

ENERGY SAVINGS AND INDUSTRIAL COMPETITIVENESS ACT OF 2014—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, on behalf of the distinguished Senator from Illinois, Mr. DURBIN, I ask unanimous consent that he and I and the Senator from Wyoming, Mr. ENZI, and the Senator from North Dakota, Ms. HEITKAMP, be permitted to engage in a colloquy.

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

MARKETPLACE FAIRNESS ACT

Mr. ALEXANDER. Mr. President, this colloquy is for the purpose of marking an important day in the Senate because it was on this day 1 year ago that the Senate overwhelmingly passed the Marketplace Fairness Act. We did this by an overwhelmingly bipartisan vote. Sixty-nine Senators, including about half of our Republican caucus, 21 Republicans, supported an 11-page bill—a rarity in this body—that is about just two words, and the words are “States rights.”

The Marketplace Fairness Act, simply described, gives States the right to decide for themselves whether to collect or not collect State sales taxes that are already owed. This ability to collect taxes that are already owed would give States the option to reduce existing taxes or to avoid a new tax or to pay for services without raising taxes.

The Marketplace Fairness Act closes a tax loophole that prefers some businesses over other businesses and some taxpayers over other taxpayers. Out-of-State businesses are being subsidized because they don't have to collect sales taxes—taxes that are owed—and local businesses do. As a result, some taxpayers are being subsidized because some pay sales taxes and others do not even though they may owe the taxes. That is not right, and it is not fair. This legislation, which passed the Senate 1 year ago, gives States the option to decide whether to change that.

One of the best ways to lower State taxes is for the Federal Government to allow States to collect State sales taxes from everyone who owes the tax and not just from some of the people who owe the tax.

We have an honor roll of conservatives who do not think States ought to have to play “Mother May I?” with the Federal Government on this question. For example, Al Cardenas, chairman of the American Conservative Union; Art Laffer, President Reagan's favorite economist; Charles Krauthammer; Representative PAUL RYAN; Governor Mike Pence, a former Member of the House of Representatives; Governor Chris Christie; former Governor Jeb Bush; former Governor Mitch Daniels; and the late William F. Buckley, not to mention Governor Bill Haslam of the State of Tennessee,

agree that recognizing the power of State legislators to make these decisions for themselves is consistent with the 10th amendment and our constitutional framework.

In our State of Tennessee, the Marketplace Fairness Act is an insurance policy against a State income tax. We don't have a State income tax and we don't want a State income tax.

The House of Representatives has not yet acted on this bill. The bill that was passed a year ago today by the Senate was an overwhelming bipartisan vote. We are hopeful that the House will soon either enact our bill, which we have sent to them, or send us their version of the bill so we can confer and send a result to the President of the United States.

State and local governments have been waiting on Congress to solve this problem for more than 20 years—since 1992 when the Supreme Court said Congress has the ultimate power to resolve the issue. Now is the time to act on this legislation. We are ready to work with the House to enact that legislation this year.

In conclusion, I will read the comments of Al Cardenas, chairman of the American Conservative Union and former chairman of the Florida Republican Party. When talking about the Marketplace Fairness Act, Mr. Cardenas said,

When it comes to state sales tax, it is time to address the area where federally mandated prejudice is most egregious—the policy towards Internet sales, the decades-old inequity between online and in-person sales as outdated and unfair.

Again, that was Al Cardenas, chairman of the American Conservative Union, speaking in support of the Marketplace Fairness Act.

I am pleased that of the four Senators who will be on the floor during this colloquy, two are already here. I see the Senator from North Dakota, and I see the Senator from Wyoming. If it is all right with the Senator from Wyoming, I will defer to the Senator from North Dakota. While the Senator may be a little modest about this—I hope she is not—she actually started it all. She has a better view of the Marketplace Fairness Act than just about anyone because of her service in the State government of North Dakota. She has an ability to explain in plain and simple language why the fair and right thing to do is to recognize the rights of States to make these decisions for themselves. Her ability to do that has been a crucial part of our debate and is one of the reasons why we had such overwhelming bipartisan support in the Senate.

The PRESIDING OFFICER. The Senator from North Dakota.

Ms. HEITKAMP. Mr. President, first I want to say what an honor it has been for me to participate in any amount of leadership on this issue here on the floor of the Senate with such incredible leaders as Senator ALEXANDER, Senator ENZI, and Senator DURBIN, who have

long recognized the injustice that is being done to Main Street businesses and the problems we have in terms of States rights and making sure we maintain a system that recognizes the value of States rights and the value of a State prerogative so they can make their own taxing decisions without interference from the U.S. Senate or anyone in the Federal Government.

As Senator ALEXANDER has explained, when I first came to this body, Senator DURBIN suggested to his staff that they try to find out where I would be on this issue because my predecessor, Senator Dorgan, had been very active with this coalition of leaders on addressing this problem, and his staff suggested that he might want to read the caption on the Quill case since there was the name “HEIDI HEITKAMP” in that caption.

