The Marketplace Fairness Act
Enzi, Durbin, Alexander, and Tim Johnson

Legislation to address a States’ rights issue: preserving the right of States to collect – or decide not to collect – sales and use taxes that are already owed under State law.

- **This is a problem that requires a federal solution.**
  - For the past 20 years, States have been unable to enforce their own sales and use tax laws on sales by out-of-state, catalog, and online sellers due to the 1992 Supreme Court decision *Quill Corp. v. North Dakota*.
  - Congress has been debating solutions for more than a decade, and some States have been forced to take action on their own, leading to greater confusion and further distorting the marketplace.
  - On average, States depend on sales and use taxes for 20% of their annual revenue. At a time when State budgets are under increasing pressure, Congress should give States the ability to enforce their own laws.

- **Why now?** Internet-based commerce continues to grow, and States will be unable to collect as much as $23 billion in revenue in 2012 unless Congress acts.

- **Won’t this raise taxes?** No. Consumers are required under state laws to pay sales and use taxes on the goods they purchase, but online sellers simply are not required to collect the tax in the same way that local businesses do – which puts local businesses at a disadvantage. Consumers can be audited and charged with penalties for failing to pay sales and use taxes, but too often States are unable to enforce this requirement.

- **Will this help Businesses?** Yes. Thousands of businesses are forced to do business at a competitive disadvantage because they have to collect taxes and online sellers do not, which in some states can mean a 5 to 10% price advantage.

- **Will this help States?** Yes. The legislation allows States to collect sales and use taxes two ways: States can collect under the Streamlined Sales and Use Tax Agreement (SSUTA) or they can adopt minimum simplification requirements. States would have the option to choose the best solution for them, and not be required to conform to a one-size-fits-all model.

- **Will small sellers be protected from new requirements?** Yes. Online sellers with less than $500,000 in online sales annually will be exempt from collection requirements.

For more information please contact:

Corey Tellez (Durbin) 4-2152
Randi Reid or Eric Oman (Enzi) 4-3424