NATIONAL CONFERENCE *of* STATE LEGISLATURES

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TESTIMONY OF
STEVEN RAUSCHENBERGER
PAST PRESIDENT
NATIONAL CONFERENCE OF STATE LEGISLATURES

ON BEHALF OF THE
NATIONAL CONFERENCE OF STATE LEGISLATURES

REGARDING
H.R. 3396
THE SALES TAX FAIRNESS AND SIMPLIFICATION ACT

BEFORE THE
SUBCOMMITTEE ON ADMINISTRATIVE AND COMMERCIAL LAW
COMMITTEE ON THE JUDICIARY
UNITED STATES HOUSE OF REPRESENTATIVES

DECEMBER 6, 2007

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TESTIMONY OF THE HONORABLE STEVEN RAUSCHENBERGER
PAST PRESIDENT
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Chairwoman Sanchez, Ranking Member Cannon and members of the Subcommittee on Administrative and Commercial Law, I appreciate the invitation to testify before you today on behalf of the National Conference of State Legislatures (NCSL). I am Steven Rauschenberger, past president of NCSL and the former Assistant Republican Leader of the Illinois State Senate. The National Conference of State Legislatures is the bi-partisan national organization representing every state legislator from all fifty states and our nation's commonwealths, territories, possessions and the District of Columbia.

I am pleased to have the opportunity to appear before you today in support of H.R. 3396, the Sales Tax Fairness and Simplification Act, as introduced by Representative William Delahunt a member of this Subcommittee and my good friend from Illinois, Representative Ray LaHood.

Ever since 2002, state legislators through NCSL have adopted resolutions calling upon the Congress of the United States to consider and approve federal legislation that would give a state authority to require all sellers (except those qualifying for the small business exception) to collect the state's sales taxes if that state is in compliance with the Streamlined Sales and Use Tax Agreement. Let me make this very clear, state legislators are not advocating any new or discriminatory taxes on electronic commerce. We desire, however, to establish a streamlined sales and use tax collection system that is seamless for sellers in the new economy and respects the sovereignty of state borders.

The new economy or if you prefer, electronic commerce, which is not bound by state and local borders makes it critical to simplify and reform state and local taxes to ensure a level playing field for all sellers, to enhance economic development, and to avoid discrimination based upon how a sale may be transacted. Government can not allow a tax system that was designed for an economy that existed almost 80 years ago, to be the deciding factor as to where our constituents make a transaction.

Sales Tax Popularity

As we all know, taxes are never popular. However, if state and local governments are to provide necessary services, such as education and public safety, then we need to maintain our ability to levy taxes. In surveys of taxpayers as to which tax of all the major federal, state and local taxes they dislike the least, the surprising answer has consistently been the sales tax.

Voters all over the country have approved local sales taxes to pay for sports stadiums, added police protection, land acquisition for open space, and transportation improvements. The taxpayers of the state of Michigan overwhelmingly voted to use the sales tax as opposed to property tax as the major source of revenue for education and then in following years, they have voted to increase the sales tax in order to provide additional funding for education.

The general sales and use tax is the primary consumption tax for state and local governments. In 2005, sales taxes accounted for one-third of state revenues – over $ 311 billion – with the largest percentage of the funds used to finance K-12 education.

Sales Tax and Electronic Commerce

The problem states have with the sales tax is that the tax base keeps shrinking. In the 1930s, when the sales tax was first imposed, consumers bought goods from the local

merchant and it was not that difficult for the merchant to collect a few cents on the dollar. Also, most Americans spent very little on services – they spent most of their money on taxable goods. And there were very few "remote sellers."

In the 1970s and 1980s, the share of personal consumption expenditures began to shift from taxable goods to services – things like medical care, health clubs, legal and accounting services. So the sales tax was applied on a smaller and smaller share of tangible products. This was compounded on the goods side by mail order outlets selling goods without collecting sales taxes from their customers – a practice sanctioned by the U.S. Supreme Court in the *National Bellas Hess* case in 1967 and reaffirmed in the *Quill* decision in 1992.

