long as it’s a fair fight. Also, the bill is not asking for a new tax; it’s asking that the existing tax is applied fairly and uniformly and doesn’t put the burden on the consumer to reimburse the state. That’s not too much to ask.

From the Northwest Herald, May 2, 2013

WHAT’S FAIR FOR BUSINESS

Editorial Board

The scenario described by Play It Again Sports’ owner Bob Ruer happens all too often in local businesses. A customer comes into his Crystal Lake store, maybe tries on the wares, and then heads home to buy the same product online. Why? Because Internet retailers aren’t required to collect sales tax at the buyer’s local rate.

U.S. Sen. Dick Durbin, D-Ill., is pushing to end that with the Marketplace Fairness Act. We support Durbin’s effort and encourage lawmakers in Washington to pass the act.

The legislation would put the initial costs on the states to provide retailers with the appropriate software to collect taxes. Internet retailers with sales greater than $1 million in annual sales would be granted an exemption.

Opponents of the bill, including large online retailers such as eBay and Overstock.com, have taken issue with the $1 million exemption and suggested it should be bumped higher.

The bill has the support of big-box stores such as Walmart, Best Buy and Target and online giant Amazon.

Beyond the uneven playing field for businesses, the situation causes the state of Illinois to lose a great deal of revenue.

Now, Illinois taxpayers are on an honor system when it comes to paying state sales tax for online purchases. Residents are supposed to add tax they owe to goods purchased from Internet purchases on their state income-tax return. Durbin estimates that only 5 percent of Illinois taxpayers do so. Gov. Pat Quinn said the state stands to collect an additional $200 million annually in sales-tax revenue if the bill passed.

This is not a tax increase. It’s not a new tax. These sales taxes and tax rates are already in place.

This is a needed law to level the playing field for local businesses who’ve been good corporate citizens, hired local employees and paid property taxes that support local schools and other tax districts.

Mr. DURBIN. Mr. President, what is happening with Internet sales? They are growing dramatically. Listen to these numbers. In 2012 online sales accounted for $225 billion in sales in America. In the next 5 years it will double to $435 billion. It is an endeavor that has become part of our lives. What we are asking in this bill is that those selling online over the Internet be treated the same as those selling on the corners of our streets, to make sure the brick-and-mortar businesses have a level playing field. That is all we are asking.

This bill contains no new Federal tax, no new State and local tax. What it does is collect taxes already owed. It simplifies the system by saying there will only be one taxing entity that identifies the taxes to be charged in every single State, one audit from each State. It tries to provide for the retailers the software they need to get the job done.

This is a fascinating bill. For those who follow the Senate, it is a rare opportunity for us to have Republicans and Democrats together on the floor supporting a bill that has the endorsement of business and labor and local officials all across the United States. It is clearly an idea whose time has come. I hope I can pass it with a good strong vote to encourage our friends in the House to take it up quickly.

I close by thanking my colleague from Wyoming. He has been a great partner in this effort. He came to it before I did. I replaced Senator Dorgan after he retired and tried to keep this moving forward. Today is our day for a vote. I thank him for all of his hard work on his side of the aisle.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank all of the people who have participated, particularly Senator DURBIN who has helped to coalesce these things. Senator ALEXANDER who came up with the idea for having a shorter bill, only 11 pages—never see it in the Senate—written in plain English, and it is States rights.

This does not cause the Federal Government to do anything. What it allows is for the States to do what they have already passed laws on. I can see this from the standpoint of an individual. I know in Wyoming if you buy something on the Internet and you are not charged a tax, you are supposed to fill out a form and send it in. That is a difficult thing to do, hard to even keep track of. This will eliminate that problem of individuals wanting to pay the tax but not knowing exactly how to do it.

I know it from the standpoint of a small businessman, if they had the experience of somebody coming in, trying on the goods, finding out exactly what they want, the color, the style, the feel, everything, and then ordering it on the Internet. The even more ironic part of it is when they have a problem with it, they bring it back to the local retailer to fix it.

I have seen it from the standpoint of a mayor. I know in Wyoming at least 30 percent and up to 70 percent of the revenue of the municipalities comes from the sales tax. That is on a declining basis at the moment. That is not only what they run the city’s streets and sidewalks and the police, the fire protection, even education is affected by the sales tax.

I have seen it from the standpoint of a legislator as well. I know when we passed those taxes, we did not say: Okay, we want to discriminate against the local businesses that pays the property tax, hires people locally, and participates in all the community stuff. If you are out of State, we are going to let you off the hook.

