

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

(The foregoing tally has been changed to reflect the above order.)

VOTE EXPLANATION

• Mr. COWAN. Madam President, I was necessarily absent from votes during today's session. Had I been present for the votes, I would have supported the nominations of Jane Kelly, of Iowa, to be United States Circuit Judge for the Eighth Circuit and Sylvia Mathews Burwell, of West Virginia, to be Director of the Office of Management and Budget. I would have also supported the motion to proceed to S. 743, the Marketplace Fairness Act. •

MARKETPLACE FAIRNESS ACT OF 2013

The PRESIDING OFFICER. The clerk will report the bill.

The legislative clerk read as follows:

A bill (S. 743) to restore States' sovereign rights to enforce State and local sales and use tax laws, and for other purposes.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 741

Mr. REID. Madam President, on behalf of Senators Enzi, Durbin, and others, I have an amendment at the desk and I ask the clerk to report.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID], for Mr. ENZI, Mr. DURBIN, Mr. ALEXANDER, and Ms. HEITKAMP, proposes an amendment numbered 741.

The amendment is as follows:

Beginning on page 2, line 10, strike "if the Streamlined" and all that follows through page 11, line 5, and insert the following:

if any changes to the Streamlined Sales and Use Tax Agreement made after the date of the enactment of this Act are not in conflict with the minimum simplification requirements in subsection (b)(2). A State may exercise authority under this Act beginning 180 days after the State publishes notice of the State's intent to exercise the authority under this Act, but no earlier than the first day of the calendar quarter that is at least 180 days after the date of the enactment of this Act.

(b) ALTERNATIVE.—A State that is not a Member State under the Streamlined Sales and Use Tax Agreement is authorized notwithstanding any other provision of law to require all sellers not qualifying for the small seller exception described in subsection (c) to collect and remit sales and use taxes with respect to remote sales sourced to that State, but only if the State adopts and implements the minimum simplification requirements in paragraph (2). Such authority shall commence beginning no earlier than the first day of the calendar quarter that is at least 6 months after the date that the State—

(1) enacts legislation to exercise the authority granted by this Act—

(A) specifying the tax or taxes to which such authority and the minimum simplification requirements in paragraph (2) shall apply; and

(B) specifying the products and services otherwise subject to the tax or taxes identi-

fied by the State under subparagraph (A) to which the authority of this Act shall not apply; and

(2) implements each of the following minimum simplification requirements:

(A) Provide—

(i) a single entity within the State responsible for all State and local sales and use tax administration, return processing, and audits for remote sales sourced to the State;

(ii) a single audit of a remote seller for all State and local taxing jurisdictions within that State; and

(iii) a single sales and use tax return to be used by remote sellers to be filed with the single entity responsible for tax administration.

A State may not require a remote seller to file sales and use tax returns any more frequently than returns are required for non-remote sellers or impose requirements on remote sellers that the State does not impose on nonremote sellers with respect to the collection of sales and use taxes under this Act. No local jurisdiction may require a remote seller to submit a sales and use tax return or to collect sales and use taxes other than as provided by this paragraph.

(B) Provide a uniform sales and use tax base among the State and the local taxing jurisdictions within the State pursuant to paragraph (1).

(C) Source all remote sales in compliance with the sourcing definition set forth in section 4(7).

(D) Provide—

(i) information indicating the taxability of products and services along with any product and service exemptions from sales and use tax in the State and a rates and boundary database;

(ii) software free of charge for remote sellers that calculates sales and use taxes due on each transaction at the time the transaction is completed, that files sales and use tax returns, and that is updated to reflect rate changes as described in subparagraph (H); and

(iii) certification procedures for persons to be approved as certified software providers.

For purposes of clause (iii), the software provided by certified software providers shall be capable of calculating and filing sales and use taxes in all States qualified under this Act.

(E) Relieve remote sellers from liability to the State or locality for the incorrect collection, remittance, or noncollection of sales and use taxes, including any penalties or interest, if the liability is the result of an error or omission made by a certified software provider.

(F) Relieve certified software providers from liability to the State or locality for the incorrect collection, remittance, or noncollection of sales and use taxes, including any penalties or interest, if the liability is the result of misleading or inaccurate information provided by a remote seller.

(G) Relieve remote sellers and certified software providers from liability to the State or locality for incorrect collection, remittance, or noncollection of sales and use taxes, including any penalties or interest, if the liability is the result of incorrect information or software provided by the State.

(H) Provide remote sellers and certified software providers with 90 days notice of a rate change by the State or any locality in the State and update the information described in subparagraph (D)(i) accordingly and relieve any remote seller or certified software provider from liability for collecting sales and use taxes at the immediately preceding effective rate during the 90-day notice period if the required notice is not provided.

(c) SMALL SELLER EXCEPTION.—A State is authorized to require a remote seller to collect sales and use taxes under this Act only if the remote seller has gross annual receipts in total remote sales in the United States in the preceding calendar year exceeding \$1,000,000. For purposes of determining whether the threshold in this section is met, the gross annual receipts from remote sales of 2 or more persons shall be aggregated if—

(1) such persons are related to the remote seller within the meaning of subsections (b) and (c) of section 267 or section 707(b)(1) of the Internal Revenue Code of 1986; or

(2) such persons have 1 or more ownership relationships and such relationships were designed with a principal purpose of avoiding the application of these rules.

SEC. 3. LIMITATIONS.

(a) IN GENERAL.—Nothing in this Act shall be construed as—

(1) subjecting a seller or any other person to franchise, income, occupation, or any other type of taxes, other than sales and use taxes;

(2) affecting the application of such taxes; or

(3) enlarging or reducing State authority to impose such taxes.

(b) NO EFFECT ON NEXUS.—This Act shall not be construed to create any nexus or alter the standards for determining nexus between a person and a State or locality.

(c) NO EFFECT ON SELLER CHOICE.—Nothing in this Act shall be construed to deny the ability of a remote seller to deploy and utilize a certified software provider of the seller's choice.

(d) LICENSING AND REGULATORY REQUIREMENTS.—Nothing in this Act shall be construed as permitting or prohibiting a State from—

(1) licensing or regulating any person;

(2) requiring any person to qualify to transact intrastate business;

(3) subjecting any person to State or local taxes not related to the sale of products or services; or

(4) exercising authority over matters of interstate commerce.

(e) NO NEW TAXES.—Nothing in this Act shall be construed as encouraging a State to impose sales and use taxes on any products or services not subject to taxation prior to the date of the enactment of this Act.

(f) NO EFFECT ON INTRASTATE SALES.—The provisions of this Act shall apply only to remote sales and shall not apply to intrastate sales or intrastate sourcing rules. States granted authority under section 2(a) shall comply with all intrastate provisions of the Streamlined Sales and Use Tax Agreement.

(g) NO EFFECT ON MOBILE TELECOMMUNICATIONS SOURCING ACT.—Nothing in this Act shall be construed as altering in any manner or preempting the Mobile Telecommunications Sourcing Act (4 U.S.C. 116-126).

SEC. 4. DEFINITIONS AND SPECIAL RULES.

In this Act:

(1) CERTIFIED SOFTWARE PROVIDER.—The term "certified software provider" means a person that—

(A) provides software to remote sellers to facilitate State and local sales and use tax compliance pursuant to section 2(b)(2)(D)(ii); and

(B) is certified by a State to so provide such software.

(2) LOCALITY; LOCAL.—The terms "locality" and "local" refer to any political subdivision of a State.

(3) MEMBER STATE.—The term "Member State"—

(A) means a Member State as that term is used under the Streamlined Sales and Use Tax Agreement as in effect on the date of the enactment of this Act; and

(B) does not include any associate member under the Streamlined Sales and Use Tax Agreement.

(4) PERSON.—The term “person” means an individual, trust, estate, fiduciary, partnership, corporation, limited liability company, or other legal entity, and a State or local government.

(5) REMOTE SALE.—The term “remote sale” means a sale into a State, as determined under the sourcing rules under paragraph (7), in which the seller would not legally be required to pay, collect, or remit State or local sales and use taxes unless provided by this Act.

(6) REMOTE SELLER.—The term “remote seller” means a person that makes remote sales in the State.

(7) SOURCED.—For purposes of a State granted authority under section 2(b), the location to which a remote sale is sourced refers to the location where the product or service sold is received by the purchaser, based on the location indicated by instructions for delivery that the purchaser furnishes to the seller. When no delivery location is specified, the remote sale is sourced to the customer’s address that is either known to the seller or, if not known, obtained by the seller during the consummation of the transaction, including the address of the customer’s payment instrument if no other address is available. If an address is unknown and a billing address cannot be obtained, the remote sale is sourced to the address of the seller from which the remote sale was made. A State granted authority under section 2(a) shall comply with the sourcing provisions of the Streamlined Sales and Use Tax Agreement.

(8) STATE.—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States, and any tribal organization (as defined in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b)).

CLOTURE MOTION

Mr. REID. I have a cloture motion at the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on S. 743, a bill to restore States’ sovereign rights to enforce State and local sales and use tax laws, and for other purposes.

Harry Reid, Richard J. Durbin, Heidi Heitkamp, Martin Heinrich, Amy Klobuchar, Al Franken, Sherrod Brown, Brian Schatz, Benjamin L. Cardin, Angus S. King, Jr., Richard Blumenthal, Sheldon Whitehouse, John D. Rockefeller IV, Joe Manchin III, Thomas R. Carper, Tom Harkin, Patrick J. Leahy.

Mr. REID. I ask unanimous consent that the reading of the names be waived.

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

Mr. REID. I now ask unanimous consent that the mandatory quorum under rule XXII be waived.

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

Mr. REID. Madam President, I now ask unanimous consent that Senator DONNELLY be recognized for up to 20 minutes to give his maiden speech, and he will proceed as in morning business. Following his speech, I ask unanimous consent that Senator DURBIN, the manager of the bill, be recognized.

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

The Senator from Indiana.

AN OPPORTUNITY AGENDA

Mr. DONNELLY. Madam President, one of the best parts about this job is getting the chance to talk to Hoosiers here in Washington, back home in Indiana, and, on those special occasions, a chance to see our Hoosiers when they are serving our country overseas.

When I was visiting our servicemembers in Afghanistan in Khost Province in July 2009, I asked our Indiana National Guard members if there was one thing I could do for them, what would that be? I expected them to tell me about safety vests or about new trucks. They said, JOE, we have this handled here. What we need more than anything is a chance to have a job when we get home. We owe our servicemembers that opportunity.

From Hoosiers serving our Nation in Afghanistan and around the world to the communities of Vincennes and Madison and Plymouth and Gary, the message is the same everywhere. It is about jobs, and the chance to go to work and take care of your family. So how do we take the Hoosier common-sense approach, focus on jobs and create the conditions needed for our people and our businesses to succeed?

I propose an opportunity agenda. Government doesn’t create jobs; businesses create jobs. So let’s create the opportunities, help put the conditions in place for our businesses in Indiana and around the country to be able to create more jobs, put the programs in place for all of the American people to be ready to hit the ground running on day one. Because if we don’t have a job, nothing else works. We can talk about health care, we can talk about climate change, we can talk about any other issue, but if we don’t have the chance to go to work and earn a living and take care of our family, nothing else works.

That is why earlier this month I conducted a series of roundtable meetings in eight different Hoosier communities trying to get ideas from Hoosier businesses, community leaders, and educators, asking one simple question: How can we help our entrepreneurs, our small business owners, the men and women who go to work every day, how can we help them create more jobs? So in creating an opportunity agenda built on Hoosier common sense, I heard loudly and clearly: The place to start is with education and with training.

In every community I went to, I heard about the skills gap: jobs that are currently going unfilled—opportunities that are there for the taking but we have to have workers who have the

skills our employers need. Getting a job is a two-way street. Both Hoosier companies and Hoosier workers have responsibilities. We can’t expect a good job and good pay if we don’t bring some skills to the table.

I heard from a welding trainer in Gary, IN, from an IT company in Noblesville, and from rural health care providers in Terre Haute, IN, and the message was the same, and it resonates across the board and across the State: Employers need more skilled workers. Good skills equal good jobs.

That is why I helped introduce the bipartisan AMERICA Works Act, which modifies Federal training programs to place a priority on those programs and those certifications demanded by today’s businesses and today’s industries.

The improvements in this bill are a benefit for both workers and employers. Workers would know the time they spend training is more likely to lead to a good job. For employers, they will be more likely to hire people they know have the training they need to be productive the moment they walk in the door.

We also have to make sure our businesses do not get overwhelmed by regulations. In Fort Wayne I heard about businesses dealing with too many regulations that don’t make any sense for their particular industry. It is time to get rid of the bureaucratic mess and to keep what works. Regulations should be like the umpire on the field: Make sure everyone is playing by the rules, make sure the rules are common sense, and then stay in the background. Regulations should protect the health and safety of our families and our workers while not creating unnecessary burdens for our business owners.

Further, the regulatory system should give businesses the certainty they need to plan for the future and the ability to compete with anyone anywhere in the world.

We need to go all-in on American energy. This helps our businesses, helps our families, and helps national security. I was in Lawrenceburg, IN, a beautiful town right along the Ohio River. When I was there, I heard of one of the companies located there, a trucking company, that is trying to turn their fleet into a natural gas fleet. They are interested in making that transition, but the front-end costs are high and the infrastructure isn’t in place yet. So developing American energy sources makes sense for American business, makes sense for our families, and makes sense for national security.

Let’s keep more of our hard-earned dollars in Indiana—or in Wisconsin, the home State of the Presiding Officer—by investing in homegrown energy including solar, coal, wind, oil, natural gas, biodiesel, ethanol, nuclear.

We are blessed with an abundance of energy right here in America. It makes us stronger, creates jobs, reduces our debt, and gives us a chance to make our Nation safer.

I support projects such as the Keystone Pipeline because it creates jobs, puts people to work, and has significant bipartisan support. That is an example of a commonsense investment in domestic energy that both sides of the aisle can support.

These are just a few of the ideas I have gotten from people who are creating jobs, running businesses, meeting payroll, employing our neighbors, and growing our businesses all across Indiana.

There is a whole lot more wisdom in Washington, IN, than there is in Washington, DC. A big reason for this is because Hoosiers, as many Americans, are focused on just getting things done, working together. It is not about partisanship, and it is not about politics. In Indiana it is about common sense and trying to solve the problem. It is about an opportunity agenda that creates jobs for hard-working people and a good life for their families. That is what it is all about.

Here is what I am about: taking the best ideas from both parties, both sides of this Chamber, and getting things done—starting with jobs. As Hoosiers, we do not care if you are a Democrat; we do not care if you are a Republican; we care if you are ready to go to work on what matters most.

We make decisions based on what is best for our families. We take pride in making the checkbook balance and making tough choices necessary to make that possible. We expect the same from our government. Keep taxes low, cut waste, and do not throw more money at the problem. Just try to solve the problem.

Hoosiers are hard working. We do not want a free lunch; all we want is a fair shake. We believe respect is earned through the sweat and the hard work we put in every single day. We do not expect to receive anything we have not earned.

Hoosier common sense tells us that our families are all better off when we have stronger communities and more opportunities for businesses and workers. We take care of our brothers and sisters in need, not with a handout but by providing them with the opportunity to work hard and to build a better life.

We have a proud tradition of Senators from Indiana who have embodied these principles of Hoosier common sense: from Senator Lugar's decades of leadership in matters of commonsense foreign policy, his leadership in saving over 100,000 Hoosier auto jobs, and his constant efforts on behalf of Indiana's farmers, from Lake Michigan to the Ohio River; to Senator Birch Bayh's tireless efforts to expanding voting rights and equality for women through his efforts on title IX; to Senator and Vice President Dan Quayle's bipartisan efforts to pass job training legislation; to Senator Evan Bayh flexing his independence and his passion to get our fiscal house in order; and to my current colleague, Senator DAN COATS, in his efforts to keep our Nation safe.

The people of Indiana expect their leaders to put Hoosier common sense ahead of partisanship. We expect our Senators not to be the loudest people in the building but the hardest working people in the building, and in my case to make my job about making sure I am looking out for their jobs.

I am honored to be here in this Chamber working every day—not because I work for anybody here; I work for everyone back home. That is my mission, that is my job, and I am incredibly privileged to do that.

God bless Indiana. God bless the United States.

Madam President, I yield back.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, let me congratulate my colleague from my neighboring State of Indiana, Senator DONNELLY, on his first speech on the floor of the Senate. I can tell you, as a downstater in Illinois, I can identify with so many things he said about his State and his pride in his State and his feelings about his responsibility as the new Senator from the Hoosier State.

