

To the office of U.S. Representative Ron Estes

Re: HRES 1340 (119th Congress), Expressing strong opposition to the imposition of digital services taxes and other relevant similar measures by other countries that unfairly discriminate against United States companies. • Latest action (2026-06-04): Referred to the Committee on Ways and Means, and in addition to the Committee on Foreign Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

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Office of record (Congress.gov): 2234 Rayburn House Office Building, Washington, DC • (202) 225-6216

Digital Services Tax Fairness and Retaliation Authorization Act

The measure, as described from the official record: To express Congress's strong opposition to foreign digital services taxes that discriminate against U.S. companies, and to signal potential retaliatory measures.

THE PROPOSAL

This Act authorizes the President, upon a finding by the United States Trade Representative (USTR) that a foreign country has imposed a digital services tax or similar measure that discriminates against U.S. companies, to impose proportionate retaliatory tariffs or other trade restrictions on goods or services from that country. The USTR shall conduct an investigation within 180 days of a petition from a U.S. company or industry, or upon its own initiative, to determine whether a foreign digital services tax violates international trade agreements or unfairly targets U.S. firms. If such a finding is made, the President may impose tariffs up to 25% ad valorem on imports from that country, or other equivalent trade measures, for a period not to exceed three years. The Act requires the USTR to report annually to Congress on the status of any investigations and retaliatory actions. It also establishes a Digital Services Tax Fairness Fund, funded by the tariffs collected, to provide temporary relief to U.S. companies affected by such foreign taxes. The Act sunsets after five years.

OPERATIVE PROVISIONS (VFA PROPOSAL)

Funding Source	Tariffs collected under this Act are deposited into the Digital Services Tax Fairness Fund.
Funding Amount	No specific cap; fund is limited to actual tariff revenues collected.
Sunset Years	5 years
Oversight Body	United States Trade Representative (USTR), with annual reporting to the House Ways and Means Committee and Senate Finance Committee.
Enforcement Mechanism	USTR investigation and Presidential action; judicial review limited to claims of arbitrary or capricious action under the Administrative Procedure Act.
Effective Date	90 days after enactment.

CONSTITUTIONAL BASIS

- Article I, Section 8, Clause 3 (Commerce Clause)
- Article I, Section 8, Clause 1 (Taxing Power)
- Fifth Amendment Due Process Clause

Concerns with the measure as written:

- The resolution as written is primarily a statement of opinion and does not create binding law, so it does not directly raise constitutional concerns. However, any subsequent retaliatory action (e.g., tariffs) must be grounded in Congress's power to regulate foreign commerce (Article I, Section 8, Clause 3) and must not violate the Fifth Amendment's Due Process Clause by being arbitrary or discriminatory.

WHY BOTH SIDES CAN BACK IT (VFA'S ASSESSMENT)

Democratic priorities honored: protects U.S. workers and companies from unfair foreign taxes, includes relief for affected companies, and requires transparent investigations. Republican priorities honored: uses targeted tariffs rather than broad tax increases, respects executive authority in trade, and includes a sunset to limit government overreach.

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