

The Democratic leader, Senator REID, has proposed that we, in fact, defer this sequestration through the remainder of this fiscal year, until October 1. To make up the costs, he uses the overseas contingency fund. This was a fund created to pay for our wars overseas, and thank goodness Iraq has been closed down as an act of war and Afghanistan is in the process. So there will be a surplus of money in this fund—some \$600 billion—that otherwise had been anticipated to be spent.

What the majority leader suggested is that we take a small part of that and use it so we can avoid the impact of sequestration and go back to business as usual for the remainder of this year.

I happen to think sequestration is not a good policy. We need a better approach and more thoughtful approach, and this will give us a chance. We can take the funds that otherwise would be spent overseas—on a war that, thank goodness, will not be there—and instead use them at home to avoid some hardships which have just been described.

So now we hear from the Republican side that they don't think this is a viable alternative. They question whether there is an overseas contingency account. The irony is that Congressman PAUL RYAN, chairman of the House Budget Committee, included the same money in his Republican budget. Senator MCCONNELL, who was critical of it today, said back in April 2011:

Today, the Chairman of the House Budget Committee, Congressman PAUL RYAN, is releasing a serious and detailed plan for getting our nation's fiscal house in order.

That serious plan, I might remind Senator MCCONNELL, included just the funding that Senator REID is asking for. So we are not asking for something the Republicans have not already stood up and embraced. Instead, we are saying let's deal with the national challenges and national emergencies and let's deal with them with the money that would otherwise be spent overseas.

MARKETPLACE FAIRNESS ACT

After we have finished the vote on the judge, I am hoping this important issue will leave us in a position to move to proceed to the underlying bill, the Marketplace Fairness Act. This is a bill that Senator ENZI of Wyoming and I have introduced in an effort to bring some equity and fairness when it comes to the collection of sales tax.

Currently, in the United States, Internet retailers are not required by law to collect sales tax from sales in States that have a sales tax, and that is about 45 or 46 States. The Supreme Court told us 20 years ago if remote sales—catalog sales and Internet sales—are to collect sales tax, Congress has to pass the law to do it. That is what this is. We have been waiting 20 years. In the meantime, it has created some serious problems.

First, Internet retailers have an advantage over the brick-and-mortar

businesses in communities. They have an advantage because the Internet retailers don't collect sales tax, so there is an automatic discount on whatever the State sales tax might be—6, 8, 9, or 10 percent. This has caused many of the stores on Main Street and in shopping malls to face competition that is unfair and sometimes forces them into closing their businesses.

We are trying to level the playing field and say: If you sell into a State such as Illinois, you will collect our sales tax on the sales to Illinoisans buying your products, period.

The debate has come up over the States which have no sales tax. Let me make it clear: There is nothing in the Marketplace Fairness bill which will impose any new Federal tax or any sales tax beyond what is currently in the law in every State in the union.

If a State, such as Oregon, Montana, New Hampshire, Delaware, even Alaska, has no State sales tax, this bill will not change it. The residents of those States will not be compelled to pay a sales tax either over the counter or over the Internet. If a retailer that happens to be located in one of those States sells into a State with a sales tax, we will provide, free of charge, the software for them to collect the sales tax and remit it to the State where the purchase was made.

There have been arguments that this is too complicated; that there are 9,000 different taxing districts. I just have to say that with software available today, what we are suggesting is something that is easily done without great cost. In fact, in this bill we are requiring the States to provide software to the Internet retailers free of charge so they can collect the sales tax as it is charged on each Internet purchase.

There have been suggestions by some that we ought to carve out some States; that we ought to say this new law will apply to some States but not to other States. The States and their businesses have to volunteer to collect a sales tax for another State.

I cannot accept that. It is worse than the current situation.

In the current situation, the store on Main Street is competing with an Internet retailer that doesn't collect a sales tax. This carve-out approach would say not only will we discriminate against those shops on Main Street, other Internet retailers which are not in the State that is carved out have to collect sales tax, but those in the carve-out State don't. So it makes for an even more inequitable situation. I could not accept it.

I might say the Presiding Officer, who has quite a history on this issue, having been one of the parties to the Quill Supreme Court decision, also made the point that we ought to take care; the standard we set for the collection of sales tax is likely to be used in the next trade negotiation with a country that is trying to establish their rules when it comes to competition on Internet commerce.

