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The Growing Problem of Cross-Border Reach

Introduction

Chairman Marino, Ranking Member Cicilline, and distinguished members of the subcommittee, thank you for the opportunity to submit testimony regarding H.R. 2887, the “No Regulation Without Representation Act” (NRWRA), and the growing problem of states regulating beyond their borders. My name is Andrew Moylan and I am executive vice president of the National Taxpayers Union Foundation, a non-partisan research and education organization dedicated to showing Americans how taxes, government spending, and regulations affect them. I am also director of the new “Interstate Commerce Initiative” at the National Taxpayers Union (NTU), a project that seeks to protect taxpayers from the pernicious effects of states attempting to exercise power outside their borders.

Our new Interstate Commerce Initiative was launched for the very purpose of analyzing problems like those under committee investigation in this hearing. Having spent more than a decade working on these policy issues, I came to believe that the complications associated with cross-border reach were so significant that they necessitated a policy project that would focus on them more directly than my previous work as executive director of the R Street Institute would allow. With the creation of the Interstate Commerce Initiative at the National Taxpayers Union, I hope to more comprehensively investigate these issues as they continue to proliferate.

With the advancement of technology and the ongoing internet revolution, states have more tools at their disposal than ever before to identify and target individuals and businesses for taxation and regulation. Furthermore, there are built-in incentives to do so toward individuals and businesses that reside outside the state, since those entities have no political influence or ballot box recourse with which to fight back. The result is more and more instances of states reaching outside their borders to impose burdens like remote retail sales tax collection obligations, business income taxes, individual income tax bills, and (increasingly) regulatory requirements as well. In each such instance, states are pushing the boundaries of their power, often in reckless and damaging ways.

Though the problem is a complex one, there is a simple solution embodied in H.R. 2887, the “No Regulation Without Representation Act.” Introduced by Congressman Jim Sensenbrenner (R-WI), a former Judiciary Committee chairman and longtime advocate of limited, Constitutional government, the NRWRA embeds in statute a plain requirement that states may only tax or regulate entities engaged in interstate commerce if they have a genuine physical presence within their borders. It draws upon Congress’ Constitutional duty to safeguard the free flow of goods and information in the course of interstate commerce. In doing so, it would put a stop to aggressive state efforts to make mincemeat of limits on their power. Importantly, it would preserve a state’s ability to regulate conduct inside its borders or to regulate in-state entities that engage in interstate commerce.

The pernicious effects of cross-border reach are growing, and the time has come for Congress to bring clarity and sanity to the situation. The internet is vast, powerful, and borderless. We must not let it become the vehicle for state governments to become similarly so.

The problem

States attempting to push the boundaries of their own power is not a new phenomenon. After all, the incentive structure that encourages them to do so has been in place from the very founding of the nation.

The 17th century French politician Jean-Baptiste Colbert famously said, “The art of taxation consists in so plucking the goose as to obtain the largest quantity of feathers with the least possible amount of hissing.” To repurpose the phrase for modern times, it could be said that the internet allows states to better locate geese and pluck them from far away (in modern parlance one might suggest the plucking is often done by internet-enabled drone), without any particular regard to the amount of hissing.

When states exercise power on their own citizens and in-state businesses, they must do so with some regard to political will and only when necessary. They must balance the burdens they impose with the benefits they provide. Failure to do so could subject elected officials and the bureaucracies they administer to significant public pressure, because the taxpayers who vote them into office and pay their salaries could revolt.

Out-of-state entities, whether individual taxpayers or businesses, have no such recourse. They have limited ability to bring public pressure to bear, and none whatsoever to utilize the ultimate tool of the ballot box to guide policy in a different direction. Naturally, states have a strong incentive to target such entities for tax collection and other means. For evidence, one need look no further than average tax rates for services used primarily by tourists and visitors, like hotels. A study by the consulting firm HVS found that average hotel taxes in major metropolitan areas totaled a whopping 13.6 percent.[1] By comparison, combined sales tax rates average just 8.6 percent.[2]

The internet and other modern technology only makes it easier for states to zero in on entities far outside their physical borders. For example, 50 years ago it may have been difficult or impossible for a state to know that an out-of-state catalog retailer had made a sale to one of its residents. But by leaving an “electronic trail” behind, the modern version of that scenario (an out-of-state internet retailer making a sale) provides states with a powerful tool to ascertain cross-border activity and attempt to regulate it.