Today, states face a new threat to sales tax revenue, electronic commerce, with the potential to dramatically expand the volume of goods sold to customers without collection of a sales or use tax. The combined weight of the shift to a service based-economy and the erosion of sales tax revenues due to electronic commerce threatens the future viability of the sales tax and the ability of state governments to fund essential services such as education, homeland security and public safety.

According to the Center for Business and Economic Research at the University of Tennessee, in 2003, the estimated combined state and local revenue loss due to remote sales was between $15.5 billion and $16.1 billion. For electronic commerce sales alone, the estimated revenue loss was between $8.2 billion and $8.5 billion. The report from the University of Tennessee further estimates that the revenue loss will grow and that by 2008, the revenue loss for state and local governments could be as high as $33.6 billion, of which it is estimated that $17.8 billion would be from sales over the Internet. (See Table 1)

Table 1

Combined State & Local Revenue Losses from E-Commerce and All Remote Commerce – 2008

Source: Dr. Donald Bruce & Dr. William Fox, Center for Business & Economic Research University of Tennessee

State	E-Commerce Loss *(millions)*	All Remote Sales *(millions)*
Alabama	238.7	449.7
Arkansas	190.6	359.2
Arizona	**435.7**	**821.1**
California	**2452.0**	**4620.4**
Colorado	287.8	542.4
Connecticut	266.0	501.2
District of Columbia	48.8	91.9
Florida	**1248.2**	**2351.1**
Georgia	**600.0**	**1130.5**
Hawaii	130.3	245.5
Iowa	141.4	266.4
Idaho	66.3	125.0
Illinois	582.2	1097.0
Indiana	323.6	609.7
Kansas	178.8	336.9
Kentucky	214.6	404.3
Louisiana	409.8	772.2
Massachusetts	**286.4**	**539.6**
Maryland	265.9	501.1
Maine	67.2	126.6
Michigan	**587.3**	**1106.6**
Minnesota	381.2	718.3
Missouri	313.9	591.5
Mississippi	191.9	361.6
North Carolina	**405.9**	**764.9**
North Dakota	34.3	64.6
Nebraska	123.4	232.4
New Jersey	469.9	885.5
New Mexico	140.4	264.6
Nevada	186.6	351.5
New York	1288.4	2427.7
Ohio	**608.6**	**1146.8**
Oklahoma	185.4	349.3
Pennsylvania	585.6	1103.4
Rhode Island	58.5	110.3
South Carolina	209.4	394.5
South Dakota	47.0	88.6
Tennessee	**508.3**	**957.9**
Texas	1634.5	3079.9
Utah	**150.7**	**284.0**
Virginia	294.8	555.4

Vermont	29.1	54.8
Washington	574.6	1082.7
Wisconsin	303.4	571.7
West Virginia	86.6	163.2
Wyoming	38.9	73.3
United States	**17,872.9**	**33,677.8**

State legislators recognize that they have been part of this problem. Over the last 80 years, state and local policymakers have created a confusing, administratively burdensome tax system with very little regard for the compliance burden placed on multi-state businesses. In 1999, NCSL passed a resolution, written by NCSL's Task Force on State and Local Taxation of Telecommunications and Electronic Commerce, which I co-chaired, that acknowledged that states need to simplify their sales and use taxes and telecommunications taxes for the 21st Century. We recognized that we have been a key part of the problem and we accepted the fact that it was our problem to solve.

In our resolution, we formulated a set of seven principles that we used to develop a proposal for simplifying and streamlining state and local sales and use tax collection systems. The overriding theme of those seven principles is competitive neutrality. State legislators from across the country unanimously approved this resolution that declared, **"state and local tax systems should treat transactions involving goods and services, including telecommunications and electronic commerce, in a competitively neutral manner."** The resolution further stipulated, "that a simplified sales and use tax system that treats all transactions in a competitively neutral manner will strengthen and preserve the sales and use tax as vital state and local revenue sources and preserve state fiscal sovereignty."

