

I will yield the floor.

INTERNET TAX FREEDOM ACT

The Senate continued with consideration of the bill.

The PRESIDING OFFICER. The Senator from Nebraska.

AMENDMENT NO. 3783

Mr. KERREY. Mr. President, what is the order of business?

The PRESIDING OFFICER. The pending business is the McCain amendment No. 3783 to amendment No. 3719.

Mr. KERREY. Mr. President, I rise to speak against the McCain second-degree amendment which would extend the moratorium on States taxing Internet transactions from 3 years to 4. The Finance Committee had knocked it back to 2 years. We thought that was a reasonable length of time, given that we allowed 15 months to restructure the IRS; 18 months in getting the Medicare Commission to do its work. We believed that 2 years was a reasonable period of time. I was willing to go along with an extension of that from 2 years to 3. To go to 4 years is just much too long a time.

This is an issue where the Federal Government is intervening, saying the States can't raise taxes in a certain way. This is, in my judgment, without precedent.

I am willing to support this piece of legislation. I am willing to provide this moratorium so we can reach an understanding of how we will tax these transactions. But to allow 4 years—when we allow approximately 15 months in getting a commission to restructure the IRS, and 18 months in getting Medicare, Mr. President—is an unreasonable length of time.

I hope my colleagues will vote against the McCain amendment. We have been contacted by our Governors who are actually asking us to go along with the Finance Committee, which was 2 years. As I said, I'm willing to support a compromise to 3 years, but 4 years, given the amount of time we have allowed for some things that are more complicated than this, it is unreasonable and too lengthy a period of time.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Mr. President, I agree mostly with what the Senator from Nebraska said. I prefer a 2-year moratorium.

As the Senator from Nebraska stated, earlier this year, we passed a bill to reform the Internal Revenue Service. That legislation arose from the IRS Commission, which had a mere 15 statutory months to take a top to bottom look at, and make recommendations on, how to restructure the IRS. The entire commission process plus the legislating process resulted in a bill the President signed in just a shade over two years.

The point I am trying to make is this: Fair taxation of the Internet is not more complicated than restructur-

ing the IRS. The bill to which the two amendments presently pending are offered, is a bill that provides a 2-year moratorium. Two years is enough. To allow any more time would do nothing but prove that the U.S. Senate is knuckling under to the Internet industry.

I see my good friend from Florida on the floor. He and I were both Governors. The Governors signed off on 2 years and now here is a letter saying they hope we will compromise on 3 years. "Do not adopt," they say, "the 4 year moratorium. Accept the compromise of 3 years."

I can tell you, Senator, if I were still Governor of my State, I would be squealing like a pig under a gate. Here a significant percentage of the State's entire tax base is being eroded, literally destroyed, by remote sellers, and the Internet industry and the Governors say let's compromise at 3 years. We are willing not to tax the Internet for a 3-year period. Think about that. In 3 years' time the estimates are that sales over the Internet will be \$300 billion. We know that catalog sales right now are in excess of \$100 billion.

The States are saying they are willing to forgo their right to tax the Internet for 3 years. If there were no catalog sales, if there were no Internet, \$400 billion worth of goods would be sold by Main Street merchants in America on which they would pay a 4, 5, 6, or 7 percent sales tax to support their community schools, their fire departments, their police departments, their landfills, paving their streets and everything else that cities have to do.

Yes, if I were still Governor, trying to raise teachers' salaries, trying to making better schools, trying to increase the size of the police department and reduce crime in my community, if I were charged with the responsibility as mayor or Governor and had the responsibility of our children, our environment, all of those things, I would never sit still. I would never sit still for allowing these people to escape taxation. It has been a mystery to me for 7 years, as I have fought to try to give the States the right—not the mandate, but the right—to make remote sellers collect sales taxes. There are only 7,500 of them. The bill I offered would only affect 675 of them. We exempted everybody that did less than \$3 million in business a year. I have been soundly defeated each time I have tried to correct this problem. And as I leave the U.S. Senate after 24 years, it is a mystery to me. Why do people vote to allow the tax bases in their States to be eroded when their Governors and their mayors and local officials are scrounging for money to improve schools and everything else?

My State has a sales and use tax on all mail-order sales coming into my State. Do you know how much we collect on it? Zero. Do you know why? Because the tax is on the purchaser. I promise you there is not 1 in 10,000 people in the State of Arkansas that even

know that the tax exists. Of course, they don't pay it. Literally millions of dollars of goods come into my State every year on which not one cent of tax is collected, even though it is owed. But it is owed by the person who bought the merchandise, and he or she doesn't even know the tax exists.

When we try to say to the States—Senator GRAHAM, Senator DORGAN and myself—that we are going to help you, we want to honor what you are trying to do, they have all championed my bill. They haven't been very effective, but the Governors and mayors have all championed my legislation every year I have offered it. But the U.S. Senators sit up here, with all their arrogance, and say to their legislatures, Governors and mayors: We don't care what you want, we will decide what you get. For 7 years, so far, and much longer than that, we have said you get nothing. We are not going to let you tax mail-order sales. So quit talking about it. You might as well quit talking about it. I think 30 or 35 votes is my high-water mark in trying to address what I consider a terrible problem.

The Presiding Officer heard me talk a while ago about how the first thing I did when I came here was to try to stop the manufacturing of CFCs that are destroying our ozone. We all know the ozone is being systematically destroyed, but back then we had to study it. It was just a theory. As I said, the best way to kill something in the U.S. Senate is to say let's study it. If you want to never hear of something again, get an amendment adopted that says, no, you can't do that anymore, you have to study it.

