ASSEMBLY COMMITTEE ON LEGISLATIVE OPERATIONS AND ELECTIONS

MAY 1ST, 2015

SENATOR JOYCE WOODHOUSE

Mr. Chairman and members of the Committee, I am Senator Joyce Woodhouse, representing Senate District 5. I appear before you today to present Senate Joint Resolution No. 4, which urges the United States Congress to enact the Marketplace Fairness Act.

The Marketplace Fairness Act is a proposed federal law that would allow state governments to collect sales taxes from sellers with no physical presence in their states. These sellers, most frequently catalogue companies and Internet vendors, would be required to collect and remit sales taxes to the states in which their customers reside, just as local retailers must already do. Before the states could avail themselves of the benefits of the law, they would be required to simplify their sales tax statutes to make compliance easier.

The Marketplace Fairness Act has been considered by Congress in previous sessions, but has not been enacted. In the last session of Congress, the bill was passed by the Senate, but got bogged down and died in the House of Representatives. The Marketplace Fairness Act was reintroduced in the United States Senate on March 10th, 2015, in a bipartisan initiative.

Today, I will first summarize the current state of the law on taxing catalogue and Internet sellers, then I will describe some of the problems the current law creates for businesses in our State and for our State and local governments, and, finally, I will discuss how the enactment of the Marketplace Fairness Act would solve those problems.

Let me begin by calling your attention to the first two clauses of S.J.R. 4. As is mentioned there, in 1967, in the case of *National Bellas Hess, Inc. v. Department of Revenue,* the Supreme Court of the United States ruled that only Congress has the power to control the taxation of sales transactions in which a business in one state sells to a customer in another. This ruling explains why we must wait for Congress to pass enabling legislation.

In 1992, the Court again visited this issue in the case of *Quill Corporation v. North Dakota,* and made it clear that states cannot, on their own initiative, require out-of-state retailers to collect sales taxes. Notice that the fundamental law on this subject developed long before the Internet had become an important commercial medium.

Since these court decisions were handed down, e-commerce has exploded. In 2013, Internet sales in the

U.S. amounted to $263 billion, or about 8 percent of all retail sales. By 2018, they will account for $414 billion, or about 11 percent of retail sales. These sales are largely untaxed.

The growth of e-commerce has had a profound effect on traditional stores and shops, who must collect and remit taxes on their sales. They find themselves at a serious competitive disadvantage. As I mentioned, Internet transactions account for about 8 percent of all retail sales on average, but some lines of business have been hit much harder than others. Let me illustrate with three examples.

The owner of a shop in Las Vegas that sells high-end women's clothing and accessories noticed some years ago that more and more women were coming into the shop, examining the merchandise, even trying on clothing, then leaving without making a purchase. In talking to some of these people, the owner found that they intended to buy the same item on the Internet because they would not have to pay sales tax.

A major electronics chain in Nevada noticed much the same pattern. People would come in and try computers, tablets, and televisions, then leave and purchase them from out-of-state online vendors.

A small business in Reno that sells fine wallpaper found that people would come to the shop to examine its samples, looking at their texture, and comparing them with paint samples, then leave and buy the wallpaper online.

The second problem caused by the present tax system is the loss of revenues for state and local governments. As you know, here in Nevada, sales and use taxes are the biggest source of revenue for the State General Fund, accounting for about $900 million a year in rough numbers. They are also the largest source of revenue for public education, amounting to about $1.2 billion per year. Sales and use taxes also supply about a billion dollars a year for cities, counties, and other local governments.

I would like to recognize that over the past few years corporations have stepped forward and paid Nevada the sales tax – Zappos, Amazon, Cabela's, Best Buy, Walmart, and Target. We applaud their forthrightness and believe the rest should follow suit.

One reason that the Nevada Legislature has to scramble every session to find revenues to balance the budget is that our sales tax base is being rapidly eroded by the growth of untaxed e-commerce.

Senate Joint Resolution No. 4 urges Congress to take action to level the playing field. Passing the Marketplace Fairness Act would benefit Nevada's retail businesses and provide the State, our school districts, and our local governments with much needed revenue to pay for essential public services.

Next, I would you to hear from personal friends of mine, Geri and Wayne Kodey, who brought this issue to me several years ago. As owners of a photography business in Las Vegas they will share their personal experiences regarding this matter. It is time that our local businesses no longer serve as “showrooms” for companies that do business online.

I urge your support of S.J.R. 4.

Thank you.