Every year, more than 21 million couples are penalized for no other reason than they chose to come together in holy matrimony. It's unfortunate that a 1040 form comes between some couples who would like to get married, but would pay a financial penalty.

The breakup of the family is a leading cause for many of America's social problems. Washington should advocate policies that strengthen families, not weaken them. Yet punishing working families is what the current tax code does through a cold mathematical calculation on a piece of paper.

To correct this immoral inequality, the Marriage Tax Elimination Act (HR 2456), has been introduced. It would eliminate the penalty levied on nearly half of America's married couples. On the average, most couples must produce an additional $1,400 at tax time. Given the fact that two-income households have been the norm rather than the exception for years, the marriage tax needs to be eliminated.

The Marriage Tax Elimination Act would restore equilibrium by allowing couples to choose their filing status either jointly or singles, whichever produces the most savings.

The MTE Act was introduced in Congress with the support of the majority of the sophomore class and the Republican leadership. It already has 180 cosponsors and the support of such organizations as Americans for Tax Reform, Independent Women's Forum and National Taxpayers Union.

With such broad-based support you'd think the Marriage Tax Elimination Act should have no trouble moving through Congress. But the MTE is a tax cut and you know the difficulty of getting Congress to cut taxes in any area.

TRIBUTE TO GARY TATE

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. FARR of California. Mr. Speaker, I rise today to honor Gary Tate, an innovative leader and passionate advocate of the open spaces, parklands and the natural resources of Monterey Peninsula, Carmel Valley and the Big Sur Coast.

Gary is retiring in July from his position as General Manager of the Monterey Peninsula Regional Park District after having served continuously for 25 years. First employed in June of 1973, soon after the District was formed, Gary was the only employee for 13 years. Fresh from the East Bay Regional Park District, Gary was only 29 years old when he was hired to manage an agency that did not exist. From an office that was 10 feet square, Gary set to work, seizing every opportunity to preserve open space and parklands.

Garland Ranch was Gary's first purchase in 1975. The dedication of its opening was my first public role as a new Monterey County Supervisor. On that glorious day, Gary met me with a big white mare to ride the five miles to the dedication. It became a red, white and blue dedication: white was the horse, red was my bottom, and blue was my body.

In the Park District's first quarter century under Gary's leadership, 23 projects throughout the Monterey Peninsula have been completed, resulting in the acquisition and protection of more than 7,500 acres that include river and pond wetlands, redwood and Monterey Pine forests, coastal dunes and beaches, and a wide variety of cultural and historic resources. In addition to garnering the necessary funding for these projects, Gary has trained a corps of volunteers, developed a support organization ''Friends of the Park'' and hired and supervised new members of the staff, now eight in all. Gary has the high esteem of his peers and the environmental community, and has been commended by the Sierra Club for his outstanding public service.

Some of the specific projects started and concluded by Gary include:

Formation of the Joint Powers Agency with the cities of Monterey and Seaside to acquire and preserve the lake at Laguna Grande and develop a park there;

Development of the regional Monterey Bay coastal trail;

A decade-long effort to correct the Local Coastal Plan of Sand City, resulting in an agreement with Sand City and California State Parks to preserve 70 percent of Sand City's coastline as a state beach; and

Acquisition of more than $5 million in grant funding from federal, state and private sources, to acquire and preserve open space parklands on the Monterey Peninsula.

Gary and his wife Sheri will continue to live in Carmel Valley where they have raised two daughters, Carrie and Christen, Gary, never idle, will be renovating his home, supervising a youth center building project for his church, hiking in Garland Park, and going fishing. He will remain active with the Hatton Canyon Coalition, which is seeking alternatives to a proposed freeway project. Gary will always be a steward of the area he calls home.

Gary himself has said ''My 25 years with the District have been a never-ending challenge and a very rewarding experience.'' However, Gary's spectacular success, achieved through his clear vision, single-minded determination and energy, has made him our environmental hero. He has my very best wishes for continued health and happiness in his retirement. Gary Tate has left a special legacy that will be enjoyed by visitors and residents of the Monterey area in perpetuity.

