

## 1999 ASSEMBLY JOINT RESOLUTION 104

February 17, 2000 – Introduced by Representatives STONE, SUDER, PETTIS, HUNDERTMARK, PETROWSKI, WALKER, SPILLNER, JESKEWITZ, URBAN, ALBERS, SYKORA, GUNDERSON, OWENS, F. LASEE, KREIBICH and KLUSMAN, cosponsored by Senators ROESSLER, WELCH, DARLING, FARROW and SCHULTZ. Referred to Committee on Rules.

1     **Relating to:** urging a study of whether electronic commerce should be taxed and the  
2             extension of the federal moratorium on the taxation.

3             Whereas, America’s current unprecedented economic expansion is being  
4     driven, in large part, by the explosive growth of Internet companies and electronic  
5     commerce; and

6             Whereas, the robust development of electronic commerce has attracted the  
7     attention of government officials committed to establishing tax authority over  
8     Internet transactions; and

9             Whereas, in 1998 Congress, in a move to protect the further development of this  
10    emerging technology and marketplace, instituted a 3–year moratorium on Internet  
11    taxation; and

12            Whereas, as the moratorium draws to a close, state and local officials continue  
13    to push for taxation authority on the grounds that federal restriction constitutes a  
14    violation of states’ rights; and

1           Whereas, arguments for taxing electronic commerce ignore legal precedents  
2 based firmly in the U.S. Constitution and, according to rulings by the U.S. Supreme  
3 Court, attempts to impose state and local taxes on out-of-state Internet companies  
4 may represent a violation of the Commerce Clause; and

5           Whereas, electronic commerce is considered an engine for future economic  
6 prosperity; and

7           Whereas, electronic commerce provides entrepreneurs and small businesses  
8 the ability to expand their markets and reach out to customers across the globe; and

9           Whereas, current tax policy could subject electronic commerce transactions to  
10 multiple taxation from multiple jurisdictions; and

11           Whereas, the U.S. Supreme Court has consistently ruled that the U.S.  
12 Constitution places strict limits on the ability of state and local governments to  
13 impose tax burdens on interstate commerce; and

14           Whereas, efforts by state and local governments to apply existing tax policy to  
15 electronic commerce would violate constitutional limits on their taxing authority;  
16 and

17           Whereas, absent these constitutional limitations, the ability of entrepreneurs  
18 and small businesses to compete in the global marketplace would be severely limited;  
19 and

20           Whereas, the vast majority of electronic commerce transactions would be  
21 exempt under traditional existing sales tax policy, such as transactions for services  
22 or business-to-business transactions; and

23           Whereas, state and local governments are currently experiencing a period of  
24 strong revenue growth and record budget surpluses; and

1           Whereas, businesses operating in the global electronic marketplace are  
2           currently subject to a number of other state and local taxes; and

3           Whereas, independent studies have concluded that the current revenue loss to  
4           state governments from the nontaxation of the Internet is less than one-half of 1%;  
5           and

6           Whereas, the average working American family already faces the highest tax  
7           burden in our nation’s history, paying close to 40% of its income in local, state and  
8           federal taxes; and

9           Whereas, the current federal moratorium on Internet taxation has laid the  
10          foundation for the explosive and revolutionary growth of a vital sector of the  
11          economy; and

12          Whereas, the current federal moratorium on Internet taxation will expire in  
13          2001; and

14          Whereas, Congress has empaneled the Advisory Commission on Electronic  
15          Commerce to study all aspects of electronic commerce and the Internet; now,  
16          therefore, be it

17                 ***Resolved by the assembly, the senate concurring, That*** the current federal  
18          moratorium on Internet taxation should be extended to allow a thorough  
19          examination of all aspects of electronic commerce; and, be it further

20                 ***Resolved, That*** the members of the senate and assembly believe the Advisory  
21          Commission on Electronic Commerce should examine the question of “whether” the  
22          Internet should be taxed, and not just “how” to tax the Internet; and, be it further

23                 ***Resolved, That*** members of the senate and assembly believe that unless there  
24          is a fundamental reform of existing tax policy within the constitutional limitations

1 placed on state and local governments' taxing authority, the federal moratorium on  
2 Internet taxation should be extended indefinitely; and, be it further

3 ***Resolved, That*** all state governments refrain from taxing electronic commerce  
4 and allow it to continue to grow in an unfettered environment; and, be it further

5 ***Resolved, That*** the assembly chief clerk shall provide a copy of this joint  
6 resolution to the president and secretary of the U.S. senate, to the speaker and clerk  
7 of the U.S. house of representatives, to each member of the congressional delegation  
8 from this state, to the chief clerk of each state legislative body in this country and to  
9 governor of each state attesting the adoption of this joint resolution by the 1999  
10 legislature of the state of Wisconsin.

11 (END)