

NAYS—48

Alexander	Graham	McConnell
Ayotte	Grassley	Moran
Barrasso	Hatch	Murkowski
Blunt	Heller	Paul
Boozman	Hoeben	Portman
Brown (MA)	Hutchison	Risch
Burr	Inhofe	Roberts
Chambliss	Isakson	Rubio
Coats	Johanns	Sanders
Coburn	Johnson (WI)	Sessions
Cochran	Kirk	Shelby
Corker	Kyl	Snowe
Cornyn	Lee	Thune
Crapo	Lugar	Toomey
DeMint	Manchin	Vitter
Enzi	McCaig	Wicker

NOT VOTING—2

Kerry Kohl

The PRESIDING OFFICER. On this vote, the yeas are 50, the nays are 48. Under the previous order requiring 60 votes for the adoption of this motion, the motion is rejected.

The Republican leader.

TEMPORARY TAX HOLIDAY AND GOVERNMENT REDUCTION ACT—MOTION TO PROCEED

Mr. MCCONNELL. Madam President, I move to proceed to S. 1931.

The PRESIDING OFFICER. Under the previous order, the motion is now pending.

The majority leader.

Mr. REID. Madam President, this will be the last vote of this week. We will have a couple of votes on Monday night. I will announce later as much of the schedule as I am able to do. Right now, I can't do that, but I will before the day is out.

The PRESIDING OFFICER. Under the previous order, there will be 2 minutes of debate equally divided.

The Senator from Pennsylvania.

Mr. CASEY. Madam President, what is about to happen is we are going to be taking a vote on a measure that got 20 votes last week—this same vote. I don't know what the vote will be today, obviously, but this is an exercise in futility to vote on this again.

What we should do is cut the payroll tax in half for American workers. That is what we have been trying to do. I hope we can continue to work together, but we should move beyond this measure that got 20 votes last week and cut the payroll tax in half for 160 million American workers. We should do that and give people the peace of mind and dollars in their pockets they would not have otherwise.

I urge a "no" vote on this motion, and I hope we can continue to work together to support the American worker.

The PRESIDING OFFICER. Who yields time?

Time is yielded back.

Under the previous order, the question is on agreeing to the motion to proceed to S. 1931, which is subject to a 60-affirmative-vote threshold.

Mr. CORKER. 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 legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Massachusetts (Mr. KERRY) and the Senator from Wisconsin (Mr. KOHL) are necessarily absent.

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

The result was announced—yeas 22, nays 76, as follows:

[Rollcall Vote No. 225 Leg.]

YEAS—22

Ayotte	Heller	Portman
Barrasso	Hoeben	Risch
Brown (MA)	Hutchison	Rubio
Cochran	Lugar	Snowe
Collins	McCaig	Vitter
Crapo	McConnell	Wicker
Enzi	Murkowski	
Grassley	Paul	

NAYS—76

Akaka	Franken	Moran
Alexander	Gillibrand	Murray
Baucus	Graham	Nelson (NE)
Begich	Hagan	Nelson (FL)
Bennet	Harkin	Pryor
Bingaman	Hatch	Reed
Blumenthal	Inhofe	Reid
Blunt	Inouye	Roberts
Boozman	Isakson	Rockefeller
Boxer	Johanns	Sanders
Brown (OH)	Johnson (SD)	Schumer
Burr	Johnson (WI)	Sessions
Cantwell	Kirk	Shaheen
Cardin	Klobuchar	Shelby
Carper	Kyl	Stabenow
Casey	Landrieu	Tester
Chambliss	Lautenberg	Thune
Coats	Leahy	Toomey
Coburn	Lee	Udall (CO)
Conrad	Levin	Udall (NM)
Coons	Lieberman	Warner
Corker	Manchin	Webb
Cornyn	McCaskill	Whitehouse
DeMint	Menendez	Wyden
Durbin	Merkley	
Feinstein	Mikulski	

NOT VOTING—2

Kerry Kohl

The PRESIDING OFFICER. On this vote, the yeas are 22 and the nays are 76. Under the previous order requiring 60 votes for the adoption of this motion, the motion is rejected.

VOTE EXPLANATION

• Mr. KERRY. Mr. President, I was necessarily absent for the votes on the motion to proceed to the Casey Middle Class Tax Cut Act of 2011, S. 1944, and the motion to proceed to the Temporary Tax Holiday and Government Reduction Act, S. 1931. If I were able to attend today's session, I would have supported the motion to proceed to the Casey Middle Class Tax Cut Act of 2011, S. 1944, and opposed the motion to proceed to the Temporary Tax Holiday and Government Reduction Act, S. 1931.●

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent we proceed now to a period for morning business, with Senators allowed to speak for up to 10 minutes each until 6 o'clock this evening.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Vermont.

