remit them to the home state of the purchaser, in exchange for a state's simplifying the administration of its sales tax. Under H.R. 3849, however, any nexus changes for remote sellers in the proposed legislation would apply only to sales arranged over the Internet, and not by mail order or other means. H.R. 3849 differs from the other bills in including provisions related to telecommunications and emphasizing freedom from regulation for the Internet.

H.R. 3849 (Judiciary Committee amendment to Commerce Committee bill). The Judiciary Committee challenged the jurisdiction of the Commerce Committee over matters related to state taxation of interstate commerce. On June 17, 1998, the Judiciary Committee, by voice vote, adopted and reported an amendment to H.R. 3849 which removed from the bill approved by the Commerce Committee the sections related to the tax moratorium and related definitions, the creation of the advisory commission on electronic commerce, and the recommendations for the commission's research agenda and legislative proposal. It left the sections relating Federal Communications Commission issues; the report on foreign commerce to be prepared by the Secretary of Commerce; the Congress's position on minimizing international regulations, tariffs, and discriminatory taxation; and expedited congressional consideration for the legislation to be proposed by the advisory commission. It was expected that the amended version of H.R. 3849 would be considered in conjunction with the substitute amendment for H.R. 3529 (also reported by the Judiciary Committee on June 17) to develop a comprehensive consensus bill.

H.R. 4105 (Cox). Internet Tax Freedom Act. H.R. 4105 is the consensus bill passed by the House. It drew upon elements from H.R. 3529 and H.R. 3849, both as amended by the Judiciary Committee, and from H.R. 3849 as originally approved by the Commerce Committee. H.R. 4105 was introduced on June 22. The bill was considered so non-controversial that it was brought to the House floor under a suspension of the rules and was approved by voice vote, without dissent, on June 23.

H.R. 4105 includes concerns of the Commerce Committee, included in H.R. 3849, about Federal Communications Commission regulations and fees not applying to the Internet, and about foreign commerce, together with the tax moratorium, the creation of the advisory commission on electronic commerce, and the recommendations for the commission's research agenda and legislative proposal endorsed by the Judiciary Committee in H.R. 3529. The House-passed bill retains the compromise included in H.R. 3529 and H.R. 3849 between House supporters of a tax moratorium and state and local interest groups' concerns about having Congress consider the issue of interstate sales and use taxation of mail order sales and sales arranged over the Internet, narrowing the definition of the taxes subject to the moratorium, and grandfathering existing taxes.[21]

Senate

S. 442 (Wyden). Internet Tax Freedom Act. S. 442 was introduced on March 13, 1997, as a companion bill to H.R. 1054. It was initially referred to the Senate Committee on Commerce, Science, and Transportation, and sequentially to the Committee on Finance. The Commerce Committee approved a revised version of the bill on November 4, 1997. Reportedly, since November 1997, there have been several revisions of the bill under the auspices of Senator Wyden, who may yet introduce a new version himself. No new bill language was officially available as of this writing, however.

S. 442 (Senate Commerce Committee). Internet Tax Freedom Act. S. 442 was initially referred to the Senate Committee on Commerce, Science, and Transportation. The Communications Subcommittee held a hearing on May 22, 1997. The bill was subsequently revised in response to objections by state and local government organizations. A revised bill was approved by the full Commerce Committee on November 4, 1997, and reported by Sen. McCain, with an amendment in the nature of a substitute, on May 5, 1998. See S. 442 and S.Rept. 105-184, both Calendar No. 357.

S. 442 (Senate Finance Committee). Internet Tax Freedom Act. Following a unanimous consent agreement obtained by Senate Majority Leader Lott on July 17, 1998, on July 21, 1998, S. 442 was ordered referred to the Senate Committee on Finance until the close of business on July 30, 1998. This meant that if the Finance Committee did not report the bill by the deadline, the Senate Commerce Committee version would be automatically discharged and placed on the legislative calendar. On July 28 the Finance Committee held a markup of the proposed Chairman's amendment in the nature of a substitute. The Committee considered several amendments to the Chairman's Mark, adopting some and rejecting others. The Committee approved a substitute version of the legislation on July 28, although the specific bill language was not yet drafted. On July 30, the Finance Committee reported a new version of S. 442 in the form of an amendment in the nature of a substitute to the Commerce Committee version of S. 442 (Calendar No. 509, S. 442 and S.Rept. 105-276). Because this was

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[21] For a summary of the bill, see CRS Report 98-597, *Internet Tax Freedom Act: H.R. 4105 as Passed by the House*, by Nonna A. Noto.

a sequential referral of the bill, the Finance Committee version was viewed as superceding the Commerce Committee version of S. 442.