So if the collection of sales tax is required across the board in America, the same can be asked in our trade agreements with other countries. If we don't do that, we run the risk that the carve-out becomes the exception that makes the rule in the next trade agreement, which is something that would be totally unfair to American companies.

So that is where we stand. What I said yesterday, I will repeat now. At noon today we will move to proceed to this bill. I have urged my colleagues to come forward with amendments if they have them. If they don't, that is fine. But if they do, bring them forward. Let's not delay this issue.

We are in the last week before a recess. Members have plans back in their States for the weekend, and we want to make sure they can keep those plans. Those Members who have an amendment to this bill should step forward with their suggestions immediately after the vote on the motion to proceed.

Members should bring their amendments to the Senate floor. Don't wait. It is important that we do this on a regular basis so we can debate those amendments which need to be debated and vote on them, which is almost how a Senate is supposed to do it. That is what we face.

I urge those who are holding back their amendments and want to wait until Thursday or Friday—if anybody does that, we are likely to be here beyond Thursday and Friday, and that is not fair to our colleagues. If anybody has a good amendment—or any amendment for that matter—bring it to the floor.

Senator ENZI, Senator ALEXANDER, Senator HEITKAMP, and I will work to try to find a way to accommodate amendments that are consistent with the bill—or at least debate them and have a vote on them if they are not. I think that is the best thing we can do. As I said, I think that is why we were elected—to debate these issues, resolve them, and vote.

So this is a fair warning to everyone. There are no excuses left. This bill has been on the calendar and available for amendment since last week, which gave everyone plenty of time to craft their amendment. Bring it to the floor immediately after the vote on the motion to proceed, and let's get down to business. Let's do what we were elected to do and pass this bill—or at least vote on this bill, and I hope pass it—before we break for this recess.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. Madam President, I ask unanimous consent to address the Senate for up to 5 minutes on the marketplace fairness legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. Madam President, before he leaves the floor, I would like to thank the distinguished majority whip for his leadership. I also want to thank Senator ENZI, Senator ALEXANDER, and

the Presiding Officer for their leadership on what is an important issue to my State, and really to every State.

The marketplace fairness bill is a good idea whose time has finally come. We have been waiting 20 years since the court decision to give direction to our States so they can collect the retail sales tax upon which many of them finance most—if not all in some cases—of their governmental operations. This is not a new tax. It is not a different tax. It is not a tax we are applying to anybody. It is a mechanism for the collection of a tax that has been owed for over 20 years by people making retail purchases in our States from people who sell out of State.

I commend the leadership on the legislation, the way it is drawn. I hope everybody will bring their amendments to the floor, if they have any. I don't know that there is any need for them. I hope we can send a clear message to the House and to our States that we are prepared to let our local governments and our State governments collect the tax that is owed to them and has been owed to them.

The Governor of my State, Nathan Deal, last year led a major tax reform package that passed with only one dissenting vote in our legislature. It reformed taxes on utilities for manufacturing to attract businesses to our State. It reformed our income tax code and it reformed a lot of our taxes, but it also passed legislation consistent with the Marketplace Fairness Act so we can finally collect a tax that has been owed for a long time in our State.

As a real estate guy, as someone who used to lease retail space in shopping centers and on corners in the cities and counties in our State, I know what it has meant to retailers. What has happened is, in many cases, they become showrooms and servicing agents for an offsite seller. Customers in our community will go to the retail store, look at the products, go home and go on the Internet, buy the product on the Internet, and if something goes wrong with it, they will go back to the store and try to get it fixed. But the State never gets the sales tax on that sale because it was an Internet sale made by someone offsite.

Secondly, it has put pressure on the rest of the tax system. Think about this. If a local community gets most of its revenue from a local special purpose sales tax and all of a sudden that tax goes down, not because people aren't paying it but because it is not being collected, what happens? The pressure on the ad valorem tax goes up. So the retailer, who is already burdened with losing business because of Internet sales, becomes further burdened because they have more pressure from the ad valorem tax they pay for the space they lease and occupy. So it has had a compounding effect.

Also, we are famous in Washington for what is known as unfunded mandates to local government, whether it is IDEA in education or whatever it

might be. It is time we gave our local governments the chance for a mandate to collect a tax that is owed to them.