The reality is that back in the late 1980s and early 1990s, we saw this phenomenon of increased catalog sales. I am not talking about companies such as Sears that had a physical presence in the community and could thereby collect sales taxes but more and more boutique types of catalogs. There was more and more competition coming from catalogs.

I had more and more Main Street businesses coming to me as the tax commissioner asking: How is this fair? How is it fair that I started my little business—whether it was a wallpaper business or a fabric business, whatever it was—and people come to my store and look at my sample books that I actually have to pay for, test out the quality of the fabric, take a lot number, and leave and order it from the catalog?

That was a pretty horrible thing to happen to Main Street businesses back in the late 1980s.

Can you imagine walking into a Main Street business now and not only getting advice and information on how the product operates and what the warranties are—not to mention all the training these Main Street businesses have given their employees—but then taking a snapshot of a barcode so you can order it on the Internet right there in the store? I can only imagine how discouraging this is for Main Street businesses. It is unfair to Main Street businesses when they are asked to support their communities, such as putting the ad in the little high school newspaper or contributing to a football billboard or the local fire department so they can serve their communities.

If you think of all the things Main Street businesses do, they are not just involved in retail, they are involved in communities. Yet those Main Street businesses are not asking for an unfair advantage; they are asking for fairness and equity. They are asking that when sales tax rates have gone up from 8 percent to 9 percent because the base dwindles—you have to raise the rate in order to collect the same amount of money—they are being basically taxed out of the marketplace through this

unfair advantage that remote sellers have against them by not having the obligation to collect a tax that is honestly already owed.

I want to reiterate a couple of points Senator ALEXANDER was making because I think it is so important. One of the arguments we hear consistently about marketplace fairness is that it is a Federal imposition of a tax. Nothing could be further from the truth. This is a tax that is already owed. This is a tax that is owed to the States. It is owed by the people who make these purchases—a sales and use tax. We are doing nothing more than telling every State: If you want to pursue Main Street fairness, you have a path forward.

If a State doesn't want to tax or put a collection responsibility on remote sellers, there is nothing in this bill that requires them to do that.

This is a States rights bill, but it is also a fairness to Main Street businesses bill. It is a bill that would make sure that the promise of an equitable tax system in this country is fulfilled. This bill is a promise that if you play by the rules and do everything the way you should as a business, no one is going to get an advantage over you, and we are going to level the playing field. There is no level playing field when somebody has a 10-percent advantage over you simply because you actually invested in a community, put up bricks and mortar, trained a sales force, and yet you are going to be the disadvantaged one.

When we started this a year ago, we were joined by all manner of retailers, but I will never forget the story of a young woman who had a dream. She loves animals and pets. She trained herself in pet nutrition and opened a pet nutrition store in Missouri—it might have been Kansas or Missouri because it was in the Kansas City area. When you combine State and local taxes where her business is located, the tax rate was 9 percent. People would come to her store and explain the ailment or condition of their pets, and her very excellent sales staff would tell them what product was best for their cat or dog. She knew when they walked out, they simply ordered it on the Internet because she could not give them a 10-percent discount. That is what happened in her business.

We told her that if she had a small Internet business with \$1 million in sales, she would have to collect taxes too. She said: I would be so happy to collect a sales tax if I had \$1 million in Internet sales; that would mean I was winning.

If you think about that and the mom-and-pop businesses—just a couple of kind of myth-breaking things about how this is truly going to affect small business. This is not going to have any effect at all on any business if we pass the bill we passed that has gross sales below \$1 million. We have a threshold.

The other myth is that they are going to be subjected to millions of au-

ditions and millions of tax rates. The streamlined process has proven over and over that this is not higher math. We can get this done.

I have a story from the time we did the original Quill case. It got a lot of national attention, and there was a lot of discussion about this. I had a reporter from the Omaha World Herald call me. He said he had just called a major retailer to order some new shirts, and the retailer he was talking to had been very active in opposing the Quill case and very active in opposing what we were trying to do. One of their arguments was that they could not possibly know the tax rate on that shirt in his jurisdiction. When he ordered his shirt, he told the person on the other end of the phone his size, and that person said: You know, maybe you want to check because last time you ordered, it was a size 15.

This reporter said to me: If they can know my shirt size, they could probably figure out the tax rate of the jurisdiction I live in.

Think about it. It has only gotten easier.

One of our major retailers, which is adamant about how this would be the most horrible and onerous thing, offers a package for \$15 if anyone wants to collect the tax.