The Cost of Collection for Sellers

As you are aware, the sales tax is imposed on the customer, not the seller. Sellers determine the sales tax to be collected, collect the tax and remit the tax collected to the

state (in four states, Alabama, Arizona, Colorado and Louisiana, sellers also must remit the local portion of the sales tax directly to the local government). Under the current sales tax system, the seller also is liable for any mistakes that might occur due to misinformation from the buyer or even the state. This means that the seller is liable for any uncollected sales tax plus interest and penalties.

A recent national survey commissioned by the Joint Cost of Collection Study, a public / private sector group, and conducted by PricewaterhouseCoopers LLP, has shown that in fiscal year 2003 the total cost to sellers to collect state and local sales taxes was $6.8 billion. This amount was calculated after subtractions for state vendor discounts and retailer float on the sales tax revenues.

The study showed that for fiscal year 2003, retailers selling between $150,000 and $1 million the average cost was 13.47 percent of the sales taxes collected or approximately $2,386; for mid-size retailer, between $1 million and $10 million in sales, the average cost was 5.2 percent or approximately $5,279; and for the larger retailers, over $10 million in sales, the average cost of collection was 2.17 percent or approximately $18,233. It is important to remember that these amounts, including the total cost for all retailers of $6.8 billion, are not reimbursed to the retailer by the state or local government, these costs comes out of the retailer's own pocket.

The burden on retailers to comply with 46 different sales tax systems and the monetary cost to retailers for compliance resulted in the two Supreme Court decisions, cited above, that prohibited a state from requiring an out-of-state seller from collecting sales tax on a purchase made by a resident of the state.

Solution: Streamlined Sales and Use Tax Agreement

Beginning in 2000, state legislators, governors and tax administrators, along with representatives of retailers and others in the private sector, started the process to develop a simpler, uniform and fairer system of sales and use taxation, that removes the burden imposed on retailers, preserves state sovereignty, levels the playing field for all retailers, and enhances the ability of U.S. companies to compete in the global economy. The urgency to develop such a system caused NCSL's Executive Committee to set aside NCSL's rule of non-interference in state legislation and to endorse model legislation committing sales tax states to multistate discussions on developing a fairer and simplifier system. By 2002, 35 states had enacted this legislation, sending delegations composed of legislators, tax administrators, local government officials and representatives of the private sector to monthly meetings that resulted in the formulation and approval of the Streamlined Sales and Use Tax Agreement. As of today, all of the sales tax states, except for Colorado, are participating in the ongoing process to simplify sales tax collections.

The key features of the Agreement are SIMPLIFICATION of sales and use tax laws and administration; the USE OF TECHNOLOGY for calculating, collecting, reporting and/or remitting the tax; and, STATE ASSUMPTION OF THE COSTS of collection for remote sellers. The key simplifications contained in the Agreement as adopted by the states are:

- Uniform product definitions, from food and related items to digital products
- Uniform state and local tax base
- Reductions in the number of tax rates
- Requirements for state/central administration
- Central seller registration
- Uniform returns and remittances
- Simplified exemption administration

- Uniform audit procedures / reduction of the number of audits
- Uniform privacy protections
- Notice requirements for rate changes
- Uniform sourcing
- Uniform telecommunications sourcing
- Uniform administrative definitions
- Eliminations of caps and thresholds on rates
- Standardization for sales tax holidays
- Uniform rounding rule

Since the Agreement was ratified in November 2002, 22 states have enacted legislation to bring their sales tax statutes and administrative rulings into compliance with the Agreement. On October 1, 2005, thirteen states with a population of over 55 million residents were certified to be fully in compliance with the Agreement. It is expected that on January 1, 2008 the states of Arkansas, Nevada, Washington and Wyoming will be in full compliance with the Agreement as their statutes become effective.

Table 2.