CONGRATULATIONS TO BEE DEVELOPMENT AUTHORITY

HON. RUBÉN HINOJOSA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. HINOJOSA. Mr. Speaker, I rise today to mention a very exciting project that is occurring in the 15th Congressional District of Texas, which I am privileged to represent. This Spring, negotiations were completed for the sale of the former Naval Air Station, Chase Field land by the Department of the Navy to the City of Beeville. Subsequently, the City conveyed title to a portion of the land to the Bee Development Authority (BDA) in Beeville, Texas, thereby paving the way for the BDA to move forward with plans for the development of an industrial complex. This is a significant revitalization effort that has been in the works for years—one that is going to be a terrific boon to the community in terms of both jobs and economic benefits.

The Chase Field Industrial Complex would not be a reality today were it not for the foresight and perseverance of all the members of the Bee Development Authority. They are the individuals I want to take this occasion to congratulate. Quite simply put, they're an exceptional group.

Accomplishing this goal was by no means an easy feat. What it required was commitment, teamwork and, above all, a creative strategy. The Bee Development Authority combined energy—talent—and vision—and in so doing once again proved the age old adage that where there's a will, there's a way. It's a perfect example of what can be accomplished when ingenuity is mixed with perseverance.

Time has a way of passing very quickly. Days turn into weeks, weeks into months, and the next thing one knows, years have gone by. One day, and I predict it won't be all that far in the future, Chase Field Industrial Park will seem like it's always been a part of the Beeville landscape. I'm also certain that Chase Field Industrial Park will always be regarded as a milestone in the development of Beeville and Bee County. What a fitting tribute to the members of the Bee Development Authority. What a wonderful legacy.

Again, congratulations!

INTERNET TAX FREEDOM ACT

SPEECH OF

HON. CHRISTOPHER COX

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, June 23, 1998

Mr. COX of California. Mr. Speaker, I introduced the bill we are considering today, H.R. 4105, the Internet Tax Freedom Act, yesterday. It has not been reported to the House by either the Commerce Committee or the Judiciary Committee, or by any committee of Congress. It does, however, represent a synthesis of two bills approved by the Commerce Committee (H.R. 3849) and by the Judiciary Committee (H.R. 3529). Thus, while normally there be one or more committee reports filed in connection with H.R. 4105, there is none. As the author of the consensus bill, as well as of the original Internet Tax Freedom Act (H.R. 1054), upon which both H.R. 3849 and H.R. 3529 were based, I am pleased to set forth for the Record the author's intent concerning certain key provisions of the bill, notably Section 2 (''Moratorium on Certain Taxes'') and Section 7 (''No Expansion of Tax Authority''), since this important information will not be fully reflected in the committee reports accompanying the two previous bills.

REPORT CONCERNING PROVISIONS OF H.R. 4105, THE INTERNET TAX FREEDOM ACT

A. MORATORIUM ON CERTAIN TAXES

Section 2 of H.R. 4105 amends Title 4 of the U.S. Code to add a new Chapter 6 (Sections 151–155). New Section 151 of Title 4 prohibits, for a period of 3 years, State and local governments from imposing, assessing, collecting, or attempting to collect ''taxes on Internet access,'' ''bit taxes,'' ''multiple'' taxes on electronic commerce, and ''discriminatory'' taxes on electronic commerce.

1. No taxes on Internet access

New Section 151(a) prohibits, for a period of 3 years, State and local governments from imposing, assessing, collecting, or attempting to collect ''taxes on Internet access.'' It is intended that this temporary ban will be made permanent in the future, as it is envisioned that the legislation submitted to Congress by the Advisory Commission pursuant to new Section 153(b)(5) will include provisions making the 3-year ban on such taxes permanent. The National Governors' Association has already publicly declared its support for such a permanent ban.