The other fallacy here and one of the myths I want to break is that if I went to sell my old used lawnmower on the Internet, I would be subjected to sales tax. I think it is only natural that this body doesn't have a lot of experience in sales taxation. It is not what we do. It is what State and local governments do. It is what people who had my former job do. However, there is such a thing as casual sales. If are you not in the business of being a retailer in every State, you have no collection responsibility. It is only retailers, only people who are in the business of retailing and only people who have retail sales over \$1 million who would be affected. And we have streamlined the process. We have made this possible. It is a small thing to ask for us to take an action in this body and in the House of Representatives to tell Main Street businesses that they still matter in the marketplace and that we are going to listen to them and we are going to do everything we can to get them fairness and justice in our tax system.

So, again, I congratulate the excellent leadership that has come before me on this floor on this issue. I pledge once again to do everything we can to get this marketplace fairness done in this Congress so that our Main Street businesses don't have to wait a day longer for tax justice in this country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. I thank the Senator from North Dakota for her eloquent statement and for her leadership. I am delighted that she has gone from being a caption on a lawsuit to a Senator who can help us pass this bill. In

just a moment I will yield the leadership of this colloquy to the assistant Democratic leader, but I wish to say a word about the next Senator speaking and about Senator DURBIN as well.

Senator MIKE ENZI is the real pioneer on the Marketplace Fairness Act. He knows what he is talking about. He is a shoestore owner from Wyoming. He knows what it is like for someone to come in and try on a pair of shoes and then go home and order them on the Internet and disadvantage a smalltown owner of a shoestore as compared with an out-of-State business. He has diligently and systematically lead this fight the whole time, and it was due to that diligence that the Senate had this overwhelming bipartisan achievement one year ago today. I thank him for his leadership.

Now I recognize the assistant Democratic leader. The truth of the matter is, the way the Senate works, we would never have been able to pass this in the Senate with such fine fashion if it hadn't been for the leadership of the assistant Democratic leader, Senator DURBIN of Illinois. I thank him very much for his leadership and congratulate him for it, and I am glad to turn the leadership of the colloquy over to him.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank Senator ALEXANDER for the leadership he has shown on this bill. We had a much more extensive bill designed, and I worked on it for all of the years he mentioned, which is all the years I have been here, 17 years. We made some progress every single time it came up, but there were misconceptions with it. Senator ALEXANDER suggested the solution that is the true solution for this bill. He changed it to a very brief States rights bill, not a Federal bill. This doesn't have any requirements for any State, but it has an ability for States to make up their own mind.

So I rise today with my colleagues from Illinois, Tennessee, and North Dakota to recognize the anniversary of this significant event. One year ago today, with a show of strong bipartisan support, the Senate took an important step forward to level the playing field for all retailers that collect sales taxes. But it is not really about the retailers; it is about the people who work in those stores. We are talking about middle America. They can't afford to have the employees unless they make the sales, and if they just do the sales pitch and then it is ordered online, there is no revenue the employee brought in, and if there is a prolonged period when there is no revenue, the business doesn't need the employee. This bill is about supporting the jobs we have in our towns. It is about the people who are our neighbors who work in the stores and the people who have the stores that participate in all of the community events.

As the Senator from North Dakota said—and she is probably the only one

who has worked on this bill longer than I have because she was involved in it in State government when she was in North Dakota. I appreciate her expertise on this bill. Without some of the explanations she was able to give on the history of this bill, we wouldn't have been able to get it done.

Of course, Senator DURBIN and I have been speaking for what seems like years now trying to explain how this bill works, taking into consideration any concerns people had and trying to overcome those concerns. I couldn't guess how many hundreds of meetings there have been over trying to get this bill right and to get it fair, all so the States still have the revenue they need to operate without imposing perhaps a personal income tax. In the case of Virginia, I think they are not going to raise the gas tax if this bill passes. So this is a States rights bill. It takes money to the States, and it is money that is really owed right now.

I did a little checking. Wyoming started collecting their sales tax in 1935, and it has been virtually unchanged since that time. There is a provision in the sales tax law that requires a form, so that if someone buys something from out of State and didn't pay sales and use tax on it, they are supposed to fill out this form before the end of the month and send the sales and use tax with the form to the State government to pay it.

One of the surprises I discovered is there is about \$1½ million a year collected in Wyoming that way—people obeying the law. But that is pretty tough to keep track of and especially if one doesn't make out-of-State purchases every day. So the State, of course, imposed on local retailers the requirement that they collect sales tax, and then people don't have to fill out that form. They don't have to send it in before the end of the month.

So they made it a lot easier by making the retailers collect the money. Unfortunately, they weren't able to make all of the retailers collect the money. Because of a court case, they aren't able to do it out of State, and that is very important because it is a huge loss of revenue. I think Wyoming actually loses about \$23 million a year because of purchases over the Internet where no sales tax is paid.

