

over the important function of inspector general.

Also key in this legislation is that instead of making their annual budget requests to the agencies they oversee, the IG budget requests will go straight to the Office of Management and Budget, or OMB, that sends the President's budget request to Congress.

Next, all inspector general Web sites must be directly accessible from the home page of the agency. I asked my staff to take a tour through Government agency Web sites to see how easy it was to find out what the IGs had been up to in those agencies. It was remarkably difficult. In many instances we couldn't even find the inspector general's information on the home page of that agency. The public ought to be able to go on the page of any Federal agency and immediately click on the last inspector general report, find out what that inspector general found and, frankly, ought to be able to ask the question, what has been done about it. There will be a way for the public to anonymously send allegations of waste, fraud, and abuse directly to the IG offices.

Our office found that only three of 27 sampled Federal agencies have an obvious direct link from their home page to the IG's Web site. Clearly, we are not focused on making this information available to the public. Frankly, all the auditors in the world, all the inspector generals in the world do no good if the public can't learn the information. Because if the public doesn't know about it, it isn't going to have the cleansing effect it should. Only six of the 27 sampled IGs have an obvious direct link on their home page to report waste, fraud, and abuse. That is very important.

I give credit to Representative JIM COOPER of Tennessee who has been working on this legislation in the House. I am excited to join him in this effort. Senator COLLINS and Senator LIEBERMAN have some of these provisions in their Accountability in Government Contracting Act, of which I am also proud to be a cosponsor.

There have been specific examples that have occurred recently. I won't go into them other than to say, we had one Commerce IG who refused to resign after an investigation showed that he had committed malfeasance in office. However, after much pressure from Congress, he finally did step down. We have another inspector general who has been accused of trying to block the serving of a search warrant at NASA. Think about that, trying to block the serving of a search warrant that had been issued by a court of law. We have another IG who was not reappointed by President Bush and said publicly it was because at the Department of Homeland Security, he was seen as a traitor, and he was intimidated about not issuing reports that might reflect badly on the agency.

Bottom line, we should protect inspector generals. They are precious.

They are important to what we do. We can talk all we want about oversight, but if we can't get the information from inside these agencies, frankly, we are not going to be effective in Congress with any kind of oversight. The information the inspector generals provide is crucial to Congress and crucial to the public. This legislation would make sure that they are qualified, protected, independent, and the public knows what they are up to.

I urge my colleagues to get excited about this legislation and maybe, uncharacteristically, move it quickly through the Senate.

By Mr. SCHUMER (for himself and Mr. CRAPO):

S. 1726. A bill to regulate certain State taxation of interstate commerce, and for other purposes; to the Committee on Finance.

Mr. SCHUMER. Mr. President, I want to speak about the bill I am introducing today with Senator CRAPO, the Business Activity Tax Simplification Act of 2007. Our bill tries to address a very important question: How should States tax businesses that locate their operations in a few States, but have customers and earn income in many States? This issue has grown in importance in recent years, and the Supreme Court's decision last week not to get involved in the issue raises the stakes even further.

The crux of the issue is this: A majority of States impose corporate income and other so-called "business activity taxes" only when companies have "physical presence," such as employees or property, in their States. However, some States contend that the mere presence of a business's customers, or an "economic presence," is all that is necessary to impose a business activity tax. These companies are facing a confusing and costly assortment of State and local tax rules, some enacted by legislatures and others imposed upon them by State revenue authorities and upheld by State courts.

Senator CRAPO and I introduced similar legislation in the 109th Congress to try to address this problem of double taxation and tax practices that vary from State to State. That bill came close to passing the House, but some last-minute objections were raised. Now, the need for legislation and congressional action has taken on new urgency, and we have revised the bill to address many of the concerns expressed last year.

Just last week, the U.S. Supreme Court denied certiorari in two cases that challenged the constitutionality of State taxation of out-of-State companies with no physical presence in a State. The States involved in these cases, West Virginia and New Jersey, asserted theories of economic nexus to tax out-of-State corporations. They claimed that because some customers of such corporations reside in the State, even though the corporation is not physically present, they are subject to business activity taxes.

The first case involves a credit card company headquartered in Delaware. The bank issued credit cards nationwide, including credit cards issued to West Virginia customers. The bank had no property or employees, no office or any other physical presence, in the State. The second case involves a Delaware holding company that licensed intellectual property trademarks and trade names to a customer that does business in New Jersey. The holding company itself had no offices, employees, or property in New Jersey, and did not otherwise have a physical presence in the State. In both cases, the State courts ruled that the out-of-State corporation was taxable.

What is so disappointing about the Supreme Court's silence on this issue is the fact that these State court decisions conflict with an earlier Supreme Court ruling. In 1992, in *Quill Corp. v. North Dakota*, the Supreme Court prohibited States from forcing out-of-State corporations from collecting sales and use tax, unless the corporation has a physical presence in the taxing State. However, some State courts have held that the physical presence test established by *Quill* creates no such limitations on the imposition of business activity taxes.

Currently, 19 States take the position that a State has the right to tax a business merely because it has a customer within the State, even if the business has no physical presence in the State whatsoever.

These States' actions in pursuing these taxes have caused uncertainty and widespread litigation, so much so that it has created a chilling effect on foreign and interstate commerce. I have spoken out against double taxation on many issues in the past, and the double tax in these cases, while not as large, is just as wrong.

Let me be clear about this: I know that several Governors and State revenue commissioners have spoken out against the legislation because they don't like the Federal Government telling them what they can and cannot tax. They are also concerned about any revenue they might lose as a result. But if the States are collecting a tax they shouldn't be collecting in the first place, the fact that they might lose a small amount of revenue is not the most persuasive argument, in my view.

I believe Congress has a responsibility to create a uniform nexus standard for tax purposes so that goods and services can flow freely between the States. Firm guidance on what activities can be conducted within a State will provide certainty to tax administrators and businesses, reduce multiple taxation or the same income, and will reduce compliance and enforcement costs for States and businesses alike.

The last time Congress acted on this issue was in 1959, when Public Law 86-272 was enacted to prohibit States from imposing "income taxes" on sales of "tangible personal property" by a business whose sole activity within a State