That is what we are doing here. We are saying to the mayors and Governors and legislatures of our respective States—45 of the 50 States already have a tax, but it is on the consumer and nobody knows it, and they are desperate. The reason I mention that again is because I will be sitting down in Arkansas, or someplace, a few years from now and this thing will crescendo and will reach a level where the Senate won't have any choice but to deal with it and to give the States that right, because if they don't their schools are going to start crumbling, their police departments are going to go to pot, as are their fire departments.

Did you see in the paper this morning where Amazon.com's stock is selling for over \$100 a share, and they haven't made a nickel profit yet? It is estimated they are selling two-thirds of all the books sold over the Internet, and their sales are growing exponentially. I have a lot of friends that never buy a book from a local bookstore anymore. They buy it over the Internet. Not only do they get a little discount, they pay no sales tax on it. So this morning's paper says Amazon.com has become so terrific and so powerful that a publishing house is buying Barnes & Noble's on-line system. They have a third and Amazon.com has two-thirds. The publishing house knows that they are

going to be put out of business if they don't get with the program, because Amazon.com is going to be selling all the books in the country. So they are buying Barnes & Noble's on-line book service.

That is good for the consumers, but it is terrible for State and local government. Yesterday afternoon, I offered an amendment to say at least make the Internet state that the merchandise you buy may be subject to local taxation. You think about that. Senator DORGAN voted with me, Senator GRAHAM voted with me, and we got 27 votes. They don't even want the people to know that there is a sales tax on which the purchaser is liable.

Then, this morning, we finally won a little battle. There was an amendment here that I could not believe that said you can't study this issue. Think of that. Normally you use studies to kill things. This morning, we get an amendment saying you can't even study it. I am telling you, I don't know what the Internet and these mail-order catalog houses have on the Senate, but it must be something. Larry Flynt ought to be offering a million dollars to find out the answer to that one. So here we are standing around debating an issue, the merits of which are not even in question. Everybody knows that we ought not to be giving a free ride to the to people who are selling merchandise by the hundreds of billions of dollars over the Internet and eroding the tax base of almost every State in the Nation. I am for computers; I am for technology, but I am not for allowing them to destroy the tax base of the states.

Mr. DORGAN. Will the Senator yield for a question?

Mr. BUMPERS. Yes, I am happy to.

Mr. DORGAN. Mr. President, I have listened to the Senator from Arkansas, and I am reminded again why we are going to miss him when he is gone. He fights hard for the things he feels strongly about, and this has been one of them for many years.

This vote coming up, probably in 20 minutes, is a very simple vote. This issue started with the notion that people said, gee, we must do something here to provide a shield so that nobody would impose punitive taxes on the Internet and retard the growth of the Internet. Lord, have you ever seen anything grow like the Internet and Internet commerce? That is mushrooming so fast you can't get your arms around it. And they are saying we have to be sure that we protect them.

Well, in the matter of protecting them, they have created a moratorium on the ability of State and local governments to impose taxes. The vote that we are going to have in a moment is regarding how long that moratorium is going to last. The committee on which I serve reported a bill out that said let's have a moratorium for 6 years. I didn't vote for that. The House of Representatives said let's have a moratorium for 3 years. The Senate Fi-

nance Committee said let's have a moratorium for 2 years. The underlying bill will now say 3 years. The amendment we are going to vote on says no, that is not enough; we need a 4-year moratorium. The Senator from Arkansas will be fishing in Arkansas, and at the end of 4 years we will have folks—I guarantee it—who will stand here on the floor of the Senate, and they will say, "We have got to have an extender. We have to extend this moratorium." How long? Another 4 years. How about permanently? Make it a permanent extender. That is exactly what is going to happen.

We ought to decide as a Senate 3 years—no more. And at the end of 3 years we are done. If we can't figure it out by the end of 3 years, there is something wrong with us.

I ask the Senator from Arkansas. Does he agree that this ought not be a circumstance where we create a tax system that says, "Oh, by the way. We will favor folks doing this over a computer," which means we will penalize the folks that hire the folks on Main Street who rent the building, put the inventory in, open their door early in the morning, and hold themselves open for business. And we say to them that we will penalize them because the other folks don't have to comply with the tax laws when they come in and compete with them.

That is what this fight is about. The amendment here is going to be 4 years or 3 years. There will be a lot of folks who come to the well of the Senate and say, "What is the issue?" The issue is that for every, I assume, 4 years, or for every 3 years. But what does good sense tell us ought to be the case here? Three years maximum, and then no more. Then let's have a tax system that is fair to everybody regardless of how they are selling—off the Internet, catalogs, or Main Street. Let's be fair with respect to this tax system of ours.

Let me conclude by saying I worked on this issue when I was in the House of Representatives on the Ways and Means Committee for 10 years. I know what the problem is. You start talking about this issue, and the first thing you know you have a million friends—not friends. You get a million postcards, because everybody who buys from a catalog seller is told to send a postcard to this person, or that person, and they are told that person is trying to increase your tax. Of course, that is not true. Nobody is talking about any additional taxes. There is no increase in tax. This is a different issue—the moratorium. So you get a million cards out there, or 10 million cards that affects all of the interests that are voting.

Mr. President, again, let me say to the Senator from Arkansas that his dedication to this issue is important, and he will leave a long and lasting impact on the Senate. I think the most immediate impact and the most immediate presentation now is a good vote so we can at least turn back the 10

years. I think that would be a good public service.

Mr. BUMPERS. Mr. President, the distinguished Senator from North Dakota, my good friend, has been a steadfast ally with me in this battle for many, many years, because the State of North Dakota took this case to the Supreme Court. And the Supreme Court said we are reversing ourselves in previous decisions. If the Congress wants to give the right to the States to collect this tax, they can now do it. But Congress has to do it. Congress has steadfastly refused to do what the Supreme Court told them they had the authority to do.