On May 6, 2013, this Chamber passed the Marketplace Fairness Act, and we passed it with 69 votes. Some of the votes we had were as high as 76 votes. That is very significant around here. Sixty-nine is an incredible number for the Senate to produce on any bill. It came from a majority of both sides of the aisle, which is important. I wish to remind my colleagues that this bill is about fairness. It is about leveling the playing field between brick-and-mortar and online companies, and it is about collecting that tax that is already due. It is not about raising taxes. It isn't about taxing the Internet, and it isn't about taxing Internet access. I think we are all opposed to that. But we are

in favor of the States, if they wish, to be able to collect the taxes they have imposed on the people who live in their State. So it is a States rights bill.

In a nutshell, the Marketplace Fairness Act is a straightforward, 11-page bill that brings clarity to a vexing area of sales tax collection inequity. Online sales often go without collection of the sales tax from the point of purchase, while the Main Street stores and the other brick-and-mortar stores in town typically face established collection procedures—no choice, regular reports.

Wyoming shouldn't subsidize online retailers that operate and sell to people in our State. Neither should Illinois or North Dakota or Tennessee or any other State that has sales tax laws. But right now, online retailers can offer lower prices than the local businesses that hire the local people who pay the property taxes and that participate in the community events; the most important thing being those local jobs, simply because they do not have to charge the same sales tax out of State that all our local merchants do.

Sales taxes are important. They pay for the roads we drive on. They pay for the schools our kids go to. In Wyoming, with the particularly small towns, they rely on sales tax for the fire protection and the police protection. When people ask me about the sales tax bill, I ask them what county they are from and, if it is a small town, I say: Check with your fire department and see if, without sales tax, they would be able to function. When people understand it is part of their fire protection and part of their law enforcement protection, they are much more interested in it and understand why the sales tax needs to be collected. I don't want to see a situation where other taxes will have to be raised to cover basic local services because the online retailers are not collecting the sales taxes that are owed on the products they sell.

I remember going into a camera store—I try to get into some stores on the weekend and find out what kinds of decisions they have to make, particularly decisions that have to do with the Federal Government. I was in the camera store and the fellow was explaining he had just lost a sale. The sales tax rate in that town is 6 percent. A man came in to buy a camera, and the camera was \$2,000. But this owner of the store—the only employee of the store—took the time to help him with all of the different gadgets and how to operate it, and showed him what he needed and how to do it. Then the customer took a picture of the bar code and ordered it online because he saved \$120. Technically, he still owed \$120 to his State. Whether he filled out one of those forms and got it in by the end of the month, I doubt it, but that is the law. If a State meets the simplification requirements outlined in the bill, it may choose to require collection of sales taxes that are already due at the point of purchase, including sales con-

ducted through e-commerce. Congress is not forcing States to do anything because the Federal Government should not have the role or authority in telling a State how to manage its finances. This bill specifically says that it is up to the States to enforce the law, and it is 100 percent optional. If the States do act, they are collecting taxes that are already due by the consumers.

I have been working on this sales tax fairness or marketplace fairness issue—or any of the number of names we have had on it through the years as we gained more and more support and as people came to understand more and more of what was involved—since 1997. As a former small business owner, it is important to ensure parity for all retailers by modernizing rules for sales tax collection in a way that respects technology advances and the existing practices of large and small and more traditional businesses, and this bill accomplishes that. It uniquely balances the interests of all businesses and respects the existing laws and rights of states.

The Senator from North Dakota mentioned there is a \$1 million exclusion. This is to help out small businesses, new start-up businesses. If you have a start-up business or a small business, until you have sold \$1 million online or through a catalog in a given year, you don't have to comply with this. But once you hit that \$1 million mark, you can consider yourself a success. We know that is a very small percentage of the Nation, but an important part of the total sales of the Nation. I think that is why one year ago, 68 of our Senators joined me in supporting that Marketplace Fairness Act.

This evening, my lead cosponsors and I are again taking a stand in favor of good public policy for our Nation's retailers while highlighting the need to fix some long-standing sales tax system complexities. By balancing this collection inequity, the Marketplace Fairness Act would help States ensure the viability of the sales tax as a major revenue source for State budgets. We found in Wyoming that it often constitutes 40 percent of a municipality's revenue. It also would close opportunities that encourage tax avoidance.

Beyond the walls of Congress, the Marketplace Fairness Act has received broad support. Trade associations, Governors, mayors, legislators, and numerous businesses have expressed support for the legislation.

But there is work still to be done. Our colleagues in the House need to pass the Marketplace Fairness Act. I know some Members in the other Chamber are working on this issue. A companion Marketplace Fairness Act has been introduced. A hearing has been held, and new Members are engaged in the issue. I appreciate those efforts, and I hope our colleagues in the House will pick up the baton and complete the effort to guarantee sales tax fairness. This is the year to finish the work. Our States and businesses and

employees in those businesses cannot wait longer. Enacting the Marketplace Fairness Act is the right thing to do.

