

think it might be particularly onerous on young people who are just starting out at a time when the economy is not as strong as any of us would like.

Many small businesses are already feeling the impact of higher monthly premiums. Just this week, I heard from a small business owner in the district I serve, Susan Schwartz of System Builders, in Westfield, Union County, New Jersey. She is seeing her company rates jump by nearly 40 percent in 1 year, Mr. Speaker.

We must work together to provide much-needed relief to the small and large businesses being crushed under this burdensome law.

I thank you, Chairman MURPHY, and certainly I commend you for your efforts and the efforts of the Energy and Commerce Committee, of which I am a proud member under your leadership in that committee as one of the subcommittee chairs, the committee as a whole, under Mr. UPTON's leadership, and really all of us in Congress who believe that this law was poorly designed and will lead to massive increases in premium payments for many of the American people.

Mr. MURPHY of Pennsylvania. I thank the gentleman.

Mr. Speaker, may I inquire as to how much time we have remaining?

The SPEAKER pro tempore (Mr. MESSER). The gentleman has 4 minutes remaining.

Mr. MURPHY of Pennsylvania. With that, then, Mr. Speaker, I'll wrap up here with a couple of comments.

First of all, I really want to thank the Energy and Commerce Committee staff for bringing out this important study. We only wish this was the kind of information we had a couple of years ago when Members were called upon to blindly support this bill and so many other organizations were called upon to support this bill.

□ 1910

These are going to be high costs, and people are going to have to make decisions now about what kind of health care they are going to have, can they afford it. Well, they'll also see the impact on top of their gasoline prices and utility prices and worries about their jobs. They're going to be making decisions about do I not have health care now and run the risk of having the IRS come after me and charge me \$95. People will be making those kinds of decisions. That's not what we should be doing.

Out of care and concern for every mother and father and grandparent and child in America, to make sure that we work on an affordable health care plan, that makes sure that people who are ill, people who have preexisting conditions are not cut, and to make sure that the high-risk pool has money in it to help those who have high risks for health care, not use money for other purposes, and to make sure that we're working on prevention and caring for the ill. That is what we should be doing

to help make health care affordable, not offering a 96 percent increase for those getting a new plan, up to 73 percent for those keeping their insurance, and up to 413 percent for others.

Look, we understand some people are going to see their health insurance rates go down. Many will see their rates go up. That is part of the frightening thing for America's family.

GENERAL LEAVE

Mr. MURPHY of Pennsylvania. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the topic of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. MURPHY of Pennsylvania. With that, Mr. Speaker, I thank my colleagues for speaking tonight. I thank the Energy and Commerce staff for also being part of this tonight. And I thank the American people for continuing to communicate with us and understand that we want to make health care affordable, but we think the Affordable Care Act is neither.

Mr. Speaker, I yield back the balance of my time.

#### INTERNET SALES TAX

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2013, the Chair recognizes the gentleman from Kentucky (Mr. MASSIE) for 30 minutes.

GENERAL LEAVE

Mr. MASSIE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material on the topic of my Special Order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Kentucky?

There was no objection.

Mr. MASSIE. Mr. Speaker, I rise today to speak in opposition to H.R. 684 and S. 743, the Marketplace Fairness Act, otherwise known as the Internet sales tax. Or as I call it, the interstate commerce sales tax.

I'm concerned that this new tax on American consumers passed the Senate too quickly without enough debate and has the quiet support of several Members here in the House. Unfortunately, many of my colleagues opposed to the bill here in the House have taken a quiet wait-and-see attitude. They don't want to rock the boat, so to speak. Well, it's time to quit being quiet on this issue. The American public deserves a full and open debate on this bill before any legislative action is taken in this body.

This evening, my colleagues and I will begin that debate. I'm confident that when Members and their constituents grasp the full ramifications of this

onerous piece of legislation, they will oppose it as well.

Many States in this country are in dire financial straits. They've lavished overly generous pension plans on their State employees and offered tax credits and financial incentives to their favorite businesses. They've promised more than they can deliver, while sometimes letting essential services go neglected. State governments bear the responsibility for their financial situations; yet they're looking to the Federal Government for a bailout. Make no mistake, this Internet tax is the bailout they're seeking. Without raising taxes, State governments can expect billions of dollars of Americans' hard-earned money to flow to their treasuries if this bill passes. And how would this happen? By passing a bill that proclaims to impose fairness.

