



State and Local Sales Tax Simplification

Streamlined Sales & Use Tax Agreement

**Commission on Revision of Virginia's
State Tax Code**

**July 15, 2003
Richmond, Virginia**

**Neal Osten, Director
Telecommunications & Interstate Commerce
National Conference of State Legislatures**



Legal Summary

- **Supreme Court Cases**
- **Bellas Hess -- 1967**
 - ◆ **Collection is undue burden on remote seller-
Mail-order and other remote sales**
- **Quill -- 1992**
 - ◆ **Reaffirms Bellas Hess**
 - ◆ **Physical presence to collect**
 - ◆ **Congress can legislate a solution- Interstate
Commerce Clause**



Why the New State Urgency?

- **Threat to state revenue**
 - ◆ **Electronic commerce projections**
 - ◆ **Dot.com subsidiaries, e.g. BarnesandNoble.com, Borders.com,**
 - ◆ **Federal preemption**
 - ◆ **Internet Tax Freedom Act of 1998**
 - ◆ **Proposals to keep the Internet tax free**
 - ⇒ Permanent extension of the moratorium
 - ⇒ Repeal of the grandfather clause



E-Commerce Projections

- **Business to consumer**
 - ◆ 1997 -- \$3 billion
 - ◆ 1998 -- \$8 billion
 - ◆ 1999 -- \$15 billion
 - ◆ 2000 -- \$45 billion (200% increase over 1999)
 - ◆ 2003 -- \$140 billion (estimate)
 - ◆ Christmas Season 2001 - \$6.43 billion online
 - ◆ Christmas season 2002 - \$9.18 billion online -
43 % increase (bizrate.com)



E-Commerce Projections

- **2001 - Business to Business transactions represent over 90% of all e-commerce (Forrester Research Inc.)**
- **2011 - Forrester forecasts that B2B transactions will expand to 95% of e-commerce**
- **B2B transactions are responsible for almost 75% of expected revenue losses for states**



E-Commerce Projections

- **According to Forrester these “new” B2B online transactions are primarily professional type, non-Fortune 1000 companies (law firms, doctors’ offices, small accounting firms) that usually are not audited by tax departments**



Sales Tax Revenue Implications

■ Professor Fox (Tennessee) -- Sept. 2001

- ◆ Nationwide - \$13.3 billion in FY2001
(excludes catalog)



- ◆ Virginia loss in 2001 - \$ 239 Million

- ◆ Virginia loss in 2006 - \$ 817 Million

- ◆ Virginia loss in 2011 - \$ 997 Million



Impact on “Main Street”

- **Competitive disadvantage for Main Street businesses**
- **Real estate values / property taxes**
 - ◆ **Empty Storefronts-Main Street/Malls**
- **Impact magnified in certain sectors**
 - ◆ **Books, music, consumer electronics**
 - ◆ **Pressure to exempt (Digital Products)**



The 107th Congress

- **Internet Tax Freedom Act of 1998**
 - ◆ **Moratorium on state and local taxes on Internet access expired October 21, 2001**
 - ◆ **NCSL supported a short-term (2-year) extension of the moratorium on state and local taxes on Internet access**
 - ◆ **Congress and Administration agreed to simple two-year extension - November 1, 2003**

