

I urge my colleagues to support this measure because I believe, while it has many compromises in it, they are reasonable compromises. I am most hopeful that we can have a resounding vote and see this measure signed into law.

I thank the Chair and staff for their courtesies, and I urge a yes vote on the conference report.

Mr. President, I ask for the yeas and nays on this conference report.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the VA-HUD conference report. 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 North Carolina (Mr. HELMS) is necessarily absent.

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

The PRESIDING OFFICER (Mr. INHOFE). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 1, as follows:

[Rollcall Vote No. 307 Leg.]

YEAS—96

Abraham	Enzi	Lugar
Akaka	Faircloth	Mack
Allard	Feingold	McCain
Ashcroft	Feinstein	McConnell
Baucus	Ford	Mikulski
Bennett	Frist	Moseley-Braun
Biden	Gorton	Moynihan
Bingaman	Graham	Murkowski
Bond	Gramm	Murray
Boxer	Grams	Nickles
Breaux	Grassley	Reed
Brownback	Gregg	Reid
Bryan	Hagel	Robb
Bumpers	Harkin	Roberts
Burns	Hatch	Rockefeller
Byrd	Hutchinson	Roth
Campbell	Hutchison	Santorum
Chafee	Inhofe	Sarbanes
Cleland	Inouye	Sessions
Coats	Jeffords	Shelby
Cochran	Johnson	Smith (NH)
Collins	Kempthorne	Smith (OR)
Conrad	Kennedy	Snowe
Coverdell	Kerrey	Specter
Craig	Kerry	Stevens
D'Amato	Kohl	Thomas
Daschle	Landrieu	Thompson
DeWine	Lautenberg	Thurmond
Dodd	Leahy	Torrice
Domenici	Levin	Warner
Dorgan	Lieberman	Wellstone
Durbin	Lott	Wyden

NAYS—1

Kyl

NOT VOTING—3

Glenn	Helms	Hollings
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The conference report was agreed to.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader.

SENATOR GORTON RECEIVES HIS FIFTH GOLDEN GAVEL AWARD

Mr. LOTT. Mr. President, yesterday evening the senior Senator from Washington, Senator GORTON, reached 100

presiding hours in the 105th Congress for his 100 hours of service presiding over the Senate. He will be awarded the Golden Gavel. But there is an interesting point here. This is the fifth Golden Gavel that Senator GORTON has obtained in his years in the Senate—representing 500 hours presiding in the Senate Chamber.

I think most Senators will acknowledge that he does an excellent job when he is the Presiding Officer. He is one we call on quite often on Friday afternoons or late at night. He is always willing to do it. And he dedicates each one of these Golden Gavels to one of his grandchildren. He has seven. This is the fifth one; so he has two more to go. This is an assignment that takes time and patience. I publicly thank Senator GORTON for achieving this and for the way that he is doing it for his grandchildren.

I ask my colleagues to join in expressing our appreciation. (Applause.)

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I do not know that anything else needs to be said, but I certainly want to join with the majority leader in offering my congratulations and my condolences for all of those hours. As one who has only been presented one Golden Gavel in my time in the Senate, I can appreciate the magnitude of the accomplishment just accomplished by the senior Senator from Washington. On behalf of all of our colleagues, I join in congratulating the Senator. I yield the floor.

INTERNET TAX FREEDOM ACT

Mr. MCCAIN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 442) to establish national policy against State and local government interference with interstate commerce on the Internet or interactive computer services, and to exercise Congressional jurisdiction over interstate commerce by establishing a moratorium on the imposition of exactions that would interfere with the free flow of commerce via the Internet, and for other purposes.

Pending:

McCain/Wyden amendment No. 3719, to make changes in the moratorium provision.

The Senate resumed consideration of the bill.

AMENDMENT NO. 3719

Mr. MCCAIN. Mr. President, it is my understanding there is no further debate regarding the consideration of the amendment at the desk. I ask that it be adopted.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 3719) was agreed to.

AMENDMENT NO. 3711, AS MODIFIED

(Purpose: To define what is meant by the term "discriminatory tax" as used in the bill)

Mr. MCCAIN. Mr. President, I call up amendment No. 3711, as modified.

The PRESIDING OFFICER. The clerk will report.

Mr. GRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I raise a point of order that this amendment is not germane.

The PRESIDING OFFICER. Would the Senator from Florida suspend for just a moment?

The clerk first will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. WYDEN, proposes an amendment numbered 3711, as modified.

The amendment is as follows:

On page 26, beginning with line 3, strike through line 5 on page 27 and insert the following:

(2) DISCRIMINATORY TAX.—The term "discriminatory tax" means—

(A) any tax imposed by a State or political subdivision thereof on electronic commerce that—

(i) is not generally imposed and legally collectible by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means;

(ii) is not generally imposed and legally collectible at the same rate by such State or such political subdivision on transactions involving similar property, goods, services, or information accomplished through other means, unless the rate is lower as part of a phase-out of the tax over not more than a 5-year period;

(iii) imposes an obligation to collect or pay the tax on a different person or entity than in the case of transactions involving similar property, goods, services, or information accomplished through other means;

(iv) establishes a classification of Internet access service providers or online service providers for purposes of establishing a higher tax rate to be imposed on such providers than the tax rate generally applied to providers of similar information services delivered through other means; or

(B) any tax imposed by a State or political subdivision thereof, if—

(i) except with respect to a tax on Internet access that was generally imposed and actually enforced prior to October 1, 1998, the ability to access a site on a remote seller's out-of-State computer server is considered a factor in determining a remote seller's tax collection obligation; or

(ii) a provider of Internet access service or online services is deemed to be the agent of a remote seller for determining tax collection obligations as a result of—

(I) the display of a remote seller's information or content on the out-of-State computer server of a provider of Internet access service or online services; or

(II) the processing of orders through the out-of-State computer server of a provider of Internet access service or online services.

The PRESIDING OFFICER. Is there objection to the amendment being modified?

Mr. GRAHAM. Mr. President, I object to the modification of the amendment and raise a point of order that the amendment is not germane.