I thank him so much for that comment and look forward to working with him for many years to come as we represent adjoining States.

AMENDMENT NO. 745 TO AMENDMENT NO. 741

Madam President, I have an amendment at the desk and ask that it be called up.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 745 to amendment No. 741.

Mr. DURBIN. Madam President, I ask unanimous consent that reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end, add the following:

This Act shall become effective 1 day after enactment.

Mr. DURBIN. Madam President, I would like to explain where we stand on the pending legislation. This is a bill which has been introduced by Senators ENZI, ALEXANDER, HEITKAMP, and myself. It is S. 743. Pending now on this bill is the managers' amendment, which we have crafted, and a second-degree amendment, which is a slight technical change.

The reason we are at this stage is because we are looking for colleagues to come forward if they have amendments to this bill. We would like to entertain those amendments. We hope they are germane and relevant amendments and not far afield from the important subject matter before us. But I made this announcement yesterday, again this morning, and I make it now: Any Member of the Senate who is interested in amending the bill, please come to the floor with your amendment. Senator ENZI and I will be happy to work with you if we can accept it. If we cannot,

we will at least give an opportunity for debate and a vote.

We want to finish this bill this week. We are going to stay until we finish it, so the sooner Members get serious about their amendments the more likely it is we will be able to leave this week.

So that is the state of play on S. 743.

I have spoken to the substance of this bill several times, but I see some Members on the floor seeking recognition. At this point I yield.

The PRESIDING OFFICER. The Senator from Iowa.

(The remarks of Mr. HARKIN and Mr. SANDERS pertaining to the introduction of S. Con. Res. 15 are printed in today's RECORD under "Submitted Resolutions.")

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, before I yield the floor to the Senator from Arkansas, I would like to again make the point I made earlier.

Pending before the Senate is S. 743. This is the Marketplace Fairness Act cosponsored by myself, Senator ENZI, Senator HEITKAMP, Senator ALEXANDER, and others. This matter is now pending before the Senate, and we are asking all Members with amendments to please bring them to the floor. I know the Senator from Arkansas has heard that call, and that is why he is here. We want to move this forward and have an active debate on this issue. We are asking our colleagues not to put it off. If we want to wrap this up in a timely fashion, we need their cooperation. So I urge all offices, if you have an amendment, please come to the floor and discuss it with Senator ENZI and me.

I yield the floor.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. I wish to talk about amendment No. 740, which is an amendment I am offering with the Senator from Missouri, Mr. BLUNT. We understand there will be an objection to this. I will not ask unanimous consent to call it up at this moment. Hopefully, one of our colleagues will arrive in a minute to do that.

Let me say first that I am for the Marketplace Fairness Act. I am a cosponsor. I believe it is the right thing to do. It is an issue I have been working on since my time more than 10 years ago in the attorney general's office in the State of Arkansas when we were trying to set up a multistate compact about how to collect sales tax on the Internet. This is taxes on Internet sales on the Internet.

What I am talking about today, the Pryor-Blunt amendment, is different. We are talking about amendment No. 740, which is sometimes confused with it, but basically amendment No. 740 deals with the Internet Tax Freedom Act—sometimes called ITFA, of all things—but nonetheless, basically it does just a few things.

First, it makes it clear that online retailers will not begin to have to pay

additional tax just for doing business online. So the way this works is that right now States and cities, counties, et cetera, are prohibited from taxing Internet service. We are not talking about sales tax, we are talking about Internet service, the Internet service itself. This is a moratorium that has been around for a long time. Amendment No. 740 is the amendment that would extend this for 10 years.

This is a clean extension. Basically, there are some States that have been grandfathered under the current moratorium. They will continue to be grandfathered. We do not cover things such as voice, audio, video. That is a separate issue. We are talking about just the Internet itself.

This also does not have any negative impact on the Universal Service Fund, 9-1-1, e911, and other fees like those. Those are separate. We have crafted this very carefully to do just a straight and clean 10-year extension.

We understand there will be an objection to this. Before we hear that objection, I yield the floor for my colleague from Missouri.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BLUNT. Let me quickly yield to my friend from Oklahoma for a unanimous consent request.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. I ask that at the conclusion of the remarks by the Senators from Arkansas and Missouri, that I be recognized as if in morning business.

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

The Senator from Missouri.

Mr. BLUNT. As my good friend from Arkansas said and for the benefit of the Senator from Oregon, we haven't made a request yet for this amendment to be moved to the front of the line to be debated, but we are here to say that we would like to have this amendment on this bill. We are both supporters of the Marketplace Fairness Act for reasons that I hope we have well established, and I think people, including Members of the Senate, are beginning to understand that it is a fairness principle.

But what this amendment does, recognizing the importance of online commerce, that it has grown dramatically since 1998 when this amendment first became part of the law, the Internet Tax Freedom Act—and in 1988, it said that you wouldn't tax the Internet itself for use of the Internet. Unless we act, this law will expire in 2014. This would be a 10-year extension that would simply say that we would continue to ensure that people's access to Internet services is tax free.

To be clear, the underlying bill we are considering, the Marketplace Fairness Act, doesn't create a new tax. It doesn't tax consumers' use of the Internet, and Senator PRYOR and I both would oppose taxing use of the Internet at this point. But this simply adds to the fair tax collection processes that will be available to States under the

Marketplace Fairness Act by extending current law to ensure without any question that this is not about taxing the Internet.

In fact, this amendment would extend for a decade the almost 15-year prohibition on taxing the Internet, the one that goes back to 1998.

So I support the Marketplace Fairness Act. I believe this bill would be even better if it clarified for the next decade that we continue to maintain the view the Congress and the Federal Government has had on the Internet since the Internet first emerged as an avenue of commerce and would not allow for the taxing of the Internet and prevents those taxes from being collected.

I yield for my friend from Arkansas. The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I wish to ask the Senator from Arkansas if he would yield for a question through the Chair.

Mr. PRYOR. Be glad to, Madam President.

Mr. DURBIN. Madam President, pending before us is S. 743, the Marketplace Fairness Act, and this legislation would require Internet retailers selling into States with sales taxes to collect the sales tax. The Senator from Arkansas and the Senator from Missouri have offered a different piece of legislation relating to the Internet. I would like to ask the Senator from Arkansas if he would please clarify a few things.

First, is there any tax imposed by this Marketplace Fairness Act on the use of the Internet?

Mr. PRYOR. No, there is no tax in this amendment. Amendment 740, in fact, extends the moratorium on taxing the Internet.

Mr. DURBIN. I am asking before your amendment is adopted. The underlying bill has no tax on access to the Internet.

Mr. PRYOR. That is correct.

Mr. DURBIN. So the Senator is suggesting the extension of protecting America's right to access the Internet from being taxed; is that correct?

Mr. PRYOR. That is correct.

Mr. DURBIN. So for those who would come to the floor and argue somehow this bill is going to inhibit or restrain Americans in the use of the Internet, it does not, and the Pryor-Blunt amendment, which is being offered, extends for 10 years this prohibition against taxing access to the Internet.

I ask the Senator from Arkansas: The last time this was considered, does the Senator know when and what the disposition of that matter was?

Mr. PRYOR. I am not familiar with the history of that. Would the Senator from Illinois know that?

Mr. DURBIN. My impression—and I could be mistaken—is it was adopted by voice vote. The amendment the Senator is offering giving a 7-year protection against taxes for using the Internet was adopted by voice vote. It was clearly unanimous—at least there were no objections—on a bipartisan basis.

So what is being offered by the Senators from Arkansas and Missouri, on behalf of Internet users all over the United States to protect them from being taxed on this measure, is over and above anything in this bill but is consistent with policy we have lived with for 15 years, if I am not mistaken. I think the Senator from Missouri mentioned it was 15 years. From my point of view, this is a friendly amendment, it is an amendment which is good for America, it protects our access to the Internet, and it does not jeopardize—does not jeopardize—the underlying legislation.

In fact, if I am not mistaken, the two sponsors are cosponsors or at least have supported the underlying Marketplace Fairness Act.

I thank the Senator from Arkansas for yielding for those questions.

Mr. PRYOR. I see my colleague from Oregon is here, and he has a long history with this legislation and other legislation similar to it. Let me make one final point before I try to set aside the current amendment and bring up 740 to make it pending.

My final point is this: The Internet has been an amazing success story. It is unbelievable how successful it has been, how diverse, and how robust. But we think of it as ubiquitous. The truth is, it is not. In the United States, 80 percent of American households have access to the Internet, but only 65 percent take it. So only 65 percent of people in this country actually utilize the Internet and take Internet service.

I am afraid if we do add a tax, if the State and local governments add a tax, it will make it less affordable. A lot of people do not take Internet service because they cannot afford it. So I am afraid if we allow State and local governments to tax access to the Internet—tax the service itself—then we will see that effort hurt even more.

I ask unanimous consent to set aside the pending amendment and call up amendment No. 740 to make it pending.

The PRESIDING OFFICER. (Mr. HEINRICH). Is there objection?

Mr. WYDEN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I do this to have a colloquy with my friend from Arkansas. I want him to understand that I have stayed off the floor of this body for well over 1 day for the sole purpose of trying to see if we can bring both sides together on this issue. I think that is important, and I have already acknowledged I am willing to look at how we could bring both sides together, recognizing the Quill decision.

As I have already said, I have looked at compacts between States and things of this nature, and I have made repeated offers to the advocates of this bill, offering specifics on paper, and essentially nothing is offered in return other than: We have the votes and we are going to coerce you, as Oregonians, to go along with this.

What I wish to do just for a moment is explain why I have to object. I think the Senator knows I authored the Internet tax freedom bill in the Senate back in 1998, and I did it because I thought it was important to have the defense shield against potentially thousands of taxing jurisdictions singling out the Internet for these kinds of taxes. Regrettably, the underlying bill is going to be a targeted strike on the Internet. It is not going to be a defense shield. It would, as it stands today, serve as an amendment that would undercut what we sought to do back in 1998.

As the original author here, I am looking forward to working with the Senator under any circumstance to reauthorize a law that I think has worked. All the law says is you have to do offline what you do online. If we boil it down, it is a nondiscrimination law. This comes up the next year, and the Commerce and Finance Committees both have interests in this. We have always worked cooperatively in these areas. I remember our experience together on nanotechnology.

So I just have to say I am going to have to object at this time, but I am very interested in working with my colleague, with Senator DURBIN, and Senator BLUNT, who was just here, to come up with an arrangement that goes to the heart of this question; that is, should States such as Oregon be coerced, required to collect these online taxes for States that are thousands of miles away. The refrain throughout this whole discussion has been this is a States rights bill.

I respect that, but what it translates into is folks say they are for States rights if they think the State is right and the State is willing to go along with this particular approach that has come out of Washington, DC, which is they would be coerced into collecting these sales taxes for jurisdictions from thousands of miles away. In some cases—New Hampshire and other places have been making this point as well—it would be discriminatory because the online sector would be subjected to requirements that were not required of brick-and-mortar retailers. Again, this undermines our vision for the tech sector, which has been about bricks and clicks. We want both the brick-and-mortar retailers and the online people to do well. I know the Senator from Arkansas agrees with that as well.

So I haven't said anything on the floor of this body on a matter my constituents feel very strongly about for going on 2 days, until just now, solely for purposes of working with my friend from Arkansas and the distinguished leader from Illinois, Senator DURBIN, and I will continue to do that. But at the end of the day, States rights, to some extent, has to have an element of voluntariness. If States rights has no element of voluntary judgments by States, it is pretty hard to say a State has any rights. The State truly is going to be coerced when we have reached the

point, as I would characterize it, where we are going to say in Washington, DC, we believe in States rights if we think the State is right and they are going to go along with the approach we have dictated.

In my part of the world, to show the irony of this situation, Washington State has a sales tax. Oregon does not have a sales tax. There are differential tax considerations in both jurisdictions, and we often make agreements in terms of how we do business. So we have shown it is possible to deal with this issue, and I want my colleague from Arkansas and my friend from Illinois to know I am willing to set aside absolutely everything and work around the clock to see if we can find some common ground, with my theory being it is hard to say it is a States rights approach if a State is unable to have any element in the process with respect to its own judgment, its voluntary judgment, about what it wants to do.

So I object at this time.

The PRESIDING OFFICER. Objection is heard.

The Senator from Illinois.

Mr. DURBIN. Mr. President, I am disappointed. I am disappointed because I know this was a good-faith effort on behalf of the Senators from Arkansas and Missouri to make certain Americans across the board wouldn't have to pay a tax to use the Internet. That has been policy for 15 years. We just had an opportunity to extend it for 10 more years and there was an objection by the Senator from Oregon.

I know in his heart of hearts he didn't want to object because I know his commitment to the Internet and what a difference it has made in this country. Here is the problem he faces and the reason he objected, if I can try to interpret what he just said. There are five States in America with no sales tax—five States. No State sales tax in Alaska, Oregon—the home State of the Senator—Montana, New Hampshire, and Delaware. No sales tax. That means, because that State has decided there will be no sales tax, the people living in that State who make a purchase at a store pay no sales tax—visitors as well, no sales tax. Those who buy things over the Internet in that State don't pay a sales tax either. That is the State's decision. We don't change that a bit. If this underlying bill passes, that will continue.

There is no coercion—which the Senator from Oregon uses as his term—on the State of Oregon to impose any sales tax on their citizens, on the people buying in their State. It is their State right to decide. What this bill does impact is the Internet retailer in Oregon selling products in the State of Illinois. When Nike or Columbia sell products in the State of Illinois, the Supreme Court told us Congress has to decide, if they sell a product in the State of Illinois to an Illinois consumer, do they have to collect the Illinois sales tax. That is what the bill says. That is all it says.

So at the end of the day, here is the question: If you are Nike and you are located in Oregon and you decide to do Internet sales—which I believe they do—but you also decide to have Nike shops available—and we have seen them in malls—what is the law going to be? You know what the law is going to be if you are Nike and you want to come and open a shop in a mall near Chicago—you play by the rules of Chicago and Illinois.

If we require certain filings with our government, if we require you pay certain property taxes, if we require you collect certain sales taxes—rules of the road: If you want to do business in Illinois, you play by Illinois rules. The same thing holds true if I want to open a business in Oregon; I play by Oregon rules.

Now the question: If you don't physically locate in Illinois but sell into Illinois, do you still have to play by Illinois rules? That is what this bill says. That is not coercion.

Nike can decide they don't want to sell in Illinois because they don't want to collect the sales tax in Illinois. That is their business decision. Let it be. But if they want to come and use the customers of Illinois to make a profit, all we are saying to them is: Collect the sales tax. Why? Because their competitors in Illinois—the families who have opened the shops and the stores—are collecting sales tax every day from their customers. They are finding people who are showrooming, walking into the running shoe store, trying on all the shoes, and saying, Just great, let me write something down here, see you later, and then going to the Internet and buying those shoes over the Internet without paying the sales tax. What happens to the store they used to try on the shoes? Eventually, they lose business and sometimes they go out of business.

We are trying to level the playing field. No coercion. Oregon, make up your own laws for your own citizens and people who do business there. We don't change a word of it. But if you want to do business in another State, we are asking that you collect the sales tax of that State. In fact, we provide the software free for you to do it.

I am sorry the Senator from Oregon objected to the Internet freedom bill offered by the Senators from Arkansas and Missouri. It is a good one. It is one we would have liked to have seen part of this discussion. I hope before this conversation and debate end that we get a chance to reconsider.

Mr. INHOFE. Mr. President, point of order.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, by unanimous consent, I was to be recognized after the conclusion of the remarks of the Senators from Missouri and Arkansas. I wish to ask when that would be, because this is going on and on.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I ask unanimous consent to pose a question to my colleague from Oklahoma.

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

Mr. WYDEN. Mr. President, if I would be able to engage the Senator from Oklahoma, with his leave, I could take about 5 minutes or so—no more—to respond to the points Senator DURBIN has made. That would be the end of my time, and I believe the Senator from Oklahoma would be next.

The PRESIDING OFFICER. Is there objection?

Mr. INHOFE. Mr. President, I do not object to that, but I would ask the Senator from Arkansas if he has any objection to that. I want to be sure to get in the queue sometime here.

Mr. WYDEN. Mr. President, very briefly to respond to comments made by my friend from Illinois, this legislation has nothing to do with Nike. Nike of course is a very large company and has stores and trucks and a physical presence all over the United States. They pay taxes because of that physical presence under the Quill decision. So the comments by my colleague from Illinois are very unfortunate, because they misstate what this debate is all about.

This debate is about the little guy.