The term ''Internet access'' is defined in new Section 155(7). It means any service that enables users to access content, information, and other services offered over the Internet. It includes access to proprietary content, information, and other services as part of a package of services offered to consumers. It does not, however, mean a telecommunications service. Providers of Internet access often provide their subscribers with the ability to run a variety of applications, including World Wide Web browsers, File Transfer Protocol clients, Usenet newsreaders, electronic mail clients, and Telnet applications. Providers of Internet access may also provide access to proprietary content as well as access to the Internet. American Online, CompuServe, Prodigy, and Microsoft Network are examples of providers of Internet access.

New Section 151(b) provides a limited exception to the moratorium on taxes on Internet access for eight States that presently tax Internet access—Connecticut, Wisconsin, Iowa, North Dakota, South Dakota, New Mexico, Tennessee, and Ohio. Any one of these States' taxes on Internet access would be ''grandfathered'' if the State enacts a law within one year expressly affirming that the State intends to tax Internet access. The intent of this provision is to ''grandfather'' only those States that have already come to rely on Internet access taxes as an important source of revenue, and that have expressly described in statute that Internet access is subject to taxation. The reason a further legislative act is required in order to quality for the exception is that none of the eight potentially ''grandfathered'' State statutes makes express reference to the Internet. (The Governors of two States that presently tax Internet access—Texas and South Carolina—opted not to have their States' laws included in the ''grandfather'' provision, because they oppose the taxation of Internet access.)

Because none of the States presently taxing Internet access has a law on the books that expressly authorizes the taxation of Internet access, such taxes are being imposed as the result of decisions made by tax administrators rather than by legislators. For example, a tax administrator may decide that Internet access falls within the definition of existing telecommunications or other taxes, even though the Internet is nowhere referred to or described in the State's law. New Section 151(b)(2), which requires the express codification of such Internet access taxes, is intended to ensure that the significant decision of a State to override national policy against the taxation of Internet access will be made by the State's duly elected representatives. In form, this provision is similar to other instances in which Congress has chosen to make applicability of a Federal law contingent upon the actions of others, including State officials. *See Currin* v. *Wallace,* 306 U.S. 1 (1939); *North Dakota* v. *United States,* 460 U.S. 300 (1983); and *Confederated Tribes of Siletz Indians* v. *United States,* 110 F.3d 688 (9th Cir. 1997).

It is important to note that the ''grandfather'' exception provided in new Section 151(b) only applies to ''taxes on Internet access.'' It does not apply to the other taxes included within the moratorium—bit taxes, multiple taxes, or discriminatory taxes. As a result of this clear language, even if a State tax on Internet access meets the conditions of the exception set forth in Section 151(b), the tax may nevertheless be barred if it is imposed in a manner that would cause it to fall within the definition of a ''multiple'' tax or a '' discriminatory'' tax. Moreover, a tax on Internet access that comes within the ''grandfather'' provision is not thereby rendered valid for all purposes. Coming within the ''grandfather'' means only that the tax is only excepted from the moratorium imposed by this Act, not that is is excepted from any other limitations on a State's ability to tax—such as, for example, limitations imposed by the Constitution.

New Section 15(c) provides a further exception to the moratorium to ensure that telecommunications carriers will not avoid liability for taxes on telecommunications services as such. This provision requires that, in order to be covered by the moratorium, a telephone company that bundles telephone service along with Internet access must separately state on the customer's bill the portion of the billing that applies to telephone services.

2. No. bit taxes

New Section 151(a)(2) prohibits, for a period of 3 years, State and local governments from imposing, assessing, collecting, or attempting to collect so-called ''bit'' taxes. A ''bit'' is an abbreviation for ''binary digit,'' which denotes either a zero or one. The term ''bit tax'' is defined in new Section 155(1) as any tax on electronic commerce expressly imposed on or measured by the volume of digital information transmitted electronically, or the volume of digital information per unit of time transmitted electronically. It does not include taxes imposed on the provision of telecommunications services. Because bit taxes target digital communications, they would be extremely detrimental to the future of the Internet and extremely costly for consumers. It is for these reasons that State and local governments are barred from imposing any such tax.