Member States

Indiana	**North Carolina**
Iowa	**North Dakota**
Kansas	**Oklahoma**
Kentucky	**Rhode Island**
Michigan	**South Dakota**
Minnesota	**Vermont**
Nebraska	**West Virginia**
New Jersey	

Associate Member States

Arkansas	**Utah**
Nevada	**Washington**
Ohio	**Wyoming**
Tennessee	

Sales Tax Fairness and Simplification Act

The Streamlined Sales and Use Tax Agreement is voluntary for states as well as for remote sellers. Since October 1, 2005, over 1,100 retailers have **VOLUNTEERED** to begin collecting sales taxes for the member states, and these states have started to receive previously uncollected revenues for sales tax on transactions made through out-of-state retailers.

I believe that you will agree that this effort to streamline sales tax collection has been unprecedented in our history. In less than six years, the states working together with the support and assistance of the private sector, developed a new sales tax system that was fairer, simpler, more uniform and is technologically applicable; 22 states, almost half of all the states with a sales tax, enacted legislation to comply with these changes; and, the system is working. It is operational! However, our work to establish a truly seamless system is only half done. It is now Congress' turn to act. The states through the Streamlined Sales and Use Tax Agreement have provided Congress with the justification to allow states that have complied with the Agreement to require remote sellers to collect those sales' taxes as was intended in the *Quill* decision.

The Sales Tax Fairness and Simplification Act, H.R. 3396, as introduced by Congressmen Delahunt, LaHood, et al, embodies all the simplification requirements of the Streamlined Sales and Use Tax Agreement and provides certainty for taxpayers, retailers and other businesses that the states cannot backtrack on simplifications but if we do, the prohibition of the *Quill* decision will be reinstated.

NCSL supports H.R. 3396 because the legislation:

- provides for a national small business exception so that sellers with less than $5 million in taxable remote sales would be exempt from collection requirements;
- ensures reasonable and adequate compensation for all sellers for the cost of collection;

- provides certainty to taxpayers and sellers by allowing for an appeals process that includes review of the decisions of the Governing Board of the Streamlined Sales Tax System by the United States Court of Federal Claims;
- ensures that any filings by sellers in the course of registering, calculating, collecting and/or remitting sales and use taxes collected cannot be used as a criterion for determining nexus for any other tax responsibilities, including state business activity taxes; and
- ensures that the Agreement simplifications are applied to the administration and collection of transactional taxes on telecommunications services.

Telecommunications Tax Reform

With regard to the last item above, you may recall that I appeared before this Subcommittee last year, invited by the former Chairman, Representative Chris Cannon, to discuss reform of state and local taxation of communications services. I had the pleasure to discuss how Congress and the states can work together to reform the monopoly era taxation scheme on telecommunications and I would like to reiterate what I said during my testimony in June of 2006.

The Sales Tax Fairness and Simplification Act would require states to apply the uniformity and simplifications of the Streamlined Sales and Use Tax Agreement to the collection and administration of all transactional taxes on telecommunications services, including rights of way fees and franchise fees, as a condition that a state would have to meet before the state could enjoy the authority to require remote sale tax collection.

Congress has the opportunity to move a major part of the telecommunications tax reform agenda, collection and administration simplification, and in doing so, reducing the number of returns from the current 47,000 to a few hundred a year. This would substantially reduce provider compliance costs by the hundreds of millions of dollars each year and as a result reduce the cost of service to consumers. For this reason, most of

the major telecommunications providers have endorsed the Sales Tax Fairness and Simplification Act.

One of the issues hindering telecommunications tax reform in the states is the potential loss of revenue primarily at the local government level. A recent study has shown that revenue from telecommunications taxes is becoming the second largest revenue source for local governments after the property tax. If state legislatures try to reduce telecommunications taxes to the level of general business tax, we have two options: reduce rates on telecom providers by reducing revenues over the opposition of local government officials or reduce rates on telecom providers and raise rates on general business to offset the revenue loss. As you can guess, every industry that is not a telecommunications provider will rise up to oppose this alternative.