I will be sitting down in Arkansas fishing 3 years from now, and I assume that is probably the number of years we are going to adopt in a few minutes. I am not going to vote for it. I am not going to vote for 4 years. I am not going to vote for the bill either. It has a 2-year moratorium. As far as I am concerned, that is enough.

But having said that, I will be down there fishing. I will be watching C-SPAN. I will smile to myself when somebody gets up as though it is the most original idea that was ever created, and says, "Mr. President, I send an amendment to the desk that would create a commission to study taxation of the Internet. We have had 3 years to study it, but we are really not quite finished and we don't know what havoc this is going to create. We need to get the National Academy of Sciences, the Council of Economic Advisers, or the GAO. We need somebody to study this a while longer." They will buy it again. I can tell you that 3 years from now the makeup of this place will not change that much. They will buy it again, and we will extend it again. But just like the ozone layer, the time will come when everybody knows that you can't do it anymore, because the States and the cities can't afford to let this go any longer. They are barely making ends meet the way it is. That is the way it goes. If you do not learn anything in 24 years here, you will learn the way the game is played.

Mr. President, I am pleased to be able to take a firm stand on an issue that I felt strongly about for so many years. As I say, I don't intend to vote for a second-degree amendment which would take it to 4 years. I don't intend to vote for the second-degree amendment that will take us to 3 years. The bill, as it came out of committee and came to this floor provided for a 2-year study. That is too long. They don't need 2 years. I am going to vote for the bill because 2 years is much too long anyway.

I don't believe there ought to be a tax exemption for anybody who is competing with Main Street merchants.

Let me add one further thing. The Senator from North Dakota piqued my memory on this. Outside of being the entire Charleston South Franklin County Bar Association, I was also a Main Street merchant. I can tell you

even then, 40 years ago, my biggest competitor was the catalog. I detested it. I was a Main Street merchant having to organize the Christmas parade, be president of the Chamber of Commerce, and trying to attract industry into town so we could create a few jobs. I paid sales tax on every dime I sold, all of which went for the schools of our State and our city, which went to the police department, which went to the fire department, which went to help us pave our streets, take care of our landfill, dispose of our garbage.

Those are the things that Main Street merchants do in this country. We are saying to them and the National Federation of Independent Businesses—NFIB. I don't want to get started on them. As far as I am concerned, they represent big business, and not small business. But I think they are for this bill. It is the most damaging thing to Main Street merchants I can imagine. I know. I used to be one.

I yield the floor.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the time until 5:30 be equally divided for debate on the pending McCain-Wyden amendment, and at the conclusion of the debate the Senate proceed to vote on or in relationship to the amendment.

I further ask that no second-degree amendments be in order prior to the vote.

Mr. GRAHAM. Mr. President, is there currently a limitation on debate on this amendment?

The PRESIDING OFFICER. There is not.

Mr. GRAHAM. I object to the unanimous consent.

The PRESIDING OFFICER. Objection is heard.

The Senator from Arizona controls the floor.

Mr. MCCAIN. Mr. President, I ask the Senator from Florida what he wants.

Mr. GRAHAM. I want just—Mr. President, I would also settle—

The PRESIDING OFFICER. The Chair did not hear the Senator from Florida.

Mr. MCCAIN. I ask unanimous consent to engage in a colloquy with the Senator from Florida.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MCCAIN. What time agreement will the Senator from Florida agree to?

Mr. GRAHAM. I would like to complete my remarks, and then we will consider what will be an appropriate time limitation.

Mr. MCCAIN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Thank you, Mr. President.

Mr. President, I go back to the same point that I have made on two or three occasions in the debate of this legislation. That is to remind us what we are doing. We are doing quite an exceptional thing. We are telling to 50 States

and multiple local jurisdictions that their legal authority to establish what is the appropriate fiscal policy for their citizens is going to be preempted. We are telling them for this purpose that they will be precluded from exercising a judgment that they might otherwise feel is in the interest of their residents and citizens.

We are doing this in order to provide a pause, a time-out, a brief period in which to sort out the application of public policy, particularly as it relates to tax policy, and the new technology of the Internet.

I think that we ought to accept the fact that the presumption should be that that preemption of our brethren at the State and local level should be respectfully as brief as possible. We should not easily or excessively indulge in this kind of behavior, particularly when the consequences of this behavior are so obvious and perverse.

I have used the analogy, and I will use it again, of what we are doing to that Main Street merchant, as if to say that Main Street had a north side and a south side. On the north side, all the people who come to buy their hardware, their clothes, their shoes would be responsible for paying the legislated State and local sales tax, and they would be responsible for collecting it and then remitting it back to the appropriate tax collection authorities. That is not adding a new tax; that is the administration of a tax which the democratic processes in Little Rock or Tallahassee or Salem or any other State capital have prescribed as a means of funding the essential responsibilities of local and State government. We are saying that on the north side that collection has to take place. But on the south side, which is a virtual south side because it doesn't really exist other than in cyberspace, because it is reached through the Internet, there is not such a responsibility to collect on exactly the same hardware, shoes and clothing that we now ask the north side merchant to collect.

That is a fundamentally unfair proposition. We would be shocked and appalled if someone were to suggest that as a *de novo* proposition. But that is what we are doing with this Internet Tax Freedom Act.

The second consequence that we are accepting as a result of this legislation is that we are about to drive a major hole into the ability of local governments and States to finance their most basic responsibility—police who secure our neighborhoods, fire officials who protect us in times of emergency, and most specifically our schools. I will talk in a moment about what has happened to education during this 105th Congress, but I suggest that of all the things we have done or we have not done, the most important education bill that we are going to consider in 1998 is the one that is before us today.