(The remarks of Mr. SANDERS pertaining to the introduction of S.J. Res. 33 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Florida.

MEDICARE

Mr. NELSON of Florida. I wish to thank the Senator from Tennessee for his graciousness to make a very few brief remarks.

I wish to call to the attention of the Senate that there are some good things that are happening in Medicare. In the health care bill—which was a very complicated piece of legislation—there are a lot of good things. There were some things that are implemented over time, that if mistakes had been made, we can correct those mistakes as they are starting to be implemented.

I wish to point out some of the salutary things that are happening under the new health care reform bill with regard to Medicaid. It was just this week that the agency that runs Medicare, the Centers for Medicare and Medicaid Services, CMS, announced that more seniors and people with disabilities on Medicare are seeing significantly lower costs for important health care because of this new law.

For example, what we are seeing for the first time is that millions of Americans on Medicare are now getting free physical exams as part of their preventive medicine. Because of the doughnut hole, which is that complicated black hole senior citizens would fall into when they were getting assistance for their prescription drugs, well, lo and behold, that doughnut hole is being filled by the Federal Government assisting them in paying for those drugs. Therefore, they are getting a lot more of their drugs without having to pay for them.

For example, Nationwide has over 2.5 million people on Medicare who have saved more than \$1.5 billion on their prescriptions. If we boil that down to my State of Florida, we have 172,000 Medicare recipients who save \$96 million, which is an average for the senior citizen in Florida of \$563 per person per year.

In the case of physical exams, we have over 24 million people in the country who now have taken advantage of having one of these free physical exams in order to help with the preventive health care aspects that the bill was aimed at. In my State, where there are a lot of senior citizens, close to 2 million senior citizens have taken advantage of those physical exams.

Remember how we were discussing the doom and gloom of Medicare Advantage? What has happened to Medicare Advantage? We had to change it because Medicare Advantage before, under the previous law, had a 14-percent bump over and above Medicare fee-for-service. The Federal Government was going to go broke if we did

not do something about that. Where was that money going? It was going to the insurance company because Medicare Advantage is a fancy term for Medicare given through an insurance company and HMO.

What has happened? If we look all across the country at Medicare Advantage, enrollments are up and the premiums senior citizens pay are down. Look at the State of Florida in this last year. Enrollment was up by 6 percent, premiums decreased by about 10 percent. What is happening now in 2012? Enrollments are up almost 20 percent and the premiums are going down by a whopping 26 percent. That means more seniors are going to have access to higher quality care while paying less, and it is a win-win-win. It is clearly a win for the country that we are leveling out all of the excess bumps. It is clearly a win to the senior citizen and, in the process, the insurance companies are giving better quality care.

I wanted to bring this to the attention of the Senate, and I do thank my colleague from Tennessee for his generosity in allowing me to make these comments prior to his.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

MARKETPLACE FAIRNESS ACT

Mr. ALEXANDER. Madam President, we hear a lot about tax breaks and tax loopholes around the Senate. I wish to talk about a tax loophole, a big one, that is on its way out. It is a \$23 billion tax loophole. It is not a loophole in the tax code of Washington, DC. It is a loophole in virtually every State in the country. It is a loophole that prefers some taxpayers over other taxpayers. It subsidizes some businesses over other businesses. Because of that loophole, it causes tax rates in States to be higher, and it causes States to have less money to fund the universities or the State parks or the schools or the other expenses that are legitimate in the operation of a State.

I say it is a tax loophole that is on its way out because after 10 years, Senator ENZI of Wyoming and Senator DURBIN of Illinois have produced a piece of legislation that is rare in Washington, DC. It is only 10 pages long. It is very simple. It is a States rights piece of legislation that gives each State the right to decide for itself how to collect its State sales tax from everybody who owes it, whether that person buys a pair of cowboy boots in Nashville or whether that person buys a pair of cowboy boots online.

Senator ENZI and Senator DURBIN introduced the Marketplace Fairness Act 4 weeks ago. It has five Republican sponsors and five Democratic sponsors. I am one of those sponsors. This is the bill that solves the problem of the online sales tax loophole, the one I described a little earlier. I mentioned cowboy boots. Let me describe what I am talking about in practical terms.