Who else is for this bill? Large retailers. They've got lots of representatives up here talking to us. They're on the Internet and they're off the Internet, but they're for this bill. They're weary of competing with small and nimble businesses. And that's natural to want to have economic barriers to entry because it's an economic fact that in the absence of innovation in a market with no barriers to entry, profits go to zero in the long run.

But how do we create barriers to entry in the United States? How do we compete? Through innovation.

America is the country of innovation. You can invent something. You can make a new piece of music. You can be nicer to your employees than the other company is. Or you can come up with a new, more efficient way of manufacturing your products. But I suggest to you, Mr. Speaker, that sending representatives to Washington, D.C. to impose financial hardships on your competitors is not the American way.

Some have said that this bill is about States' rights, and I'm a strong proponent of States' rights; but this bill does nothing to protect States' rights. In fact, this bill changes the very fabric, the constitutional fabric of the United States of America by subjecting people and businesses in one State to the taxes and regulations of another State. This is unprecedented. For the first time in history, this bill would grant States jurisdictions beyond their physical borders. If this bill passes, we'll have a virtual United States of America where borders no longer mean anything.

Justice Marshall ruled that the power to tax is the power to destroy, and we were reminded last week by the IRS's admission that the power to tax is the power to harass.

I urge other Members of Congress to consider the dangerous implications of granting individual States authority over individuals in other States.

Before my colleagues get into the details of this new tax, I'd like to point out that no one, not a single person, has argued that this bill will help our

economy. Even proponents of this bill must concede that it increases taxes on American consumers and adds burdensome regulations to small businesses. That's where this debate will begin and end. This bill is bad for our economy.

I now yield to the gentleman from Florida.

Mr. DeSANTIS. I thank the gentleman from Kentucky, and thank you for your leadership on getting out ahead of this and really leading the charge. You're right, this will not be good for the economy. People will say it's not really a tax increase because some of these taxes are essentially use taxes that are already due. The fact of the matter is this will hurt consumers because they are going to have to pay more, and that is not the recipe for success in a high-unemployment, low-growth economy, which is what we have now and is what we've had for a number of years.

In terms of making consumers pay more in taxes, I for one am sick of politicians in Washington and in State capitals throughout the country putting the interest of government ahead of the interests of the people. Our job is not to extract as much money as possible from our fellow citizens, but it's instead to provide a framework that protects their freedom and liberty and allows them to pursue their dreams. This bill obviously doesn't help do that. In fact, it hinders it. It hinders it by making it more difficult on consumers, but also will make it more difficult on up-and-coming new businesses that do business online. This bill represents taxation without representation, and the reason it does that is because the bill would require online businesses to determine, collect, and remit taxes to States with which they have no physical connection.

So if you have a business in Florida that does online sales and you sell to somebody in California, you're going to be responsible for determining California's sales tax, collecting it, and then sending it to California. The problem is if you have no physical connection to that State, you have no way to hold tax-happy politicians in States like California accountable for the decisions they make in terms of taxing, spending, and regulation.

I would say also, people say that there are local stores who have to pay sales tax. If you sell online to somebody out of State, you're not having to sell the tax. We don't require any stores on a local sale to figure out where the consumer came from and then send the tax over to that State. They simply collect the tax that's due in their State, so the compliance requirements are completely different. Indeed, there are over 9,600 taxing jurisdictions in the United States.

This bill specifically permits audits from the other States that have sales tax and from Indian reservations, and we have several hundred federally recognized Indian tribes, so this creates a huge compliance burden for our small businesses.

I just don't think it is good policy to saddle small businesses in Florida with red tape and additional compliance costs. I mean, why on Earth would any Floridian want an up-and-coming business to face a tax audit from a State like California or Illinois?

□ 1920

And I would say, as the gentleman from Kentucky pointed out, especially in light of what we're seeing with the malfeasance committed by the IRS out of Washington, D.C., you know, the IRS is at least somewhat accountable to the people, at least in theory, because we can always vote out the administration that oversees the IRS.