Now, the question that I ask, and I hope that we receive a response, is why 4 years? I was reticent to object to the

unanimous consent to call for a vote at 5:30, but I felt that we ought to allow enough time for the proponents of the 4 years to make the strongest case they could to overcome what I think should be the very strong presumption against making this moratorium excessive, against lengthening by an unnecessary day, week, month or year the time in which we will allow this unfairness in the marketplace and this threat to the ability of State and local governments to carry out their fundamental functions to remain in existence.

Let's talk about what had been some appropriate times for major tasks. Well, we find in Genesis, chapter 1 and chapter 2, that God created Heaven and Earth in 7 days: "In the beginning, God created the Heaven and the Earth, and the Earth was without form and void and darkness was upon the face of the deep, and the spirit of God moved upon the face of the waters." And 6 days later Earth, the oceans, the mountains, the valleys, the streams, all of the fishes, the animals, and finally man and woman themselves had been created by God—in 7 days, according to Genesis, chapter 1 and 2. And yet it is going to take us 48 months to figure out what the appropriate tax policy should be for bits and bytes and all of the terminology of the Internet.

We have some more recent examples that have already been cited. Senator KERREY said the commission which was responsible for looking at the Internal Revenue Service, clearly one of the most complex agencies administering one of the most complex set of laws that man has ever known, was able to conduct its work in 15 months—3 months less than its original charter, and its work was so good that it formed the basis of the Congress this year enacting the most significant reform of the Internal Revenue Service since it was created. So the fact that they had an 18-month charter to accomplish this very complicated task did not degrade the quality of the ultimate recommendations and the receptivity of Congress to those recommendations.

We have currently at work a commission studying Medicare. That commission, which was created by this Congress in 1997, was given 18 months to do its work. Medicare is one of the largest and most complex programs that this Congress has ever created. It serves to finance the health care of over 35 million Americans. It is a significant part of a health care industry which represents approximately one-seventh of our gross domestic product. We decided that 18 months was the appropriate time to study the complex Medicare system, and yet it is going to take us 4 years, according to this amendment, to decide what should be the appropriate way for the State of North Carolina to levy taxes on Internet activities that affect the citizens of the State of North Carolina.

The almost absurdity of this 4-year period leads one to suspect—and we are not by nature a suspicious, certainly

not a cynical people, but to suspect—that there are motivations here other than allowing a sufficient amount of time, the amount of time that we normally anticipate would be required to get a undergraduate degree from one of our great colleges or universities, why it would take 4 years in order to study this issue.

Let me suggest what I think some of the motivations might be. One is that it is going to provide an extended period of freedom from taxation during which there will be new technological applications of the Internet which will have the effect of further widening the gap between Main Street and cyberspace and further exposing local and State government to an erosion of their tax base.

I spoke yesterday about the new technology of Internet telephony, using the Internet as the means of making long distance telephone calls rather than the traditional line system that we use today. The effect of that is going to be that that Internet telephony will now escape both Federal as well as State taxation for the period of this moratorium.

I read a statement yesterday by a research group which estimated that by early in the next century potentially 10 percent or more of long distance telephone calls would be made through Internet telephony.

A second reason for the 4 years might be to develop a political coalition. There are going to be a lot of folks who are going to find it is awfully nice and convenient to not collect this tax. It is awfully nice to have your sales explode, as it was stated that Amazon.com's book sales are exploding. They surely ought to explode. They have a 6- or 7-percent market advantage over that independent bookseller in Fayetteville, AR. They ought to beat the pants off the bookseller. And now we have the situation where the publishers, not going through any intermediary, are going to be selling directly on line. That is great for the American consumer. They are going to have access to a lot of literature and other books at a very attractive price, but the price that society is going to pay is imbalance in the commercial marketplace and a degradation of our police, fire and educational services.

We, also, as a consequence of this, are going to frustrate local choice. I said this morning that the morning newspaper was filled with articles which are relevant to this debate. This is one that might be of particular interest to our good friend from Arkansas, Senator BUMPERS, in which there is, apparently in Arkansas today, an effort being made—and, by the polls, a pretty effective effort—to repeal the property tax in Arkansas and to substitute for the property tax a significant increase in the sales tax. It appears on page A-3 of the Washington Post of October 7 under the headline, "Grass-roots Group Takes Aim At Arkansas Property Tax."

I don't know whether this is a good idea or bad idea, for Arkansas to be suggesting this. Apparently the Governor and a lot of other folks think it is a bad idea. But I think we might agree, whether the idea is good or bad, that it ought to be an Arkansas idea, as to how Arkansas wants to organize its State and local taxation. We are about to say in this bill that we are going to make it more difficult for States to have that range of choice. As we erode the base upon which the sales tax is applied, the opportunity for States to do what Arkansas is considering, substituting sales for property tax, is going to be much more difficult because there will be less to substitute with.

So we are embarked along a path which is not just a temporary one but has the potential of driving a permanent wedge between the Federal Government and States as we rather casually preempt their traditional political choices of how to organize their tax base.

But those consequences, I think, pale in terms of the final one to which I have already alluded. That is that this is the most important education bill of 1998.

Mr. President, 1998 started with a lot of enthusiasm for education. The President in his State of the Union talked about reducing class size, particularly in the primary grades, so that children would not have to go to excessively overcrowded classrooms. That was an issue that struck home directly to me.