Later on this afternoon, Senator MERKLEY and I are going to come to the floor of the Senate and actually read accounts from small businesses here in our State. They are people who don't have a physical presence all over the country, and they are scratching their heads this afternoon and they are saying to themselves, How in the world are we possibly going to be able to comply with this, because in a difficult economy, we are barely able to make ends meet. We are going to have to go out and spend time and money and staff figuring out how to do this.

That is what this is about. Are we going to take something like our current policy—which is the defensive shield against discriminatory treatment from these tech-based online businesses—and turn it into a targeted strike on them, which this legislation does, or are we going to work together, which is what I have tried to do pretty much nonstop since Monday, to see if we can find some kind of common ground? Part of the challenge is we have to get some equity even in terms of the amendments, because it looks as though one side is getting to offer theirs and another side may be foreclosed.

I am going to continue to try to reach out to colleagues on both sides of this debate. But I appreciate very much the courtesy of my friend from Oklahoma, because I had to clarify that this amendment is about the small, innovation-oriented businesses that we think are the future and the center of this debate since it got going. I thank my colleague from Oklahoma for his courtesy.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, my good friend from Pennsylvania, Senator TOOMEY, and I had an amendment that we put forth several weeks ago back in the time when we did not know for sure whether sequestration was going to become a reality. We have some comments to make about that.

I will be yielding to the Senator from Pennsylvania in a moment, but I first want to make an observation here, that anytime a bureaucracy is forced to cut, they will find the one thing the people of America want most and that is what they will cut. There is no better example of this than the FAA. I went around with them for quite some time on the pilots bill of rights last summer. We were able to get something done. But I know they are a very powerful agency. There is no question about that.

To give you an example of that, the FAA began furloughing traffic controllers—and others too—on April 21. This is what is interesting, and you have to pay attention to this. The cuts that were going to come to the FAA through sequestration amounted to 5 percent of the FAA's budget to bring it down to 2010 levels.

The FAA operations budget has grown by 109 percent since 1996. That has more than doubled since 1996.

On April 22, the first day after furlough took effect, over 400 flights were cancelled and nearly 7,000 flights were delayed. That, my good friends, is a way of making people miserable to bring them around to their way of thinking that somehow there is not enough fat in a bureaucracy that has more than doubled in the last 15 years that they have to take these drastic steps. The FAA has the flexibility to reduce the costs, but they have not attempted to do that.

As I said, very clearly, in 1996, the FAA's operating budget was \$4.6 billion. In 2012, the operation budget was \$9.7 billion. I don't know off the top of my head of another bureaucracy that has grown that much in that period of time. The FAA operations budget has increased by \$5.1 billion over 14 years. That is 109 percent.

The furloughs of the air traffic controllers are expected to save only \$200 million. I wish I had a chart here to show you what a small percentage that \$200 million is of the increase of \$5.1 billion over 14 years. I think it is very important that we talk about that in light of some of the things we are trying to do with sequestration. That was the FAA.

Unfortunately, it is our defense system that has been taking all the hits. Here we have the defense at 18 percent of the budget and they are taking 50 percent of the hits. This is after the President through his programs has knocked down spending levels by \$487 billion over this 10-year period, and sequestration would be another \$½ trillion—which in the mind and the statements of the Secretary of the Defense at that time, Secretary Panetta, would

be devastating, to use his words. So that is where we are right now.

When the majority leader last night introduced an amendment that would transfer the overseas contingency operations funds from the fiscal years of 2014, 2015, and 2016 to offset the sequester impacts in the current year, I think this is not implementable because he uses future appropriations to offset current year spending. It is also dangerous to continue to hollow out our military.

A couple days ago I talked about how we are comparable today in the hollow force we are approaching to what we were in the 1970s and the 1990s. Now it could actually be worse. In one of the hearings we had, one of the chiefs of the military made the statement that this would not be just as bad—it would be worse.

That is what we are faced with right now. I think we need to look very carefully and make sure we do not allow our warfighters—every time you cut their money out of the OCO account, that increases risk. Increasing risk increases lives lost. That is how serious this is.

Now back to our amendment we put together some time ago. This was back before March 1, which was when the realization appeared that sequestration was going to be a reality, and it was this: If the whole purpose of sequestration is to save money out of the budget, and if you come along with something that says: We will live with the top line that is dictated by sequestration but we would ask that the chiefs of the services be allowed to make those decisions as to where the cuts would be. I had occasion to call all five service chiefs, and it has been reaffirmed in the last 2 weeks by them in public hearings that if they could take this top line that would be so devastating to their service—and this was the Army, Navy, Marines, and Air Force. If they could determine where some of that was, would it be less devastating, No. 1? No. 2, would you be able to do it? The answer was yes and yes.

I think the Senator from Pennsylvania and I had a very good idea, and we are here today to talk about that.

With that, I yield for my friend from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, I want to thank the Senator from Oklahoma for his leadership and work, and say a few words, and then I am going to make a unanimous consent request in this regard—but first a little bit of context here.

This Federal Government has doubled in size in the last 12 years. Total spending is up 100 percent in a little over a decade. What the sequester amounts to is 2.5 percent of this gigantic bloated government. But it is actually less than that in a very meaningful way, because the 2.5 percent we referred to—the sequestration, this cut—

is a reduction in the permission to spend. We call it budget authority. What it is is permission for the government to spend money. It actually takes a while for the government to get around to spending the money that is authorized in any given year. So the actual reduction in spending, the real reduction in cash that will go out the door in this fiscal year if the sequester goes into effect is a little over 1 percent, about 1.25 percent. That is what we are talking about.

Our friends on the other side of the aisle say, This is impossible; you can't do it; it will be devastating. They predicted all kinds of calamity if a government that has grown by 100 percent has to find 1 percent to trim over the next 6 months.

Here is another point we ought to keep in mind. If the cuts and sequester hold, if we achieve the savings that were signed into law, that were voted on by both Chambers, and that the President of the United States agreed to by virtue of his signature—if we do, then total spending this year will still be greater than last year. And we are told that is somehow a Draconian austerity program.

What we are talking about is a modest reduction in the rate at which this Federal Government grows. That is all we are talking about here. And we are told that is not possible; there is no way you can do it.

That is simply not true. One of the things that is maddening to me is the administration—and the President is responsible for this. They are willfully choosing to make the cuts in the most disruptive way they can, because they have got so much invested in this idea that we can't cut any spending. Because they predicted such dire consequences and such disaster, they can't very well allow reasonable and manageable cuts to take place which would be easily attained. So we have this extremely irresponsible set of cuts that are completely unnecessary.

Let me zero in a little bit on the FAA budget itself. The sequester is in effect now. If it holds—if it is fully implemented—the FAA budget will, as a result, be larger than the President asked for in his budget submission.

Does anybody think when the President submitted his budget request he was intending to shut down air traffic control operations? I can assure you he didn't tell us that at the time.

The fact is there are plenty of places where we can achieve this savings. The administration knew this day was coming for over 1 year. There has been plenty of time to plan for this and to prioritize.

The Senator from Oklahoma points to the huge growth in the FAA's budget. That is wildly disproportionate to any growth in flights. There are plenty of opportunities to achieve the savings, as evidenced by the fact that the President never asked for all this money.

Let me give a few examples of places where the President, within the FAA

budget, could be tightening belts so we don't have to furlough air traffic controllers.

For instance, the FAA spends \$540 million a year on consultants. That is nice. I am not sure all of that is as important as keeping planes flying in the air. The FAA operates a fleet of 46 aircraft. That costs \$143 million a year—very nice indeed. Probably not as important as making sure planes are coming and going from La Guardia and Kennedy and Newark and Philadelphia and Pittsburgh and across the country. The FAA budget includes \$1 billion more in grants for airport improvements. I am a pilot. I fly in and out of lots of airports and it is great when a nice little airport has a new taxiway, terrific, but is it truly as important as keeping our air traffic controllers there on the job? These are the kinds of tradeoffs we ought to be making.

My Republican colleagues and I have been offering a wide range of solutions. Senator BLUNT had the idea that maybe we ought to treat Federal workers, in this context, the context of the sequestration, the same way we do in other emergencies and designate essential workers. That makes some sense to me. I think that would make a lot of sense. JERRY MORAN has another idea for how we could address this.

Senator INHOFE and I introduced a bill before the sequester went into effect. What we said was let's give the President the maximum flexibility—right? The reason they say they have to lay off or furlough air traffic controllers is because they do not have any choice, the law requires it—except they did not want the change in the law which would have given them the choice. Senator INHOFE and I had a bill that would give the administration complete flexibility.

I say this because I pointed to a number of areas in the FAA's budget where I think they could find the savings, avoid furloughing air traffic controllers, but under the approach Senator INHOFE and I suggested, they would not be limited to finding the savings within the FAA budget; they could look anywhere in the government for the lowest priority spending, the most wasteful spending, the least necessary spending or perhaps redundancy and duplication.

I will give just another few examples. The GAO has discovered that throughout the Federal Government we have 47 different job training programs. Does anyone truly think we need 47 of these and that by consolidating them maybe we could save some overhead, some administrative costs? Maybe some of them don't work so well.

How about the fact that we have 94 different green building programs—94 programs—679 renewable energy programs. This is all over government because we have never bothered to scrub this and come up with the savings we could have achieved.

Senator COBURN from Oklahoma has offered all kinds of ideas, Senator LEE from Utah. There are all kinds of

places we can save. The fact is, especially in a government that has grown this big, we absolutely can find the little, tiny savings that are required in the sequester so we do not have to do it in a disruptive way.

UNANIMOUS CONSENT REQUEST—S. 799

That is why I ask unanimous consent that the Senate proceed to the immediate consideration of S. 799. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be considered made and laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. DURBIN. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I listened to the Senator from Pennsylvania. I have heard his arguments. I know he is convinced of his arguments.

There are several things he did not mention. The sequestration we are currently going through was a bipartisan decision. Both parties agreed to do it. In fact, the leadership on the Republican side and the leadership on our side voted for it. It was to be the outcome if we did not reach an agreement on the budget, and we did not. So now we are in sequestration.

When he suggests it is only 1 percent of government spending, I would add a couple of facts. We have exempted a long category of Federal spending so it will not be subject to these cuts. For example, we have said we will not cut the pay for our military 1 penny, so we exempted that part. When we take all the exemptions out, it is not 1 percent of our budget. For the agencies affected, it is closer to 5 percent on an annual basis. Since there are only 6 months left in the year, it turns out to be closer to 10 percent that they have to cut to make the cuts for the remainder of the year, so 1 percent does not quite tell the whole story.

Also, in terms of the number of people working for the Federal Government, the largest increase in Federal employment in the last 10 years has been in the Department of Defense. Why would that be? Two wars, that is why. When they talk about the increased number of people working for the Federal Government, don't overlook the fact of the Department of Defense effort and our effort to make sure the men and women in uniform were safe and came home safe. So when they talk about that increase, that is part of it.

Here is what we have suggested. Instead of just shifting the furniture around in the room, let us avoid what we are facing. We are facing the reality of 6,800 flights a day in America being delayed because air traffic controllers are being furloughed 1 out of every 10 days. We should avoid that—if not just for convenience, certainly for safety. I agree.

When it comes to cutting 70,000 children, little kids, out of the Head Start

Program, let's agree we should not be doing that. We get one chance at those kids to have a good education and a good life. Don't blow it because of a sequestration problem.

Shall we cut \$1.8 billion out of the National Institutes of Health medical research money? \$1.8 billion? No. This Senator believes that is stupid—short-sighted and stupid. If we don't put money into medical research, we are not thinking. America leads the world in medical research. The sequestration should not put us further behind.

What I am going to make a unanimous consent request to do is use the overseas operations contingency account, an account set aside for future war which we will not need because this President is bringing our troops home from Afghanistan as he did in Iraq.

I will object to the consent request of the Senator from Pennsylvania and I will make my own after that. I object.

The PRESIDING OFFICER. Objection is heard.

UNANIMOUS CONSENT REQUEST—S. 788

Mr. DURBIN. I ask unanimous consent the Senate proceed to consideration of Calendar No. 64, S. 788, a bill to suspend the fiscal year 2013 sequestration and offset with funds from overseas contingency operations; that the bill be read three times and passed, the motion to reconsider be laid upon the table with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, reserving the right to object, I would like to explain what this amounts to. Let's be very clear. There is no money in the overseas contingency operation fund. This is barely an accounting device. Do you know what this really is? The proposal is that we do away with the sequester and we thereby spend more money and we just pretend it is offset. But the fact is, some time ago, this administration made a decision about the level of our involvement in Afghanistan that had nothing to do with this sequester. That has nothing to do with the sequester. The fact that we are no longer at war there does not allow us to spend money we do not have.

Let me give an analogy. I could come down to the Senate floor and suggest I think it should be the policy of the United States that we absolutely not invade Canada and we not have a war with Canada. Imagine the money we could save if we do not go to war with Canada.

So, with all that savings, let's go out and spend it because we have this terrific savings. This proposal is absolutely no more meaningful than if I were to make that suggestion, which obviously everyone understands is ridiculous.

So I object.

The PRESIDING OFFICER. Objection is heard. The Senator from Illinois.

Mr. DURBIN. Mr. President, I just want to make one postscript. When PAUL RYAN, the Republican candidate for Vice President and the chairman of the House Republican Budget Committee, wrote his 2011 budget, he included the very fund which the Senator from Pennsylvania refers to as the Canadian invasion fund. So it was a good idea when PAUL RYAN had to write a budget. It is a bad idea when we are trying to avoid the pain of sequestration.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. SANDERS. Mr. President, I also agree we should not invade Canada. I live right near there. It would be terrible.

What we are hearing and what we have heard now for a number of months is a discussion about deficit reduction, about how we proceed and how we address the fact that this country has a \$16.6 trillion national debt. That is a serious issue.

I think as we contemplate how we address this issue, we have to put it into a broader context as to what is going on in the United States. What is the best way forward in terms of deficit reduction at a time when the United States has by far the most unequal distribution of wealth and income of any major country on Earth. In other words, we cannot talk about how we proceed with deficit reduction, we cannot say it is OK to cut Social Security or Medicare or Medicaid or nutrition programs when the middle class of this country is disappearing, poverty is extremely high, while at the same time the wealthiest people and the largest corporations are doing phenomenally well. Any serious discussion about deficit reduction has to include those issues.

Let me bore you for a moment with some interesting statistics. This, in fact, came out just yesterday from the Pew Research Center. What they said is that all the new wealth generated in this country from 2009 to 2011 went to the top 7 percent of the American households. All the new wealth went to the top 7 percent of American households, while the bottom 93 percent of Americans saw a net reduction in their wealth.

The Pew Research Center found that from 2009 to 2011, the mean net worth of American households in the top 7 percent rose by 28 percent, while the mean net worth of the bottom 93 percent of American households went down by 4 percent; in other words, the people on top are doing very well, everybody else is not doing well.

Over this same time period, the top 7 percent of American households saw their wealth increase by a combined \$5.6 trillion—the top 7 percent, \$5.7 trillion in wealth increase; the bottom 93 percent saw a wealth decline of \$600 billion. That is what the Pew Research Center reported just yesterday.

Today, when we talk about distribution of wealth and income, the wealthy-

est 400 individuals in this country own more wealth than the bottom half of America. Four hundred people have more wealth than the bottom 150 million Americans. Today, one family, the Walton family—owners of Walmart—own more wealth than the bottom 40 percent of the American people; one family has more wealth than the bottom 40 percent.

Today—and this is truly a remarkable fact which of course we do not talk about too much—the top 1 percent of Americans own 38 percent of all financial wealth. Let's guess what the bottom 60 percent of the American people own. The top 1 percent own 38 percent of the wealth. The bottom 60 percent own 2.3 percent of the wealth in America. That is a rather remarkable and disturbing fact.

Today, as Warren Buffett has pointed out, the 400 richest Americans are now worth a recordbreaking \$1.7 trillion, more than five times what we were worth just two decades ago. Meanwhile, according to a June 2012 study from the Federal Reserve, median net worth for middle-class families dropped by nearly 40 percent from 2007 to 2010. That is the equivalent of wiping out 18 years of savings for the average middle-class family.

That is distribution of wealth. That is incredibly unequal, incredibly unfair, and getting worse and worse. That is something we might want to keep in mind when we talk about how we do deficit reduction.

Then when we talk about distribution of income, what we earned last year, that is even worse than distribution of wealth, as bad as that is. If you can believe it, the last study we have seen on this subject—this is quite amazing—showed that from 2009 to 2011, all the new income created during that time period went to the top 1 percent while the bottom 99 percent actually saw a decline in their income. All the new income created in that time period, 2009 to 2011, went to the top 1 percent. Real unemployment today is not 7.6 percent, it is 13.8 percent if we count those people who have given up looking for work and those people who are working part-time. The youth unemployment rate is just horrendous, and it is even higher than the general average.

