

**1999 DRAFTING REQUEST**

**Senate Joint Resolution**

Received: 01/26/2000

Received By: dykmapj

Wanted: Soon

Identical to LRB:

For: Carol Roessler (608) 266-5300

By/Representing: Brad Boycks

This file may be shown to any legislator: NO

Drafter: dykmapj

May Contact:

Alt. Drafters:

Subject: Memorials - Congress to

Extra Copies:

**Pre Topic:**

No specific pre topic given

**Topic:**

Taxation of internet

**Instructions:**

See Attached

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/1	dykmapj 01/26/2000	ygeller 01/26/2000	ismith 01/26/2000	_____	lrb_docadmin 01/26/2000	lrb_docadmin 01/27/2000	

FE Sent For:

<END>

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/?	dykmapj	1/1/20 jlg	JS 1/24/00	8/24 1/26/00			

FE Sent For:

<END>

WISCONSIN STATE SENATE



**Carol Roessler**  
STATE SENATOR

America's current unprecedented economic expansion is being driven, in large part, by the explosive growth of Internet companies and electronic commerce. The robust development of electronic commerce has attracted the attention of government officials committed to establishing tax authority over Internet transactions. In 1998 the US Congress, in a move to protect the further development of this emerging technology and marketplace, instituted a three-year moratorium on Internet taxation. As the moratorium draws to a close, state and local officials continue to push for taxation authority on the grounds that federal restriction constitutes a violation of states' rights. But arguments for taxing electronic commerce ignore legal precedents based firmly in the US Constitution. According to rulings by the US Supreme Court, attempts to impose state and local taxes on out-of-state Internet companies may represent a violation of the Commerce Clause. This resolution calls for state governments to refrain from taxing electronic commerce and allow it to continue to grow in an unfettered environment.

**WHEREAS**, electronic commerce is considered an engine for future economic prosperity; and

**WHEREAS**, electronic commerce provides entrepreneurs and small business the ability to expand their markets and reach out to customers across the globe; and

**WHEREAS**, current tax policy could subject electronic commerce transactions to multiple taxation from multiple jurisdictions; and

**WHEREAS**, The United States Supreme Court has consistently ruled that the Constitution places strict limits on the ability of state and local governments to impose tax burdens on interstate commerce; and

**WHEREAS**, efforts by state and local governments to apply existing tax policy to electronic commerce would violate constitutional limits on their taxing authority; and

**WHEREAS**, absent these constitutional limitations, the ability of entrepreneurs and small businesses to compete in the global marketplace would be severely limited; and

**WHEREAS**, the vast majority of electronic commerce transactions would be exempt under traditional existing sales tax policy, e.g. transactions for services or business-to-business transactions; and

**WHEREAS**, state and local governments are currently experiencing a period of strong revenue growth and record budget surpluses; and

---

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

**WHEREAS**, independent studies have concluded that the current revenue loss to state governments from the non-taxation of the Internet is less than one-half of one percent; and

**WHEREAS**, the average working American family already faces the highest tax burden in our nation's history, paying close to 40 percent of its income in local, state and federal taxes; and  
**WHEREAS**, the current federal moratorium on Internet taxation has laid the foundation for the explosive and revolutionary growth of a vital sector of the economy; and

**WHEREAS**, the current federal moratorium on Internet taxation will expire in 2001; and

**WHEREAS**, the US Congress has empanelled the Advisory Commission on Electronic Commerce to study all aspects of electronic commerce and the Internet;

**RESOLVED BY THE SENATE, THE ASSEMBLY CONCURRING**, that the current federal moratorium on Internet taxation should be extended to allow a thorough examination of all aspects of electronic commerce; and

**BE IT FURTHER RESOLVED**, that the senate and assembly believe the Advisory Commission on Electronic Commerce should examine the question of "whether" the Internet should be taxed, and not just "how" to tax the Internet; and

**BE IT FURTHER RESOLVED**, that the senate and assembly believe that unless there is a fundamental reform of existing tax policy within the Constitutional limitations placed on state and local governments' taxing authority, the federal moratorium on Internet taxation should be extended indefinitely.