My third daughter, Suzanne Gibson, was a wonderful kindergarten teacher. The last year she taught kindergarten at a new elementary school in Miami, Dade County, FL, there were 38 students in her class—38 students in a kindergarten class. My daughter is a wonderful teacher. She now is the mother of triplets, so she is getting to apply what she learned with those 38 students in her class, but I defy anyone to educate thirty-eight 5-year-olds. You may provide custodial services but you do not educate thirty-eight 5-year-olds.

So we started this year in Washington with a hope and some expectation that the Federal Government might reach out in a hand of friendship and partnership to States and school districts and millions of young boys and girls, and help them with their educational needs. We did not pass the bill that would have allocated an additional 100,000 teachers with Federal assistance in order to reduce class size at the primary grades. Although we had a good experience with a similar action with community police, where we are helping to finance 100,000 community police in a very positive contribution to enhance law enforcement, we did not do that as it relates to primary education.

Then the President had another proposal for the Congress to assist in helping school districts be able to build enough schools and maintain the old schools so that we could have the class-

rooms that would be required to significantly reduce class size, particularly in the primary grades. We did not pass that bill either.

So, now on the 7th of October, with some 2, 3, or 4 days left in this session, we are coming to the most important education bill we are going to pass. What is it going to do? Is it going to help States and local school districts carry out their most important responsibility? No. What it is going to do is to undercut their existing revenue and make it even more difficult to even keep class sizes down to the 38-to-1 level in the kindergarten of Miami, Dade County, FL.

So, I believe there is absolutely no justification for making this moratorium a day longer than is required to carry out what is a fairly straightforward task. This certainly is no reason to argue it is going to take 4 years, but I look forward to the argumentation that maybe will persuade me as to why 4 years are required for this task when God created Heaven and Earth in 7 days and we reformed the IRS in 15 months.

Mr. President, I want to vote for this bill because I believe that there is a persuasive argument that a brief moratorium, with the time used by an intelligent group of people who represent all the interests involved, and against a charter which allows them to look at all the relevant improvements, could play a useful purpose. But I could not support a 4-year moratorium, with all the pernicious effects it would have, without any contribution to a greater understanding of the issues involved in Internet taxation.

So, I urge defeat of this amendment. I urge adoption of the position taken, thoughtfully, by the Senate Finance Committee, which was for a 2-year study. If that is the provision, I will support this legislation. Otherwise, I fear for the consequences.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that there be remaining 10 minutes equally divided between the Senator from Florida and the Senator from Oregon, and that following that there be a vote on the MCCAIN amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oregon.

Mr. WYDEN. Mr. President, the McCain-Wyden amendment is, of course, a compromise. The bill that came out of the Senate Commerce Committee was a 6-year bill. The bill that came out of the Finance Committee was a 2-year bill. So there was an effort to bring the parties together around 4 years. But that is not what is really important. What is really important is the timetable that is going to be essential to do this job right.

Mr. President, 18 months after the date of enactment, the commission is going to make its recommendations—May of 2000. The moratorium under the

finance bill ends in October of 2000. That means that there is less than 6 months to act on the recommendation before the timeout would end. Some States, a number, have legislatures that are not meeting in the year 2000. I am sure my friend and colleague, Senator GRAHAM, would be interested in knowing that Arkansas, Maine, Minnesota, Montana, Nevada, North Carolina, Oregon, Texas, North Dakota, and Vermont all have legislatures that do not meet every year. So we are going to have a situation, it seems to me, where there will be essentially no time in order for a legislature to thoughtfully look at these issues.

The Senator from Florida says that Chairman MCCAIN and I are ramming this bill through the U.S. Senate. We have worked on it, now, for 18 months. We have made more than 30 separate changes in an effort to try to address the concerns of the Senator from Florida. There has been discussion about how this would create a tax haven on the Internet. Let us be very clear about what happens during the moratorium. If a person walks into a store and purchases a sweater in a jurisdiction where there is a 5 percent sales tax, if they order that sweater over the Internet, they pay exactly the same tax, exactly the same fee—technological neutrality.

The Senator from Florida says that the apocalypse is at hand because there is going to be a huge reduction in revenue at the State level. When we began this bill with legislation that was much more encompassing than the one we are considering now, the Congressional Budget Office could not even initially score it. It then came back with a projection of less than \$30 million.

Nothing is being preempted here. The States and localities are allowed to treat the Internet just as they would treat anything else.

At the end of the day, the kinds of people who will benefit from this are the senior citizens in Florida, for example, the home-based businesses in Oregon, people who are trying to use the Internet as a way to advance the chance to build a small business and particularly see the Internet as a great equalizer.

They are not going to be in a position, those home-based businesses, to compete with the corporate giants. But if we create across this country a crazy quilt of State and local taxes where each jurisdiction goes off and does its own thing, it is going to be very difficult for those entrepreneurs, senior citizens, handicapped and disabled people to go out and hire the accountants and lawyers that would be necessary to carry out the vision of the Senator from Florida of the Internet. What we need to do is come up with some sensible policies, and it is going to take some time.

If somebody from Florida, for example, orders Harry and David's fruit in Medford, OR, using America Online in Virginia, pays for it with a bank card

in California, and ships it to their cousin in New York, we are talking about a completely different kind of commerce than we have seen in the past. Let us take the time to do it right. Without the amendment that the Senator from Arizona and I are offering—

Mr. GRAHAM addressed the Chair.

Mr. WYDEN. I believe I have the floor.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator has the floor and has approximately 35 seconds remaining.

Mr. WYDEN. Thank you, Mr. President.