Very interestingly, a new poll came out by Gallup that was done just a few days ago—April 17, 2013. I find the results of that poll very remarkable. This poll deals with an issue that very few people in Congress are even prepared to talk about, let alone act upon.

Here is what the poll from April 17, 2013—this week—said: About 6 in 10 Americans—about 60 percent—believe money and wealth should be more evenly distributed among a larger percentage of the people in the United States, while only one-third of Americans think the current distribution is fair.

So when my friends want to cut programs for the middle class and give tax

breaks to the rich, they should understand that about 60 percent of the American people already believe that we have an unfair distribution of wealth in America. What is even more interesting, according to this Gallup poll from a few days ago—and they do this poll every year—is that a record-breaking 52 percent of the American people believe “that our government,” i.e., the Congress, “should redistribute wealth by heavy taxes on the rich.” Again, that is 52 percent of the American people who believe that.

How many Members of the Congress get up and come close to reflecting what a majority of the American people want? The American people know that the middle class is collapsing. They know poverty is unacceptably high. They know the wealthy and large corporations are doing extraordinarily well, and they want us to do something about it. But around here, forget doing something about it. We cannot even talk about what the American people want us to do.

The American people are frustrated with Congress for a whole lot of reasons, and certainly at the top of the list is how we are ignoring the economic reality facing the middle class of this country and the growing wealth and income inequality. They want us to do something about it, and I think it is high time we did.

So instead of cutting programs for the middle class, they are giving more tax breaks for those people who don't need it. Maybe we should do what the American people want and ask the wealthy and large corporations to start paying their fair share of taxes and protect working families.

Interestingly enough, we hear from the wealthiest people in this country and from their organizations. What we hear from them is not: Hey, we are doing really well. We know this country has a whole lot of problems, and we are prepared to pitch in; we are prepared to help out with deficit reduction. By the way, for those who are on Wall Street, remember that it was the American people who bailed out Wall Street. Instead of hearing how they are prepared to reciprocate now in America's time of need, unfortunately what we are hearing is quite the contrary.

Lloyd Blankfein is the CEO of Goldman Sachs, and this is what he said on November 19, 2012, to CBS:

You're going to have to undoubtedly do something to lower people's expectations—the entitlements and what people think that they're going to get, because they're not going to get it.

Blankfein and his friends at the Business Roundtable recently came out with a report. Now, the Business Roundtable is the organization representing the CEOs of the largest corporations. All of them make millions of dollars a year in salary or benefits. All of them have very generous retirement benefits. Some of them are worth hundreds of millions of dollars.

These people, the Business Roundtable, which consists of Wall Street

and other large corporations that are doing phenomenally well, came forward and said to Congress: You should raise the eligibility age for Social Security and Medicare to 70 and cut Social Security COLAs by adopting the so-called chained CPI. The wealthiest people are doing phenomenally well, Wall Street gets bailed out by working families all over this country, and then these guys come back to Congress and say: Raise the retirement age for Social Security and Medicare to 70 years of age.

Needless to say, my views are a little bit different than Mr. Blankfein's or the Business Roundtable. I believe the way to do deficit reduction is not by punishing people who are already hurting and struggling to keep their heads above water. We don't punish the sick, the kids, the elderly, or disabled veterans. We need to ask those people who are doing very well to start paying their fair share of taxes.

Now I will talk about what I think we should be doing and why we should be doing it. In 1952, 32 percent of all of the revenue generated in this country came from large corporations—about one-third of all the revenue. Today just 9 percent of Federal revenue comes from corporate America. In 2011, corporations paid just 12 percent of their profits in taxes. That is the lowest percentage since 1972.

In 2005—the last figures we have—one out of four corporations paid no Federal income taxes at all even though they collected over \$1 trillion in revenue during that 1-year period.

In 2011, corporate revenue as a percentage of GDP was just 1.2 percent lower than any other major country in the OECD, including Britain, Germany, France, Japan, Canada, and many other countries. Each and every year corporations and the wealthy are avoiding more than \$100 billion in U.S. taxes by sheltering their incomes in the Cayman Islands, Bermuda, and other offshore tax havens.

So the point is: How do we do deficit reduction? Do we say to an elderly woman in the State of Vermont who is trying get by on \$14,000 or \$15,000 a year that we are going to cut her Social Security?

Do we say to a disabled vet: Thank you for your service and your sacrifice for this country, we are sorry you lost your legs, but we are going to have to cut your benefits?

Do we say to a struggling low-income family trying to survive on one or another nutrition program: Sorry, but you may have to go hungry and not get dinner on Wednesday?

Do we say to working people who have lost their jobs: We are going to have to cut your unemployment compensation which will make it almost impossible for your family to survive?

Is that our approach or do we go to corporate America, which is enjoying recordbreaking profits?

One out of four corporations pays nothing in taxes. Do we say to them:

You know what, it is time you helped us with deficit reduction.

I hear a lot of my Republican friends and the President talking about how we need tax reform, but we are going to do it deficit neutral. No, I beg to differ. We do need tax reform. We do need to end the absurdity of losing huge amounts of money because of the tax havens in the Cayman Islands and Bermuda and elsewhere, but we also have to raise revenue when we do tax reform. It is not simply lowering tax rates.

I will give some examples about how absurd the current situation is and why—before we cut Social Security and before we attack programs that the middle class and working families of this country depend upon—we have to end these absurd loopholes corporate America is enjoying.

I have just a few examples. Bank of America is one of the financial institutions that was bailed out by the American people when their recklessness and greed almost resulted in the collapse of our financial system. In 2010, Bank of America set up more than 200 subsidiaries in the Cayman Islands, which, of course, has a zero percent tax rate to avoid paying U.S. taxes. Bank of America set up 200 subsidiaries in the Cayman Islands. In 2010, not only did Bank of America pay nothing in Federal income taxes, but it received a rebate from the IRS worth \$1.9 billion that year. Bank of America paid nothing in taxes.

In 2010, JPMorgan Chase operated 83 subsidiaries incorporated in offshore tax havens to avoid paying \$4.9 billion in U.S. taxes. They avoided paying \$4.9 billion.

Goldman Sachs is one of the largest institutions in the country. In 2010, Goldman Sachs operated 39 subsidiaries and offshore tax havens to avoid an estimated \$3.3 billion in U.S. taxes.

Citigroup, which is another financial institution that was bailed out by the taxpayers of this country, has paid no Federal income taxes for the last 5 years. That is not bad. Many people who are out there watching this are saying: That is pretty good. How did they avoid paying income taxes when they are one of the largest corporations in America for a 5-year period? That is pretty good.

During the last 5 years General Electric made \$81 billion in profit, which is not too shabby. Not only has General Electric avoided paying Federal income taxes during these years, it received a tax rebate of \$3 billion from the IRS. GE has at least 14 offshore subsidiaries in Bermuda, Singapore, and Luxembourg for the purpose of avoiding U.S. income taxes.

Does anyone still want to know why the American people are cynical about what is going on in Washington? Does anyone want to know why the Congress of the United States has an extremely low level of support or favorability? It is because the American people know they are getting ripped off. They are

working 50 or 60 hours a week, and they are paying their taxes. General Electric makes \$81 billion, and over the last 5 years they have paid nothing in taxes. Does anybody vaguely think that is fair?

We have some people who say: We want to do tax reform, but we want to make it revenue neutral. We don't want any new income in order to help us with deficit reduction. Let's cut Social Security, Medicare, Medicaid, education, but, no, we cannot get new revenue from large corporations.

During the last 5 years Verizon made over \$48 billion in profits. Not only has Verizon avoided paying Federal income taxes during those years, it received a \$535 million rebate from the IRS—not too bad.

From 2008 through 2010, not only did Honeywell avoid paying Federal income taxes, it received a \$34 million tax refund from the IRS.

Merck is a pharmaceutical company. In 2009 not only did Merck pay no Federal income taxes, it received a \$55 million tax refund from the IRS. On and on it goes: Corning, Boeing, Microsoft, Caterpillar, Cisco, Dow Chemical. I have example after example of large profitable corporations where CEOs make millions and millions of dollars, and they say to the American people: We support cuts in programs for you—Social Security, Medicare, Medicaid, you name it—but don't ask us to pay more in taxes.

This Senate has a decision to make: Do we occasionally—I am not asking for much—stand up to the lobbyists, campaign contributors, and big money interests and ask the large corporations and the wealthy who are doing phenomenally well to help us with deficit reduction or do we continue to stick it to the working families and the middle class of this country? That is the challenge and the issue we face. I hope we have the courage to do the right thing.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Mr. KING. Mr. President, I ask unanimous consent to speak in morning business for 20 minutes.

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

NATIONAL CHALLENGES

Mr. KING. Mr. President, I rise today with some humility because I rise in the footsteps of one of Maine's greatest Senators, Olympia Snowe. I am fortunate enough to succeed her in this seat. In the midst of the campaign a year or so ago, I also realized I was not only succeeding Olympia Snowe but George Mitchell and Ed Muskie, who are two of the greatest legislators of the 20th century. So it is with some trepidation to be standing on the shoulders of those great Members of this body.

Most speeches we hear in this Chamber are on a topic of the day—taxation, gun control, fairness of the marketplace—but I think in order to understand the issues we are debating, the

issues coming before us on a continuous basis, we have to have some context. We have to look back to the history of this body and the history of the country.

My favorite quote from Mark Twain—and there are lots of them, but my favorite is: History doesn't always repeat itself, but it usually rhymes. And in this case I believe that is true.

Let's start with a very basic question: Why do we have government at all? Why are we here? Why do we have this grand edifice? Why do we have the rules and laws and this panoply of the Constitution?

Well, it is all about human nature. Unfortunately, part of human nature is conflict. Often it is conflict that is resolved by violence. Hobbes, the British philosopher, said: "Life is nasty, brutish, and short."

A few years ago, Bill Moyers, whom I believe is one of the wisest living Americans, spoke at the graduation of one of my sons. I was at the graduation because I wanted to see what \$100,000 looked like all in one place at one time. Now it would be \$200,000. But Moyers had a very profound observation, and he talked about the propensity of people to be mean to each other, to resolve disputes by violence. He used a phrase that has stayed with me, and I think it is very profound: "Civilization," Moyers said, "is an unnatural act." Civilization is an unnatural act. It takes work to maintain civilization from one generation to the next. The world around us today gives us evidence of this. All one has to do is open the paper: North Korea, the Middle East, and, Lord help us, the Boston Marathon or two little boys in a sandbox with one truck. Conflict is part of our human nature.

So the basic function, the basic necessity that brings forth any government throughout history is to provide security to our citizens, internal and external, and, of course, the Constitution says this in the Preamble: to "ensure domestic tranquility"—that is Al Capone—and "provide for the common defense"—that is Hitler or al-Qaida. But, then, the paradox is once we create a government, we are handing over power to other people, and there is always the danger the government itself will become abusive, and that has been true throughout human history.

The ancient Latin quote is, "Who will guard the guardians?" Governments are about power—power we give up in order for governments to serve us. But, again, human nature raises its head. Lord Acton, the 19th century British philosopher, again had a very profound observation: "Power corrupts, and absolute power corrupts absolutely." That is true of all people in all times and in all places. Power corrupts and absolute power corrupts absolutely.

So these two questions—why have a government and how do we control the government once we create it—encompasses all one needs to know about po-

litical science. Our Constitution is the best answer ever provided to these two questions. It is the best answer, and the Framers knew exactly what they were doing.

Madison, in the 51st Federalist—and I have to apologize to my female Senator friends because Madison only talked in terms of men, but when we hear "men," we think "men and women." He meant that, he just didn't say it. But in the 51st Federalist, here is what he said: "If men were angels, no government would be necessary." We wouldn't need it. Then he said:

If angels were to govern men, neither external nor internal controls on the government would be necessary, either. In framing a government which is to be administered by men over men, however, the great difficulty lies in this: You must first enable the government to control the governed; and in the next place, oblige it to control itself.

That is the whole deal. That is what the Constitution is all about. How did it do it? I think the best analogy for the U.S. Constitution is the homely Vegemetic. Remember Billy Mays: It slices, it dices, it purees. The Constitution is the Vegemetic of power. It slices and dices. It lays it out. It divides it between the people and the government, between the Federal Government and the States and the localities, and within the branches of the Federal Government. Power is separated, and that was the theory of the Framers; that this division of power—ambition combating ambition—was the structural solution to the danger of the government abusing its own people.

Then, finally, they weren't satisfied, and in the ratification of the Constitution was adopted the Bill of Rights. The Bill of Rights is nothing more than a sphere of protection around each of us as individuals that says even if the government follows all these arcane rules and all these Rube Goldberg procedures and a law comes out at the other end, if it violates free speech, it is no good. If it violates the right to bear arms, it isn't valid. If it violates people's right to be secure in their persons and possessions, it is off limits. So the Bill of Rights is the last sword, shield, and buckler that protects us from an abusive government.

The tension between effective government and controlling government has never been resolved in this society. Many of the arguments we are having now about gun control, the Federal budget, financial regulation, health care, climate change, and environmental policy are all manifestations of this age-old debate we keep having.

What I think is amazing is that the arguments and even the rhetoric—the words themselves—always seem to be about the same. On the Federalist side, we always hear about the necessity of national solutions to national problems, universal principles, appeals to fairness. On the other side, we hear allegations of tyranny, nullification, references to Jefferson's famous quote, that "occasionally the tree of Liberty

must be watered with the blood of Patriots and Tyrants." The 10th amendment, States rights, and hints of secession, the rhetoric is the same. In fact, the current divisions in this Congress between traditional Democrats and a Republican Party largely driven by the anti-Federalist sentiments of the tea party is at least the 10th time this same issue has arisen in American history.

The American Revolution itself, No. 1, was a populist revolt against concentrated power far away. Second, the drafting of the Constitution arose out of the weaknesses of the Articles of Confederation. Many of us—all of us—sort of feel this government has been what it is forever. For 7 or 8 years, between the end of the Revolution and the drafting of the Constitution, we were governed by something called the Articles of Confederation, which was too weak. It didn't concentrate power enough, and that gave rise to the Constitutional Convention in 1787.

Then, the ratification of the Constitution and the Bill of Rights was itself a manifestation of this argument—the argument that the wonderful terms “Federalist” and “anti-Federalist” describe the division in the country which we are fighting over to this day. I think of HARRY REID and DICK DURBIN as Hamilton and Adams and MCCONNELL and CORNYN are the pre-1803 Jefferson and Madison. I say pre-1803 because Jefferson was the apostle of States rights, but he became President and somehow found in the Constitution the heretofore unknown right to buy Louisiana. We are glad he did.

The Alien and Sedition Acts of 1800, which were the PATRIOT Act of the day, passed by President John Adams to get at what they thought were seditious activities in the country. Jefferson, when he was Vice President, secretly wrote a resolution for the Kentucky legislature saying that the Alien and Sedition Acts were null and void in Kentucky and were a violation of the constitutional principles.

The tariff of 1828, known as the Tariff of Abominations, was a tariff that protected northern manufacturers, but it prejudiced the South and, lo and behold, South Carolina wanted to nullify it and, in fact, in 1832 voted to do so. The nullification crisis of 1832 was only averted by the election of Andrew Jackson and a compromise tariff that was passed in 1834.

That is five times already.

This is an interesting one. The fugitive slave laws in 1850 were passed by the Federal Government and it says if a slave escaped into your State, even if it was a free State, your legal enforcement community had to cooperate and return the slave to its master. The Supreme Court of the State of Wisconsin in 1854 declared that law unconstitutional, void, and of null effect in the State of Wisconsin. Again, it was the tension between the power of the Federal Government to remedy national

problems and the rights of the States and the people to make their own decisions.

Of course, tragically, the most dramatic manifestation of this was the Civil War, but the Civil War itself was about this very question. Wrapped up in States rights and slavery, it was a question of what are the powers of the Federal Government and what are the powers reserved to the States and to the people. We all know the tragedy of that event and what happened.

I think one of the most interesting results of the Civil War is a change in English usage of the term “United States.” Prior to the Civil War, people in the United States referred to the United States as a plural noun: the United States are; they are. The United States, they are doing this or that. In other words, they referred to themselves as a collective, as a group of States. After the Civil War, the usage which we have until today is that the United States is a singular noun, one country: It is. That is an amazing development. There was no law passed, but that showed how the people's view of what their country was all about changed.

