

the Supreme Court prohibited States from forcing out-of-state corporations to collect sales and use taxes unless such corporation had a physical presence in the taxing State. As my colleague from New York pointed out a few minutes ago, State courts in both New Jersey and West Virginia have held that the physical presence test in Quill only applies to sales and use taxes, not business activity taxes. I share my colleague's deep concern with the fact that the appeals of these two cases to the Supreme Court were denied certiorari just last week. This denial underscores the urgency of BATSA.

This effort by a large number of States to impose business activity taxes based on economic presence has the potential to open a Pandora's Box of negative implications for businesses. Without clarification by Congress, States will be free to enact revenue-raising nexus legislation and policies that, by definition, will not and cannot take into account the national impact of such activities. The eleventh-hour enactment of economic nexus legislation by the New Hampshire State Legislature just days after the Supreme Court denial of certiorari in the New Jersey and West Virginia cases is a sign of things to come. For many businesses, this will serve as a death knell for growth and expansion.

BATSA will help clarify the intent of Public Law 86-272. BATSA codifies the "physical presence" standard and will eliminate confusion for State tax administrators and businesses alike. It's consistent with current law and the notion that a tax should not be imposed by a State unless that State provides benefits or protections to the taxpayer. BATSA clarifies that an out-of-state business must have nexus under both the Due Process Clause and the Commerce Clause. This standard is also consistent with the standards we have in place with regard to our trading partners abroad.

BATSA modernizes Public Law 86-272 by extending the protections under that law to include solicitation activities performed in connection with all sales and transactions, not just tangible personal property. BATSA applies to all business activity taxes, not just net income taxes. This includes gross receipts taxes, gross profits taxes, single business taxes, franchise taxes, capital stock taxes and business and occupation taxes. It does not apply to transaction taxes such as sales and use taxes.

BATSA protects the free flow of information, critical in our modern era of Internet business and protects the activities where the business is a consumer in that State. And, as my colleague, Senator SCHUMER, rightly pointed out, it is counterintuitive to impose taxes on an out-of-state company purchasing goods or services from an in-State company, since the out-of-state company isn't generating any revenue for the State.

BATSA upholds the approach of disregarding certain de minimus activities codified in Public Law 86-272.

States have argued that BATSA will result in substantial lost State tax revenue. In fact, according to the Congressional Budget Office, the projected total loss of revenue to states from BATSA in year one of enactment represents just 0.2 percent of all State and local taxes paid by businesses in 2005. And the CBO cost estimate is actually less than the cost claimed by the National Governor's Association in its own revenue estimates.

I will tell you what BATSA does not do. BATSA does not help large companies avoid paying their fair share of State taxes, stating explicitly that States retain the authority to adopt or continue to use anti-tax avoidance compliance tools. It expressly endorses statutory and regulatory tools at States' disposal to combat tax abuse. Industry and activity-specific safe harbors included in prior bills do not exist in this legislation.

In the glaring absence of Supreme Court clarification on Quill Corp. v. North Dakota, and in the presence of confusing state court interpretations of that decision and ongoing, and legally-creative revenue-raising schemes by States, it's imperative that Congress act now to preserve the free flow of commerce between States. The Business Activity Tax Simplification Act of 2007 provides that clarification. BATSA ensures that one standard of taxation applies for taxing multi-state companies, so that companies are not unjustly taxed multiple times by different States on the same income. I hope that our colleagues here in the Senate will support this important legislation that will protect the business expansion in our country that keeps our economy competitive and thriving.

By Ms. COLLINS (for herself, Mr. WARNER, Mr. CHAMBLISS, Ms. SNOWE, Mr. ISAKSON, Mr. LUGAR, Mr. CORNYN, Mr. COLEMAN, and Mr. VOINOVICH):

S. 1727. A bill to amend the Internal Revenue Code of 1986 to provide for a credit against income tax for certain educator expenses, and for other purposes; to the Committee on Finance.

Ms. COLLINS. Mr. President, I rise today, along with my good friends, Senators WARNER, CHAMBLISS, SNOWE, ISAKSON, LUGAR, CORNYN, COLEMAN, and VOINOVICH, to introduce the Teacher Tax Credit Act of 2007.

As we approach the end of the school year, it is appropriate once again to consider tax relief to help cover the out-of-pocket expenses our Nation's teachers incur to improve the education of our children.

Many times in the past, we have come to the floor to offer legislation on this subject. In 2001, Senator WARNER and I offered legislation which resulted in the enactment of the existing \$250 teacher tax deduction. That deduction expires at the end of this year. Earlier

this session, Senator WARNER and I offered legislation to make that deduction permanent, raise it to \$400, and expand it to cover professional development expenses.

Today, we introduce legislation that would provide teachers with an alternative tax credit for books, supplies, and equipment they purchase for their students, as well as for professional development expenses. The tax credit would be set at 50 percent of such expenditures so that teachers would receive 50 cents of tax relief for every dollar of their own money they spend, up to \$300.

Our rationale in proposing a tax credit as an alternative to the existing deduction is simple, deductions only reduce tax liability indirectly, by reducing taxable income. The value of the deduction is equal to the taxpayer's marginal tax rate, or what we call their tax "bracket." For example, for teachers in the 25 percent tax bracket, a \$100 deduction would reduce their tax liability by 25 percent, or \$25.

By contrast, the tax credit we are proposing would reduce the amount of taxes paid by a teacher by 50 percent for each dollar that a teacher spends on school supplies or professional development expenses, regardless of the tax bracket the teacher is in. A teacher who took the maximum credit amount of \$300 would save 50 percent of that amount—\$150—in taxes.

We have made an effort to ensure that the tax benefit we are proposing will make all teachers who use it better off, relative to the current deduction. Let me take a moment to explain how we have done this: first, the tax credit is structured as an alternative teachers can choose either the deduction or the credit, whichever works best for their tax situation. Second, the level of the credit, if adopted in its present form, would provide a net after-tax benefit of \$150. This is significantly higher than the net after-tax benefit that most teachers can receive using the current \$250 deduction.

It is even higher than the net after-tax benefit that would result from the \$400 deduction Senator WARNER and I proposed earlier this year. Teachers in the 25 percent tax bracket would get a net after-tax benefit of \$100 from a \$400 deduction, so they will see an increase of \$50 under the credit system that we are proposing today. Even teachers in the highest tax bracket, which is currently set at 35 percent, would see a small increase in the net benefit they would receive under this credit, compared to a \$400 deduction.

I should also note that some teachers make so little they do not even have the tax liability to offset this credit. To make sure these teachers are also compensated for the money they spend on classroom supplies and professional development, the credit Senator WARNER and I are proposing is fully refundable.

It is remarkable how much the average teacher spends every year out of