Lastly, for my State of Georgia, we have a 4-percent sales and use tax that goes to our State. We have special purpose local option sales taxes that are referendum taxes levied by local communities to finance school construction and other opportunities. We have a Metropolitan Rapid Transit Authority in Atlanta which in 1974 was seeded with a referendum that passed a 1-cent tax in Fulton and Dekalb Counties for the financing of the beginning of that subway system. It is not fair to deny those States and those entities the ability to collect a tax that is owed. It is only right, after 20 years of getting direction from the appellate courts as to what to do, that this Senate and this Congress and our country say to our States we are going to give a mandate for States to collect the taxes owed to them. We are going to take the pressure off the local retailers. We are going to level the playing field. We are not adding a tax to anyone; we are adding opportunity to everyone.

I commend Senator DURBIN, the Presiding Officer, Senator ALEXANDER, and Senator ENZI for their tireless leadership. I urge all Members of the Senate to do what we did on the motion to proceed and what we did on the amendment on the budget. Let's give an overwhelming ratification of the Marketplace Fairness Act.

Mr. CARPER. Madam President, would the Senator yield for a moment?

Mr. ISAKSON. Absolutely.

Mr. CARPER. Madam President, I wish to join with the Senator from Georgia. There are issues we disagree on, but this is a subject we agree on—another one we agree on.

I was privileged to be the Governor of Delaware for 8 years, and now I have served with the Senator from Georgia and other colleagues for the last 12 years. Delaware is one of those States that doesn't have a sales tax. I think most of these States that don't have a sales tax are not supportive of this bill. I am. Either I am out of step or maybe not.

We have all these signs when people come into a State that say "Welcome to," whether it is Georgia or Delaware or North Dakota. We had a sign that said, "Welcome to Delaware, the Small Wonder, the First State" and they all had the name of the Governor. When I became Governor, I said why don't we take down the name of the Governor and put something else up, and what we put up is "Home of Tax-Free Shopping." That is what we put up: "Home of Tax-Free Shopping."

In our little State, we have borders with New Jersey to the east and Pennsylvania to the north and Maryland to the west. They have sales tax. A lot of people in those States come to Delaware to shop, to buy things, and help to fuel our economy, our retail economy, and to help fuel our tourism economy as well. When people say to me: As a

former Governor and a Senator from a State that doesn't have a sales tax, why do you support this bill, one, I think it is an equity issue. The brick-and-mortar merchants are there collecting the sales tax in those 45 or so States that have a sales tax to help support the community, help to support the government and the services that are provided locally in States across America. Then we have folks who are selling things over the Internet to people who live in those States without collecting the sales tax, without being part of the solution.

The other thing—and the Senator from Georgia knows as well as I do—the brick-and-mortar merchants have people come into their stores pretty regularly, and they ask the merchants: How would you like to help support the Little League? How would you like to help support the Boy Scouts and Girl Scouts? How would you like to support this festival or this function? They get asked about those things all the time—and they do. Meanwhile, the folks they are competing with—the Internet sales—they are not supporting those kinds of activities. So there is an equity question here.

For me, why I see value in this—a guy who comes from a State who doesn't have a sales tax—is this: I want more people from other States, including the three around us, to come and buy things in my State. If they can buy things over the Internet and not pay a sales tax, then why would they come to Delaware? But if they have to pay a sales tax that is going to be collected by the Internet provider selling to people in those States with sales taxes, they might come to Delaware and shop.

Mr. ISAKSON. Madam President, I appreciate the leadership of the distinguished former Governor. Knowing him as well as I do, he is a States rights advocate and this is a States rights issue and we are here to protect the rights of our States.

Mr. CARPER. It sure is a States rights issue. I would be remiss if I didn't say this. I know my colleague has to leave. But in my first term as Governor, I had never heard of MIKE ENZI. Who is this MIKE ENZI guy? It turns out he is a great guy. He is one of our colleagues and a former mayor of Gillette, WY, and he has been pushing this as a Senator forever. Mike Leavitt, who succeeded me as chairman of the NGA, has been pushing this forever, a former Governor of Utah. So I give a shout out to both of them for their leadership. If we don't give up, sometimes we can get stuff done, and MIKE ENZI doesn't give up and I know the Senator from Georgia doesn't. So I thank my friend.

NOMINATION OF SYLVIA MATHEWS BURWELL

Madam President, I would like to speak a bit, if I may, on the nomination of Sylvia Mathews Burwell, whose nomination as the Director of the Office of Management and Budget has come through our Committee on Homeland Security and Governmental Affairs as well as through the Budget