States do not have large surpluses of funds available to mitigate revenue loss from telecommunications tax reform, even over the short term. However, states could use some of the new revenues from presently uncollected sales taxes on remote transactions to help mitigate revenue loss from telecommunications tax reform. Congress in passing the Sales Tax Fairness and Simplification Act could give states the revenue they would need to mitigate revenue loss from reducing the discriminatory rates on telecommunications services.

On behalf of state legislators across the country, I would urge the Congress to adopt this legislation and send it to the President for his signature. You have the opportunity to not only ensure the future vitality of our states' major consumption tax, but you also will establish a level playing field for all retailers and help to provide $6.8 billion a year in relief to American retailers. Instead of spending this money to collect state and local sales taxes, these business can re-invest these funds into our states' and nation's economy. You can help your state and local government as well as your retailers without having to appropriate one single cent from the Treasury or finding an offset.

Misconceptions and Misstatements

Over the last six years, as we have worked to develop a simplified and fairer sales tax system, we have heard criticisms and arguments against streamlining and against Congress setting aside the *Bellas Hess* and *Quill* decisions. I would like to take a few moments to correct some of the misconceptions that our opponents have made, some of which I am sure will be expressed this morning.

Myth: *"The Streamlined Sales Tax Agreement does not simplify tax compliance for retailers*."

Fact: Even if states did nothing more than adopt the proposed administrative changes contained in the Streamlined Sales and Use Tax Agreement, all retailers will benefit from reduced complexity. Opponents contend that rates are the biggest complication, but even Robert Comfort, Vice President for Tax Policy at Amazon.com, told a congressional hearing in 2001, "…rates are not a problem for Amazon.com." Sellers have testified over and over that the real burdens with collection are not sales tax rates but the different product definitions from state to state, different state and local tax bases and the different rules and administrative procedures for registering, collecting, filing and remittance of sales taxes.

Under the Agreement, the certified automated system calculates the sales tax to be collected not the merchant, based upon the delivery address submitted by the consumer. All merchants that collect sales taxes using the state certified automated technology would be held harmless for any miscalculations. The state assumes the liability from the merchant, who under the current collection system bears total liability. The merchant would only be held liable for under-collection, if the merchant tampered with the certified technology or fraudulently failed to remit the sales taxes collected.

Myth: "*The Agreement will pose a threat to consumer privacy."*

Fact: The Streamlined Sales and Use Tax Agreement has strong provisions that will protect the privacy of all consumers. The Agreement provides that a certified service provider "shall perform its tax calculation, remittance, and reporting functions without retaining the personally identifiable information of consumers." The only time that a certified service provider is allowed to retain personally identifiable information is if the buyer claims an exemption from taxation.

The Agreement requires the certified service providers to retain less information than is currently captured by VISA, MasterCard, American Express, Discover, or any other credit card company when a consumer makes a purchase and these companies can use this information for marketing purposes. If certified providers use or sell any information gathered from calculating sales taxes, they would lose certification to be a collector.

Let me set the record straight; the only information maintained by the vendor or third party collector for sales tax calculation are product, price, zip code, and sales tax collected. Unless the consumer is the only person living in the zip code, no one would know who the consumer is!

Myth: *"The Agreement will force states to forfeit sovereignty over tax policy to out-of-state bureaucrats."*

Fact: No, the Streamlined Sales and Use Tax Agreement does not force any state to forfeit its sovereignty. Compliance to the Agreement is always optional for a state. The decision to comply with the Agreement can only be made by the state legislature and governor—and they can withdraw at any time.

Each state that complies with the Agreement will have one vote on the Governing Board of the Agreement. Each state that complies with the Agreement can have a delegation of up to four people with the state legislature in each state deciding who represents the state. In many cases, state legislators and tax administrators have been designated to serve on

the Governing Board. The Agreement protects the sovereignty of each state to decide who represents them.