If you have an out-of-State tax audit, you don't have any political representation, so why would they care about your rights? They're not going to care about your rights. They're going to care about getting your revenue.

I just want to say a thing about fairness. People say, well, you know, you have brick-and-mortar, local stores versus these Internet businesses; but I would suggest that that distinction is illusory, and the reason why is many companies that do business online are brick-and-mortar companies.

I have a business in my district in Ormond Beach, Florida. It's called Coastal Moto, and this is a gentleman that put his entire life savings into this business. They now have grown to have five employees. They make custom wheels for Harley Davidson motorcycles, and they ship them worldwide. But they have employees showing up every day to work there, so they are both brick-and-mortar and online. So it's essentially brick-and-click.

And I would also just endorse what the gentleman from Kentucky said, that the tax would give large companies a competitive advantage, because anytime you saddle businesses with more compliance cost, that will create barriers to entry for smaller companies, and the big businesses are always able to comply more easily.

And look, I want companies of all sizes to do well. You know, big businesses, if they're doing well, God bless them. I just don't want to tilt the playing field in favor of them and make it more difficult for new businesses to start and grow.

The Internet is one of the most pro-growth, pro-opportunity inventions in all of human history. It literally gives anybody the chance to move a product. If you have an idea, you can go online, you can put that out, and you can be successful. It's much easier, with the Internet, to have a successful business than it was 100 years ago. You're able to get into the market more cheaply and more affordably. That's not something that we should try to undermine. That's something that we should want to continue to promote.

And finally, I would just say, is it fair to burden Florida businesses in order to fund excessive spending in States that suffer from severe fiscal

mismanagement? I mean, for example, in California, you have county administrators retiring with a \$400,000 pension for life. And so we're going to put burdens on our companies to be able to send money over there so that they can fund that extravagance? And I would also note that a lot of that money goes to funding union dues that end up helping fund political companies. So why would we want to do that?

So the bottom line is that the bill is bad for consumers; it represents taxation without representation; it will stymie small business growth; and it will create perverse economic incentives. Our political system right now is suffering from an accountability crisis. The last thing we need to do is expand government and add to this problem.

Mr. MASSIE. Thank you to the gentleman from Florida. He makes an excellent point on the sales tax audit burden on small businesses.

I'd like to give you two examples of companies in my district. These are, literally, mom-and-pop shops. One of them, the wife is the CFO and the husband runs the company; and in the other one, the father owns the company and the son works there every day. They were both subjected to sales tax audits in one State.

Let me tell you how the sales tax audit begins and how it ends. So the way it began was with a phone call. And that, for many small businesses, is the worst phone call of their life, of their business life, because they know what they're going to have to endure.

So let me give you the example of this farm store that underwent a sales tax audit. He was required to prove that every sales tax-exempt sale that he made in the previous years was, in fact, exempt from sales tax under Kentucky State law.

The sales tax auditors will pursue you to the end of the Earth if they think there's another dime to be found, so they pursued him with much vigor. He spent weeks looking for records trying to prove that these were, in fact, sales tax-exempt, because if they were not, he owed the sales tax on all of those sales.

How does this kind of audit end?

It ends with a white flag. There's no way to prove, there's no way to find every shred of paper for every transaction that you've ever had in the past years, so you finally settle with the sales tax auditors.

Can you imagine that? You'd be open to sales tax audits, which I've just described, in 45 different States. Now, maybe it only happens once every 10 years in your State; maybe that's the average. But, on average, you'll get 4½ sales tax audits a year, which brings me to the next small business in my district, where the wife is the CFO.

This business was subjected to a sales tax audit and an IRS audit in the same year, in fact, this year. This business owner came to me and said, Can you pass a bill that would keep me from having to go through two audits in the

same year? I mean, it's just not fair. I've got a State tax audit and a Federal audit in the same year. This is killing my business. My wife can't work on anything but these audits.

Can you imagine if that business is now subjected to 45 audits in 45 different States? I just can't let this individual down. And what we're talking about, sales tax audits, it's up to the States to decide what's sales tax exempt and what's not, and every State has a different rule.