In the early part of the last century, the New Deal and the two crises of depression and war—particularly the Great Depression—the issue then was fought out in the Supreme Court, and the U.S. Supreme Court at first said the New Deal laws were unconstitutional. They went too far. The commerce clause wouldn't stretch that far. Then, of course, there was a lot of politics and discussion. The case went back—I believe it was the “sick chicken” case—and the Supreme Court said: Well, maybe the commerce clause does stretch that far. Historians refer to that as “the switch in time that saved nine.”

The civil rights movement was happening as I was growing up, and States rights was the rhetoric again. What are the powers that we have in this city versus the communities and the States.

Here we are, No. 10: The tea party and the urge to shrink government. The resistance to the Affordable Care Act. I was always surprised that summer when people were getting red in the face about a health care bill. It wasn't the health care bill; it was the perception that Washington was somehow taking over something that should have been left to them.

Gun control is a classic example which we were debating last week, and the irony and the difficulty of gun control is the problem is largely local and particularly in urban areas, but the solution is national because the guns being misused in urban areas come from all over the country. That is why, in my opinion, we need national legislation; at a minimum background checks and trafficking regulation. Regulation itself is an expression of governmental power, and it is resisted in many parts of the country.

Budgets—finally, budgets. I shouldn't say finally. My wife says I say “fi-

nally” too much and it gets people's hopes up. Budgets. A budget fundamentally reflects policy. It fundamentally reflects what we believe about ourselves and about the government. The budget passed by the House—the so-called Ryan budget—is a classic political document. I don't mean that in a negative sense. It espouses a philosophy of what this government should be. It is one more step in this discussion.

I do not believe the Ryan budget is about debt and deficits. It is about shrinking government. That is what the policy is: to reduce the size of the government to a place where it is much smaller.

Federal spending is not out of control. Nondefense discretionary spending today is the lowest it has been in 50 years. Defense is about the same. What is out of control is all of our spending on health care. That is what is driving the Federal deficit. It is not about debt and deficits, it is about shrinking government.

So where does this leave us? An interesting history lesson.

I hope something more.

First, I think it provides us with a way of understanding what separates us. If we understand what is going on here in this Chamber, I think it helps us.

Second, I think it is important, for me anyway, to believe there is no right answer to this question. There is no right answer. It cannot be all one or the other. Neither side has exactly the right response. We should not be an uncontrolled, central government, and we should not be a government that is so dispersed that we cannot do anything. The tension is hard-wired into our system, but I think it helps us find balanced policy.

We need a national government—we need a strong national government—for the same reasons as in 1789: to solve national problems, problems that cannot be solved at the local level either because of the scope of the problem itself—global terrorism: I am sorry, the Brunswick Police Department cannot deal with all the terrorism—or because piecemeal solutions will not work. Environmental protection has to be done locally, but it also has to be done nationally. Air moves. Polluted water moves.

Or immigration. It has to be a national solution.

I am sorry, but strangling government in the bathtub is even less feasible today than it was in 1789.

Gridlock, which is, if you think about it, gridlock is total victory for the anti-Federalists. Gridlock is not the answer. The Framers knew the government had to work. It may be slow and cumbersome, but, ultimately, it had to be functional. Madison recognized this, and so did the preamble: “to form a more perfect Union”—“a more perfect Union”—than that which had been formed by the Articles of Confederation.

On the other hand, on the other side of this argument, though, Federal solutions all the time are not the answer either.

There is a grave danger that we all face because our job here is making laws; and the problem is, if the only tool you have is a hammer, every problem looks like a nail. If the only tool we have is laws, then we are inclined to try to solve every problem. I believe States rights are important. I think States have an important role to play in our system, and I think they are the best places to solve a lot of the issues that are facing our country.

One of them is education. I remember sitting at home and watching the debate between George W. Bush and Al Gore in 2000, and they were arguing what size the classroom should be and how big the school should be, and I turned to my wife Mary and said: These guys think they are running for superintendent of schools.

This is not a Federal issue. The Federal Government has a responsibility in education: to fund, to do research, and to help, but not to guide.

Overreaching regulation, in my view, is a problem. I believe in structural solutions. I was not a Member of this body, but had I been, I suspect I would have opposed Dodd-Frank and supported the restoration of the Glass-Steagall Act. I think that is a structural solution because regulatory solutions always end up being burdensome.

A friend of mine in Maine sent me a picture of him sitting next to a stack this high of regulations at a community bank as a result of Dodd-Frank that they are going to have to abide by. This is a community bank. Bangor Savings Bank did not cause the financial crisis of 2008, yet they are having to bear the burden of these regulations, which are expensive, which are drying up credit for their customers, and which I do not believe are going to contribute to a solution.

Another point on this, on the anti-Federalist side, is that deficits do matter. Deficits do matter. We cannot continue to burden our children with the costs of government.

In a hypercompetitive world, it seems to me that every tax dollar counts and every regulation must be smart and minimally intrusive. This is a new world we are in. We are competing not just with companies around this country but with companies all over the world, and they want our jobs.

Understanding these differences and this age-old argument, we have to understand that we cannot be enthralled to this debate. We cannot be locked into it. But we do have national challenges. They have to be met with national solutions. Challenges such as cyber threats, research, infrastructure, gun crime, terrorism—and, Boston, by the way, is an example of coordination between levels of government that I think worked very effectively.

Our failure to act is a disservice to those who built what we have inher-

ited. Calls to cut government spending are fine, but they must be matched with specifics. You cannot just talk about government spending and not talk about FAA towers or our intelligence community or our defense capability.

We have to understand that each generation must meet its own challenges and redefine this question with its eyes open to practical effects, without blinders on of absolutism or ideology.

As I look back on history, the great accomplishments of the body, the great accomplishments of this government, have rarely if ever been victories for one side or the other. Instead, they have been based upon hard-fought battles and grudging compromise, recognition of national needs along with local interests, and a willingness to honor our most basic charge: to form a more perfect union.

I hope in a small way to contribute to this, to contribute to the search for solutions that are practical and effective. I am caucusing with the Democrats, but I agree with ENZI and ALEXANDER on the Marketplace Fairness Act. I agree with ENZI and ALEXANDER on the Marketplace Fairness Act, but with BLUMENTHAL and KAINE on guns. I agree with BLUMENTHAL and KAINE on guns, but I agree with COBURN on duplication and regulation. And I agree with COBURN on duplication and regulation, but I agree with MURRAY on the budget.

We face serious challenges—defense, budget, and constantly changing circumstances. We live in a time of accelerated change.

Almost exactly 150 years ago, our greatest President sent a message to Congress in the midst of the greatest crisis this country has ever faced. His message was about change and about how to deal with change and was to try to shake Congress out of the lethargy of politics as usual because we were in the midst of the Civil War.

I cannot argue that the crises we face today collectively or individually equal the Civil War, but they are pretty serious. I have been in hearings in the last 2 weeks in the Intelligence Committee and the Armed Services Committee, and every single one of the top professionals in both defense and intelligence have said this is the most dangerous and complicated period they have experienced in their 35, 40, or 50 years in this business. So we are facing some serious challenges.

I want to share with you what I believe is the most profound observation about how we deal with change that I have ever encountered. December 2, 1862, President Lincoln sent the message, and here is how it ended. Here is what Abraham Lincoln said:

The dogmas of the quiet past, are inadequate to the stormy present. The occasion is piled high with difficulty, and we must rise—with the occasion. As our case is new, so we must think anew, and act anew.

And here is the key line:

We must disenthral ourselves, and then we shall save our country.

We must disenthral ourselves, think in new and different ways, and then we shall save our country.

Thank you, Mr. President.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COONS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

COMMENDING SENATOR KING

Mr. DURBIN. Mr. President, let me salute my colleague from Maine for an extraordinary maiden speech on the floor of the Senate. It was a great lesson in history, and those of us who continue to study history realize he has an insight into this Nation which we all should hear and share. I thank him for being here and for sharing his thoughts with us, and particularly for being part of the solution to America's challenge.

As I said to him when I went up to him, you will never get in trouble with me if you quote somebody from Illinois; he quoted Abraham Lincoln, and did it in an extraordinary way.

So I thank him and commend him for his fine statement.

Pending on the floor is the Marketplace Fairness Act. It is a bill which has been before this body now for almost a week. It is 11 pages long. It is not a new concept. Members have had ample time to review it. We have had three successive votes on the issue—on the budget resolution, on cloture on the motion to proceed, and on the motion to proceed—and the outcome of those votes were 75, 74, and 75. That is an extraordinary majority in this Chamber and indicates a willingness to tackle this problem and pass this bill.

I have invited my colleagues, as has Senator ENZI, to come to the floor. If you have something you wish to offer to this bill, bring the amendment to us. It is not that we are going to accept every amendment, but that is not what the process is about. Some of these amendments will be offered for a vote, as they should be, and debated.

So far, there has only been one amendment that has actually been offered on the floor, and it was objected to by the Senator from Oregon, Mr. WYDEN. The amendment Senator WYDEN objected to was called the Internet Freedom Act, and it basically said we would renew our 15-year commitment that we will not tax Americans for access to the Internet. I think that is good policy, the Internet Freedom Act. So I invited Senator PRYOR to offer that on the underlying bill, and it was objected to by the Senator from Oregon. Make no mistake, the Marketplace Fairness Act that Senator ENZI and I and Senator ALEXANDER and Senator HEITKAMP bring to the floor is not at war with the Internet at all. We value it. It is an important part of our economy, an important part of our lives. We support the notion of Internet freedom from taxes.

What we are trying to achieve, though, is the appropriate role for the Internet when it comes to retail sales. The Marketplace Fairness Act levels the playing field between businesses on Main Street or in shopping malls and businesses on the Internet. It says, if the business in Chicago, IL, on Michigan Avenue has to collect sales tax on sales over the counter, then Internet retail sales into the State of Illinois face the same sales tax. That is it. It is not that complicated. No Federal tax, no new tax; only the collection of existing State sales taxes. That is all we are asking for.

Our opposition comes from several quarters, but primarily from no-sales-tax States such as Oregon, Montana, New Hampshire. Those Senators from those States where they pay no sales tax whatsoever would not even require their Internet sellers to collect sales tax on sales made in other States.

At the end of the day, if Marketplace Fairness passes, the citizens of Oregon will not pay 1 penny in sales tax more they pay now, nor will the citizens in Montana, New Hampshire, Delaware, or Alaska. The State law prevails. We do not change it at all. But to suggest you could sit in Oregon as an Internet retailer and sell into our States at a disadvantage to the local businesses and not collect sales taxes is unfair.

What we are trying to achieve here is fairness and balance. We have obviously the major retailers across America supporting this, but more. We have units of government that are now not receiving the sales tax receipts from Internet sales they could. Of course, we have others interested—developers, Realtors, labor unions, business groups. It is the most amazing coalition backing the Marketplace Fairness bill.

Senator ENZI and I urge every Senator with an amendment to this bill, come to the floor now. Do not wait until tomorrow, and certainly do not wait until Friday. We want to bring up those amendments. I hope those opposing this bill will not continue to object to them, as the Senator from Oregon did earlier. But if you have an amendment, please bring it to the floor. Members get squirmy on Thursday night and Friday morning. They want to get back home. I understand that. But if you want to reach that deadline and do it in the appropriate, timely way, please bring all amendments to the floor now. We urge our colleagues to do that.

I yield the floor.

Mr. ENZI. Mr. President, I want to congratulate the Senator from Maine on his speech. It was a tremendous history lesson. I have enjoyed getting to know him a little bit since he got here. I had quite an interesting surprise yesterday. He came to my office and he brought an American flag, all framed. The way he got it, there was a desk his great-aunt had. The desk was probably made in the 1860s. But behind one of the drawers they found this flag. It was a flag with 44 stars. Wyoming was the

44th State. So he presented this framed flag to me. Incidentally, that was only the flag of the United States for a 6-year period. Then some other States came in and we added them. It has an interesting arrangement of stars on it too, because the 44 stars do not fit in a nice even pattern unless you did four rows with 11 in a row. That changes the dimensions of the flag considerably.

I appreciate his consideration on that. I appreciate the consideration he has given to pieces of legislation that I have seen him work on. We do not agree on all of those pieces of legislation, but it is nice to have the concern and the thought and the process for getting things done that he brings to the Senate. That is very nice.

I too want to encourage my colleagues if they have amendments to bring them down. That is what we say this process is about. This is an amendment process on the floor, which everybody has asked for. We are doing it. So we need the amendments. A number of people have talked to me about different parts they had a potential concern about. I hope we solved their concern by actually looking at the wording in the bill. This is not a very difficult bill to read. Sometimes we do ones that are a couple of thousand pages. This one is 11 pages. I do not think there is anybody who will not be capable of reading the bill. Unlike most of the bills, this is in pretty normal language, rather than some of the conforming language that sometimes results around here.

I think most of the problems retailers should have with this have been taken care of. One that the non-sales-tax States talk about, and the Senator from Illinois, Mr. DURBIN, also mentioned, the people in those States still will not pay a sales tax. But if you happen to be one of the people selling into other States, and you sell a tremendous volume into other States, then under this bill you will be expected to collect and remit the sales tax, as any retailer in the States that have sales tax.

There is an exemption. The Senator from Oregon, Mr. WYDEN, asked us to have a compromise. That is why we have the exemption in there. It is a compromise. We started with it in the Senate as being a \$500,000 exemption. The House folks convinced us—as I mentioned, this is a bipartisan, Republican and Democrat, bicameral, House and Senate effort. The House convinced us that \$1 million was a more reasonable figure, and they gave some good reasons for it. Now \$1 million would give any small businessman quite a few years, perhaps—I hope it is a short period of time, but it should give them quite an amount of time before they had to adjust to this, because they have to sell \$1 million on line in a year before they have to start collecting the tax the next year.

In a State where there is a sales tax and the people are selling in the brick-and-mortar store which we are trying

to help out with this bill, they collect from every person from the first dime of sales. So we have given a little bit of a break to particularly the nontax States, and to those working on line that are small businesses to continue this effort to grow the Internet.

Of course, we are hoping a lot of our businesses in our States will get to that million-dollar mark. But here is the status on the million-dollar mark. We are told that if we reduced that to \$150,000 it would only affect less than one-quarter of 1 percent of the businesses in the United States—not very many. They are starting to be a relatively big business when they are doing \$1 million on line. This does not count their in-store sales. This is just their on-line sales. So I hope the other States that have had some difficulty with that will realize that is a pretty liberal mark we have gone to.

Of course, I know a lot of people are getting a lot of correspondence from eBay. eBay, in the 12 years I have been working on this bill, has consistently opposed it, even though they appeared almost up to the time we were ready to do the bill to be in agreement with some of the things that were in the bill.

Incidentally, that is when we had a considerably bigger bill. It was about 80 pages long. This one we changed. The main difference is now there are States rights, which there should have always been. That is the way it is in the Constitution. This is a States rights bill. That reduces the length of it considerably.

The million-dollar proposal is to give people time to adjust and collect. Incidentally, there is kind of a phase-in in this. Some people say, why don't we have kind of a phase-in? Well, we have 90 days. We agreed to do 6 months so people could gear up for it.

Besides that 6 months, the States are going to have to provide free software to be able to do the tax, so that when they put in a ZIP Code for where they are sending the product, they will automatically know the tax. They talk about 9,600 tax jurisdictions. Well, in this there are only 46 different tax jurisdictions. Nevertheless, they put in that ZIP Code and they will know what the tax is and have no liability whatsoever because that falls on the people who provided them with this free software. This makes a huge difference to States, counties, and municipalities.

I used to be a mayor. I was a mayor of a town that tripled in size during the 8 years I was mayor. Had it not been for sales tax, we would have been broke. I checked around to see how much towns and municipalities rely on the sales tax for their source of revenue. I was shocked. About the minimum that I run into is 30 percent. There are quite a few more than I ever thought that rely on sales tax for 70 percent of what they do.

So what does a municipality do with its money? Well, let's see, a lot of them have schools they have to take care of,

they have law enforcement they have to take care of, they have firefighters they have to take care of, some of them have ambulances. So it is all of the first responders essentially they have to take care of.

If you are in the northern States, as I was, you have to do it for snow removal. People are really particular about snow removal. Incidentally, Wyoming is still having a little bit of winter. Let's see, today is Wednesday, so that is typically our spring. We have a lot of snow, even in April. That is when most of our moisture comes. We get snow in January too, but that is a real dry snow. In fact, we are such a dry climate that I often tell people that even our rain is only 80 percent moisture. Of course, a lot of it gets sucked up by the air as it falls. A long rainstorm in Wyoming might be 5 minutes. We get a total of 13 inches a year. So we rely on that snow. But if you are a mayor and it snows, you have a major problem, because people expect to be able to get around. I found out that if you plow it to the center, then they cannot make left-hand turns. If it is left on the ground very long and that freezes, then you really have a problem getting it up. If you plow it to the sides, you block in people's driveways and people's cars. That usually upsets them too.