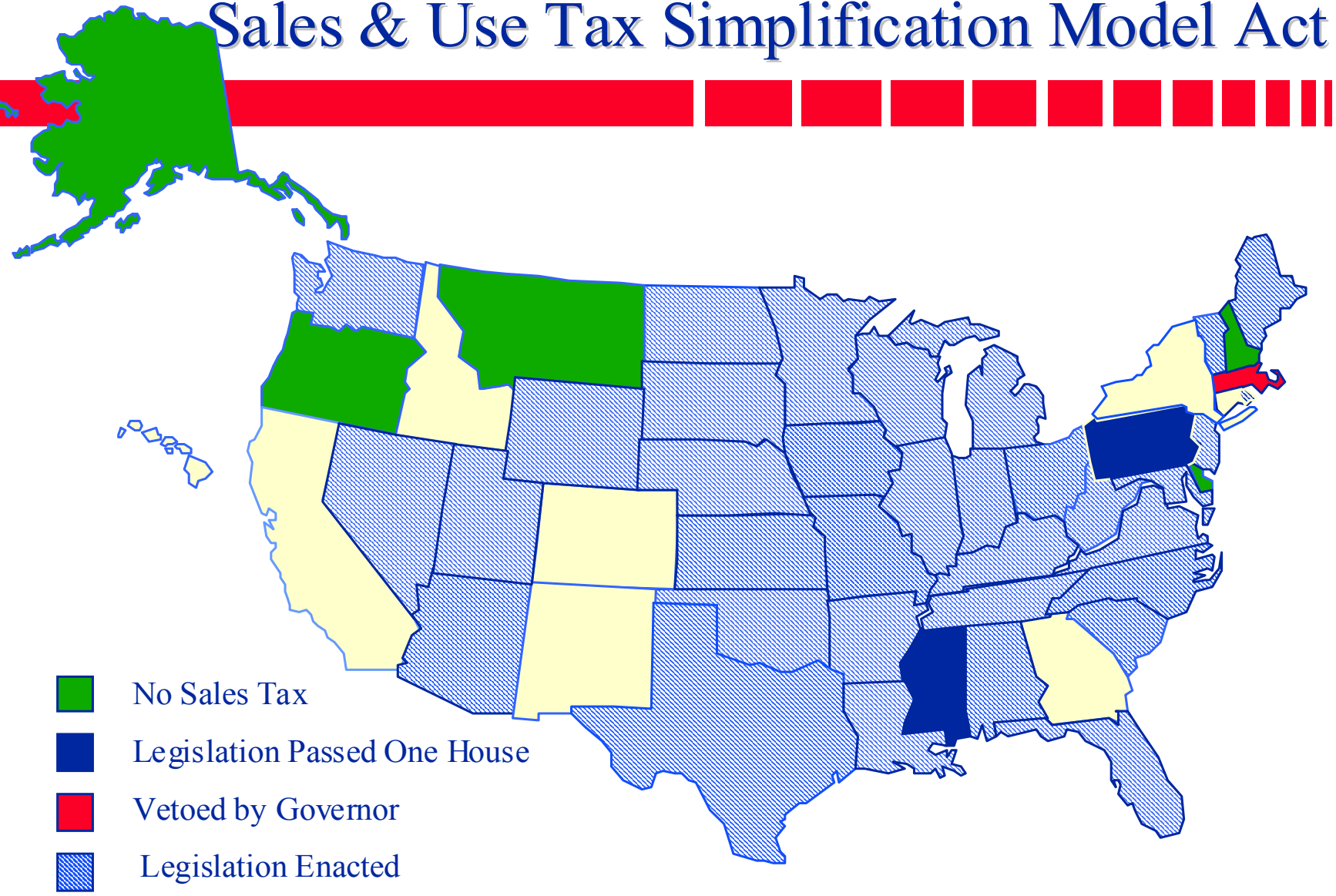


What is NCSL Doing?

- **Task Force on State & Local Taxation of Telecommunications & Electronic Commerce**
 - ◆ **Drafted principles for simplification of state sales and use tax collection (7/99)**
 - ◆ **Drafted & adopted model legislation to participate in multi-state discussions (1/00)**
 - ◆ **Amended and adopted Act and Agreement for states to consider in 2001 for simplified sales and use tax collection creating Implementing States(1/01)**

State Legislative Action 2001- 2002

Sales & Use Tax Simplification Model Act





Streamlined Sales Tax Implementing States

- **To develop a more simple, uniform and fair system of sales and use taxation that removes the burden imposed on retailers, preserves state sovereignty, levels the playing field for all retailers, and enhances the ability of U.S. firms to compete in the global and information economy. The new system would be voluntary, retaining current laws with regard to nexus.**
 - ◆ **Simplifications**
 - ◆ **Uses Technology to determine/apply taxes**
 - ◆ **Monetary allowances - sellers using one of the technology models**



Streamlined Sales & Use Tax Agreement

- ***Current Sales and Use Tax Systems: Liability for the correct sales tax calculation and collection rests with the seller***
- **Streamlined Sales & use Tax Agreement: The liability for the collection of the correct sales tax rate rests with the state, sellers will be held harmless for calculations and collections using the certified technology.**