The Agreement also requires a 60-day notice on amendments that must be sent to the governor and the legislative leaders of each member state; the same governor and legislative leaders who have appointed the delegates to the Governing Board. The Streamlined Sales Tax Governing Board cannot change any state's sales tax statute, only the state legislature and the governor have that authority and nothing in the Agreement abrogates that authority.

Myth: *"The Agreement and federal legislation to require remote sales tax collection would violate the Constitutional doctrine of federalism. It would force businesses in states where the legislatures have chosen not to join the system or do not have a sales tax to collect sales taxes for other states."*

Fact: The Streamlined Sales and Use Tax Agreement does not in anyway violate the Constitution and is actually a vibrant example of federalism. The Agreement is voluntary for states and for merchants, this is not a mandatory compact or violation of the Commerce Clause of the Constitution. The states voluntarily participated in the process to formulate the Streamlined Sales and Use Tax Agreement by enacting legislation by the people's elected representatives in each state, signed by the governor. The Agreement ratified by the states' delegates, responds to the challenges raised by the Supreme Court in two decisions, *Belles Hess* and *Quill*, and provides a blueprint for Congress to overturn these decision.

Should Congress grant states remote sales tax collection authority if they comply with the Agreement, then businesses that are located in a state that chooses not to comply with the Agreement or that has no sales, tax would only be subject to collection requirements under the Agreement if that seller chooses to sell into a state in which the legislature has decided to comply with the Agreement. Opponents exclaim fear that *"This implicates profound practical and theoretical federalism concerns."* However, no seller is forced to sell into states that comply with the Agreement. Out-of-state sellers make that decision

and in doing so, they also make themselves liable to the other state's non-sales taxes statutes and regulations protecting consumers and conducting business. An insurance company domiciled in Illinois must follow New Hampshire's insurance laws when doing business in New Hampshire, the same for banks and many other interstate businesses.

Myth: *"The Agreement will reduce tax policy competition between the states."*

Fact: No. As I have stated many times, the state legislature in each state that complies with the Streamlined Sales and Use Tax Agreement will still decide what is taxed, who is exempt and at what rate it wants to tax transactions. How is tax competition eliminated by simplified administrative efficiency or even uniform product definitions? In fact, the competitive strength of America's businesses would be enhanced by reducing the regulatory complexity, costs and burden of the current state sales tax collection system on businesses. Who could oppose reducing or eliminating the current $ 6.8 billion a year it costs American retailers to collect our sales taxes?

The Streamlined Sales and Use Tax Agreement is a prime example that states are "laboratories of democracy." States working together have developed a solution to ensure the viability of a major revenue stream while eliminating the burden, complexity and cost on retailers to collect the states' sales taxes and maintaining state sovereignty for tax policy. State legislators and governors are finding ways to maintain vital government services such as education, health care, public safety and homeland security while ensuring the viability of America's businesses in a global marketplace.

Myth: "*The Agreement will impede the success of electronic commerce. Collecting sales taxes on electronic commerce transactions is a new tax."*

Fact: Under the Streamlined Sales and Use Tax Agreement, the buyer making a transaction will not need to fill out any additional forms in order for the sales tax to be calculated or collected. The tax is determined by the delivery address, and anyone who is

buying a tangible product online wants to make sure that the product is delivered to the right address. The consumer fills out only one address field. In cases of digital products like online books or movies, the online seller wants to be paid and they will not accept a credit card payment without address verification. Once again, no additional tax form would be required.

A study released by Jupiter Research in January 2003, *"Sales Tax Avoidance Is Imperative to Few Online Retailers and Ultimately Futile for All,"* found most people are unaware that they are not paying sales taxes when they make a purchase over the Internet. In the same study by Jupiter, only 4 percent of online buyers said that the collection of sales and use taxes would always affect their decision to buy online.