I remember when I was mayor, every once in a while I would get a call from a disgruntled citizen who would complain that I just plowed their driveway back in after they had gotten it open. They wanted to know what I was going to do about it. I would tell them to give me a few minutes. I would get in my car, which always had a snow shovel in the trunk. I would go to their house and start digging it out. Usually when they noticed me, they came running out and said: Oh, no, we did not intend for you to do that. I said: Well, everybody else is doing snow removal. I never got two calls on that. But that is another use for sales tax money. There are many more.

All of the charities in a town usually go to the city council. They say, we have this valuable project. We need some money. Anybody who says they cannot fight city hall probably never tried. A lot of those requests are granted.

But if the sales tax continues to shrink—that is what is happening with it now, State sales tax, county sales tax, local sales tax is all shrinking. If that continues to shrink, they are going to have to start cutting back on things they do. Of course, probably some of the charity things will be some of the first ones to go. It is always hard to tell what the net effect will be. But if they do not have any ability to increase the revenues they have—and most of the towns in Wyoming do not have a chance to increase the taxes they receive. Property taxes are limited by very specific sorts of things, such as how much you can levy for the cemetery, and how much you can levy

for a library, and how much you can levy for fire. Those things do not begin to cover the cost of the service that is rendered.

So to the people who are protecting the Internet, I would say it is pretty hard to flush your toilet on the Internet. Sometimes those utilities come into play with these things too. Those taxes are very important to almost all of the communities across the United States, in 46 States. The other four do not have a sales tax.

One of the things people have said is, if they get this extra sales tax, why don't they bring down some of the taxes they currently have? Some of the States and some of the municipalities and counties will do that. I have had several of them tell me that if we could get a little bit more in sales tax, we would do that.

But let me tell you a little problem we have in the Federal Government. We are out of money, so we are cutting back. And one of the ways we cut back was through the sequester.

The way some of that is worded, some of these things are considered tax expenditures. For instance, the Federal Government promised to pay a property tax in lieu of real taxes. In other words, the municipality does not tax them, the county does not tax them. But the Federal Government says: Yes, we own property. If you can sell that property at a private sale, the private entity would have to pay property tax on that. So it is only fair that the Federal Government pays taxes in lieu of taxes. They have been doing that for a number of years.

The value of the properties, of course, has gone up considerably, particularly in cities where there are Federal buildings, but also in the forests. I have people who know the value went up because they are able to lease some cabin land in national forests. Their payments have more than doubled in the last 3 years. That is a 100-percent increase. I guess this year it is even a more dramatic increase. But the Federal Government, while it is charging more for the property, is not paying more in property taxes, which would be the normal thing. This year, they are taking 5.3 percent out of every bit of that tax. Of course, I say to people: Wouldn't it be nice if when you file your Federal income taxes you could have taken 5.3 percent out of there? It is sort of the same thing. It is what the government said they would pay in taxes.

There are a number of reasons these sales taxes are extremely important and getting more important. If you had Federal mineral royalties, you lost 5.3 percent of that too. That is because the States collect—half the money from the minerals in the State are supposed to be for the State and half are supposed to be for the Federal Government. The half the Federal Government received they considered to be revenue. The half that is supposed to stay with the States or go back to the

States is considered a tax expenditure. Again, it was hit by 5.3 percent.

One of the reasons this is 5.3 percent this year in the sequester instead of 2.3 percent—which is what it was across the board for the .3 percent—is we don't have any months left to revise those expenditures, but these are one-time payments. The time for condensing them has not expired, so at the most it should have been 2.3 percent. That is a different problem that I will handle in a different bill. I am hoping people will not try to gum this up with a whole bunch of nongermane or irrelevant motions. If we stick to relevant ones where we are really trying to improve this bill, I am in favor of it. If we are trying to do some other peripheral ones, in light of the tremendous support this bill has, I am hoping people will stick to the bill and try to perfect it. We can have votes on that.

I see my friend from Tennessee is here.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. CORKER. I wish to thank the Senator from Wyoming for his outstanding leadership on this issue. I know it is something he has worked on for a long time, and finally we have it on the floor for debate.

I am a strong supporter of the Marketplace Fairness Act. I thank all involved on both sides of the aisle for getting it to this place. As the Senator just mentioned, I do hope we will have an amendment process soon which will allow people to improve the bill as the will of the body sees fit.

I come from a State, the State of Tennessee, where we have no income tax. We generate funding for education and health care through a sales tax. That is the way our citizens like it.

What we found in the State over time is that more and more sales are coming into Tennessee residents over the Internet. In many cases what is happening is people are going into the brick-and-mortar stores that are all part of the fabric of our community. They are going into brick-and-mortar stores where people have made investments in land, buildings, roofs, and operation. They go in and try on goods, see how it looks, and then they order it on the Internet.

Obviously, those sales proceeds, the sales tax that normally would come with that, are therefore bypassed. What we have done over time because of the tremendous success, which I am thankful for, of the Internet is, there is actually a system that has been created to get around State laws that exist all around our country. This bill has nothing to do with imposing any kind of new tax or revenue generator. This law allows States that already have laws on the books to carry out their implementation.

Again, our citizens have no income tax. If the country and if society continues as is and sales tax continues to

erode because of Internet sales coming in from other places, what eventually could happen in our State is we will have to move to an income tax.

Our citizens like it the way it is. I am glad this legislation is where it is. I hope it is going to become law because I believe it is something that creates fairness, if you will, in the marketplace so all of those who are creating and selling goods in the State of Tennessee and other places are treated exactly the same.

I have heard some arguments from my friends in the financial community talking about this opening the door to some kind of financial transaction tax. I deal with a lot of these individuals. I am on the Banking Committee, and we discuss a lot of issues relative to financial institutions and transactions. I know of no reason anybody should have any fear of that.

There is nothing in this bill that creates a different arrangement within State or local governments that allows them to do something different than they already are doing. I don't know of any precedent that has been set in State and local governments as it relates to transactions regarding financial activities. I don't know of anything in this bill that should cause people fear of that occurring down the road.

Typically, when a piece of legislation such as comes up, we have all kinds of groups who come forward to try to poke holes in it. Some of them, by the way, are legitimate. Hopefully, the amendment process we have will help address some of the issues people may be concerned about.

A lot of times there is just fear generated to keep anything that may exist from changing. I hope when we have a debate, when we actually begin having amendments on this issue, what we will do is stick to the substance, as was mentioned, and that we will try to improve this bill in a meaningful way.

As it sits, again, I wish to thank the Senator from Wyoming. I wish to thank the senior Senator from Tennessee, LAMAR ALEXANDER, whom I know has worked very closely with the Senator. I am an original cosponsor of this bill. I think it is an issue whose time has come. I hope the Senate will pass this piece of legislation after our debate concludes. I hope the House of Representatives will do the same.

To me, this is about fairness, fairness in the marketplace so those people who are involved in sales transactions, whether they are brick and mortar or whether they are Internet and being shipped out of someone's garage or shipped from a warehouse, I hope we will achieve a balance that is appropriate for our country and fair to all those involved.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I thank the Senator from Tennessee for his comments. He is very involved in the Banking Committee.

He understands the transaction taxes that they are talking about, and I appreciate his learned opinion on that.

Mine comes from section 3, called "Limitations," and in general it says: Nothing in this act should be construed as subjecting a seller or any other person to franchise, income, occupation, or any other types of taxes other than sales and use taxes.

I hope we stick to that and make sure it just says "sales and use taxes." I have worked on this for 12 years, so it is tough enough to extend it beyond that. I know there are lots of things people would like and to open this up.

I appreciate the one amendment that was presented but was objected to, which was an amendment which would have continued to ensure—we already have a provision that says you cannot tax the Internet. You cannot tax the Internet. They wanted to extend that another 10 years, and it doesn't expire for another couple of years.

I thank the Senator for all of the effort he has gone to on this bill and all the ways he has helped us. I appreciate his plea for people to come forward with their amendments.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. SESSIONS. I would further ask unanimous consent that I be allowed to speak as in morning business.

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

IMMIGRATION REFORM

Mr. SESSIONS. Mr. President, we have had a long-standing problem in the enforcement of immigration laws in the United States. The Secretary of Homeland Security, Secretary Napolitano, has regularly and sophisticatedly issued policy directives that have adversely impacted the ability of law enforcement officers to do the job that is required of them by law. It has caused quite a bit of a problem.

The ICE officers association, the union, voted a couple of years ago unanimously no confidence in John Morton, the Director of that agency. He should already have been removed, in my opinion. In addition, morale, according to a government survey in the ICE officers department, is one of the very lowest in the government.

I asked Secretary Napolitano in 2011 had she met with these officers and discussed the problems. The answer was no. I asked her Tuesday, yesterday, had she met with them. She said no.

I raised the point that these ICE officers are not complaining about pay, not complaining about working conditions, and not complaining about things that often enter into employment disputes. What they are saying is that the Secretary and Mr. Morton are

denying them the right to follow the law of the United States, denying them the right to enforce the law they are required to enforce, and they charged that they are refused the right to carry out plain directives from the Congress that said under certain circumstances they shall commence, for example, removal proceedings against someone. The Secretary just says: No, we are not going to do that anymore.

Well, here is a very unusual development, I would suggest. I started out as a young Federal prosecutor in 1977, and I have never heard of this occurring. The ICE officers sued Secretary Napolitano and Mr. Morton, and they raised the suggestion they were placed in an untenable position where the law required them to do one thing and they were told by their superiors to do something contrary to law. The case was heard in Federal Court.

In the hearing yesterday, I raised this with the Secretary. And my friend, the chairman of the Judiciary Committee, Senator LEAHY, laughed. He said: Well, a lot of people file lawsuits, but it is another thing to win one of these lawsuits.

That is true. It is unusual to see some of these lawsuits that are filed actually reach a situation in which Federal officials are directed to do something. But it appears that is exactly what the Federal judge did yesterday. He said the Secretary doesn't have the ability to direct agents not to do what Congress has explicitly required them to do. They have a right to have certain policies and procedures—although those are pretty dangerous as it is because setting prosecutorial guidelines and procedures can create a circumstance in which effective law enforcement is neutered. But to go forward and actually dictate that mandated statutory requirements not be enforced, this Federal judge suggested, was not acceptable.

One ICE agent testified at the hearing that agents have witnessed large numbers of criminal aliens in jails telling each other how to evade immigration laws because word has gotten around that ICE agents are required to take their verbal claims at face value. If they say they have been here and came here as a child, that must be taken at face value, without verification, and ICE agents must then release them instead of putting them on a path to removal.

Another officer, Chris Crane, the president of the 7,600-member association, testified in court the administration's policies put officers in the untenable position of releasing illegal aliens from custody who have been identified as a result of their criminal behavior simply because word has gotten around they do not have to be deported if they claim to qualify for the President's administrative amnesty.

It is a remarkable development, that a Federal judge has concluded that law enforcement officers in America are being directed not to follow plain law.

With regard to the proposed legislation produced by the Gang of 8 that is going to be brought up tomorrow in the Judiciary Committee. It has hardly been read yet, but we know that law greatly expands the discretion given to the Secretary of Homeland Security. In many different places it gives the Secretary the power to do that and waive some of what would appear to be plain policy goals of the act, at least according to the people who sponsored it.

This has far-reaching implications for the debate on the reform of immigration. The bill gives the Secretary an unprecedented amount of discretion and waiver authority. By some estimates, there are over 200 mentions in this nearly 900-page bill of giving more power to the Secretary. Five times in the bill it affirms the Secretary's "unreviewable discretion" to waive or alter provisions of the legislation as she sees fit. In fact, the bill essentially codifies the flawed policies that are now being challenged in this lawsuit. It gives statutory power to the Secretary to do what she has been doing.

Indeed, illegal immigrants apprehended after the new law goes into effect would not enter deportation proceedings. Instead, the Secretary "shall provide the alien with a reasonable opportunity to file an application" for provisional legal status provided the immigrant "appears prima facie eligible, to the satisfaction of the Secretary." The bill emphasizes that it is not designed to "require the Secretary to commence removal proceedings" against any illegal immigrant.

We have a Secretary of Homeland Security who is issuing policies that require sworn law officers not to enforce actions specifically required by congressional law. A Federal judge just yesterday found that is not proper, and stated in effect the Secretary is not above the law, which I think most Americans would certainly agree with. Now we have a proposed new law that would give more authority to the Secretary to continue to waive policies in the future and would grant the Secretary additional discretion in many areas.

This is the problem, colleagues: Congress tells America we are going to give legal status—amnesty—immediately to some 11 million people who have entered the country illegally. By definition, that is to whom this applies. And we say: Trust us, we are going to have the toughest laws you have ever heard of in the future. Well, first, these laws aren't that tough. Secondly, it provides multiple waiver authorities to the Secretary of Homeland Security, and this Secretary has proven she is not willing to have the laws of this country enforced. She has even been sued by her own law enforcement officers, who have just won at least an initial victory in a lawsuit in Federal Court.

This is a dramatic example of the problems I have been hearing from Federal law officers. They need to be

respected and affirmed in their duties. On a daily basis they are out confronting people who are in this country unlawfully and violating various laws. They are trying to remove them from the country, as we have always done—and as every country does when people violate their laws—and they have been undermined in that. Their morale has plummeted, and the Secretary hasn't even talked to them.

I will tell you who else hasn't talked to them—the people who wrote this bill. Chris Crane, the head of the association, wrote, called, publicly asked for the opportunity to participate in these discussions and at least tell them what the real world is like. But, no, they had the chamber of commerce, they had the agriculture people, they had certain union officials, they had La Raza. They have all been meeting and talking but not the people out there struggling every day trying to make sure we have a lawful system.

That is what the American people are asking for. The American people are not angry at people who want to come to America. We believe in immigration. We are going to see immigration continue. No one is suggesting that is going to end. But the American people are upset with their politicians and their government leaders who say one thing, promise one thing, and do the exact opposite. They have been promising for 30 years that we are going to have a lawful system of immigration. It hasn't occurred.

We passed a law to have 700 miles of fencing, and everybody applauded—some of them grudgingly. Yet only 30 miles of a double fencing, as required by law, has ever been built.

Twenty years ago there was a law mandating an effective entry-exit visa system. Some of the foreign terrorists came in on 9/11 under the visa system. Forty percent of the people here illegally, it now appears, come to this country through the visa system. It hasn't been fixed yet, but we continue to promise we will do it sometime. Even this bill, as I look at it, won't close the gaps in the entry-exit visa system. It will not fix that problem.

So I think the American people are pleading with Congress to do the right thing, to actually make sure we have a system that serves the national interest and is fair. No system is fair if people who do the right thing have to wait and wait and wait and people who do the wrong thing get rewarded. That is so obvious as to be unmistakable.

So I look forward to going forward with a discussion of what we can do to improve this system. We certainly need improvement. I certainly respect my colleagues who worked on it. I think their hearts are right. I know their hearts are right. We can do some good things. But I do believe the American people are right to be dubious. The American people are right to watch this very carefully, and they should not affirm another one of these situations in which a promise occurs, such

as an immediate grant of legality, with a vague promise of enforcement in the future. This court case is dramatic proof that enforcement has not been happening.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. BROWN). The senior Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I would like to say a few words about the pending bill before us.

This bill will hurt small businesses not just in Montana, New Hampshire, and Oregon—non-sales tax States—but all across the country. The bill will let one State go after businesses in another State. This bill could give any State the right to make businesses across the country collect sales taxes for that State when selling products online. Therefore, businesses could be forced to spend their time and money collecting taxes for States across the country with no benefit to them.

I am repeating that this bill has not been through regular order. The Finance Committee has not had a chance to improve this bill or address the many unanswered questions about its provisions. The floor of the Senate is no place to try to improve upon the bill and make the bill work.

Years of work have been put into the issue of State sales taxes, and I commend Senators DURBIN and ENZI for it. Unfortunately, that work is not reflected in the bill on the floor today.

For years, the concept of allowing States to require out-of-State sellers to collect sales taxes on their behalf was done through a compact known as the Streamlined Sales and Use Tax Agreement.

After over a decade of work on streamlining, only 24 States adopted the required simplification measures. The remaining States refused to join the compact. Why? Because they didn't want to meet the requirements for simplification.