And the only way to enforce these rules and to know if you've complied—is it for a farm? is it for education? is it for resale?—is for the retailer to submit all of those sales records, information, if you will, on the individual that purchased them to the State where the individual lives.

This is ripe for corruption, just as we saw with the IRS recently. Now they know what music you've downloaded, what movies you've downloaded. Maybe you bought some gun magazines. They're going to know about all of this, and it's just ripe for corruption and for exploitation.

I'd like to yield to my good friend and colleague from the State of Montana (Mr. DAINES).

Mr. DAINES. Thanks much to my good friend from Kentucky, Mr. THOMAS MASSIE, for coordinating this Special Order here tonight. I appreciate it greatly.

We're here tonight to share our strong opposition to the so-called Marketplace Fairness Act. This is a bill that mandates small businesses to collect sales tax on behalf of other cities and States when selling products over the Internet.

The problem is this bill would fundamentally change how online purchases are taxed and would impose yet another burden on small businesses across the country, but especially like my home State of Montana. You see, in Montana we don't have a statewide sales tax. In fact, we often say you know you're a native Montanan if you voted against a sales tax twice.

But I will have to say that in my home State we have a balanced budget requirement. And not only did our State balance its budget this year, we're running a surplus, and we've done that without a sales tax. And Washington should do the same. They should learn how to balance their budget, and they don't have to impose a sales tax that's imposed on businesses across this country.

But even though we don't have a sales tax, under this legislation, Montana small businesses would be forced to collect sales taxes for up to 9,600 cities and States, none of which would go back to the people of Montana.

Let me be clear. This isn't just a bill that hurts no sales tax States like Montana. It hurts small businesses in every State, burdening businesses that depend on Internet sales with added costs and more paperwork and more regulations.

Proponents of this bill say, well, it's about fairness. They say that this bill will help prevent the supposedly widespread practice of "showrooming," where customers visit a physical store but then buy the goods online where customers can get a better price or avoid paying sales tax. According to proponents of this bill, this showrooming is destroying our brick-and-mortar businesses.

Well, ladies and gentlemen, this is not only misleading; it's wrong. As the National Journal reported, a recent PricewaterhouseCoopers survey of 10,000 shoppers found this so-called widespread problem occurred less than 2 percent of the time. In fact, the survey found that 10 times as many consumers researched products online so they could go buy them at the local brick-and-mortar shop.

Think about that. And we've all had that happen to us. You may go online and shop, but you may not want to pay the shipping costs. You may not want to have the time it takes to receive the goods. You may want to be buying that bike for your child, so you go downtown and buy at the brick-and-mortar store.

Furthermore, the study states, and I quote, "We also can't emphasize enough that the physical store remains the centerpiece of the purchase journey for many categories. In 9 out of 11 categories, in fact, the majority of consumers use physical stores for both researching and purchasing the products they want to buy."

I know that many times I'd rather head downtown to my home of Bozeman, Montana, to talk to folks face-to-face and purchase a product I've researched online so I can avoid shipping fees and avoid the wait time.

□ 1930

I know a lot of Montanans feel the same way. But then I also have to ask, what is fair about forcing a small business that relies on Internet sales to learn the ins and outs of 9,600 different tax jurisdictions or be subjected to tax audits, as the gentleman from Kentucky just mentioned, not just from one State but from all 46 States that collect sales tax?

Imposing these unreasonable standards on online retail sales but not also on brick-and-mortar retail stores is not only unfair, it's unworkable. I've heard from Montana's small businessowners who are deeply concerned about what this bill means for them and how it will affect their ability to remain profitable. I'm concerned too.

I've spent nearly three decades in the private sector. In fact, prior to having served in Congress, the last elective office I held was student body president in high school. So I've come from the business world. I've been a job creator and somebody that's had to fight the regulations and pay taxes. I know that if you're a small business owner and you're forced to comply with more than 9,000 different tax codes, which,

by the way, most small businessowners readily admit it's next to impossible for any small business to do that. You are not going to be investing in your own business. You're not going to be hiring new employees, you're not going to be growing your product base or promoting innovation. You're now going to be spending more time and more capital dealing with regulations and mandates and more time with lawyers and accountants.