Without the amendment that the Senator from Arizona and I are offering, all of those legislatures that I mentioned specifically, which we talked about initially more than an hour ago, are going to have to act immediately in order to carry out the spirit of this commission. I can't believe that is what the Senate wants, and I am very hopeful that the Senators will join groups like the National Retail Federation, the Information Industry Association, the Home Business Association, and scores of other small business groups supporting the amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Florida.

Mr. GRAHAM. Will the Senator yield for a question?

Mr. WYDEN. I will be happy to.

Mr. GRAHAM. Mr. President, I ask unanimous consent for 2 minutes for the purpose of a colloquy.

The PRESIDING OFFICER. The Senator from Florida has 5 minutes allotted to him. Does he wish to have the additional 2 minutes allocated to the Senator from Oregon to be used for questions?

Mr. GRAHAM. I do.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered. The Senator from Oregon has 2 minutes for the purpose of a question.

Mr. GRAHAM. Mr. President, I say to the Senator from Oregon, in the effort to describe the equality of treatment, he used the example that if a person went into a local bookstore and bought a book, they would pay and the bookstore seller would be responsible for collecting and remitting the appropriate State and local sales tax.

Mr. WYDEN. If the Senator will yield for an answer, if that is current policy in that State. I know that the Senator from Florida is very anxious to resolve mail-order and catalog sales tax questions. The bill does not resolve that.

Mr. GRAHAM. The answer to that question is yes, the merchant would be responsible for collecting and remitting the sales tax.

If the same sale were made on Amazon.com, would Amazon.com be responsible for collecting and remitting the sales tax?

Mr. WYDEN. Certainly that would be the case if it was done in-state where

you had a current policy with respect to sales tax. But if it applies to other States, if other States have a particular tax policy, if they do business involving the Internet, we apply exactly the same rule.

Mr. GRAHAM. If a person in Florida has a sales and use tax, could it require Amazon.com to collect from a Florida resident, who ordered a book in Seattle, the Florida sales tax?

Mr. WYDEN. I am not up on Florida's policy, but we do not do anything different with respect to the Internet than we do in any other area. The hearing record in the Commerce Committee—I will be glad to share it because I cited many of those examples—and the Finance Committee makes it very clear that the Internet gets no preference, the Internet suffers no discrimination, and that is the point of the bill.

Mr. GRAHAM. The answer is no, that the discrimination is the fact, that currently the local Main Street merchant is required to collect the tax, but the distant remote Internet seller is not, and we are about to make that a 4-year institutionalized—

Mr. WYDEN. Will the Senator yield?

The PRESIDING OFFICER. The 2 minutes have expired.

Mr. WYDEN. I ask unanimous consent that the Senator have 1 additional minute. I want to engage him in a question.

The PRESIDING OFFICER. The Senator from Florida has 5 minutes.

Mr. GRAHAM. I yield another minute for the question.

Mr. WYDEN. I say to my friend from Florida, what you described is your desire—and I know it is sincere—to overturn the Quill decision. What we are saying in this bill is that we are trying to deal with a different set of economic issues, and if we don't deal with these questions of Internet policy now, I and the Senator from Arizona submit that we will be dealing, just as we are now with the mail-order questions, with these issues with respect to the Internet. Let us try to get out in front of these issues facing the digital economy rather than duplicating the mistakes we made with respect to mail-order and catalog sales.

I thank the Senator for the time.

Mr. GRAHAM. In answer to the question, the Quill opinion gave to the Congress the responsibility to authorize the States to require the distant seller to collect and remit the tax. Thus far, as Senator BUMPERS' long, valiant, but thus far unsuccessful attempts illustrate, Congress has been unwilling to do so. I suggest that indicates what is the likely political result of this new issue of how we are going to tax the Internet.

The PRESIDING OFFICER. Under the previous order, the Senator from Florida has an additional 3 minutes 20 seconds if he wishes to use that at this time. Is the Senator prepared to yield back his time?

The Senator from Florida has 2 minutes remaining. Does he wish to yield back his time?

Mr. GRAHAM. Mr. President, I have no extended remarks. I still don't think we have heard the answer to the question of why does it take 4 years to do this study. The fact is that when this report is available, whatever time, the principal recipient of that report will not be the individual 50 State legislatures, it is going to be us, because in order to implement the recommendations that would allow States to hold the distant seller responsible for collection, we know it is going to require action by the U.S. Congress.

We are in session just about all the time. So whatever date we set for this report to be submitted, we will likely be here, or close to being here, to receive it and to commence the process to deal with it.

I still have not heard any rationale as to why we should continue beyond the minimal time necessary for the inequity of the Main Street merchant and the vulnerability of State and local governments' capacity to finance their police, fire, and schools that an extended moratorium implies.

Thank you.

The PRESIDING OFFICER. The Senator from Florida still has 1 minute 30 seconds.

Mr. GRAHAM. I yield back the remainder of my time.

The PRESIDING OFFICER. The remainder of time has been yielded back or used on both sides.

Mr. McCAIN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the McCain amendment No. 3783. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Pennsylvania (Mr. SPECTER) is necessarily absent.

Mr. FORD. I announce that the Senator from Ohio (Mr. GLENN) and the Senator from South Carolina (Mr. HOLLINGS) are necessarily absent.