3. No multiple taxes on electronic commerce

New Section 151(a)(3) prohibits, for a period of 3 years, State and local governments from imposing, assessing, collecting, or attempting to collect ''multiple'' taxes on electric commerce. The term ''multiple tax'' is defined in new Section 155(8). In general, this definition covers two distinct ways that taxes may become layered in an unfair manner. The first concerns instances where two or more taxing jurisdictions all tax the same sercice. The second covers instances where one taxing jurisdiction applies a telecommunications tax in a manner that results in the consumer paying the same tax twice: once on the underlying phone service used to connect to the Internet, and again on the Internet service itself.

New Section 155(8)(A) states that a tax is a ''multiple tax'' if it is imposed by one State or locality on the same or essentially the same electronic commerce that is also taxed by another State or locality. Whether two or more taxes are ''multiple'' is independent of whether they are levied at the same rate, or on the same basis. A credit for taxes paid in other jurisdictions, or some other similar mechanism for avoiding double taxation, will prevent a tax from falling within this definition. This section is intended to strengthen the protections already afforded by the U.S. Supreme Court against multiple jurisdictional taxation. For instance, in *Goldberg* v. *Sweet*, 488 U.S. 252 (1989), the Court limited the ability of two States to double-tax the same service by requiring that an interstate telephone call must originate or terminate in the State and must be billed to an in-State address in order for that State to tax the telephone call. In the case of electronic commerce, it is even more important to provide clear protections against multiple taxation. The Internet's decentralized packet-switched architecture means that Internet transmissions almost always cross several jurisdictions. Moreover, the variety of technologies employed to deliver Internet services means that each aspect of a transaction could be subjected to separate taxation—for example, transmission of data and also the data itself—on the grounds that these are not ''the same.'' (For this reason, the definition in new Section 155(8)(A) expressly adds the alternative ''or essentially the same.'') These factors, combined with the Internet's increasingly portable nature, makes it especially vulnerable to the threat of multiple taxation.

New Section 155(8)(B) states that if a State or local government classifies Internet access as telecommunications or communications services, then any State or local government tax on the underlying telecommunications services used to provide Internet access will constitute a ''multiple tax.'' The definition provides an exception to this rule if the State or local government allows a credit for other taxes paid, a sale for resale exemption, or similar mechanism for eliminating double taxation of the service and the means for delivering the service.

4. No discriminatory taxes On electronic commerce

New Section 151(a)(3) prohibits, for a period of 3 years, State and local governments from imposing, assessing, collecting, or attempting to collect discriminatory taxes on electronic commerce. The term ''discriminatory tax'' is defined in new Section 155(3).

In the world of multi-state tax law, the term ''discriminatory'' commonly carries distinct meanings. It is most often used to describe taxes that favor local commerce over interstate commerce. For the purposes of this Act and only this Act, however, new Section 155(3) defines the term ''discriminatory'' in a manner that is meant to capture instances where State or local tax policies intentionally or unintentionally place electronic commerce at a disadvantage compared to similar commerce conducted through more traditional means, such as over the telephone or via mail-order. Adopting such a definition of ''discriminatory tax'' is not intended to disturb Commerce Clause protections against State or local tax laws that burden interstate commerce. Rather, the Act is meant to complement these existing protections.

New Section 155(3)(A)(i) defines ''discriminatory tax'' as any tax on electronic commerce that is not generally imposed and legally collectable by a State or local government on transactions involving similar property, goods, services, or information accomplished through other means. For example, if a State requires the seller of books at a retail outlet to collect and remit sales tax, but does not impose the same tax collection and remittance obligations on the seller if the same sale is made over the telephone from a mail-order catalog, then the State would be prohibited from imposing collection and remittance obligations on the seller when the transaction occurs in whole or in part over the Internet. A tax is discriminatory if it is imposed on an Internet transaction but not imposed on any other similar transaction off the Internet, or if it is imposed only in some but not all other cases. The property, goods, services, or information need not be identical, but only ''similar.'' This is intended to cover the common phenomenon of ''interactive'' Internet versions of non-interactive products sold off the Internet. Likewise, any taxation of property, goods, services, or information that is inherently unique to the Internet would be discriminatory, because there is no non-Internet property, goods, services, or information that is similar and that the State generally taxes.