Furthermore, each individual instance of states attempting to enforce power outside their borders is justifiable by at least some thread of logic, however frayed it may be. In fact, states often characterize their actions as defensive in nature; a necessary response to facts on the ground that would undermine their legitimate goals if they failed to act.

One need not resort to excessive hyperbole to point out that this logic could theoretically be used to justify all manner of overreach. For example, elected officials in some states have

[1] Hazinski, Thomas. “2016 HVS Lodging Tax Report.” HVS.com. https://www.hvs.com/article/7775-2016-hvs-lodging-tax-report-usa (accessed 7/24/17)
[2] “Indirect Tax Rate Reports.” Thomson Reuters. https://tax.thomsonreuters.com/reports/indirect-tax-rates/2016_q3/ (accessed 7/24/17)

expressed outrage at President Trump's decision to back out of the Paris climate agreement, while others expressed outrage at then-President Obama's decision to not approve the building of the Keystone XL pipeline. Though such action could theoretically be justified as a defensive effort resulting from a misguided President's actions, in neither case would it be permissible for states to wield foreign policy prerogatives and counteract the decision. Foreign policy is the sole purview of the federal government and any state attempting to directly engage in it would be overstepping its Constitutional bounds.

How the problem manifests itself

Regulation

Tax law generally gets more headlines than efforts to regulate across state lines, but regulatory incursions are a growing problem as well. Across a wide range of items and types of commerce, aggressive states are attempting to enforce their own policy preferences not just on their own residents and businesses, but on out-of-state residents and businesses as well.

For example, a recent proposition in California to mandate larger cage sizes for hens used in egg production has caused significant disruption in the industry.[3] The Golden State has decreed not only that domestic coops must maintain at least one square foot of cage per chicken, but has effectively mandated that out-of-state producers do the same by requiring that any egg imported to the state must meet the same production standards. The failure of a lawsuit filed by six states to challenge the law, largely on procedural grounds, has left non-California producers with little recourse but to stop selling into the largest market in the country or to comply with another state's regulations.[4]

Similarly, Vermont recently took action to require that any foods using genetically-modified ingredients be labeled as such. The impact was not limited to Vermont-based businesses, however, as practical considerations pushed most large companies to change labeling for all of their products.[5] The law was subsequently preempted by federal legislation signed last year by President Obama, but it remains a vivid illustration of the impact one state can have when imposing sweeping rules that practically apply well beyond their borders.

Business income tax

While the sales tax fights going on nationwide are better known, they are far from the only example of states aggressively pushing their boundaries. Another can be found in the realm of business income tax. Writing for *City Journal*, Steven Malanga cites several glaring examples of

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[3] Shell, Elizabeth. "California humane chicken law ruffles feathers in other states." PBS News Hour. http://www.pbs.org/newshour/rundown/california-chickens/ (accessed 7/24/17)
[4] Thanawala, Sudhin. "Appeals court rejects six states' lawsuit against California egg law." Orange County Register. http://www.ocregister.com/2016/11/18/appeals-court-rejects-six-states-lawsuit-against-california-egg-law/ (accessed 7/24/17)
[5] Charles, Dan and Aubrey, Allison. "How Little Vermont Got Big Food Companies to Label GMOs." NPR. http://www.npr.org/sections/thesalt/2016/03/27/471759643/how-little-vermont-got-big-food-companies-to-label-gmos (accessed 7/24/17)

states targeting businesses whose connection to them is tangential at best to cough up thousands in income taxes.[6] Perhaps most glaring of them is New Jersey. Malanga writes:

> [B]eginning around 2000, revenue agents from New Jersey's department of taxation began descending on truck stops, weigh stations, and loading docks and waylaying trucks, demanding that the owners pay at least Jersey's $1,100 minimum corporate-franchise tax before letting the drivers proceed. Many of the vehicles - about 40,000 have been stopped - worked for companies with zero connection to New Jersey, other than making a pickup or delivery there. New Jersey was, in essence, charging a $1,100 entry fee into the state.

Even if an income tax obligation were genuinely owed under a reasonable interpretation of the law and the facts in these cases (which seems highly doubtful to say the least), this kind of "highway hold-up" enforcement tactic is wildly inappropriate for a government agency carrying out official duties ostensibly in the public interest.