To break the logjam, Senator ENZI introduced the Marketplace Fairness Act in November of 2011. This new bill is nothing like the streamline bill. They are totally different bills with different legislation.

This new bill says a State can require out-of-State sellers to collect sales taxes on their behalf simply by meeting six or so simplification requirements. But these simplification requirements were ones chosen that the States could easily or already meet. They are window dressing.

First, the bill says a State must provide software free of charge that calculates sales taxes due. What that means to the business owner is 45 different pieces of software. What kind of software is it going to be? Could it be a single Microsoft Excel file buried deep in a State's Web site? How would a business make this software workable? The bill does not say.

Let's say a business thinks the software provided by a State isn't good

enough—that it isn't workable. Now this business will be forced to go to court in that State and prove the State didn't meet the simplification requirements. What kind of fees—not to mention time—is that going to take? A business will have to purchase software or services from a private company to collect sales taxes owed for multiple States. This won't be free. Businesses will also have to pay for the ongoing service of collecting and filing taxes.

Second, one of the most confusing issues a business ever faces with State tax issues is whether it has what is called nexus. In tax jargon, that means sufficient connection to the State. If the business has nexus, it has to collect sales taxes on sales into the State right now—whether or not this pending legislation is passed. This bill does nothing to solve the confusion on nexus. Even if it passes, businesses will still grapple with the issue of whether they have nexus in other States.

Why does this matter? This matters because the bill sets up rules only for those out-of-State sellers with no nexus—termed the remote sellers. Does this sound complicated? It is. It is very complicated.

This bill creates one set of rules for sellers that have nexus prior to the Marketplace Fairness Act, and another set of rules for remote sellers. What does the small business owner do who isn't sure where his business falls—into one category or the other? If you get it wrong, that business may be exposed to additional penalties.

Third, even if the business is clearly a remote seller, the so-called simplification requirements are in no way simple. Streamline—that is the other legislation that was worked out between about 24 States—was book length. Here, instead, we have a bill that is only 11 pages.

The bill's sponsors have thoroughly compromised with 100 different factions on this, and what they came up with may look simple on the outside but is total chaos underneath. Remember, too, a business still could be forced to file sales tax returns in 50 different jurisdictions. Some of these returns are due monthly. A business will be subject to all those different jurisdictions' definitions of what is or is not taxable. It varies by State. In addition, small businesses will be exposed to audit, collection, and enforcement by 50 different States.

This bill carves out businesses with less than \$1 million in remote sales. That threshold is too low. Retailers have notoriously low profit margins, and small businesses can easily surpass that threshold with sales. In committee we could actually look at data to see what makes sense. We could bring experts in to talk about what a real small seller exception should look like, rather than arbitrarily picking a number.

I know Senator DURBIN has invited Senators to come down to the floor and offer amendments. Other Senators are

offering amendments on different State tax issues, such as the Internet Freedom Act. But the floor is not the right place to mark up a complicated statute, let alone tack additional legislation onto the bill. This bill needs to be reviewed in a comprehensive and thoughtful manner through regular order.

I repeat: This bill is not thought through. It is bad for Montana, and it is bad for small businesses all across our country, and not just nonsales-tax States.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The senior Senator from Texas is recognized.

SEQUESTRATION

Mr. CORNYN. Mr. President, amid complaints from the White House about the FAA furloughs, we need to keep at least one thing in mind: The sequester was President Obama's idea in the first place. His administration created it; he signed it into law on August 2, 2011; and he knew the date it would go into effect. And yet, as the deadline approached, earlier this year the President and his administration traveled the country to stir up anxiety, concern, and fear over the imposition of the sequester, warning that the sky would fall like a modern-day Chicken Little.

It has been almost 2 months since the sequester took effect, and the administration's claims that the sky would fall have each proven to be false.

First, we had the Secretary of Education Arne Duncan claiming the school teachers were already getting pink slips. But that wasn't true.

Then President Obama declared that U.S. Capitol janitors were getting a pay cut. But on further examination, that proved not to be true.

Customs and Border Protection initially told their employees—including border agents—that they might be furloughed. However, a month into the sequester, Customs and Border Protection walked back that claim and decided to make better use of departmental resources.

The Director of the National Park Service said the sequester might lead to cancellation of Washington, DC's cherry blossom festival. But as all the visitors who flocked to DC can tell you, the festival went on as planned, and Washington's Metro reported one of its highest ridership days in its history.

With all of these bogus claims, it seems the administration is desperate to prove it wasn't crying wolf after all.

For example, we are learning that the Federal Aviation Administration is now deliberately engineering flight delays—deliberately engineering flight delays, just as families gear up for their summer travel. It is a bizarre, almost surreal experience. All across America, businesses work hard to take care of their customers because they know their livelihood depends on their ability to satisfy their customers' needs. But when it comes to the administration and the Federal Government,

the FAA and this White House are deliberately trying to make it harder on their customers—the people who use the airways and fly airplanes.

Last week the head of the FAA acknowledged that, like other government institutions, his agency has the discretion to fund high-priority projects—over low-priority projects not a particularly remarkable statement in and of itself. But we know now that instead of using that discretion, the FAA has announced it plans to furlough employees for the remainder of the budgetary year, potentially leading to flight delays all across this country.

The FAA's Director claims he has used all the flexibility allowed to him under the law—even though his agency spends \$541 million on consultants, \$179 million on travel, and \$134 million on office supplies.

By comparison, the sequester cuts the FAA budget by \$637 million—less than 4 percent of the agency's 2012 budget. I don't know any business in America that can't manage a 4-percent cut in their income. But the FAA apparently can't, without disrupting the air-traveling public, inconveniencing them, and even creating a hardship which is completely unnecessary.

We have already seen the FAA exercise discretion to one small extent, and that is by delaying the closure of air traffic control towers until June 15, after announcing as many as three previous final dates for implementation.

Much like the proposed tower closures, this recent round of furloughs is being driven not by the necessity of budget cuts but by political calculations and sheer incompetence, along with the administration's desire to apparently maximize the pain on American taxpayers because of their refusal to take our fiscal health seriously. It boggles the mind.

We have offered legislation that would give the President and this administration the necessary flexibility to administer the cuts imposed by the sequester—which the President, again, knew was coming since he signed it into law on August 2, 2011. But our friends across the aisle blocked that legislation, which would give the FAA and the executive branch discretion, and the President's administration sent out a statement of administration policy saying that if we passed it, he would veto it.

This morning I joined with Senator HOEVEN, our colleague from North Dakota, to cosponsor bipartisan legislation that would direct the FAA to eliminate the flight delays it has imposed on air travelers. In order to meet this directive, the bill would give the Secretary of Transportation the additional authority to transfer funds within the Department's existing budget. This legislation represents just one of the many proposals that are designed to ensure that the sequester is not used as an excuse to endanger public safety and security, or inconvenience or create hardships for the air-traveling public.

Unfortunately, between the cancellation of the White House tours and now the FAA furloughs, the administration has repeatedly shown it is more interested in finding ways to inconvenience the American people than it is in looking for real solutions to our fiscal problems.

The American people, it would seem obvious, deserve more and better from their government. I urge the FAA, No. 1, to take another look at its budget, take a look at those piles of money that might be available to move around to help avoid the furloughs and avoid the inconvenience and disruption to the public or, 2, to use the flexibility that we would be glad to give the FAA, if it needs additional authority, to make commonsense decisions.

We don't need another round of scare tactics. We need a serious conversation about our country's priorities, and a budget that reflects them.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The senior Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I thank the Senator from Texas for his comments.

There is definitely a problem. We had people miss votes on Monday night because the supposed furlough that the air traffic controllers had to have in effect delayed some planes for more than 1½ hours. I looked at some of the numbers, and I don't think that had to happen. Even within areas, there is enough flexibility to do better things.

I noticed some of the sequester things in Wyoming that came out and made calls about them, and found out that people actually could change within their own budgets some things they were concerned with and make sure it didn't affect the customer.

That is just good management.

One of the things was closing down some of the visitors centers in Yellowstone and Grand Teton. They are not open yet because at this time we are just getting the snow cleared out. I called and asked about keeping them open and they said we don't have enough personnel.

You have a gift shop there. That is a profit center. You are supposed to be making money on that.

They said the money goes to the general fund.

I said: Where do you think your money comes from?

The gift shop should operate, and if they have a problem with personnel, all they have to do is the person who runs the gift shop opens the door, does their day's sales, and in the evening as they are ready to leave, I hope they would look up and down the street and see if another customer was coming, but if they were not, go ahead and lock the door and leave. That is just good business. That is the way they could operate. It is my understanding those gift shops and visitors centers will now be opened.

There are ways that could be handled. To go back to the bill—

Mr. DURBIN. Will the Senator yield for a question?

Mr. ENZI. I yield the floor.

Mr. DURBIN. I would like to engage the Senator in a dialog, if I can, through the Chair.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DURBIN. The Senator from Wyoming and the Senator from Tennessee and I, along with the Senator from North Dakota, have brought this measure to the floor and invited our colleagues to file amendments. We are starting to get a response. I can give this general report, kind of general observation, because we have to decide how to move forward.

So far there are about 13 amendments that have been suggested to us. I would say, off the top of my head, six or seven of those I would move to table if they are brought to the floor because they all amend the Internal Revenue Code. They change Federal taxation. Our bill does not change Federal taxation, and we run into a procedural problem, known as a blue-slip problem, if we amend the Internal Revenue Code in the Senate and send that measure over to the House.

So I urge, and I hope my colleagues will join me, colleagues who want to change the estate tax, gift tax, whatever it may be, please save that for another day. If they bring it to the floor, if we end up voting before cloture, I will suggest we table those so we do not go to the merits of any of those suggestions but simply say that is not part of this bill.

There are two or three amendments, one is a managers' amendment, one is a technical amendment on our side. As you can see, we are starting to get past the halfway point of the amendments currently filed. Then there are a handful, five or six amendments from Senators from no sales tax States, and some of them are fairly predictable as to what they want. One is a carve-out amendment which says don't let the law apply to our States. I think we are going to have to face that question at some point and so be it. Let's have a vote on this and move forward.

But I am still going to join my colleagues urging everyone with an amendment, please bring them forward. Let's get an understanding of what we are going to do next. Those who have already delivered the amendments, thank you. I am sorry the Internet freedom amendment offered by the Senators from Arkansas and Missouri was objected to by the Senator from Oregon because I think it would have been a good addition to this bill.

But I yield to my colleagues and ask for their thoughts, where we stand at this moment.

Mr. ENZI. Mr. President, I appreciate that question. One of the reasons there is difficulty, there is the blue-slip problem with the House, but also we have the section on limitations in this bill that appears on page 7. There are only 11 pages in this bill so it ought to be

fairly easy for people to look through it and see what is included and what is not included. We have pretty much limited this—not pretty much, we definitely limit this to sales and use taxes. When they put other peripheral things in there, then they are opening the bill to go into a lot of different things. So I hope that would not happen.

Of course, there was some question earlier in one of the speeches by the Senator from Montana about the real difficulties of being able to administer this. Again, there are only 11 pages in the bill. Page 4 covers software, free of charge for remote sellers, that calculates the sales and use tax on that transaction due at the time it is completed. It also has to provide a way to file the sales and use tax returns, and it has to be updated for any rate changes that there happen to be.

The responsibility is all on the State to provide the software. I think the provisions that are in there pretty well specify how carefully that has to be done. If it is not, there is no liability on the remote seller. So I think we have covered that.

Yes, it will be difficult to do that software, but that is part of the provision in here. It can be done. This is a day, as the Senator from Tennessee points out, that we can put in a ZIP Code and find out what our sales tax is going to be. That is what this program is calling for. I think I have that right. I rely on the Senator from Tennessee to answer that question more specifically.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

Mr. ALEXANDER. I thank the Senators from Illinois and Wyoming for their comments. Basically, the Senator from Illinois has said the bill is ready to be amended. It is here for that purpose. We encourage our colleagues to bring amendments if they have them.

We could have started the amendments on Monday if the opponents had agreed to that. But we were forced, through Senate procedure, to go through Monday and Tuesday and most of today in order to deal with the filibuster. But we are about to be ready to vote on amendments.

It was unfortunate; some people have said in a misleading way that this taxes the Internet. Of course, it does not. There is a Federal law against taxing the Internet. The Senator from Arkansas attempted to extend that ban on taxing the Internet for 10 years and one of the opponents to our legislation blocked that. He blocked even having a vote on that. That is unfortunate.

It is ironic that the Senator from Montana would object to the fact that this is an 11-page bill. I don't want to relitigate some of the other bills we have passed around here, but there was a big hue and cry when Senators got a 2,700-page bill that dealt with health care and it was complicated and hard to read. We have gone in a different direction. We have an 11-page bill that is the result of work that has gone on

since 2001 by the Senator from Wyoming, that was introduced in 2011 in substantially this form, on which there was a full hearing in the Commerce Committee in 2012 and a partial hearing in the Finance Committee in 2012. It has been introduced with exactly these 11 pages since February of this year. So everybody can read it. It is not complicated. It is plain and simple. It is about States rights. I think it is good that we have an uncomplicated 11-page bill we all can read and we have had plenty of time to read it.

Of course, we would have preferred to have it reported by the Finance Committee, but they would not report it. So the only choice we had was to bring it to the floor. Now it is open for amendment so I hope we will do that.

The only other point is it was said there is no benefit to an out-of-State seller from, say, selling into Tennessee, if someone from Wyoming is selling into Tennessee. Of course there is a benefit. We are buying that business's goods. All we want to be able to do is to have the right to say: Mr. Wyoming, if you want to sell into Tennessee, you are going to play by the same rules the Tennessee businesses have to play by. That is all we want to do. The equal protection clause of the Constitution guarantees we cannot do anything worse to you. But if you want to sell to us, you do what we do.

We think that is fair and we think that not allowing States to consider that is forcing States to play "Mother May I" with Members of Congress about matters which should be within their own sovereign jurisdiction and keeping States from doing what they think is fair.

I thank Senators DURBIN and ENZI for their leadership.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. WYDEN. Mr. President, I think for the next half hour Senator MERKLEY and I are going to have the opportunity to outline specifically how this affects small businesses in the real world. That has always been our concern. One of the proponents of the bill earlier today talked about big businesses and big businesses getting a free ride. That is not what this debate is all about if you are from Oregon or Montana or New Hampshire. What you are concerned about are your small businesses.

These are innovators. They are people without lobbies and political action committees. They are small businesses. Someday they would like to be big, but they are trying to compete in a nationwide marketplace and they are overwhelmingly in opposition to this bill and for understandable reasons.

They hear this is all about States rights and then they actually look at what this bill does and this bill coerces them to collect taxes for, in effect, thousands of jurisdictions around the country.

It has been my interest, and I want to repeat it, to work out a compromise on this issue. Our side has put down on paper a number of proposals that we think ought to be the basis for trying to work out a position that would allow, from our standpoint, at least some semblance of a right for a State to make its own judgments and not be coerced into just going along with a piece of legislation that forces our small businesses to collect these taxes for everybody else. The way I have compared it, whenever the proponents of the bill say they are for States rights, what I have said is they are for States rights if they think the State is right.

I am going to now read some examples because my colleagues have said they want to hear specific instances. Here is what we heard from the Oregon Nurserymen. These are not big businesses. These are not businesses with 500 people. These are businesses with five, seven or eight employees. Senator MERKLEY and I are very proud of our Oregon nurseries. They produce an extraordinarily high-quality product, ranked one, two or three in every category of nursery products.

The reality is those are products that are being sought out by Americans in every nook and cranny of the Nation. That is how free markets are supposed to work. The seller of high-quality goods wins sales over those supplying lower quality goods.

What this bill is going to do, as outlined by the small businesses Senator MERKLEY and I represent, the Oregon Association of Nurserymen, this bill is going to add substantial costs to Oregon retailers and make it more difficult for them to compete with lower quality sellers in other parts of the country.

Here is a letter, and I will quote from it, from the Oregon Nurserymen. They are the growers and sellers of plants and trees. They are the prototypical small business and the backbone of our economy. This is a quote:

It is my view that this legislation would force small businesses to spend precious time generating endless sales reports for government instead of tending to customers, selling plants and trees, and creating traded sector jobs. Oregon growers are far away from their markets and we need to look to knock down barriers to sales of our green goods.

There are fewer than five people at these firms. Here is another quote from a small business:

Let's call the bill what it is—a transaction tax. As the legislation stands now, the bill will impact the marketplace—to the detriment of the small business and their ability to conduct commerce. Congress taxes things it wants to go away.