We also can't forget the threat that this holds for principles that are the foundation of our Nation's tax policy, and that is that States must not be allowed to extend their taxation and regulatory authorities beyond their borders. The Internet tax would do away with the physical presence standard which dictates that a State can only require a business to collect a sales tax if it's physically present within its boundaries.

Furthermore, the people don't want an online sales tax. A recent survey found that 84 percent of consumers were opposed to this bill and 75 percent of small online retailers are opposed. Those numbers send a clear message that the American people are strongly opposed to this proposal.

So I would ask my colleagues this—remember this is the people's House. We're here to represent our districts and our States and do what is best for them. The problem back in this town, in Washington, D.C., is that the big businesses, the big corporations, have lobbyists here to be the voice here on the Hill. We need to be the voice tonight for the small business people who don't have lobbyists here in Washington, D.C., because they can't afford them. Imposing a new tax burden in these precarious economic times is clearly not what our small businesses and consumers need.

I know one of the fastest ways to slow down growth and innovation is to tax it and to regulate it. This bill is a \$23 billion tax increase coming right out of the pockets of hardworking American families. So let me be clear. The so-called Marketplace Fairness Act is a job-killing tax hike that hurts America's small businesses, and it hurts America's consumers. I promise I will continue to fight this bad piece of legislation.

Mr. MASSIE. Mr. Speaker, I would like to remind my colleagues that Mr. DAINES represents the great State of Montana, which operates with a lean government and has, so far, got by without a sales tax. That's the great thing about these United States of America. We have 50 States competing with different models for how to run their governments. This tax, as I call it, the interstate commerce tax, is more about harmonizing tax laws across the United States and taking away the competition between States.

Now, my fair State of Kentucky has a sales tax of 6 percent. But I don't think it's fair that we impose a sales tax on the State of Montana when

they've worked very hard not to have one. Their businesses aren't subjected ever to a sales tax audit if they don't have to collect a sales tax. So I think he's too modest in not reminding us that he's coming from the State of Montana that has no sales tax.

This Marketplace Fairness Act could be called the "Offshore Online Retailers Act," because, while as Congressmen and Senators we can force the States to collect these taxes, we can't go into other countries and force them to collect taxes. So what will happen is a lot of our online retailers will move across the border where they enjoy the advantage of collecting those sales taxes, and there's no way to reach them and impose that tax upon them.

Now, some say this is not a new tax, don't call it a new tax, while others say that it's not a tax increase, don't call this a tax increase. Well, I say if it quacks like a duck and it walks like a duck, it's a duck. I'm new to Congress, but if at the end of a transaction, I have less money in my wallet and the government has the money in their coffers, I call it a tax.

Now, some will say, look, consumers already owe this tax. At the end of the year on April 15, they are supposed to pay the sales tax that wasn't collected in other States. But do you know what? That's just not true. They don't owe a sales tax because States long ago conceded that they don't have any authority to tax an event which occurs outside of their physical borders. They just can't do it without a physical presence. But States resented that they couldn't tax in other States, so they created something called a use tax. I say the use tax is actually a contrived tax. They know they can't tax an event outside of their borders, so they try to tax an event inside of their borders, which is the use of a product. But it's contrived in the sense that it's only owed if you didn't pay a tax on it somewhere else already.

So what kind of a tax is that? I'll tell you what it is: it's an uncollectible tax. And the States haven't exerted much effort in collecting that tax. We are not here to become tax collectors for the States. I just want to remind the States that.

Also, I want to talk a little bit more about my district. A large portion of my district is rural. We don't have stores to buy everything that we would like to be able to purchase. A lot of folks go online. A lot of folks are disabled and can't get to the store to go online. This is a regressive tax. This will punish those individuals who have the least mobility because they're online shopping. It also diminishes opportunities for businesses in rural areas by taxing those businesses that weren't taxed before that don't have a ready marketplace immediately in their vicinity.

Look, we've heard from Big Business, we've heard from lobbyists, and we've heard from State governments. But there's somebody absent from this de-

bate so far, and it's our constituents. I think we need to hear from them. And with that, and to address that issue, I yield to the gentleman from Florida.

