

I think we are going to get it done, but let's just think for a moment. We have taken a couple of votes. They have been pretty good, lopsided votes for us. If we fail in moving this bill after it has such tremendous support, how do we do the tough stuff? How do we do the deficit reduction we need to do? How do we do the tough stuff that comes here? Let's do this. Let's level the playing field. Let's make this responsive to those Main Street businesses who every day struggle and are simply asking for justice. They are simply asking for equity.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. MCCONNELL. Mr. President, I am going to proceed on my leader time.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator is recognized.

THE SEQUESTER

Mr. MCCONNELL. Mr. President, as a result of the administration's poor planning and, I would argue, political motives, thousands of people were stuck on tarmacs over the last few days. The FAA's mismanagement of this issue is the source of bipartisan frustration. Our goal shouldn't be to score political points on the backs of weary travelers, it should be to fix the problem.

Look, the Obama administration knew about the sequester for months—for months. Yet it gave the traveling public and Congress only 3 days' notice before implementing the furloughs now being blamed for these delays. The FAA Administrator testified before the Commerce and Appropriations Committees last week but made no mention of the magnitude and impact on delays of these furloughs that were just right around the corner.

It seems completely implausible to me he didn't know about them when he was testifying last week. Was the administration hiding the ball from the traveling public? It seems like a fair question.

Frankly, this episode is a perfect illustration of why Republicans sought to give the administration even greater flexibility to ensure they could prioritize essential services. One of the primary areas for which that flexibility was intended was air traffic control. The fact the administration rejected it strongly suggests a political motive is at play.

I would also remind everyone this flexibility was rejected by nearly every Democrat in the Senate, and the President threatened to veto legislation that granted it, holding it hostage to tax hikes instead.

So here is what I would suggest at this point. We are where we are. The Obama administration needs to direct the FAA to review their current spending and use their existing flexibility to keep America moving as smoothly as possible. Ensuring the safe, efficient movement of the traveling public is a much higher priority than the administration's own travel, conferences, and consultants.

Not all government spending is created equally, and so this morning I am calling on the Obama administration and the FAA to be smarter and more transparent about the sequester. That means prioritizing funding to ensure flights are not needlessly delayed or canceled.

If for some reason the President or the FAA do not believe they have the flexibility to address this issue, they should ask Congress for the flexibility they need. Until then, however, they should use the flexibility we all know they do have to ease the burden on passengers.

But let's be clear: We wouldn't even be in this situation if the administration hadn't rejected the flexibility we offered them months ago or if they had done the planning they needed to do in the first place. There is no good reason for these delays.

MARKETPLACE FAIRNESS ACT

Mr. MCCONNELL. Mr. President, this week, the Senate is debating a bill that would authorize States to require retailers to collect taxes on remote sales. I recognize there are a range of views on this bill, and these views don't break along partisan lines nor do they follow, really, along traditional ideological lines. Speaking for myself, however, I intend to oppose the bill, and here is why.

For me, the issue boils down to the fact the legislation we are considering would create an enormous compliance burden for a lot of small businesses out there, making them tax collectors for thousands of far-away jurisdictions. Just as importantly, this legislation would increase the tax burden on Kentuckians. As I have said before, I don't think the people of Kentucky sent me here to help them pay higher taxes.

Brick-and-mortar companies complain about the inequity that exists in current law, where their customers have to pay taxes that online shoppers do not. Frankly, that is a legitimate concern; but by imposing this new Internet tax, States would suddenly be empowered to force online retailers to simultaneously comply with all the different tax codes of all the States in which their customers reside. And that is no small feat.

From what I am told, there are nearly 10,000 State, local, and municipal tax

codes nationwide. While complying with so many codes might not be a big deal for large online retailers, it is actually a huge burden for the little guys. So small business owners are worried, and justifiably so.

I know they are in Kentucky because so many keep writing to share their concerns with me. One small business owner lamented that "small online business owner[s] ha[d] been silenced and pushed to the side" in this debate as larger companies "[press] for the changes to take effect as quickly as possible. The simple matter of the fact is that any business with [fewer] than 100 employees would be completely overwhelmed by applying, keeping, updating, and reporting sales tax for every state and tax zone in the United States."