S. 1888 (Gregg and Lieberman). Internet Fairness and Interstate Responsibility Act (Net FAIR Act). S. 1888 was introduced March 31, 1998. Although the bill was officially referred to the Committee on Commerce, Science, and Transportation, it is unlikely to be considered by that committee, which has already approved S. 442. A few elements of S. 1888 were incorporated into S. 442 as amended by the Finance Committee.

S. 1888's description of the moratorium is similar to the original March 1997 bill language of H.R. 1054 and S. 442. S. 1888 does not address the issue of interstate sales. The bill downplays the development of standards for international and state and local taxation. In place of a consultative group on tax policy, S. 1888 substitutes a proposal to establish a commission to develop a uniform commercial code for the Internet (a uniform set of definitions and principles for state and local jurisdictions to utilize regarding regulation and taxation of commercial transactions on the Internet). The bill addressed detailed operational matters for the commission, such as compensation rates, staff, and powers to require information.

S. 442 (Senate Floor). Internet Tax Freedom Act. The bill approved by the Senate Finance Committee was amended numerous times on the Senate floor. The bill was under consideration on the Senate floor from September 23 through October 8. The Senate passed S. 442, as amended, by a vote of 96 yeas to 2 nays, on October 8, 1998. Two cloture votes on S. 442 were held and approved: the first on a motion to proceed (September 29, 89-6), and the second to close debate on the bill (October 7, 94-4). The cloture votes were both held on a version of the bill with a 2-year moratorium, before the moratorium was lengthened to 3 years by amendment on the Senate floor. There was lengthy debate on Senate floor over whether the taxation of remote sales was a topic to be considered by the commission, and it was eventually included. Another floor amendment changed the definition of discriminatory tax.

S. 442 (Finance) had two titles as part of the Internet Tax Freedom Act. These became titles XI and XII of Division C of P.L. 105-277. Title XI is called the Internet Tax Freedom Act. Title XII is called Other Provisions but is directly related to the Internet Tax Freedom Act. (Title XII includes the provisions from S. 442 (Senate) covering the declaration that the Internet should be free of new federal taxes, national trade estimate, declaration that the Internet should be free of foreign tariffs, no expansion of tax authority, preservation of authority under the Telecommunications Act, and severability.)

As S. 442 moved through the Senate, six additional titles with content unrelated to the Internet Tax Freedom Act were added to the bill:

- Title III, Government Paperwork Elimination Act;
- Title IV, Children's Online Privacy Protection;
- Title V, Oregon Institute of Public Service and Constitutional Studies;
- Title VI, Paul Simon Public Policy Institute;
- Title VII, Howard Baker School of Government; and
- Title VIII, John Glenn Institute for Public Service and Public Policy.

These six titles were separated from the Internet Tax Freedom Act in the final omnibus appropriations act (H.R. 4328, P.L. 105-277). Title IV, Children's Online Privacy Protection, became Division C, Title XIII of the final Omnibus Act.

Conference Report

H.R. 4328, P.L. 105-277. Internet Tax Freedom Act and Other Provisions. With time pressure to adjourn at the end of the second session, the Senate worked to persuade the House to approve the Senate version of the bill, rather than trying to reach a compromise with H.R. 4105, passed by the House on June 23, 1998. S. 442 (Senate) became two titles within H.R. 4328, a bill created by the conference on the omnibus appropriations bill for FY1999. The final Act is identical to the language passed by the Senate, except for details describing the exception to the moratorium for material harmful to minors. The Internet Tax Freedom Act was included as Titles XI and XII of Division C of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 (H.R. 4328, P.L. 105-277, 112 Stat 2681). The conference report on H.R. 4328 (H.Rept. 105-825) was released on October 19, approved by the House on October 20 (333 yeas - 95 nays), approved by the Senate on October 21 (65 yeas-29 nays), and enacted as P.L. 105-277 on October 21, 1998.[22]

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[22]The language of the Internet Tax Freedom Act may be found in: U.S. Congress. House. *Making Omnibus Consolidated and Emergency Supplemental Appropriations for Fiscal Year 1999*. Conference Report to Accompany H.R. 4328. H.Rept. 105-825, October 19, 1998. Washington, U.S. Gov. Print. Off., 1998. Division C (Other Matters): Title XI, Moratorium on Certain Taxes (short title, Internet Tax Freedom Act); and Title XII, Other Provisions. p. 745-54. Also printed in the *Congressional Record*, Daily Edition, vol. 144, no. 149, October 19, 1998. p. H11238-40.

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U.S. Congress. Senate. Committee on Finance. *Internet Tax Freedom Act.* Report to accompany S. 442. 105th Cong., 2d Sess., S.Rept. 105-276 (Star Print), July 30, 1998.

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For Additional Reading

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