

*Jerry Moran*

AMENDMENT NO. \_\_\_\_\_ Calendar No. \_\_\_\_\_

Purpose: To ensure that methods of collecting taxes and fees by private citizens on behalf of State and local governments are fair and effective and do not discriminate against interstate commerce for wireless telecommunications services.

**IN THE SENATE OF THE UNITED STATES—114th Cong., 2d Sess.**

**S. 2555**

To provide opportunities for broadband investment, and for other purposes.

Referred to the Committee on \_\_\_\_\_ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. MORAN

Viz:

*and Mr. Manchin  
Mrs. Fischer*

1 At the end, add the following:

2 **SEC. 18. WIRELESS TELECOMMUNICATIONS TAX AND FEE**

3 **COLLECTION FAIRNESS.**

4 (a) **SHORT TITLE.**—This section may be cited as the

5 “Wireless Telecommunications Tax and Fee Collection

6 Fairness Act of 2016”.

7 (b) **FINDINGS.**—Congress finds the following:

8 (1) A State may designate an in-State or out-

9 of-State person as a collection agent for the State

10 and impose upon the person a duty to collect certain

1 taxes and fees for wireless telecommunications serv-  
2 ices from residents of the State.

3 (2) States have the sovereign right to tax their  
4 citizens, subject to the Constitution of the United  
5 States and Federal law. States do not have the right  
6 to tax interstate commerce or to impose taxes or  
7 other obligations on citizens of other States without  
8 limitation.

9 (3) A collection agent for a State may feasibly  
10 collect taxes and fees from a customer in connection  
11 with a financial transaction to which the agent and  
12 customer are parties.

13 (4) Congress can help ensure against unreason-  
14 able burdens on interstate commerce by prohibiting  
15 each State from imposing a duty on any person to  
16 serve as a collection agent for the State unless the  
17 collection is in connection with a financial trans-  
18 action.

19 (c) DEFINITIONS.—In this section—

20 (1) the term “financial transaction” means a  
21 transaction in which the purchaser or user of a wire-  
22 less telecommunications service upon whom a tax,  
23 fee, or surcharge is imposed gives cash, credit, or  
24 any other exchange of monetary value or consider-

1        ation to the person who is required to collect or  
2        remit the tax, fee, or surcharge;

3            (2) the term “local jurisdiction” means a polit-  
4        ical subdivision of a State;

5            (3) the term “State” means any of the several  
6        States, the District of Columbia, and any territory  
7        or possession of the United States;

8            (4) the term “State or local jurisdiction” in-  
9        cludes any governmental entity or person acting on  
10       behalf of a State or local jurisdiction that has the  
11       authority to assess, impose, levy, or collect taxes or  
12       fees; and

13           (5) the term “wireless telecommunications serv-  
14       ice” means a commercial mobile radio service, as de-  
15       fined in section 20.3 of title 47, Code of Federal  
16       Regulations, or any successor thereto.

17        (d) FINANCIAL TRANSACTION REQUIREMENT.—

18           (1) IN GENERAL.—A State, or a local jurisdic-  
19       tion of a State, may not require a person to collect  
20       from, or remit on behalf of, any other person a State  
21       or local tax, fee, or surcharge imposed on a pur-  
22       chaser or user with respect to the purchase or use  
23       of any wireless telecommunications service within  
24       the State unless the collection or remittance is in  
25       connection with a financial transaction between—

1 (A) the person that the State or local juris-  
2 diction requires to collect or remit the tax, fee,  
3 or surcharge; and

4 (B) the purchaser or user of the wireless  
5 telecommunications service.

6 (2) RULE OF CONSTRUCTION.—Nothing in this  
7 subsection shall be construed to affect the right of  
8 a State or local jurisdiction to require the collection  
9 of any tax, fee, or surcharge in connection with a fi-  
10 nancial transaction.

11 (e) ENFORCEMENT.—

12 (1) PRIVATE RIGHT OF ACTION.—Any person  
13 aggrieved by a violation of subsection (d) may bring  
14 a civil action in an appropriate district court of the  
15 United States for equitable relief in accordance with  
16 paragraph (2) of this subsection.

17 (2) JURISDICTION OF DISTRICT COURTS.—Not-  
18 withstanding section 1341 of title 28, United States  
19 Code, or the constitution or laws of any State, the  
20 district courts of the United States shall have juris-  
21 diction, without regard to the amount in controversy  
22 or citizenship of the parties, to grant such manda-  
23 tory or prohibitive injunctive relief, interim equitable  
24 relief, and declaratory judgments as may be nec-

1        essary to prevent, restrain, or terminate any acts in  
2        violation of subsection (d).