No legislator has passed a bill like that. This is one that corrects all of those things and brings fairness to the marketplace. I think it will make a significant difference, particularly in communities where they will still be able to help out some of the charitable organizations and activities that would have to go by the wayside if this bill were not to pass.

I look forward to working with people on the House side. I want to thank Senator DURBIN, Senator ALEXANDER, and Senator HEITKAMP, particularly, for all of their efforts on this bill. I thank Senator HEITKAMP for her persistence over 22 years and knowing the intricacies of how it works on the Canadian border, as well as having been involved in the original case where the Supreme Court challenged us to fix this problem.

Today we have a chance to fix this problem. I ask my colleagues to vote for the bill.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

MARKETPLACE FAIRNESS ACT OF 2013

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 743, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 743) to restore States’ sovereign rights to enforce State and local sales and use tax laws, and for other purposes.

Pending:

Reid (for Enzi) amendment No. 741, of a perfecting nature.

Durbin amendment No. 745 (to amendment No. 741), to change the enactment date.

The question is on agreement to amendment No. 741, offered by the Senator from Nevada, Mr. REID.

Mr. ALEXANDER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. LATTENBERG) and the Senator from Alaska (Mr. BEGICH) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from North Carolina (Mr. BURR), the Senator from South Carolina (Mr. CORNYN), the Senator from South Carolina (Mr. GRAHAM), and the Senator from Kansas (Mr. MORAN).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted “nay.”

The PRESIDING OFFICER (Mr. DONNELLY). Are there any other Senators in the Chamber desiring to vote?
The result was announced—yeas 70, nays 24, as follows:

[Rollcall Vote No. 112 Leg.]

YEAS—70

Alexander Fischer Murphy
Baldwin Franken Murray
Bennet Gilibrand Nessel
Blumenthal Grassley Portman
Blunt Hagans Pryor
Boozman Hagans Reed
Boxer Heinrich Reid
Brown Harkin Risch
Cantwell Hirono Schatz
Cardin Hoeven Rockefeller
Carper Isakson Sanders
Casey Johnson (SD) Schatz
Chambliss Johnson (GA) Shelby
Collins Klobuchar Stabenow
Coombs Landrieu T flaws
Corker Leahy Udall (CO)
Cowan Levin Udall (NM)
Craapo Manchin Warner
Domenech McCain Wicker
Durbin McCaskill Whitehouse
Enzi Menendez Wicker
Feinstein Mikulski

NAYS—24

Ayotte Inhofe Roberts
Barasso Johnson (WY) Rubio
Baucus Kirk Scott
Coburn Lee Shaheen
Cruz McConnell Tester
Flake Moore Toomey
Hatch Markowski Vitter
Heller Paul Wyden

NOT VOTING—6

Bogich Curnyn Lautenberg
Burr Graham Moran

The amendment (No. 741) was agreed to.

UNANIMOUS CONSENT REQUEST—H. CON. RES. 25

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, this afternoon I offered a consent agreement dealing with the budget. I withdrew that because we did not have anyone here to object, and I had an inkling there would be an objection if a Republican were here.

We have been asked to move with regular order. We have done that. We have our budget allocations for several years. We have come to a resolution. That is what we have done here for two centuries. We should do it this way.

I ask unanimous consent that the Senate agree to the consideration of Calendar No. 33, H. Con. Res. 25, that the amendment which is at the desk, the text of S. Con. Res. 8, the budget resolution passed by the Senate, be inserted in lieu thereof; that H. Con. Res. 25, as amended, be agreed to, with the motions to recommence being considered made and laid on the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, all without intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Texas.

Mr. CRUZ. Mr. President, reserving the right to object, one of my concerns is that this conference report could be used to pass a reconciliation bill that would increase the debt ceiling without sufficient input from the minority party and without addressing the fundamental structural spending problems we have in the Federal Government that are leading to our unsustainable debt. I believe this concern is well founded in history in that reconciliation bills have been used to increase the debt ceiling at least three times—1986, 1990, and in 1993. So for that reason, reserving the right to object, I ask consent that the leader modify his request so that it not be in order for the Senate to consider a conference report that includes tax increases or reconciliation instructions to increase taxes or to raise the debt limit.

The PRESIDING OFFICER. Is there objection to the modified request?

Mr. REID. I would make a comment before making a decision on that.

The PRESIDING OFFICER. The majority leader.