The examples only get more ridiculous from there, as Malanga demonstrates:

> [W]hen a small Milwaukee transportation firm, LTL Trucking, answered a Nebraska tax questionnaire by acknowledging that its trucks had driven through the state in recent years, it received a back-tax bill of $1,321, despite having no inventory, customers, or sales there.

In the case of small businesses with relatively limited revenues, Malanga points out that these cash grabs can eat up a significant share of operating margins. New Jersey charged one South Carolina software company $600 in taxes for a single software license worth $675, and then told them they'd be required to shell out $600 for every future year during which the software was installed on even a single computer in the Garden State. But of course, the legal costs associated with challenging a charge in a state where you have no presence would eat up an even larger share, so most businesses make what is, unfortunately, the rational decision and pay the ransom.

These predatory tactics are not just harmful to the businesses in question: they also present significant burdens to interstate commerce. I have personally had conversations with business executives noting concern about, for example, sending employees to trade shows in states that aggressively claim such activity entitles them to a share of the company's business income. Malanga's piece quotes a CEO expressing a similar worry about New York, saying, "We can't afford for New York to become a tax nexus for us just because our employees participate in a conference in New York."

In response to these ongoing provocations, previous Congresses saw the introduction of the "Business Activity Tax Simplification Act."[7] The bill, also known as BATSA, would strengthen and clarify physical nexus requirements as applied to business taxation. It says, in essence, that

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[6] Malanga, Steven. "The State Tax Grab." City Journal. https://www.city-journal.org/html/state-tax-grab-13628.html (accessed 7/24/17)

[7] Business Activity Tax Simplification Act of 2015, H.R. 2854, 114th Congress. https://www.congress.gov/bill/114th-congress/house-bill/2584 (accessed 7/24/17)

transitory business contact with a state is not sufficient to establish nexus and that a business could only be subject to taxation if it maintained property or employees in the state for a period of 15 days or more.

Individual income tax

While the internet sales and business income tax realms primarily deal with requirements imposed on companies engaged in interstate commerce, the aggression of states expands into the individual realm as well. States focus primarily on two types of workers: those who work remotely from their home in one state for a business based in another, and those who travel for work. In both areas, they have again recklessly pursued tax collections on people outside their jurisdiction in contravention to basic principles of sound tax policy and common sense.

Drawing again from the good work of Steven Malanga in *City Journal*, examples of targeting individuals that telecommute abound.[8] He writes of the plight of Edward Zelinsky, a Cardozo School of Law professor who has suffered at the hands of New York revenue agents:

> Zelinsky lives in Connecticut and ventures to New York only on days that he teaches classes at the Manhattan-based institution. Yet New York has for years levied its income tax on all his income, even as he pays Connecticut taxes on income earned when he works at home.

H.R. 4962, the Multi-State Worker Tax Fairness Act, was introduced last Congress to help address this tactic.[9] The bill essentially establishes a genuine physical presence rule for states attempting to impose income tax burdens on telecommuters. It would eliminate the pernicious double-taxation faced by the likes of Professor Zelinsky and innumerable others that pay taxes in the state where they live but could also face bills in the state where their employer is based.

But telecommuters comprise only part of this troubling picture, though admittedly a growing one. A problem that could prove much larger in scale is the number of employees that travel to other states on work-related business for relatively short periods of time.

Take as an example an employee who travels occasionally for work. Regardless of the purpose of that work, whether to attend trade shows, perform site visits, or receive training, that employee could technically be required to pay income tax in the state to which he or she traveled. In more than 20 states, that requirement holds even if that travel keeps them in the state for just one day.[10] And these varying requirements can strike employers too, as they might be liable for withholding for said employee as well.

If enforced fully, these rules could impose tremendous financial and compliance burdens on employees and employers alike. To prevent aggressive states from using this, too, as an

[8] Malanga, Steven. "The State Tax Grab." City Journal. https://www.city-journal.org/html/state-tax-grab-13628.html (accessed 7/24/17)
[9] Multi-State Worker Tax Fairness Act of 2016, H.R. 4962, 115th Congress. https://www.congress.gov/bill/114th-congress/house-bill/4962 (accessed 7/24/17)
[10] "Problem: A patchwork of complicated nonresident income tax laws." Mobile Workforce Coalition. http://www.mobileworkforcecoalition.org/problem/ (accessed 7/24/17)

excuse to expand their power, the Mobile Workforce Income Tax Simplification Act was introduced.[11] This bill passed the House unanimously in a previous Congress, so it can hardly be said that it's a radical piece of legislation. It would establish a threshold of 30 days in a state before a worker would be required to pay its income tax. One can argue that the threshold should be higher, but the legislation would at least establish a floor that would prevent aggressive states from sending out tax bills to workers who showed up in their jurisdiction for just a few days.