It is pretty hard to argue with that. Moreover, this is a bill that—once again, as happens all too often in the Senate—hasn't been run through a committee, hasn't been properly vetted, and hasn't yet had the kinks worked out of it.

It is not like there aren't other things that can be done to improve tax compliance for online shoppers—things that don't require us to turn private businesses into tax collectors for remote State governments. Most States impose a use tax, for instance, which requires taxpayers to report how much they have purchased on the Internet. Individual States that are concerned about this issue could choose to enforce their own existing use taxes rather than expect the Federal Government to impose sweeping legislation to empower States to reach across borders to collect taxes.

And let's not forget the fact that the Internet has been such an enormous source of innovation and convenience for our constituents, our country, and our economy—even in these tough economic times. But that is largely because the government has kept its nose out and allowed innovation to flourish.

I won't be supporting this bill. If States decide they need this revenue, they should keep in mind the tremendous burden they will be placing on the little guys who do so much to drive this economy. In my view, the Federal Government should be looking for ways to help, not hurt, these folks. Let's be honest; the big guys can take care of themselves. Let's not make it even harder for the smaller competitors.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from North Dakota.

COMMENDING SENATOR HEITKAMP

Mr. HOEVEN. Mr. President, I come to the floor to commend my esteemed colleague from the State of North Dakota, Senator HEITKAMP, on giving her maiden address this morning. She is not only someone I have known for a long time and worked with for a long time but somebody who I think truly brings a spirit of bipartisanship to this

body, which is so needed as we address the challenges today, ranging from our debt and deficit, to getting our economy going, to getting people back to work, and addressing things such as terrorism and the heinous act we saw in the attack on the marathon in Boston and the great people of this great country, on immigration, on entitlement reform, protecting and preserving Social Security and Medicare for the long term, progrowth tax reform, an energy plan for this country, making sure we find ways to get our health care system working better—the finest health care system in the world—all of these great issues of the day for this Nation. I know she brings that sense of bipartisanship and that desire to serve the people of this great country.

It is an unbelievable honor to serve the people of North Dakota and this country and this body, and I look forward to working with Senator HEITKAMP—and all of our colleagues—on the challenges we face and the opportunities we face, the greatest country in the world, as we work on behalf of the American people. But I do want to commend her for her dedication and her commitment and her vision for a brighter future for this country.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MARKETPLACE FAIRNESS ACT

Mr. ALEXANDER. Mr. President, I know Senator BARRASSO is coming, but until he does, I wish to make a few comments about the Marketplace Fairness Act, which is the legislation before us today, and especially, to begin with, Senator HEITKAMP's address, the new Senator from North Dakota.

It is rare that a new Senator has a chance to come to the Senate and in her first few months find us debating a bill she brought when she was a State official in North Dakota 20 years ago. That shows why the Senate is a good place for people with a little bit of experience because she can bring to us exactly what we are talking about.

Her story about the small business people who are making a few dollars and have a very small margin for profit and then who are discriminated against by out-of-State sellers who don't have to collect the tax that is already owed is a real story, and she made a remarkably good address and I compliment her for that and welcome her to the Senate.

Sometimes we launch into these complicated debates without saying what we are talking about. Let me see if I can say in a few simple words exactly what we are talking about here.

My wife gave me an ice cream freezer for my birthday last year. She got it from Williams-Sonoma. It is not one of those freezers you have to crank, as I did when I was a kid, and when you eat the ice cream it makes your head hurt because you would eat it too fast. This is a modern ice cream freezer, and you mix the stuff up and put it in, and after a while here comes the ice cream. But then I discovered that Williams-Sonoma also sells a mix you can order and that makes it even easier. So I ordered the mix.