In conclusion, I wish to thank everyone associated with this bill for their hard work and efforts in getting us to this point: our countless supporters across the country, the 68 Senators who joined me to vote for a bill a year ago, the 29 cosponsors of the bill for their support, and especially my colleagues who joined me tonight for their unwavering support of this bill. I can't thank Senator ALEXANDER, Senator HEITKAMP, and Senator DURBIN enough for their efforts. I am going to yield the floor and turn it over to Senator DURBIN who has been a real champion and one of the best explainers of the parts of this bill that I have ever run into. I really appreciate his efforts and his help. We wouldn't be this far were it not for his efforts.

The PRESIDING OFFICER (Mr. DONNELLY). The Senator from Illinois.

Mr. DURBIN. Mr. President, I wish to thank my colleague from Wyoming. The most frequently asked question, no matter where I appear in Illinois or at fundraising events, is, Why can't you folks get along in Washington. What is it like to be in a place where everybody is at one another's throats and you can't accomplish anything? Why can't you do things on a bipartisan basis? What is it like today, and how do you compare it to what it was like a few years ago?

I say to them there are times when we do come together and do something important. This is one of those times—the Marketplace Fairness Act.

It was 1 year ago that Senator ENZI led the fight on this. I do not know exactly when he started it, but I was happy to join in, in his effort, when Senator Byron Dorgan retired. I called Senator ENZI and said: I would like to step in and help you with this bill. He said: Let's do it. We brought in LAMAR ALEXANDER, who made some valuable contributions to it. Then along comes HEDI HEITKAMP, the new Senator from North Dakota. Was she ever ready for this fight—a former sales tax commissioner in that State and a former attorney general. She knew this issue inside and out. She has been a terrific ally.

So there were the four of us. What an odd grouping: two Republicans, two Democrats from literally all over the United States. We worked together, and 1 year ago today we passed this basic bill, the marketplace fairness bill. The reason for passing it was just look at the name of it: fairness.

I think about two people when I think about this bill. One of them is the mayor of Normal, IL. His name is Chris Koos, a great friend of mine and a terrific mayor. Chris, in addition to being the mayor, runs a shop where he sells running shoes and bicycles and lots of running equipment and stuff.

So I visited his shop, a great little shop. He is a terrific businessperson. He told me a story, which I have heard

over and over, about people coming in, picking out the bicycle, picking out the shoes. That is perfect. Let me try them on. Let me get out and ride this. Then they say: I will get back to you. And he never sees them again. They turn around and buy the product on the Internet. So Chris is running a showroom as much as a business. There is no fairness there.

When those sales are made on the Internet, instead of in Chris Koos's shop, there is no revenue coming back to the city of Normal, IL, or McLean County. That is Chris's story, but it is the story of thousands, maybe millions, of businesses across America that are losing out now to Internet competition that is not collecting the sales tax that is supposed to be paid.

Then I met another man. I will not disclose the name of his company, but he is a major retailer in the United States. He came to visit me in my office in February or March, and he said: I want to tell you, in this last Christmas season, which is the biggest time of the year for my big-box business, we had a downturn of 8 percent in sales. Based on our projections, we thought for sure we would have more sales. We had a downturn of 8 percent. He said: I lost them to the Internet. Senator, I can't stay in business this way. I can't run a showroom for people who want to sell things on the Internet.

What we are talking about is the basic collection of sales tax for purchases on the Internet. In my State—in virtually all the States with a sales tax—there is a legal obligation to pay it. I did not realize that until a few years ago. My bookkeeper was doing my family tax return for my wife and myself. She called and said: Senator, do you want to pay the taxes you owe on Internet purchases? I said: Yes, I think I want to pay the taxes I owe. She said: Well, how much did you buy on the Internet? I said: I will try to put it together. I called her back, gave her a number. She said: Here is the calculation. On your State income tax return we will declare that you are going to pay X dollars that you owe for Illinois sales tax for purchases you made on the Internet. When I said: Is that what I am supposed to do? She said: Yes. We did it. We have done it every year since.

It turns out only 5 percent of Illinois taxpayers fill in that line on a State income tax return. I am guessing more than 5 percent of taxpayers make Internet purchases. But folks do not know their obligation, they do not follow through on their obligation, and the losers are, of course, our State and local units of government.

This bill says, if Illinois, if Indiana, if Wyoming wishes, on a voluntary basis, they may use this bill to start collecting sales tax when it comes to Internet sales into their State. It is voluntary. The States have to decide to do it. It is not a new tax. This has been said over and over: It is the existing sales tax wherever it may be—in your

State, county or city—existing sales tax.

The bill provides if you are an Internet seller and have less than \$1 million worth of sales in a given year—whether it is Grandma Donnelly's applesauce or whatever it happens to be—you are not covered by this, but if you have more than \$1 million, yes, you have to collect the sales tax.