**Dykman, Peter**

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**From:** Boycks, Brad  
**Sent:** Wednesday, January 26, 2000 12:05 PM  
**To:** Dykman, Peter

Senate Joint Resolution.



INTERNET TAX  
RESOLUTION.doc

WISCONSIN STATE SENATE



**Carol Roessler**  
STATE SENATOR

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**WHEREAS**, electronic commerce is considered an engine for future economic prosperity; and

**WHEREAS**, electronic commerce provides entrepreneurs and small business the ability to expand their markets and reach out to customers across the globe; and

**WHEREAS**, current tax policy could subject electronic commerce transactions to multiple taxation from multiple jurisdictions; and

**WHEREAS**, The United States Supreme Court has consistently ruled that the Constitution places strict limits on the ability of state and local governments to impose tax burdens on interstate commerce; and

**WHEREAS**, efforts by state and local governments to apply existing tax policy to electronic commerce would violate constitutional limits on their taxing authority; and

**WHEREAS**, absent these constitutional limitations, the ability of entrepreneurs and small businesses to compete in the global marketplace would be severely limited; and

**WHEREAS**, the vast majority of electronic commerce transactions would be exempt under traditional existing sales tax policy, e.g. transactions for services or business-to-business transactions; and

**WHEREAS**, state and local governments are currently experiencing a period of strong revenue growth and record budget surpluses; and

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

**WHEREAS**, independent studies have concluded that the current revenue loss to state governments from the non-taxation of the Internet is less than one-half of one percent; and

**WHEREAS**, the average working American family already faces the highest tax burden in our nation's history, paying close to 40 percent of its income in local, state and federal taxes; and

**WHEREAS**, the current federal moratorium on Internet taxation has laid the foundation for the explosive and revolutionary growth of a vital sector of the economy; and

**WHEREAS**, the current federal moratorium on Internet taxation will expire in 2001; and

**WHEREAS**, the US Congress has empanelled the Advisory Commission on Electronic Commerce to study all aspects of electronic commerce and the Internet;

**RESOLVED BY THE SENATE, THE ASSEMBLY CONCURRING**, that the current federal moratorium on Internet taxation should be extended to allow a thorough examination of all aspects of electronic commerce; and

**BE IT FURTHER RESOLVED**, that the senate and assembly believe the Advisory Commission on Electronic Commerce should examine the question of "whether" the Internet should be taxed, and not just "how" to tax the Internet; and

**BE IT FURTHER RESOLVED**, that the senate and assembly believe that unless there is a fundamental reform of existing tax policy within the Constitutional limitations placed on state and local governments' taxing authority, the federal moratorium on Internet taxation should be extended indefinitely.





State of Wisconsin  
1999 - 2000 LEGISLATURE

LRB-4405/1

PJD...:~:~:~

*JL*

1999 SENATE JOINT RESOLUTION

*This week*

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, <sup>a</sup>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 ~~the~~ <sup>d</sup> Congress, in a move to protect the further development  
10 of this emerging technology and marketplace, instituted a ~~three~~ <sup>3</sup>-year moratorium  
11 on Internet 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 ~~United States~~ Constitution and, according to rulings by the  
 3 ~~United States~~ Supreme Court, attempts to impose state and local taxes on  
 4 out-of-state Internet companies may represent a violation of the Commerce Clause;  
 5 and

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

8           Whereas, electronic commerce provides entrepreneurs and small businesses<sup>eS</sup>  
 9 ability to expand their markets and reach out to customers across the globe; and

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

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

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

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

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

24          Whereas, state and local governments are currently experiencing a period of  
 25 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 non<sup>g</sup>taxation of the Internet is less than one-half of ~~one~~ 1%  
5           ~~per~~ <sup>year</sup>; 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, ~~the~~ 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 senate, the assembly 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~~ <sup>plain</sup> 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~~ <sup>plain</sup> 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)

**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 01/26/2000

To: Senator Roessler

Relating to LRB drafting number: LRB-4405

**Topic**

Taxation of internet

**Subject(s)**

Memorials - Congress to

1. **JACKET** the draft for introduction



in the **Senate**  or the **Assembly**  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT.** See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Attorney Peter J. Dykman, General Counsel  
Telephone: (608) 266-7098