There is more to this matter than mere anecdotes like the above. Malanga's piece points to a survey that put some hard numbers to the stories.

> [A] survey by Bloomberg BNA, a division of Bloomberg that consults on tax and finance issues, found that 16 states now assess corporate taxes on businesses with *websites* hosted on independent servers in the state, regardless of whether the business itself is physically present. Similarly, all but six states said they would tax an out-of-state firm if just one telecommuter worked for it from their territory. Half of those governments said that their corporate income taxes would kick in even if the company had zero sales in the state.

Remote sales

Current law prevents tax authorities from forcing a retailer of any type to collect and remit its sales tax unless it has a tangible physical presence, or "nexus," in the state as a result of the 1992 Supreme Court case, *Quill v. North Dakota*.

State-level efforts are afoot to "define nexus down" such that virtually any web-related business structure or activity could be construed as sufficient connection for imposition of tax obligations. The first wave of such actions was in pursuit of so-called "affiliate nexus" rules, whereby a business' relationship with an in-state website with whom it places ads but otherwise has no connection would essentially give them "nexus by proxy," akin to saying that South Dakota's famous Wall Drug Store could be considered to have physical presence in Minnesota by virtue of the presence of one of their famous billboards on a stretch of I-90 in the Gopher State.

States have continued their efforts to wipe away limits on their power to impose sales tax collection obligations, pursuing novel approaches like "economic nexus" or "marketplace" bills to grant a state the power to tax any business that has a certain amount of economic connection to the state, regardless of whether it has a physical connection of any sort as required by the *Quill* court. These efforts are facially unconstitutional and in fact seem knowingly and cynically drafted so as to invite litigation that states hope can be pushed to the Supreme Court to challenge the existing *Quill* precedent.

The state of Ohio has attempted, for example, to assert that an internet retailer with no property or employees in the state is nonetheless subject to Buckeye State tax collection obligations

[11] Mobile Workforce State Income Tax Simplification Act, H.R. 1393, 115th Congress. https://www.congress.gov/bill/115th-congress/house-bill/1393 (accessed 7/24/17)

simply by virtue of the fact that its website might be accessed by an Ohio resident.[12] If sustained, the Ohio scheme would mean that any business of any type and any size utilizing the internet, even the proverbial Grandma selling old trinkets on eBay or Etsy, would be subject to Ohio tax law no matter where it was located.

This absurdity is the natural conclusion of efforts to blur and, ultimately, erase state borders as a recognizable limit to tax and regulatory power. The "slippery slope" toward a world where each state is allowed to assert itself as far and wide as the internet can reach, without regard to any kind of tangible connection, is not hypothetical. We have witnessed it play out over the past decade, and in particular over the past handful of years. If anything, the slope is far slipperier than initially feared.

Digital goods

A related matter is the tax treatment of so-called "digital goods," which comprise things like mobile applications and music downloads that are delivered and stored electronically. The rise of the internet and use of digital goods raises the troubling prospect of multiple jurisdictions asserting authority to tax the same digital good.

Consider the hypothetical case of a New York resident purchasing a mobile app sold by a California-based company while waiting on a layover in the Atlanta airport. Absent some guidance from Congress, there is a risk that each of the three jurisdictions in question might try to assert tax authority over the same good. Legislation introduced last Congress to provide that guidance, called the Digital Goods Tax Fairness Act, would affirm that only the jurisdiction of the purchaser's residence has legitimate taxing authority over the transaction.[13] The administrative simplicity of that regime is a genuine question, but there's no doubting that it would resolve the higher-order concern of multiple layers of taxation, a concern that simply doesn't meaningfully exist in the brick-and-mortar context.

Taken together, these problems and the federal legislation that has been introduced to address them shows that concern about cross-border reach is not just fear-mongering but instead reflective of legitimate and ongoing disruptions to interstate commerce.

Solving the problem

While the problems I've identified here (and the many I've not included for the sake of brevity) are myriad and complex, the solution in H.R. 2887 is actually straightforward: simply embed in statute a physical nexus standard in order to protect interstate commerce. Doing so would set clear standards for states intending to impose tax or regulatory obligations, clarify a host of issues subject to expensive litigation, and eliminate widespread uncertainty about the limits of state power.