Streamlined Sales & Use Tax Agreement

- **Uniform Product Definitions**
- **Uniform State & Local Base**
- **Limits state and local governments to one rate**
 - ◆ **Exception: States may have one additional rate, which can be zero for food and medicine. (Responds to Missouri concern to allow local governments to tax food)**
 - ◆ **Exception: Limitation does not apply to utilities**



Streamlined Sales & Use Tax Agreement

- **State / Central Administration**
- **Central Seller Registration**
- **Uniform Tax Returns/Remittances**
- **Simplified Exemption Administration**
- **Uniform Audit Procedures**
- **Uniform Privacy Protections**
- **Notice Requirements for rate changes**
- **Uniform Sourcing**



Streamlined Sales & Use Tax Agreement

- **Telecommunications Sourcing**
- **Privacy Clarifications**
- **Uniform Definition of Food & Related Items**
 - ◆ **“Food” “Prepared Food” “Candy” “Soft Drinks”**
- **Uniform Administrative Definitions -**
 - ◆ **e.g. “Sale” “Purchase Price”, etc**



Streamlined Sales & Use Tax Agreement

- **Standardization for sales tax holidays**
- **Elimination of caps & thresholds after 12/31/05**
- **Uniform Rounding Rule**
 - ◆ **Tax Computation at third decimal point**
 - ◆ **Rounded to a whole cent when the third decimal place is greater than four**



Streamlined Sales & Use Tax Agreement

- **Governance of Functioning Agreement**
 - ◆ **NCSL is committed to ensuring that the governance structure allow for private sector and taxpayer participation as well as a sufficient degree of certainty for appropriate business planning by participating vendors.**
 - ◆ **Provisions adopted that ensure legislative participation, certainty for sellers and issue dispute resolution procedure with non-binding third party arbitration.**



Streamlined Sales & Use Tax Agreement Time Line

- **November 12, 2002 - Implementing States ratified the Streamlined Sales and Use Tax Interstate Agreement - *31 states voted yes, one state abstained and 3 states were not present***
- **Late 2003 - Implementing State Co-Chairs, Senator Angela Monson of Oklahoma and Bruce Johnson, Utah Tax Commissioner initiate process to certify compliance by at least 10 states representing 20 % of sales tax states' population**



State Legislative - Time Line

- **As of 7/15/03 - Compliance legislation has been enacted in 20 states** (Arkansas, Iowa, Indiana, Kansas, Kentucky, Minnesota, Nebraska, Nevada, North Carolina, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia and Wyoming)
- **Passed one House in 3 States** (Florida, Illinois, and Montana)
- **Compliance Legislation introduced in 6 States** (Alabama, Alaska, Idaho, Maine, Missouri and Oregon)
- **States Expected to Still Introduce Compliance Legislation this Session - 3 States** (Michigan, New Jersey, Pennsylvania)