How can you collect it? First, the States have to provide you with the software so your business does not run into the expense of how to collect it. You say: I bet that is an elaborate undertaking. You can buy the basic software to identify the sales tax based on the consumer's address for about \$15 for the basic package or maybe a couple hundred dollars at the most.

But in this situation the States are going to help the Internet retailers in developing the software so that when someone makes a purchase from Chicago, IL, or Springfield, IL, whoever is selling to me on the Internet will then forward that sales tax to the Illinois Department of Revenue. End of story. It is just that simple.

What it does, of course, is level the playing field for bricks-and-mortar businesses, providing a new source of revenue that should be collected and is owed legally in these States to the local units of government.

We passed this with enormous support from the retail community. It is not surprising. And it just was not the shop owners. It is people who understand the importance of this. This has been said over and over: These bricks-and-mortar shops around America do so much more than just sell a product. They are citizens in the community, corporate business citizens in the community. They participate. When the local high school is having their graduation program and they want somebody to help sponsor it, they will go down to the local sporting goods store for a helping hand on the program. That happens over and over. Whether it is Khoury League or Pop Warner, they are in there helping in the communities.

Isn't it important and fair that they be treated fairly here? Sixty-nine Members of the Senate thought so. Democrats and Republicans voted for it—Senator ENZI and I, Senator ALEXANDER and Senator HEITKAMP. We had 29 cosponsors of this bill who sat down and said: Let's pass it.

We passed it. We sent it to the House of Representatives, and nothing has happened—nothing. There have been some statements made over there, and I hope those statements lead to action, but it is time for them to pick up this bill and this responsibility. If they have a better approach, let's see it. Let's work on it. Let's do it on a bipartisan basis. Let's come up with an approach that works.

I cannot tell you how many different businesses have come through my door—from Sears, Roebuck down to just basic mom-and-pop businesses—

and said: What are we going to do about the House of Representatives? They just will not take up this measure.

I hope they will. They still have time to do it. We have waited 1 year. I do not want to wait much longer. In an election year, it will be almost impossible to do it.

So I hope we can get this done. It is going to mean that local businesses that are important and the backbone of our community are going to have the resources they need because the sales will take place that otherwise are not taking place today, and the local units of government will receive the proceeds from the sales tax that is collected.

One of the major marketplace retailers on the Internet is Amazon. Amazon may be the biggest. They support this bill. If you ask them why, they say: We don't want to fight this battle in 50 States and all the different cities and counties as to how much sales tax. Let's just make it uniform across the country.

That is what the bill does. So Amazon supports this. They are prepared to collect that sales tax and remit it to the States. They do not believe it is an onerous burden that they are going to face. I hope others will join them.

As I have said, 1 year ago today Members of the Senate did something we don't do enough. We put aside the partisan differences that cause so much gridlock around here and came together to pass bipartisan legislation—the Marketplace Fairness Act. On this day last year 69 Members of the Senate agreed that we need to help create jobs, invest in our communities, and keep Main Street alive and able to compete.

The Marketplace Fairness Act levels the playing field for retailers by allowing States to treat brick-and-mortar retailers the same as remote retailers in the collection of State and local sales and use taxes.

Those that benefit under our current system—retailers that have a 5- to 10-percent price advantage over their competitors on Main Street—want to continue the status quo. But it is not fair to the thousands of Main Street businesses that have worked hard to grow their businesses only to become showrooms because of this price advantage. People come in, look around, even try on merchandise, and then leave and buy the product online.

This happens many times because sales and use taxes are not collected when a product is purchased online, so it seems cheaper. But we all know the tax is still owed by the customer. In Illinois about 5 percent of customers end up paying that tax.

Abt Electronics, a retailer in Glenview, IL, knows about this challenge all too well. It is president, Michael Abt, said that “often times with consumer electronics, the profit margin is 10 percent or less . . . when an online competitor doesn't collect taxes and then offers free shipping, it's a huge advantage for the competition.”

Abt is one of the lucky ones—it is a fine example of a successful American business that has continued to grow since opening in 1936 and supports about 1,100 jobs. It also has an online presence so it can reach even more customers.

But there are others that haven't been so lucky.

Soccer Plus in Palatine is an example of what happens when it becomes too difficult to compete with online retailers that have a 5- to 10-percent price advantage.

A year ago when Soccer Plus went out of business we lost good-paying jobs. And Palatine lost a business that was a part of our community.

There is nothing we can do now for Soccer Plus. But we can still help thousands of retailers avoid the same fate as Soccer Plus by leveling the playing field for Main Street retailers.

Since the Senate passed the Marketplace Fairness Act 1 year ago, the inequity between Main Street retailers and online retailers has only increased as e-commerce has grown.

Online retail spending grew 14 percent last year alone, to \$263.3 billion, and is estimated to reach over \$300 billion in 2014.