Mr. REID. The Senate considered the budget—and that is an understatement. We voted on more than 100 amendments, as I mentioned a few minutes ago. It was hard. The votes were hard. The Senate passed its budget. It should now go to conference, that which the Senate passed. It is our way of working, to pass the Senate on the losing side. He had his view and it lost, but now he wants us to agree by consent to adopt the losing side’s view or else he is not going to allow us to go to conference.

For more than two centuries, I repeat, the two bodies have been able to go work out their differences. The Senate passes something. The House passes something. You talk about regular order, that is it. We are able at that time to sit down and talk about the differences. The debt ceiling—he wants to talk about that. He wants to talk about taxes. We are happy to do that, but let’s do it in the context of regular order. That is what we should be doing around here.

My friend from Texas is like the schoolyard bully. He pushes everybody around and is losing, and instead of playing the game according to the rules, he not only takes the ball home with him but changes the rules. That way, no one wins—except the bully who tries to indicate to people that he has won. We are asking the Republicans to play by the rules and let us go to conference.

I don’t think it takes a lot of wizardry to figure out that we know how the American people feel about what they want done in this country. They want us to get on a pathway of growth and economic vitality. It has been hindered.

The Republicans have things they want to do. We have things we want to do. Why can’t we sit down as reasonable men and women and work out our differences? That is what a conference is all about.

I object to what my friend suggests. It is actually fairly ridiculous, if you want the truth: Before we go to conference, we determine what we are going to do or not do in the conference. That is not how we do things around here.

The PRESIDING OFFICER. Objection is heard.

Is there objection to the original request? The Senator from Texas.

Mr. CRUZ. Mr. President, I was not aware we were at a third time.

Mr. REID. Mr. President, is there an objection or no objection? Let’s hear about it. We have had enough.

Mrs. BOXER. Regular order.

Mr. CRUZ. Reserving the right to object.

Mr. REID. Mr. President, there is no such thing.

The PRESIDING OFFICER. Is there objection?

Mr. CRUZ. Yes. I object.

The PRESIDING OFFICER. The clerk will read the bill for a third time.

The bill was ordered to be engrossed for a third reading and was read the third time.

IMPLEMENTATION

Ms. COLLINS. Mr. President, I rise to speak on the Marketplace Fairness Act. I applaud Senator Enzi for his many years of work on this legislation, of which I am a cosponsor. This bill rectifies a fundamental unfairness in our current system. Right now, out-of-State Internet sellers, so-called remote sellers, have an advantage over Main Street businesses. Main Street businesses have to collect sales taxes on every transaction. Because remote sellers don’t have to charge this tax, they enjoy a price advantage over the mom-and-pop businesses that form the backbone of our communities. This bill allows States to collect sales taxes on remote sales, thereby leveling the playing field with Main Street businesses.
It is important to recognize that this bill does not authorize any new or higher tax, nor does it impose an Internet tax. It simply helps ensure that taxes already owed are paid.

I would like to engage Senator ENZI in a colloquy regarding the manner in which the bill is to be implemented. As introduced, the bill would require some businesses to start collecting sales taxes in as little as 90 days. I hope that my colleague from Wyoming would agree that is too short a time period, and I appreciate the fact that he has offered an amendment that includes a 6-month delay. I believe, however, that a delay of at least 1 year is needed to allow businesses time to implement the new systems and software necessary for compliance. I do appreciate that the Senator from Wyoming exempted small businesses with sales under $1 million, as I had urged.

Nevertheless, from a covered seller’s perspective, complying with the Marketplace Fairness Act requires more than just installing new software. Multichannel retailers—those who sell online, through catalogs, over the phones, and in stores—have their own unique order processing systems. Tax collection software is programmed to correctly treat articles with and without tax. In other states, clothing and footwear used for athletic purposes—which they tax—and clothing and footwear used for general purposes—which they do not tax. In those States, systems must be programmed to correctly treat articles that can be viewed as either athletic apparel or general clothing, depending on the user. Board shorts, sneakers, and weatherproof jackets are just a few examples of common items that give rise to substantial complexity.

Retailers will need to invest additional hours in tax analyst and programmer time to ensure their systems are able to address these issues seamlessly. Even with a 1-year delay, retailers will have to begin early, and move quickly, to implement the Marketplace Fairness Act.