The PRESIDING OFFICER (Mr. FAIRCLOTH). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 45, nays 52, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—45

Abraham	Dodd	Mack
Akaka	Domenici	McCain
Allard	Faircloth	McConnell
Ashcroft	Grams	Murkowski
Baucus	Gregg	Murray
Bennett	Hagel	Nickles
Boxer	Hatch	Robb
Burns	Inouye	Santorum
Campbell	Kerry	Shelby
Coats	Kyl	Smith (NH)
Cochran	Lautenberg	Smith (OR)
Coverdell	Leahy	Stevens
Craig	Lieberman	Torricelli
D'Amato	Lott	Warner
DeWine	Lugar	Wyden

NAYS—52

Biden	Ford	Levin
Bingaman	Frist	Mikulski
Bond	Gorton	Moseley-Braun
Breaux	Graham	Moynihan
Brownback	Gramm	Reed
Bryan	Grassley	Reid
Bumpers	Harkin	Roberts
Byrd	Helms	Rockefeller
Chafee	Hutchinson	Roth
Cleland	Hutchison	Sarbanes
Collins	Inhofe	Sessions
Conrad	Jeffords	Snowe
Daschle	Johnson	Thomas
Dorgan	Kempthorne	Thompson
Durbin	Kennedy	Thurmond
Enzi	Kerrey	Wellstone
Feingold	Kohl	
Feinstein	Landrieu	

NOT VOTING—3

Glenn	Hollings	Specter
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The amendment (No. 3783) was rejected.

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

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

The motion to lay on the table was agreed to.

Mr. McCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

AMENDMENT NO. 3678, AS MODIFIED

Mr. MCCAIN. Mr. President, I ask unanimous consent that amendment No. 3678, the Abraham amendment, be modified, and I send the modification to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment will be so modified.

The amendment (No. 3678), as modified, is as follows:

At the end of the bill add the following new title:

SEC. ____01. SHORT TITLE.

This title may be cited as the "Government Paperwork Elimination Act".

SEC. ____02. AUTHORITY OF OMB TO PROVIDE FOR ACQUISITION AND USE OF ALTERNATIVE INFORMATION TECHNOLOGIES BY EXECUTIVE AGENCIES.

Section 3504(a)(1)(B)(vi) of title 44, United States Code, is amended to read as follows:

"(vi) the acquisition and use of information technology, including alternative information technologies that provide for electronic submission, maintenance, or disclosure of information as a substitute for paper and for the use and acceptance of electronic signatures."

SEC. ____03. PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES BY EXECUTIVE AGENCIES.

(a) IN GENERAL.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in consultation with the National Telecommunications and Information Administration and not later than 18 months after the date of enactment of this Act, develop procedures for the use and acceptance of electronic signatures by Executive agencies.

(b) REQUIREMENTS FOR PROCEDURES.—(1) The procedures developed under subsection (a)—

(A) shall be compatible with standards and technology for electronic signatures that are

generally used in commerce and industry and by State governments;

(B) may not inappropriately favor one industry or technology;

(C) shall ensure that electronic signatures are as reliable as is appropriate for the purpose in question and keep intact the information submitted;

(D) shall provide for the electronic acknowledgment of electronic forms that are successfully submitted; and

(E) shall, to the extent feasible and appropriate, require an Executive agency that anticipates receipt by electronic means of 50,000 or more submittals of a particular form to take all steps necessary to ensure that multiple methods of electronic signatures are available for the submittal of such form.

(2) The Director shall ensure the compatibility of the procedures under paragraph (1)(A) in consultation with appropriate private bodies and State government entities that set standards for the use and acceptance of electronic signatures.

SEC. ____04. DEADLINE FOR IMPLEMENTATION BY EXECUTIVE AGENCIES OF PROCEDURES FOR USE AND ACCEPTANCE OF ELECTRONIC SIGNATURES.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall ensure that, commencing not later than five years after the date of enactment of this Act, Executive agencies provide—

(1) for the option of the electronic maintenance, submission, or disclosure of information, when practicable as a substitute for paper; and

(2) for the use and acceptance of electronic signatures, when practicable.

SEC. ____05. ELECTRONIC STORAGE AND FILING OF EMPLOYMENT FORMS.

In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, not later than 18 months after the date of enactment of this Act, develop procedures to permit private employers to store and file electronically with Executive agencies forms containing information pertaining to the employees of such employers.

SEC. ____06. STUDY ON USE OF ELECTRONIC SIGNATURES.

(a) ONGOING STUDY REQUIRED.—In order to fulfill the responsibility to administer the functions assigned under chapter 35 of title 44, United States Code, the provisions of the Clinger-Cohen Act of 1996 (divisions D and E of Public Law 104-106) and the amendments made by that Act, and the provisions of this title, the Director of the Office of Management and Budget shall, in cooperation with the National Telecommunications and Information Administration, conduct an ongoing study of the use of electronic signatures under this title on—

(1) paperwork reduction and electronic commerce;

(2) individual privacy; and

(3) the security and authenticity of transactions.

(b) REPORTS.—The Director shall submit to Congress on a periodic basis a report describing the results of the study carried out under subsection (a).

SEC. —07. ENFORCEABILITY AND LEGAL EFFECT OF ELECTRONIC RECORDS.

Electronic records submitted or maintained in accordance with procedures developed under this title, or electronic signatures or other forms of electronic authentication used in accordance with such procedures, shall not be denied legal effect, validity, or enforceability because such records are in electronic form.

SEC. —08. DISCLOSURE OF INFORMATION.

Except as provided by law, information collected in the provision of electronic signature services for communications with an executive agency, as provided by this title, shall only be used or disclosed by persons who obtain, collect, or maintain such information as a business or government practice, for the purpose of facilitating such communications, or with the prior affirmative consent of the person about whom the information pertains.

SEC. —09. APPLICATION WITH INTERNAL REVENUE LAWS.

No provision of this title shall apply to the Department of the Treasury or the Internal Revenue Service to the extent that such provision—

(1) involves the administration of the internal revenue laws; or

(2) conflicts with any provision of the Internal Revenue Service Restructuring and Reform Act of 1998 or the Internal Revenue Code of 1986.