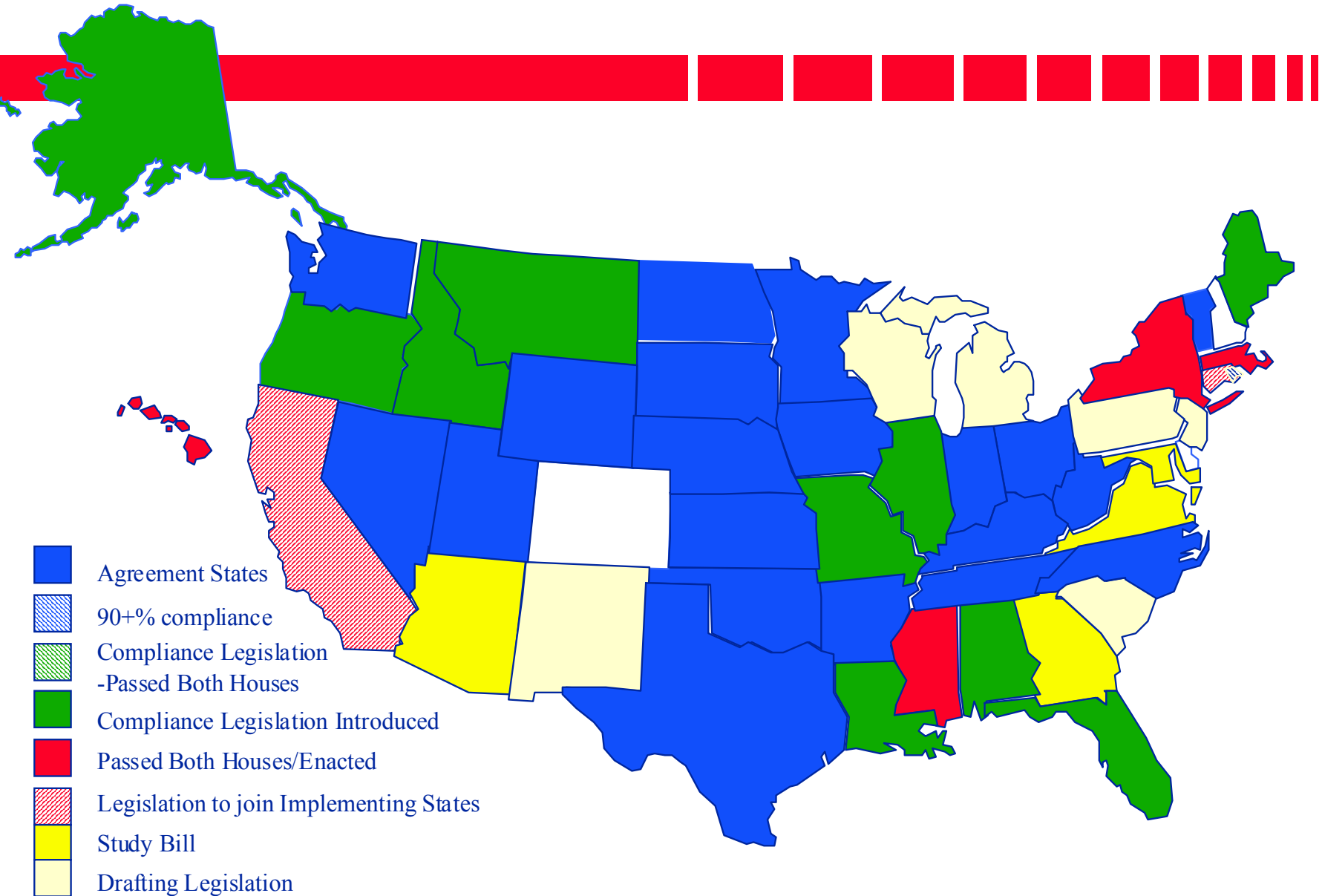


State Legislative - Time Line

- **Joining Implementing States and Expressing Intent to Comply with Agreement - 6 States (California, Connecticut, Hawaii, Massachusetts, Mississippi and New York)**
- **Legislation/Resolutions to Study Compliance with the Streamlined Sales and Use Tax Agreement - 4 States (Arizona, Georgia, Maryland and Virginia)**
- **Streamlined Sales Tax Implementing States - Likely to Meet in November to consider certification process for complying states, possible amendments to Agreement, consider extension of the Implementing States for 6 months to 1 year after Governing Board of Agreement is in place.**



STREAMLINED SALES & USE TAX NCSL AGREEMENT- 2003 IMPLEMENTATION





108th Congress Legislation

- **Legislation to allow those states that have complied with the Streamlined Sales & Use Tax Agreement the authority to require all remote sellers to collect those states sales and use taxes**
 - ◆ **\$ 5 Million national de minimis in remote sales**
- **Introduction expected July 2003 - House sponsors: Reps. Istook (R-OK); Delahunt (D-MA); Bachus (R-AL), Isakson (R-GA); Conyers (D-MI); Janklow (R-SD); Watt, (D-NC). Senate Sponsors: Sens. Enzi (R-WY); Hutchison (R-TX); Dorgan (D-ND); Voinovich (R-OH); Alexander (R-TN). Sponsors are still being added-**



NCSL Contacts

- **For more information, please contact:**
- **Co-Chairs, NCSL Task Force**
 - ◆ **Senator Steven Rauschenberger, (R-IL) (847-622-1049)**
 - ◆ **Senator Leticia Van de Putte, (D- TX) (210-733-6604)**
 - ◆ **Neal Osten, 202-624-8660;
neal.osten@ncsl.org**
 - ◆ **Graham Williams, 303-856-1561;
graham.williams@ncsl.org**