Mr. ENZI. I thank my friend from Maine, and wholeheartedly agree with her conclusion that we must ensure that the Marketplace Fairness Act is correctly implemented. I have spent many years working on this legislation and strongly believe that leveling the playing field for Main Street businesses is the right thing to do. We must implement the solution to that problem in a reasonable manner, and I agree with the Senator that a 1-year delay she proposes is appropriate to do this.

Ms. COLLINS. I would also like to note that the collection of sales taxes online will be new not only for many retailers, but also for consumers who are used to the current system. It is important to implement the new law correctly, from the outset, for these retailers and their customers.

In this regard, I believe that it is also important to make sure that the implementation of the new law does not disrupt the busy holiday season. For this reason, I believe that States should be prohibited from exercising their new authority under the Marketplace Fairness Act during the last quarter of the first year after enactment.

Mr. ENZI. I think both the proposals made by my friend from Maine are commonsense items that will improve the Marketplace Fairness Act. As this bill moves through the legislative process, I suggest my colleagues on both sides of the aisle—and in both Chambers—adopt a 1-year delay in implementing and prohibit States from beginning to exercise their new authority to require the collection of sales taxes during the holiday season.

The PRESIDING OFFICER. Under the previous order, the question is on passage of S. 743, as amended.

Mr. REID. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Alaska (Mr. BEGICH) and the Senator from New Jersey (Mr. LOUINSTENBERG) are necessarily absent.

Mr. THUNE. The following Senators are necessarily absent: the Senator from Texas (Mr. CORNYN) and the Senator from Kansas (Mr. MORAN).

Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 27, as follows:

[Rollcall Vote No. 113 Leg.]

S. 743

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<th>YEAS</th>
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The bill (S. 743), as amended, was passed, as follows:

S. 743

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Marketplace Fairness Act of 2013”.

SEC. 2. AUTHORIZATION TO REQUIRE COLLECTION OF SALES AND USE TAXES.

(a) Streamlined Sales and Use Tax Agreement.—Each Member State under the Streamlined Sales and Use Tax Agreement is authorized to require all sellers not notifying for the small seller exception described in subsection (c) to collect and remit sales and use taxes with respect to remote sales sourced to that Member State pursuant to the provisions of the Streamlined Sales and Use Tax Agreement, but only if any changes to the Streamlined Sales and Use Tax Agreement made after the date of the enactment of this Act are not in conflict with the minimum simplification requirements in subsection (b)(2).

(b) Alternative.—A State that is not a Member State under the Streamlined Sales and Use Tax Agreement is authorized notwithstanding any other provision of law to require all sellers not notifying for the small seller exception described in subsection (c) to collect and remit sales and use taxes with respect to remote sales sourced to that State, but only if the State adopts and implements the minimum simplification requirements described in paragraph (2).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 69, nays 27, as follows:

[Rollcall Vote No. 113 Leg.]
SEC. 3. LICENSING AND REGULATORY REQUIREMENTS.

(a) IN GENERAL.—Nothing in this Act shall be construed as—

(1) subjecting a seller or any other person to franchise, income, occupation, or any other type of taxes, other than sales and use taxes;

(2) affecting the application of such taxes; or

(3) enlarging or reducing State authority to impose such taxes.

(b) NO EFFECT ON NEXUS.—This Act shall not be construed to authorize a State to impose sales and use taxes on personal property or services not subject to taxation prior to the date of enactment of this Act.

SEC. 4. DEFINITIONS AND SPECIAL RULES.

In this Act:

(1) such persons are related to the remote seller within the meaning of subsections (b) and (c) of section 257 or section 707(b)(1) of the Internal Revenue Code of 1986; or

(2) such persons have ownership relationships and such relationships were designed with a principal purpose of avoiding the application of these rules.

SEC. 5. SEVERABILITY.

If any provision of this Act or the application of such provision to any person or circumstance is held to be unconstitutional, the remainder of this Act and the application of the provisions of such to any person or circumstance shall not be affected thereby.

SEC. 6. PREEMPTION.

Except as otherwise provided in this Act, this Act shall not be construed to preempt or limit any power exercised or to be exercised by a State or local jurisdiction under the laws of such State or local jurisdiction or under any other Federal law.

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. REID. Mr. President, I ask unanimous consent that the Senate now proceed to a period of morning business, with Senators allowed to speak therein for not to exceed 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNIZING SERVICE OF

CHARLES HOUY

Mr. REID. President, today I rise to recognize one of Congress' longest-serving and loyal staffs, Charlie Houy. After three decades of service under Senators Ted Stevens, John Stennis...