What NRWRA would do, and why it's justified

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[12] Ebert, Alex. "Ohio 'Cookie Nexus' for Online Sales Likely to Crumble." Bloomberg BNA. https://www.bna.com/ohio-cookie-nexus-n73014461659/ (accessed 7/24/17)
[13] Digital Goods Tax Fairness Act of 2015, S. 851, 114th Congress. https://www.congress.gov/bill/114th-congress/senate-bill/851 (accessed 7/24/17)

The No Regulation Without Representation Act is admirably basic in its construction.

1. First, it says that no state can tax or regulate the activity of a person or business in interstate commerce unless that person or business is physically present in the state.
2. Next, it defines physical presence as including property, employees, and other markers of genuine connection to a state.
3. Then it goes on to define what does *not* constitute physical presence, including things like tangential advertising relationships, presence in a state for less than 15 days, and other kinds of transitory connections that states have used as avenues of tax collection.
4. It protects non-sellers, such as intermediaries that are neither the buyer or seller in the case of the sale of an item, from being ensnared in tax or regulatory schemes.
5. Next, it places original jurisdiction in federal district courts to help ease some of the morass of state litigation.
6. Finally, it defines the terms it uses in more specific fashion.

That's it. The bill makes up all of nine pages of text, can be read in just a few minutes, and doesn't include innumerable changes to obscure sections of U.S. Code, the likes of which can make Congressional legislation inscrutable to even the highly-informed.[14] In that short text, however, the bill promises much beneficial impact. While it wouldn't solve every problem laid out in this testimony in one fell swoop, it would solve many and would do a great deal to mitigate the impact of others.

Authority for this legislation is derived from Congress' interstate commerce clause power. The commerce clause exists precisely for the purpose of empowering Congress to take action to restrain state abuses that harm interstate commerce. In fact, one can trace the origins of the commerce clause to the failure of the Articles of Confederation, under which the government of the United States operated until the Constitution was ratified in 1789. One of the driving forces leading the founders back to the drawing board was the ongoing internal "trade war" between states, several of which were aggressively projecting their power across borders. Observers quickly recognized that a mechanism empowering the federal government to restrain such abuses was needed -- a mechanism which came to life as the commerce clause.

The modern inclination to support "states' rights" and the belief that states are better positioned to address a wide range of policy questions currently subject to federal influence is one that I share and reflects a baseline belief in the careful balance struck by our nation's founders to best preserve liberty. I agree with those who contend the federal government is too powerful, having usurped the authority of the states in a great many areas. After all, the federal government is a creation of the states, not the other way around.

However, I hasten to point out that states do not have "rights," per se, individuals do. States exercise power, power derived from and granted by the people in order to achieve certain societal goals. I also hasten to point out that there are well-understood and uncontroversial limits on state exercise of power, such as the aforementioned example of engagement in foreign policy. A contention that *any* limitation of state power is unjustifiable or unwise is simply not

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[14] No Regulation Without Representation Act of 2017, H.R. 2887, 115th Congress. https://www.congress.gov/115/bills/hr2887/BILLS-115hr2887ih.pdf (accessed 7/24/17)

consistent with the Constitution's plain text and centuries of interpretation by people on all sides of the ideological spectrum.

Thus, the operative question is whether the particular limitation of state power is consistent with the Constitution and justified by the facts on the ground. I would argue that the ability to tax and regulate entities with no physical presence inside a state's borders is but another example of a limit on state power that should be uncontroversial, given the obvious negative impacts that have been laid out in this testimony and the modest, Constitutionally-consistent role required of Congress to help solve them.

In addition to helping preserve interstate commerce, H.R. 2887 would also help strengthen due process protections and clarify their application. A simple physical presence standard does so by ensuring that any entity subject to taxation, regulation, or resulting litigation, would only be required to abide by the authority of a jurisdiction with which they very clearly have a strong connection. In other words, if the physical test is met, the due process test would be met on its face. Furthermore, it makes much less likely the eventuality that a taxpayer would get called to account by a distant jurisdiction with which he or she has limited or no connection, thus reducing the gray area from which springs much due process litigation.