I called the owner of the Nashville Boot Company a couple weeks ago. His name is Frank Harwell. He sold boots online, and he sells them to people who walk into his store in west Nashville. When he started the company, almost all of his boots were sold online. Here is what he says is happening to him today: People come into the store in Nashville and they try on cowboy boots. They find a pair they like and then they go home and buy the cowboy boots online in order to save the State sales tax.

They owe the sales tax. Many people don't know they owe it. They owe the sales tax as much as if they had bought the boots at the cowboy boot store in Nashville. They don't pay it. Why is that? Under the State law, when Frank Harwell sells a pair of cowboy boots in his store in Nashville, he collects the sales tax and sends it to the State.

But under the law, the Supreme Court said 20 years ago, the State of Tennessee or the State of Missouri or the State of Washington could not require an out-of-State seller to collect the same sales tax. They had a reason for doing so, and it was a good reason. They said it was so complicated to do that it put a burden on interstate commerce. But at the same time, the Supreme Court invited the Congress to fix the problem. By fixing the problem, that means the Congress could act in order to create a fair way for States to require retailers that are out-of-State to collect the same sales tax retailers on Main Street collect.

Over that 20 years, the online sales tax loophole got to be a big loophole. It subsidizes some businesses at the expense of others and, as I said earlier, prefers some taxpayers at the expense of others.

Last week, the Hudson Institute, a generally conservative organization, released a new report that explains how the subsidizing of out-of-State sellers works and how the Federal Government—those of us in Washington—are keeping States from closing this loophole. Hudson concludes that this online sales tax loophole is distorting the marketplace, and I urge my colleagues to take a serious look at the Hudson Institute report.

Governors and legislators are up in arms because they are being deprived of the right to enforce their own sales tax law. This is a little different loophole—actually, a little worse one. Usually, loopholes are written into the law. Those are the kind we are trying to change in our tax reform proposals in Washington. This is a tax that is already owed. This is a tax that is already owed that Governors and legislators want to collect. It is used to pay for the things States need to pay for or reduce a tax. In the State of Tennessee, which has a very high sales tax, if the State was allowed to collect sales tax from out-of-State retailers the same way it does from Main Street retailers, then we might postpone the day of a State income tax, which are probably

three of the most hated words in the tax vocabulary in Tennessee.

I said, when Senator ENZI and Senator DURBIN introduced their bill, that I believed they had solved the problem and that if I were an out-of-State retailer or an online retailer, I would begin to make plans to collect sales tax the same way Main Street collectors collect it today, and many have. For example, Amazon—which had opposed for a long time this kind of legislation because, in their view, it was too complicated for them to figure out what the tax might be—changed their mind, and said the Enzi-Durbin bill is a good bill and Amazon now supports it. That is not all. Mississippi Gov. Haley Barbour, a strong conservative Republican Governor and former chairman of the Republican Governors Association, wrote a letter on November 29 which I wish to quote:

In the early days of the Internet, the complexities of collecting State sales taxes across thousands of State and local sales tax jurisdictions were major obstacles. The technology simply didn't exist to expect startups to comply with the various tax compliance rules in every part of the country. But today, e-commerce has grown, and there is simply no longer a compelling reason for government to continue giving online retailers special treatment over small businesses who reside on the Main Streets across Mississippi and the country.

Governor Barbour continues:

The time to level the playing field is now, as there are no effective barriers to complying with state sales tax laws.

Here is what Governor Barbour is saying: Twenty years ago we didn't have the kind of software and information we do today. If I want to know what the weather is in Maryville, TN, where I live, I put in "weather" and my ZIP Code, 37886. Under this new bill and under the technology that exists today, States will be required to give out-of-State retailers or online retailers the software that will permit them to do the same thing. If I order a pair of cowboy boots, they can put in my name, the cost of the boots, and the ZIP Code, and the software will compute the tax and even find a way to send it on to the State. It will be just as easy, or maybe even easier, for the out-of-State retailers to collect the sales tax that is owed as it will be for a cowboy boots store selling it out of the front door in Nashville.

The National Governors Association sent a letter last week saying that the Enzi-Durbin bill represents a common-sense approach that will allow States to collect taxes they are owed, help businesses comply with different State tax laws, and provide fair competition between retailers that will benefit consumers.

Last week, the Judiciary Committee in the House of Representatives held an oversight hearing to discuss all three bills that have been introduced to address this issue and there was a lot of good discussion. I wish to share a few things that were said and I hope we can have a similar hearing in the Senate soon.