Unlike 20 years ago, or even 10 years ago, we are no longer talking about a few online retailers without access to the technology necessary to collect sales and use taxes. We are talking about hundreds of retailers, many of which are large billion-dollar businesses that have a price advantage over small Main Street businesses because they don't collect sales and use taxes.

It is time we update our laws so they match our 21st century marketplace.

Retailers in Illinois can now reach customers all over the country through this new marketplace and software has been developed to calculate sales and use tax for every jurisdiction in the country—yes, all 6,000 of them.

It is time to end this idea that technology can't handle calculating sales and use taxes. Many retailers are already using this technology to collect and remit these taxes and similar technology to calculate shipping costs. This is especially true when talking about online retailers who by their very definition use technology to sell their products.

The internet and e-commerce is no longer a baby in its crib. The baby is all grown up, running at full speed, and using outdated laws to threaten Main Street businesses.

The Senate passed a bill to update our laws and correct this inequity 1 year ago. The bill was supported by over 280 business, State, local, and labor organizations, both progressives and conservatives alike.

Yet the House has done little more than hold a hearing which was added to the long list of hearings already held on this issue over the last 20 years.

Each week that the House doesn't act is another week that Congress is picking winners and losers—the losers

being Main Street retailers, the jobs these retailers provide, and the communities these businesses support.

Recently, 1,064 of these businesses sent a letter urging Chairman Goodlatte to move legislation to address the inequity they face every day. Many of these businesses were from the chairman's home State of Virginia.

How long can we expect our small businesses that are partners in our communities to stay in business when we are tying one hand behind their back?

I urge them to hold on as long as possible, but the only real solution is for Congress to act.

I strongly urge my colleagues in the House, Chairman GOODLATTE, and others, to give Main Street retailers a fighting chance by passing sales tax fairness legislation as soon as possible.

We welcome the opportunity to work with our House colleagues so that one day soon we can offer businesses and States a solution to level the playing field for retailers that is simple and fair.

In closing, I want to recognize the work Senators ENZI, ALEXANDER, and HEITKAMP have done on this issue.

Senator ENZI introduced the first bill more than a decade ago to level the playing field because he understands firsthand, being a former retailer, how unfair this is for Main Street retailers.

Last year when we passed the Marketplace Fairness Act we came one step closer to leveling this playing field by allowing States to require both brick and mortar retailers and online retailers to play by the same set of rules.

It will ensure that Main Street businesses, like Abt, have a fighting chance and no more stores will have to close because of the current inequity they face.

Again, I urge the House to pass sales tax fairness legislation. I hope that the House Judiciary Committee will move forward in the coming weeks and offer any help I can give.

I am not going to take much longer. I think we have covered the subject well, and I thank Senator ENZI from Wyoming, as well as Senator HEITKAMP from North Dakota, and especially Senator ALEXANDER from Tennessee for kicking this off.

I ask unanimous consent to have printed in the RECORD this article by Donnie Eatherly. Donnie is the president of P&E Distributors in Tennessee. He is also a member of the Alliance for Main Street Fairness Small Business Advisory Board. He wrote this article on May 6 that is entitled: “It's Time To Level The Playing Field For Main Street Businesses,” and it is a good article. It says, in the simplest terms, what he, as a businessman, sees this issue to mean.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

(Commentary, May 6, 2014)

IT'S TIME TO LEVEL THE PLAYING FIELD FOR  
MAIN STREET BUSINESSES

(By Donnie Eatherly)

Small-business owners like myself have for years urged Congress to create a level playing field that will allow us to compete with our online-only competitors. One year ago this week, the Senate overwhelmingly passed legislation that would accomplish this goal, and we're counting on the Republican-led House of Representatives to do the same.

Thanks to an antiquated tax loophole, large out-of-state online retailers can avoid collecting state sales tax on purchases made by residents in my state, which gives them a significant 9.75 percent competitive advantage over traditional brick-and-mortar shops that follow the law and collect those taxes.

To fix this unfair system, a bipartisan group of 69 senators last year passed the Marketplace Fairness Act, a common-sense reform that would ensure all businesses play by the same rules. Unfortunately, the legislation has stalled in the House.

As each week passes with no action, brick-and-mortar businesses continue losing sales to a common practice known as "showrooming," in which customers browse and test items at local stores and then head home to buy them online knowing they will not have to pay state sales tax.

For many small businesses such as mine, every sale counts and losing this revenue hurts our ability to grow our businesses and hire new employees. We cannot wait any longer for a federal solution to this problem.

Main Street business owners are not asking for a handout, and we're certainly not afraid of competition from the big guys. But it simply does not make sense for out-of-state online retailers to enjoy such a big competitive edge over local businesses that give back to their communities.

Despite what some have said about the Marketplace Fairness Act, this is not a new tax, nor does it create any taxes. These taxes are already on the books, and the legislation would simply give states the necessary tools to collect them. As conservative Republican Rep. Steve Womack of Arkansas has said, "It's not new, it's due!"