New Section 155(3)(A)(ii) extends the definition of ''discriminatory tax'' to include any levy by a State or local government that taxes electronic commerce in a manner that results in a different tax rate being imposed on electronic commerce when compared to a transaction that occurred through another means.

(a) No taxes on Internet-unique property, goods, services, or information

Taken together, new Section 155(3)(A)(i) and (ii) mean that property, goods, services, or information that is exchanged or used exclusively over the Internet—with no comparable off-line equivalent—will always be protected from taxation for the duration of the moratorium. Examples of Internet-unique property, goods, services, or information include, but are not limited to, electronic mail over the Internet, Internet site selections, Internet bulletin boards, and Internet search services.

(b) No new collection obligations

New Section 155(3)(A)(iii) states that a tax on electronic commerce is discriminatory if it imposes an obligation to collect or pay a tax on a different person or entity that would be the case if the transaction were accomplished without using the Internet, such as over the telephone or via mail-order. For instance, a tax is not discriminatory if the obligation to collect and remit it falls on the vendor whether the sale is made off-line or online.

This definition also includes taxes that impose tax collection obligations on persons other than the buyer or seller in an Internet transaction. For example, a tax is discriminatory if it imposes tax collection or tax reporting duties on Internet access providers, telephone companies, banks, credit card companies, financial intermediaries, or other entities that might have access to a customer's billing address, since these collection and reporting obligations are not imposed in the case of telephone, mail-order, or retail outlet sales.

(c) No classification of an ISP as a phone company

New Section 155(3)(A)(iv) states that a tax on electronic commerce is discriminatory if it establishes a classification of Internet access provider, and imposes a higher tax rate on this classification than on similar information services delivered through means other than the Internet. The term ''information services'' is expressly defined in new Section 155(5) and in Section 3(2) of the Communications Act of 1934 to *exclude* ''telecommunications service.'' As a result, neither telephone companies nor similar public utilities, as such, may be ''providers of information services delivered through other means'' within the meaning of new Section 155(3)(A)(iv). For this reason, the fact that a telephone company or similar public utility service pays tax at the same or a higher tax rate than an Internet access provider will not prevent the tax on the Internet access provider from being discriminatory. In this way, new Section 155(3)(A)(iv) effectively serves to prohibit States and localities from classifying a provider of Internet access as a telephone company or similar public utility service—for example, for the purpose of applying a business license tax—if such classifications are subject to higher tax rates than other non-Internet information services.

(d) No New ''Nexus''

The definition of ''Discriminatory tax'' in new Section 155(3)(B) is intended to prohibit States and localities from using Internet-based contacts as factor in determining whether an out-of-State business has ''substantial nexus'' with a taxing jurisdiction.

This is intended to is provide added assurance and certainty that the protections of *Quill* v. *North Dakota,* 504 U.S. 298 (1992)—including its requirement that substantial nexus be determined through a ''bright-line'' physical-presence test—will continue to apply to electronic commerce just as they apply to mail-order commerce, unless and until a future Congress decides to alter the current nexus requirements.

In this way, the Act intends to encourage the continued commercial and non-commercial development of the Internet. New Section 155(3)(B) is a direct response to testimony from a State tax administrator, who offered his view to Congress at a July 1997 hearing that the *Quill* protections provided to remote sellers without a substantial in-State physical presence should not apply to businesses engaged in electronic commerce. During the hearing, the tax administrator acknowledged that if a resident of his State were to use the telephone to purchase a good from an out-of-State vendor, his State would not be permitted to impose its tax collection obligations on that vendor unless the vendor otherwise had a substantial in-State physical presence. The tax administrator further testified, however, that if instead the Internet were used to place the order, his State would attempt to require the out-of-State vendor to collect taxes. His rationale was that the flow of data over the Internet into his State, the ''presence'' of a web page on a computer server located in-State, of the supposed ''agency'' relationship between the remote seller and an in-State Internet access provider should be enough to give the remote seller a substantial physical presence in his State.