Williams-Sonoma has stores in Tennessee, but I ordered mine online. I don't do this very much so I am not the best online purchaser who is around. But I looked up the catalog number, punched a few buttons on my computer, and I ordered my ice cream ingredients. It asked for my name, address, and the information on my credit card. And with that information, two things happened: I ordered the ingredients and they arrived within a few days. But Williams-Sonoma, through the Internet, determined from my ZIP Code what the sales tax is in Tennessee and in my home county and will remit it electronically to the State of Tennessee. That is what we are talking about.

If I go to the Williams-Sonoma store in Nashville and I buy the ice cream freezer or the ingredients, they add our 10-percent sales tax to it. If I order it online from Williams-Sonoma, they add the 10 percent, too, because I put my ZIP Code in. The way software is today, it is very simple to find out what the tax is in any jurisdiction. It is as easy as finding out the weather. If I want to know the weather in Maryville, TN, I put weather 37205. That is my ZIP Code. I find out the weather. Williams-Sonoma can find out the tax I owe on the ice cream ingredients that way.

So the Williams-Sonoma store in Nashville collects the tax, and they have to do it by law. That is part of their business responsibility in the State of Tennessee. The Williams-Sonoma store online collects the tax because they have stores in Tennessee. But lots of other out-of-State sellers do not collect the tax that is already owed. It is owed.

It is said there is a new tax here. I don't know where everybody got that. They must not have read the bill carefully. The U.S. Congress can't change the sales tax in Tennessee. We can't impose it, we can't lower it, we can't raise it. That is under the responsibility of the sovereign State of Tennessee.

This bill has nothing to do with the Federal Tax Code. Caterpillars have as much to do with the Federal Tax Code as this bill does. So it has nothing to do with taxes. This bill has to do with two words, and two words alone: States rights. Or you could substitute those two words with Tenth Amendment.

Do we believe here in the Senate that the Governor of Tennessee or Massa-

chusetts or Kentucky or Wyoming or anywhere else has to come here and play "mother, may I" to ask permission to decide what the State tax policy ought to be in Tennessee?

Tennessee imposes its own State sales tax. That is its decision. We do not have a State income tax. That is Tennessee's decision. Some States do. States have the right to be right; States have the right to be wrong. That came with our constitutional framework. We ignore it all the time.

A lot of Senators who fly to Washington somehow get the idea—if they can get through the delay on the tarmac everybody else is experiencing right now—that this 1-hour flight makes them smarter because they flew up here. No, it doesn't make us smarter. In fact, we ought to leave to States the responsibilities that States are supposed to have—whether it is in education or in health care or anything else, but certainly in matters of State tax policy. We shouldn't be trying to tell Tennessee or Massachusetts or anybody else what their taxes ought to be.

What we are doing with this bill is we are doing what the Supreme Court said we are the best persons to do. That is what Senator HEITKAMP said a little while ago. We are the ones to write the rules to say: States, of course, may decide whether they want to collect the State sales tax and use tax from all the people who owe it or some of the people who owe it. That is what the issue is.

Let's say we pass the Marketplace Fairness Act. It says that Tennessee can make its own decision about how it collects its sales tax and its use tax. Tennessee could decide it wants to discriminate against the Nashville Boot Company that sells boots out the front door, collects the sales tax, and sends it to the State. Let's discriminate against the Nashville Boot Company and tell the out-of-State seller of boots, You don't have to do that. Or, the State may decide—as I am sure it will, because the Governor, the Lieutenant Governor, and the legislators have told me they will. They may decide: We don't pick and choose between winners and losers, we don't pick and choose between taxpayers, we don't pick and choose between businesses. We want a level playing field. So we are going to say to the out-of-State seller—catalog, online, or whatever it is—welcome. You can sell in Tennessee if you play by the same rules that people who live in Tennessee do. That is all you have to do.

So the States are going to require, as it does, the Nashville Boot Company, the Williams-Sonoma store, the service station, the drugstore, to collect the sales tax and send it in to the States, and it is going to require the out-of-State seller to do the same thing. That is all we are talking about. If the out-of-State seller doesn't want to do it, it doesn't have to. Nobody is requiring people to sell their stuff in Tennessee. It is a free country. It is a big country.