Not only does this level the playing field for all businesses, but it would also put additional revenues in state coffers to fund vital services such as education and public safety. Importantly, the legislation also includes a \$1 million exemption on remote sales so to put that into perspective, over 99 percent of all online sellers will not be affected by this legislation in any way. In other words, all the mom and pop stores who do business on the Internet don't have to worry about it.

Additionally, for the less than 1 percent of online sellers who will be subject to collecting sales and use taxes under this bill, the legislation requires each participating state to provide free tax software that will allow them to quickly and efficiently calculate, collect and remit sales tax. The proposal also includes liability protections for sellers and limits against audits.

This reform is long overdue, and Main Street businesses cannot wait any longer for help. For those who believe in state's rights and the basic principle of limited government, we should all agree that Washington, D.C., should no longer be in the business of picking winners and losers in the marketplace.

It's time for the House of Representatives to stand up for the small businesses in their districts, follow the Senate's lead and finally pass marketplace fairness.

Mr. DURBIN. So let's get together. We did it in the Senate on a bipartisan

basis, with a big vote—some 69 votes. We can do it in the House of Representatives. Let's get something done this year that is going to help businesses across America be profitable and hire more people, put more folks to work across the United States.

At this time, I yield the floor to my friend from Wyoming.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I want to thank the Senator from Illinois for his excellent explanation. I have been joining him and watching him do that for several years. It would be nice to get this finished.

There are a few things we may not have mentioned that are sometimes raised when people ask me about marketplace fairness. One of them is from small towns. They say: We have to go on the Internet because there is not enough selection in our town and we can get things we cannot buy in town and some of the things we can get at a lower price by going out of town.

I always ask them, when they are figuring that lower price, are they figuring it without sales tax or with sales tax, because it is not truly a lower price if what you are doing is just cheating your local merchant out of the right to collect the sales tax—which he does not get paid for anyway—and submitting it, when the out-of-State retailer does not have to do that.

As to the revenue that companies are voluntarily collecting now—and there are a number of them that recognize it is difficult for everybody to keep track of their purchases, so they voluntarily collect it—the question I have had is, Does that money they voluntarily collect go back to the States? Yes, it absolutely does, and it will work that way under the bill as well. It is not money that you are just sending to wherever you ordered it from. You are sending it to where it was ordered from, and then they are sending it back to States.

That is what these programs the Senator from Illinois mentioned do. They keep track of what State all the purchases were from. Here is how difficult that is. When you call in your order or you do it online, at some point you have to put in an address with a ZIP Code. That ZIP Code is all the program needs in order to be able to assess your tax. That is how those programs are designed. So if you have to give an address, you have to give the ZIP Code. If you have to give the ZIP Code, they already know what the tax is going to be. So there is no difficulty for any size retailer to be able to figure out what the tax is they are supposed to be doing.

Another argument I hear is the online place provides free shipping. I want you to know your local retailer provides free shipping and immediate pickup. Somebody had to pay the shipping on it. It got to the store, and you can pick it up right there, instantly. You do not have to wait 2 or 3 days or

pay a special rate to get it overnight. You can get it right then.

One of the things that is discouraging for retailers is, if you waited on somebody and they got the barcode and they ordered it online and it came in and it was not exactly what they wanted, then they come to you and say: Well, this is the brand you are selling. Won't you take it back?

Let's see, they did not make anything on it, they used a whole bunch of time, and now they want you to put it in your inventory. That is very discouraging.

So think about those local clerks. They are your friends and neighbors who are being hired locally who really depend on a job. If everything gets ordered online, they will not have a job. Your friends will have to move, and you will not have as much selection as you have right now in your local store.

Again, I wish to thank all those who voted for it, all those who have worked on it, and all those who are considering voting for it the next time they get it because I know we have picked up some momentum since we did it last time. There are people who have heard from their communities now who say: Well, I did not vote right last time, but I will get it right next time. I am looking forward to that, and I am looking for the House to finish it and send it to the President.

Thanks again, I say to Senator DURBIN, for his tremendous effort.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

#### MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

#### CONGRATULATING KEN DUGAN

Mr. REID. Mr. President, I rise today to honor and recognize the career of Ken Dugan, center director of the Sierra Nevada Job Corps. Ken is retiring this month after spending 39 years in the Job Corps program, 36 of which as a center director. Throughout this time, Ken has worked tirelessly to help improve the lives of at-risk teenagers and young adults through vocational and academic training.

When Ken started his first assignment with the San Jose Job Corps in 1975, he never envisioned that almost 4 decades later he would be retiring with the organization. However, Job Corps and its mission soon became a way of life for him. After stints as center director at the San Jose and Hawaii Job Corps centers, we in Nevada were extremely fortunate to have Ken take over as center director for the Sierra Nevada Job Corps, the only Job Corps center in the State. During his 19 years