The Act rejects this approach. The promotion of electronic commerce requires faithful adherence to the U.S. Supreme Court's clear statement in *Quill* that a ''bright-line'' physical presence—not some malleable theory of electronic or economic presence—is required for a State to claim substantial nexus. Even without the Act, the courts, in light of *Quill*, are likely to view such arguments by State tax administrators with great skepticism. But the Act provides clarity and far greater certainty by specifically outlawing State or local efforts to pursue aggressive theories of nexus. This should result in decreased litigation which will benefit States, localities, taxpayers, and an often overworked court system.

New Section 155(3)(B)(i) defines ''Discriminatory tax'' so as to make it clear that Congress considers the creation or maintaining of a site on the Internet to be so insignificant a physical presence that the use of an in-State computer server in this way by a remote seller shall never be considered in determining nexus.

New Section 155(3)(B)(ii) defines ''discriminatory tax'' so as to prohibit a State or political subdivision from deeming a provider of Internet access to be an ''agent'' of a remote seller. Internet access providers commonly display information on the Internet for remote sellers, and often maintain or update the remote seller's web page. Even if the Internet access provider provides these and other ancillary services (such as web page design or account processing) on an in-State computer server, the provider should not be considered an agent for purposes of taxation.

B. No expansion of tax authority

The Act is meant to prevent Internet taxes, not proliferate, encourage, or authorize them. Section 7 of H.R. 4105 expressly states, therefore, that nothing in the Act shall be construed to expand the duty of any person to collect or pay taxes beyond that which existed on the date of enactment of the Act.

Section 7 is specifically intended to make it clear that the Act does not, directly or indirectly, expand the definition of ''substantial nexus'' beyond existing judicial precedent and interpretations of the Commerce Clause of the Untied States Constitution. It is intended to negate any possible inference that the Act might subvert existing requirements that interstate activity have a ''substantial nexus'' (determined through a ''bright-line'' physical-presence test) with the taxing jurisdiction, and that taxes on such activities be fairly apportioned, be fairly related to the services provided by the jurisdiction, and not discriminate against interstate commerce.

It is fully intended that a State or local tax not barred by the provisions of this Act shall not be valid if such tax would otherwise constitute an undue burden on interstate or foreign commerce.

TRIBUTE TO THE ISRAEL 50TH ANNIVERSARY GALA HONOREES

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to an outstanding collection of individuals for their unwavering commitment to the Jewish Federation of Los Angeles. I would like to take this opportunity to acknowledge the 1997–1998 Jewish Federation Officers Herbert M. Gelfand, Irwin Field, Todd Morgan, Lionel Bell, Carol Katzman, Elaine Caplow, Chuck Boxenbaum, Stuart Buchalter, Jonathan Cookler, Rabbi Harvey J. Fields, Howard I. Friedman, Dr. Beryl Gerber, Meyer Hersch, Harriet Hochman, Evy Lutin, Annette Shapiro, Terri Smooke, Carmen Warschaw, David Wilstein, Mark Lainer, Edna Weiss, David Fox, and Newton Becker for their innovative leadership over the past two years.

The Talmud states ''He who does charity and justice is as if he had filled the whole world with kindness.'' In the spirit of these words, these leaders have infused our community with great kindness, purpose, and pride. Their work strongly represents the Judaic tradition of generosity and concern for others. Their exceptional leadership has been instrumental in laying the foundation for a strong and cohesive Jewish community in the City of Los Angeles.

Mr. Speaker, distinguished colleagues, please join me today in congratulating these leaders for their tremendous dedication to the Jewish Federation.

TRIBUTE TO HIROSHI ''HEEK'' SHIKUMA

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 14, 1998

Mr. FARR of California. Mr. Speaker, I rise today to honor a gentle man, Hiroshi ''Heek'' Shikuma, whose superior abilities and foresight were instrumental in developing an industry that has become a mainstay of the area economy, while his wisdom and gentleness made him a leader in the spiritual community. Mr. Shikuma passed away this past February.

Mr. Shikuma was born, raised, and educated in the Pajaro Valley. During World War