

**Introduced by Senator Sher**

February 21, 2001

An act to amend Section 65004 of the Revenue and Taxation Code, relating to taxation.

LEGISLATIVE COUNSEL'S DIGEST

SB 394, as introduced, Sher. Internet Tax Freedom Act: continuation.

The California Internet Tax Freedom Act prohibits, with specified exceptions, the imposition, assessment, or attempt to collect (1) a tax on Internet access, Online Computer Services, or the use of the Internet or Online Computer Services, (2) a bit or bandwidth tax, or (3) any discriminatory tax on Online Computer Services or Internet access. This act provides that it is to become inoperative on January 1, 2002.

This bill instead would provide that the act shall remain in effect only until January 1, 2007, and as of that date is repealed.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 65004 of the Revenue and Taxation
- 2 Code is amended to read:
- 3 65004. (a) Except as provided in subdivision (b), no city,
- 4 county, or city and county may impose, assess, or attempt to collect
- 5 any of the following:
- 6 (1) A tax on Internet access, Online Computer Services, or the
- 7 use of Internet access or any Online Computer Services.
- 8 (2) A bit tax or bandwidth tax.



1 (3) Any discriminatory tax on Online Computer Services or  
2 Internet access.

3 (b) The prohibition in subdivision (a) against the imposition of  
4 taxes shall not apply to any new or existing tax of general  
5 application, including, but not limited to, any sales and use tax,  
6 business license tax, or utility user tax that is imposed or assessed  
7 in a uniform and nondiscriminatory manner without regard to  
8 whether the activities or transactions taxed are conducted through  
9 the use of the Internet, Internet access, or Online Computer  
10 Services.

11 (c) A cable television franchise fee may not be imposed on  
12 Online Computer Services or Internet access delivered over a  
13 cable television system if the Federal Communications  
14 Commission, by issuing final order, or a court of competent  
15 jurisdiction, by rendering a judgment enforceable in California,  
16 finds that those are not cable services as defined in Section 522(6)  
17 of Title 47 of the United States Code and are, therefore, not subject  
18 to a franchise fee. However, if that final order or judgment is  
19 overturned or modified by further administrative, legislative, or  
20 judicial action, that action shall control. The operation of this  
21 subdivision may be suspended by contract between a cable  
22 television franchising authority and a cable television operator.

23 (d) ~~This part shall become inoperative three years from the~~  
24 ~~effective date of the act adding this part~~ *This part shall remain in*  
25 *effect only until January 1, 2007, and as of that date is repealed.*