The effort to streamline sales tax collection is not a new tax on electronic commerce. Online sellers already collect sales taxes where they have nexus. The effort of states to streamline sales tax collection will only remove the burden from all sellers in collecting a tax already levied by state and local governments.

Myth: *"The University of Tennessee's study on revenue loss for states due to remote sale transactions is not accurate. The estimates of revenue loss are too high."*

Fact: The Business and Research Center at the University of Tennessee issued its first study on potential revenue loss due to transactions that occur through remote sellers, including electronic commerce in 2001. This study was updated in July 2004 at the request of the National Conference of State Legislatures and the National Governors Association. The updated study shows that the estimates of potential revenue loss was not as high as first predicted. The authors of both studies, Dr. Donald Bruce and Dr. William Fox, provided the following explanation for the difference in estimates between 2001 and 2004: " The experience of the last several years indicates that e-commerce has been a less robust channel for transacting goods and services than was anticipated when we prepared the earlier estimates. The findings provided here are based on lower estimates of e-commerce, and the result is a smaller revenue loss than we previously indicated. Our loss estimates are also lower because many more vendors have begun to

collect sales and use taxes on their remote sales. Still, the Census Bureau reports a combined $1.6 trillion in 2002 in e-commerce transactions by manufacturers, wholesalers, service providers, and retailers, and Forrester Research, Inc.'s expectations continue to be for a strong growth in e-commerce in coming years. Thus the revenue erosion continues to represent a significant loss to state and local government."

Myth: *"The Agreement will widen the digital-divide, because it will disproportionately impact rural, low income, disabled or even elderly buyers."*

Fact: If brick and mortar stores are not as accessible in rural areas as they were say, ten years ago, perhaps they no longer can afford to compete with the price advantage enjoyed by online/remote sellers that do not collect sales taxes. When brick and mortar stores in rural areas are forced out of business that means the rural farmer will have to pay higher property taxes on his farm or increased state income taxes. Higher property or income taxes, just so that one can buy a book or CD on-line sales tax free?

Opponents imply that the streamlined sales tax effort will "*have the effect of widening the so-called "digital divide."* Unfortunately, they fail to show an equal concern for those hard working Americans who may lack the credit or the ability to shop on-line because of a lack of access to the Internet or even a computer. These Americans are paying the sales tax every time they make a purchase in a local brick and mortar store. However, those consumers who have sufficient credit, home computers and access to the Internet are able to avoid the sales tax with almost every online purchase. In truth, if the states fail to simply their sales tax systems and Congress fails to give states that comply with the Agreement remote sales tax collection authority, the consequences will be the greatest for low income Americans who do not have the resources to shop out of state.

Myth: *"The Agreement is a good concept but it can never really work."*

Fact: Since the Streamlined Sales Tax System became operational on October 1, 2005, over 1,100 remote sellers have volunteered to begin collecting sales taxes for those states that have complied with the Agreement. The certified service providers were approved in

May of 2006 and even before the certified automated system was online and available to sellers, these sellers had started to collect sales tax and remit those taxes to the states. The Streamlined Sales Tax System is so much simpler that without even the software in place, remote sellers could begin collecting sales taxes on transactions made by residents of these states.

Conclusion

In closing, I would like to reiterate for the members of this Subcommittee that twenty-two states have enacted compliance legislation and many others have enacted some of the changes needed to comply with the Agreement. I believe we are at a point that if Congress fails to act soon on the federal legislation as envisioned in the Sales Tax Fairness and Simplification Act, the momentum in the remaining states will slow. In some of these states, compliance to the Agreement may require politically difficult changes to the sales tax statutes. Congressional approval of this legislation will help the legislatures in those states make the necessary changes. As I stated previously, states have made unprecedented progress to eliminate the burdens and costs to retailers that the *Quill* decision outlined. It is now Congress' opportunity to ensure that the simplified system that the states have developed for the seamless collection of transactional taxes in the new economy is not impeded by those who merely are trying to avoid paying legally imposed taxes.

Thank you.