<u>What NRWRA would *not* do</u>

While clearly consequential should it pass, H.R. 2887 is modest and restrained in its drafting. To begin with, it does nothing to regulate *intrastate* commerce. If it were to pass, California would still be free to require California farmers to use hen cages of a certain size and Vermont would be free to require Vermont producers to abide by GMO labeling requirements. Any business transaction or other activity conducted inside a state's borders would still be its business alone to regulate. It is only when attempting to regulate *interstate* commerce that a state would face any constraint.

Furthermore, NRWRA does not prohibit *all* state regulation of interstate commerce. It simply says that state regulation of interstate commerce must abide by a common sense test, that of a physical nexus requirement, to be permissible. Subject to any restraints that pre-exist H.R. 2887, states can continue to engage in regulation of interstate commerce when the entities being regulated are indeed present inside their borders.

Importantly, H.R. 2887 does nothing to specify the type, form, scale, or scope of permissible or impermissible regulation beyond simple application of the physical presence standard. It declines to engage in highly specific limits on state power based on, say, size of business or type of commerce. This is rarer than one might think at first blush. Many commerce clause/preemption bills are highly specific as to the type of tax or regulation they seek to address.

NRWRA is, in fact, quite a bit less prescriptive than many other commerce clause-based bills that have passed this chamber or become law. The NTU-backed Permanent Internet Tax Freedom Act (PITFA) passed the House and was ultimately signed into law in a package by President Obama in 2015. It prohibited internet access taxes and ensured that internet commerce is not subjected to disproportionately high tax rates. By containing an outright prohibition of a certain type of tax, PITFA was more prescriptive than H.R. 2887 would be if enacted since NRWRA's physical presence standard is broadly applied to all tax and regulatory policy, making no distinctions between one type or another.

Perhaps more notably, PITFA eliminated a "grandfather" provision that allowed five states that had enacted internet access taxes prior to passage of the first version of ITFA to continue doing so. As a result, though its enactment was supported by legitimate policy goals, PITFA invalidated laws that were enacted at a time when doing so violated no particular Constitutional or Congressional limitation. The revenue stream associated with internet access taxes in those five states was not enormous, but certainly not inconsequential.

To be clear, I discuss PITFA here not because I think it represents Congress overstepping its bounds. To the contrary, I think the bill was properly constructed and that Congress was well within its rights to take action to prevent state abuses that could harm the growth and vitality of the internet. I bring it up simply to point out that, structurally speaking, NRWRA is in fact less prescriptive than other bills this Congress has seen fit to pass and were good ideas on their own terms.

H.R. 2887 also does not, in and of itself, answer questions about whether or not Congress should engage in any particular area of policy. It says that no single state can impose its own preferences on others, but it doesn't do anything on its own to answer, for instance, whether labeling of genetically-modified foods is an area of genuine federal concern. This helps ensure that actions with national impact get debated and disposed of where they should: in Congress, rather than the legislatures of one state or another.

Finally, NRWRA does not have an impact on any state bill or regulation that doesn't already violate the fundamental precept that states are sovereign within their own borders but that their power ends at border's edge. Any law or requirement genuinely impacting a state's own residents or businesses would continue on, utterly untouched by H.R. 2887. If opponents cite widespread impact, they're unwittingly revealing the extent of widespread abuse of common sense limits on state power conducted over the course of decades.

Conclusion

With the advent of modern technology, states have never before possessed so much information at their fingertips. Likewise, with budget crunches and voter tensions running high, they have never before had so much incentive to target out-of-state entities with tax and regulatory enforcement actions. It is perhaps unsurprising, then, that they've responded by aggressively pushing the boundaries on their own powers with increasingly clever (and increasingly silly) attempts to define virtually all conduct as subject to their reach.

No reasonable conception of state government can hold that its power is unlimited, encompassing not just its own residents and businesses but those of every other jurisdiction the internet can help them reach as well. Into this breach steps H.R. 2887, the No Regulation Without Representation Act. In but a few pages, NRWRA offers to clear up rampant confusion and resulting litigation. In plain terms, it affords protection to businesses and individuals that have been subject to predatory actions by cash-strapped states. In its restrained approach, it offers a thoughtful application of Constitutional principles to modern problems. In its carefully-delineated exercise of federal power, it maintains appropriate deference to state power.

In summary, the No Regulation Without Representation Act is, in one piece of legislation, the solution that Congress has been searching for to a wide range of problems that necessitate its attention. It is my hope that this subcommittee will recognize this fact and support its advancement to the full committee, to the whole House, and hopefully to the President's desk.