Mr. DESANTIS. I thank the gentleman from Kentucky, and I would just add to your comments. You started by talking about federalism, the ability to kind of choose different tax laws, whatever laws, and this would actually facilitate higher taxes. It's a thumb on the scale in favor of higher taxes because it gives States the wherewithal to tax beyond their borders. So we should at least be trying to go in the other direction. I want Florida to be more like Montana, not more like some of the other high-tax States. And so that bears repeating.

Here are some of the folks who have written in via Twitter with their thoughts. Chris writes in:

Please tell the House that #InternetTax translates into higher costs for families and consumers. A weak economy cannot afford this.

Andrew writes in:

This will just be the 21st-century version of Smoot-Hawley. Will the lunacy from D.C. never cease?

Jay writes in and says:

The Internet tax is an inappropriate extension of the State's powers. It does not make commerce more fair.

Another fellow writes in and says:

It's a revenue grab, plain and simple. No taxation without representation. Is that vague?

Tiffany Lyle says:

If you tax the Internet, it's like taxing air. We work hard enough to earn what little we have.

And then Glenn writes in:

Remind them of how the Stamp Act went.

I have some more, but I will yield back to the gentleman from Kentucky because I know you probably have some more comments, as well.

Mr. MASSIE. Well, those comments bring up a very good point, and so do your comments. If this is a finger on the scale for higher taxes, States get to arbitrate and decide what gets taxed in their State. So right now we have exemptions for farm products and whatnot, but some States tax professional services in the transaction. And, of course, this bill opens up financial service transactions in one State to consumers in another State. But where does this end?

Senator BAUCUS stated in the other Chamber that not just the financial world would be open to taxes on their services, but also possibly attorneys, architects, engineers and accountants. One can only imagine, by not asking the States to do anything to simplify their system in return for the benefit of having out-of-state businesses collect taxes for them, we're giving carte blanche to the States to impose even more taxes on business.

Again, I think I'd like to hear a few more comments from our constituents.

Mr. DESANTIS. We do have some more.

Cory writes in:

I feel it may hinder an online business I've just started. It's already making business pay.

Mark says:

#InternetTax won't help local stores, but will protect online incumbents from new competition.

Taylor Neuhaus writes in and says:

I like the #InternetTax about as much as I like getting teeth pulled.

We have another fellow writes in and says:

It hurts small businesses, and it's basically Walmart vs. Amazon with consumers in the middle.

Finally, I think this is a great comment from Ian Stumpf:

An Internet tax will hurt one of the few remaining healthy sectors of the economy #disastrous.

□ 1940

Mr. MASSIE. I thank the gentleman from Florida for sharing that with us. I think all too often we don't listen as much to our constituents as we should; and on this issue, it's very important because those are in fact the people who are going to bear the burden of this new tax. And I will call it a new tax. It's unprecedented in our Constitution and in the history of this country.

I want to end this discussion tonight the way it began and the way I said it would end. No single individual who's a proponent of this tax has told me that it's going to help the economy. In fact, when I point out that it will increase taxes on consumers, when it will increase the burden on small businesses, and when it will apply pressure to offshore or online retailers, they all ultimately concede those points. This is not good for our country.

The resistance to this bill comes from our constituents, and it's also bipartisan as well. So hopefully by bringing light to this today, we will begin the conversation, begin the debate that all too often doesn't happen out in the open and shed some light on this issue.

I yield back the balance of my time, Mr. Speaker.

## THE IRS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 3, 2013, the Chair recognizes the gentleman from Pennsylvania (Mr. PERRY) for 30 minutes.

Mr. PERRY. Mr. Speaker, do we live in a banana republic? Are we living under a tin horn dictatorship? I mean, just this evening the IRS Acting Chief Steve Miller resigned. I suppose that's damage control, that's how we're going to fix this—you know, heads are going to roll.

Just recently, Mr. MILLER wrote to Members of Congress at least twice to explain the process of reviewing applications for tax exempt status without disclosing that Tea Party groups had been targeted. So it's nothing new. As a matter of fact, in July of last year he