SEC. —10. DEFINITIONS.

For purposes of this title:

(1) **ELECTRONIC SIGNATURE.**—The term “electronic signature” means a method of signing an electronic message that—

(A) identifies and authenticates a particular person as the source of the electronic message; and

(B) indicates such person's approval of the information contained in the electronic message.

(2) **EXECUTIVE AGENCY.**—The term “Executive agency” has the meaning given that term in section 105 of title 5, United States Code.

AMENDMENT NO. 3721, AS MODIFIED

Mr. MCCAIN. Mr. President, I send to the desk a modification to amendment No. 3721.

The PRESIDING OFFICER. The amendment will be so modified.

The amendment (No. 3721), as modified, is as follows:

On page 17, beginning with line 18, strike through line 21 on page 19 and insert the following:

(a) **ESTABLISHMENT OF COMMISSION.**—There is established a commission to be known as the Advisory Commission on Electronic Commerce (in this title referred to as the “Commission”). The Commission shall—

(1) be composed of 19 members appointed in accordance with subsection (b), including the chairperson who shall be selected by the members of the Commission from among themselves; and

(2) conduct its business in accordance with the provisions of this title.

(b) **MEMBERSHIP.**—

(1) **IN GENERAL.**—The Commissioners shall serve for the life of the Commission. The membership of the Commission shall be as follows:

(A) 3 representatives from the Federal Government, comprised of the Secretary of Commerce, the Secretary of the Treasury, and the United States Trade Representative (or their respective delegates).

(B) 8 representatives from State and local governments (one such representative shall be from a State or local government that does not impose a sales tax and one rep-

resentative shall be from a state that does not impose an income tax).

(C) 8 representatives of the electronic commerce industry (including small business), telecommunications carriers, local retail businesses, and consumer groups, comprised of—

(i) 5 individuals appointed by the Majority Leader of the Senate;

(ii) 3 individuals appointed by the Minority Leader of the Senate;

(iii) 5 individuals appointed by the Speaker of the House of Representatives; and

(iv) 3 individuals appointed by the Minority Leader of the House of Representatives.

UNANIMOUS-CONSENT AGREEMENT—H.R. 10

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Senate resume consideration of H.R. 10 at 5 p.m., Thursday, October 8.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTERNET TAX FREEDOM ACT

The Senate continued with the consideration of the bill.

AMENDMENT NO. 3719, AS MODIFIED, AS AMENDED

Mr. MCCAIN. Mr. President, I ask unanimous consent that there be 15 minutes, with 10 minutes on this side, controlled by the Senator from Alaska, and 5 minutes controlled by the Senator from North Dakota, that no second-degree amendments be in order, and immediately following that, there be a vote on the Murkowski tabling motion.

The PRESIDING OFFICER. The question will first come on the first-degree amendment.

Mr. MCCAIN. Mr. President, I believe Senator MURKOWSKI will be seeking to table the underlying amendment.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MCCAIN. Mr. President, I repeat the request.

The PRESIDING OFFICER. Is there objection?

Mr. GRAMM. Mr. President, I didn't hear the request. Can I hear it again?

Mr. MCCAIN. It is that there be 15 minutes on a Murkowski tabling motion, with 10 minutes under the control of the Senator from Alaska, 5 minutes under the control of the Senator from North Dakota, with no intervening second-degree amendments, immediately followed by a vote.

Mr. GRAMM. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska is recognized.

Mr. MURKOWSKI. Mr. President I rise in opposition to the amendment being offered to grandfather existing taxes on Internet services.

This amendment undermines the fundamental integrity of the underlying bill because all state and local taxing

jurisdictions would not be under the exact same moratorium. It rewards those states and municipalities that raced to set up discriminatory taxes on Internet services and places them in a better position to raise revenue than those states that have chosen not to act.

More importantly, it sets the precedent that some states, but not all states, can levy taxes that harm interstate commerce. This amendment makes the Internet Tax Moratorium a piece-meal moratorium, not a real moratorium.

I ask my colleagues to consider why we are considering this Internet tax moratorium. As all of us recognize, the Internet is a massive global network that spans not only every state in the Union, but international borders. As the Commerce committee found, Internet access services are inherently a matter of interstate and foreign commerce within the jurisdiction of the United States Congress. In fact, it has been estimated that if the Congress does not make a policy decision regarding taxation of Internet services, more than 30,000 separate taxing jurisdictions within the United States could establish their own taxes on Internet transactions.

Because of the chaos that would ensue, we have decided to place a halt on Internet taxes and allow a commission to study this issue and make recommendations to the Congress. Yet the amendment that the Senator from Oregon proposes would reward those jurisdictions that have already decided to tax Internet services. Why should we grandfather those jurisdictions?

If it is appropriate for states and localities to impose taxes on Internet services than all states should be permitted to adopt such taxes. Alaska should be given that opportunity just as much as North Dakota and South Dakota. But under the Internet Tax Moratorium legislation, my state does not have that option but the Dakotas can continue their taxes because they adopted those taxes prior to this moratorium.

And if it is not appropriate for states and localities to impose taxes on Internet services, than not states nor localities should be permitted to adopt these taxes.

I believe this amendment is not only discriminatory but undermines the fundamental idea underlying this bill. As I noted earlier, the Internet is inherently about Interstate Commerce and we in Congress are about to make a decision that no local taxes should be imposed on Internet services until Congress receives the Commission's recommendations. I believe we should make this moratorium uniform, not piece-meal as the Senator from Oregon proposes.

Otherwise, we are encouraging every state in the union to rush to the state legislature every time a new technology comes along and adopt a taxing scheme on the new technology, secure