That is what these nurserymen, whom Senator MERKLEY and I represent, are saying about this bill. They

are saying the way they read this—where they would have to collect taxes for people in thousands of jurisdictions across the country—is that it is the motivation of Congress trying to make these businesses go away.

Let me just say categorically, I have known Senator DURBIN and Senator ENZI for a long time. They are not interested in an Oregon business going away or anybody else's business going away. That is not their intent. Regrettably, that is the effect. I just outlined how a small businessperson describes the nature of free markets.

We are very proud of what we do in the nursery industry in Oregon. We like the fact that we are selling high-quality goods, and we are winning those sales over those supplying lower quality goods. However, I know this is going to add substantial costs to Oregon retailers, and in their own words they have said this would put them at a disadvantage in tough global competition.

I also want to say this—particularly since the Senator from Illinois is here—because I hope it indicates my desire to try to work something out for purposes of passing this bill. I made an enormous concession for purposes of an agreement. This bill clearly gives a foreign retailer a leg up over an Oregon retailer or Montana retailer or anybody else because it doesn't apply to those foreign retailers.

One of my and Senator MERKLEY's constituents, Fire Mountain Gems—located in Grants Pass, OR—is competing in a tough global market. And what is going to happen is this bill—because it will not affect their foreign competition—is going to cause them to spend time and money that their foreign competitors would not have to do. They sell all over the country in scores of jurisdictions. This bill gives a big advantage to foreign retailers because it does nothing to, in effect, level the playing field between the small merchants and the businesses that Senator MERKLEY and I represent and their foreign competitors.

For the purpose of a good-faith effort, we have made a concession to try to work this out. At this time I am not pressing to have that flaw, which is an enormous flaw. It gives a significant advantage to foreign retailers over American business.

I see the distinguished President of the Senate here, and he has been so eloquent in standing up for the rights of American businesses. We have a feature in this bill that actually gives a huge windfall to the foreign retailers at the expense of American business.

I am not asking for that to be corrected in this legislation, even though I think it is enormous discrimination against American business. The Senator from Wyoming and I both serve on the Finance Committee. I chair the Finance Subcommittee on Global Competitiveness. It is awfully hard to be globally competitive if we give an advantage to foreign retailers. But in the

interest of trying to work this out, I said we will not insist on that being addressed in this bill. We will have to come back to the Finance Committee and look at that.

So what our side has said is—Senator MERKLEY, the Senators from New Hampshire, the Senators from Montana—just give us the opportunity to be able to tell our constituents: You are not going to have this pushed down your throat. You are not going to be coerced into collecting these sales taxes from thousands of jurisdictions around the country.

I don't see how we can have States rights if a State loses its ability to make any judgments at all about areas where it wants to make its own priorities. Its priorities are being determined right here in Washington, DC, with this legislation with respect to the collection of sales taxes. Those priorities are being made here.

When Oregon small businesses are being coerced by State governments located thousands of miles from Oregon's borders, I think that is too much. I think adding a layer of bureaucracy to the large and growing national marketplace fostered by the Net in the way this does attacks our most competitive small businesses.

I also want to highlight—because the only amendment I have objected to so far today has been the one with respect to the Internet Tax Freedom Act that I authored back in 1998 in the Senate—the reason I had to object is the text of this legislation directly undercuts the Internet Tax Freedom act, and I will be specific.

The law we wrote prohibits discriminatory taxes on electronic commerce. It is section 1101 of the Internet tax bill. It prohibits discriminatory taxes on electronic commerce. Under the text of the bill, in effect they could require an Internet company in one of these States, such as New Hampshire, to collect sales taxes for the Massachusetts government. However, if somebody drives from Massachusetts to another one of these States, such as New Hampshire, the brick-and-mortar store doesn't have to pump the perspective customer for all kinds of information about where they are from or where they are going and the like.

So the reason—with great reluctance—I had to object to adding this legislation to this bill that I am the original author of in the Senate is because this bill in its current form directly undercuts the essence of the Internet Tax Freedom legislation.

At this time I will yield to my colleague, Senator MERKLEY. I just want to make a special note that Senator MERKLEY has made a whole host of important contributions in the Senate, and I have been especially pleased he has been a persistent advocate for small business. I know the Senator from Illinois brought up big businesses in Oregon. The grief we have here is what this is going to mean to those small businesses, those nurserymen—

the Oregon Association of Nurserymen—with 5, 8, or 10 people. Those are the people for whom Senator MERKLEY and I are advocating.

I am happy to yield the rest of my time to Senator MERKLEY.

Mr. MERKLEY. Mr. President, how much time remains?

The PRESIDING OFFICER. There is no time agreement.

The Senator from Oregon.

Mr. MERKLEY. Mr. President, I compliment the senior Senator from Oregon who has come to this floor and very clearly laid out what is felt in the heart of Oregonians across our State, and that is this bill tells Oregonians they have to be the collection agents for folks from 45 other States and hundreds of local jurisdictions. This is not just an expense mandate, it is an offensive intrusion into the rights of the citizens of our State.

In that regard, I want to just engage in a few questions and thoughts with my colleague from Oregon and try to highlight some of the concerns and issues we have.

I ask through the Chair the senior Senator from Oregon: As he reads this bill, does he see in it any compensation for the time and effort that the businesses in Oregon will have to spend collecting the tax for hundreds of jurisdictions across this country?

Mr. WYDEN. I really don't. I know the sponsors of the legislation keep talking about how this is not going to be a burden, for example, to the businesses my colleague advocates for, and that there is going to be software, computers, and technology. I think my colleague's question is pivotal.

There is a little bit of interesting history I think my friend from Wyoming knows more about than anyone else. For years there has been an effort at the State level to try to remove some of the hassles and the costs that my colleague has talked about. I think the official name—and my colleague probably knows this—is the State streamlined sales tax project or something along those lines.

If it were so simple, and if this was something that didn't have the kind of costs for small businesses that my colleague is so concerned about, I think we would have already seen it put into effect by the proponents of the bill.

The reason we are on the Senate floor talking about it—and talking about Oregon businesses being forced to do this against their will—is that it is not without costs, it is not without hassle, and the technology and all of the marvels of software and computers that we have heard about for the proponents is not there. They have not been able to do it through that kind of approach—which is essentially voluntary—so now they are on the Senate floor to force States such as Oregon to do it.

Mr. MERKLEY. The Senator makes a great point. If States have not voluntarily entered into compacts where they get to collect their own sales tax

for other States where it is a mutually beneficial relationship, then it is very strange to have to be compelled—even those 45 States that have sales tax obviously were not so excited about forming such a structure. They also seem determined to pull into this involuntary structure States that find the sales tax abhorrent. If they find a tax abhorrent—and just a little bit of background there. I believe our State has voted nine times on a sales tax. Largely the vote has been on heavy majorities defeating it. Many of those votes are 70 to 30.

Some of those reasons for that is because it is an extremely regressive tax. Another reason is that it is an expensive tax to collect; therefore, it is much less efficient and much more government waste.

Now we have all these Senators who are champions of government waste not only forcing an extension of their own State's wasteful tax system, but imposing it upon the small businesses of Oregon. Then we come to a whole series of concerns that any small business is going to have in this situation.

A small business is told they must participate, and basically anything beyond a single-person shop is pulled into this bill. Then they are subjected to—I think it is over 800 tax jurisdictions—having to call them and say: We are not sure you gave us the right amount.

Is there anything in this bill that says those hundreds of tax jurisdictions out there cannot call and basically challenge whether they have the right amount of money?

Mr. WYDEN. The Senator is right that certainly those jurisdictions could challenge Oregon. It goes to the question, again, of how the systems are not in place, so let's just force Oregon to do it even though the systems have not been available. There are actually more than 9,000 separate taxing jurisdictions.

What we have been told by the proponents of the bill is that they are going to get this down to a smaller number of systems than 9,000. Again, that is why it ought to be possible—if the Senator from Illinois and the Senator from Wyoming will negotiate with us—to work something out.

We have given them on paper several proposals to try to find some common ground where our constituents—folks in Oregon especially, but they are in New Hampshire and Montana and other States that have made their own judgments—would have the ability to shape some of our own decisions. As my colleague knows, Washington State has a sales tax. We don't have a sales tax. So our region alone shows that if we could allow States to come together and make their own voluntary judgments, it is pretty clear that folks in Washington believe they made some of the right decisions for their economy and individuals and we have made our own. The fact that a State with a sales tax and a State without a sales tax coexist—and quite peaceably—right next to

each other is a pretty good argument why Senator DURBIN and Senator ENZI should work with us to have some kind of a voluntary situation.

Mr. MERKLEY. Mr. President, I think about the small businesses that would be subject to so many jurisdictions that they now have a tax relationship with and the responsibility to collect for and the possibility of having to basically call them and say: Well, you didn't do it right; you didn't use the right amount or the right software or this or that.

I can't imagine any small business wanting to be exposed to, as my colleague pointed out, 9,000—and even if it is consolidated into 800, that is still a lot of people to deal with. If we have to deal with five or six, that is overwhelming. But then the question becomes whether those States have the power to audit the Oregon small businesses as collectors of a tax, just as they might audit any other group that was collecting sales tax for their State.

Mr. WYDEN. Again, it sure looks as though those are going to be the kinds of burdens our States—the ones without a sales tax—are going to be subjected to.

The proponents say: That is not going to happen. There is going to magically be all of this software and all of this technology, so if anybody wants to come back and look later, this is not going to be hard to respond to.

I just know, looking at all of the businesses that have been in touch with us—including A to Z Wineworks, for example. We have clothing stores, such as Queen Bee, a quintessential small business that is employing eight skilled staff members who all help to bring the designs to life at the Hive on North Williams Street in Portland. The Senator and I know them. Their goods are locally crafted in Portland. Rebecca Percy there said she—I will quote her:

Building, running, and maintaining a Web site is expensive and complicated enough. I can't imagine having to include the additional infrastructure of charging and paying sales taxes to States outside of Oregon.

These are real businesses with six, eight people who, when they hear that they are going to have to pay, that they are going to run the risk of having these kinds of audits and the like, and that maybe there is going to be software and computers for them to take care of it, they say: You have to be kidding. We can't put our business at risk on the promise of that kind of hope and a Washington promise.

Mr. MERKLEY. Well, I appreciate the Senator expanding on that.

On page 6 of this bill, there is a line that starts out very promising: "Relieve remote sellers and certified software providers from liability to the State or locality for incorrect collection and remittance . . ." Well, that sounds OK. That sounds as though you are not subject to an audit. But then it goes on to say, only from basically an

error in the software provided by the State. In other words, if a mistake is made, a business owner is subject to all of the same things as if their efforts were inside the State of New York, and that means subject to the State organizations inside the government of New York, that means audits, that means fees. It could include court actions.

So we are talking about, as the Senator put it, 9,000 jurisdictions that now can make life completely unmanageable. It would only take 2 or 3 to make it unmanageable, but 9,000 can make it unmanageable for a small business in Oregon.

Now, my colleague from Illinois has said it is OK for small business because we put in an exemption for selling \$1 million online. That is no kind of an exemption at all. Let me explain. Let's say a small business is selling \$1 million online and they have a 5-percent margin. That means they are making \$50,000 a year. After they basically recognize that a person is working for themselves—they have no benefits separate from that—that is a very modest, middle income. That is one person. So this has an exemption for only a business of one—a modestly successful business of one—which means every other business in the State that is engaged online is subject to this provision.

So while others may feel comfortable telling their home State small businesses—and this would include those in the 45 sales tax States—that they are subject to audits and fees and court action from 9,000 other entities, I am certainly not comfortable telling the small businesses of Oregon they are going to be facing this type of incredible bureaucracy created by some of the folks who come to the floor and say they are all about small business.

Now, they want small businesses to be audited and fee'd and asked to turn up in some other State for a hearing. That is an outrageous attack on small business, not to mention our States that do not have a sales tax. It is an outrageous overplay attacking States rights.

Mr. WYDEN. Mr. President, I couldn't say it any better than Senator MERKLEY. I think he has characterized what this legislation is all about better than anybody I have heard on the floor of the Senate.

I have been in this debate for quite a while here. It is about coercion. It is about putting those small businesses Senator MERKLEY is talking about through sort of the equivalent of bureaucratic water torture. I have explained how the text of it in its present form directly violates the prohibition in the Internet Tax Freedom Act of discriminatory taxes.

Again, to the sponsors of the legislation, I wish to repeat that I and Senator MERKLEY and Senator SHAHEEN, Senator AYOTTE, the two Montana Senators—we have put down on paper—on paper, I say to my colleagues—specific offers to try to work this out. Senator

MERKLEY and I understand the votes that have been cast. We can count. That is part of how one gets to be a Senator. But the Senator from Illinois has not responded in writing to any of the offers we made.

We would like to walk through this process and find a way to have some opportunity to tell our constituents—particularly the ones Senator MERKLEY correctly identified as being small and going through all of these bureaucratic water torture drills—that they are going to be able to shape their own future.

Washington has a sales tax. Oregon doesn't. The Senator from Illinois keeps talking about how Oregon is going to be some huge haven if we get an opportunity to initiate a voluntary compact. That hasn't happened today. When we have one State and another that are borders—as my colleagues know, we are very close. We have kept the peace. We can work out these approaches.

To have Senator MERKLEY and I concede on the major point, which is the provision that gives a foreign retailer a leg up in this bill—which I think is a very serious defect, and I think a lot of Senators who vote for this bill, when they see that it is going to be a huge advantage for foreign retailers, they are going to have some real misgivings about that—we gave that up for purposes of this. We have made concessions. We can't even get an offer in writing about something to negotiate that would incorporate a way to protect our States from the kinds of features Senator MERKLEY has correctly described.

I especially appreciate him going through the specifics, as he always does. Senator MERKLEY cited the fact that this legislation has a provision to basically compensate people for errors, which suggests to me that they think there are going to be a bunch of errors and the reason they think so is because they are right, as my friend from Wyoming knows, because they sought in the effort to try to sort this out during the streamlined sales tax discussions that have gone on for so many years.

I wish to yield to Senator MERKLEY for the last word. It is a pleasure to partner with Senator MERKLEY on so many issues, and he has described it today as well as anyone has in this discussion. I thank Senator MERKLEY for all of his leadership, and I yield to him for closing it up, as our small businesses in Oregon, such as the Oregon Association of Nurserymen, have been talking to us about.

Mr. MERKLEY. I thank my senior Senator for his championing and his leadership and his longtime defense of the Internet as a place of fair transactions for small businesses and large, as a tax-free zone. I hope this Chamber is not engaging in a course that is going to change that dramatically, as it seems so intent on doing at this moment.

I am very struck by the correct point my colleague made about foreign companies. Here we have a company in Canada that is not subject to this bill. We have a company in Mexico that is not subject to this bill. For that matter, we have a company in Nigeria or anywhere else in the world not subject to this bill. So when American businesses say we should maintain a level playing field to keep business in America, allow us to play on a level playing field, they are certainly hoping we won't pass something such as this that gives such an enormous advantage to other nations.

I must say that constituents have been weighing in on this issue. I don't think it would surprise anyone to know that they don't like it. Ninety-eight percent are writing in to us to say: We don't like it. We don't like the idea of other States auditing our businesses. We don't like being asked to be a tax collection agency for another State.

Oregon is not asking anyone else to do that unless they have a State-to-State compact, which is exactly the way this could have been done and should have been done but hasn't been done because the States couldn't agree, even though they were sales tax States. That tells us quite a lot.

They don't like the idea of being subject to bureaucrats or the potential for legal action where they might have to travel to another State, and they don't like the idea that there is absolutely no compensation for the enormous imposition this bill places on the small businesses of Oregon. That is quite a lot not to like. So, of course, it is 98 percent against this bill.

I thought I would read one such letter:

Please do not support the Marketplace Fairness Act. It is not fair to businesses like mine that other States could tax my Oregon-based company. The voters of Oregon have continually voted down sales taxes as a method of collecting revenue within our State. It should not be imposed on us by other States. If these States have problems with their collection, they should figure it out with the help of their local populace . . .

My company is an Internet retailer and we are able to compete and create jobs on a level playing field.

The dynamics of this fight will have consequences for mid-sized retailers like mine, especially companies based in Oregon. Big retailers are fighting to limit our ability to compete with them. Their goals are to have local footprints and employees across the country in major metropolitan markets. They should pay those local taxes and fees where they are a burden. Companies like mine, that have not chosen to be in that model, should not.

Please continue to support the Internet's free market. Please protect Oregon business and maybe even create some new opportunities.

That is what we should be doing in the U.S. Senate—creating new opportunities for Oregon small businesses to succeed in this tough economy. That is what this business owner in Oregon believes, and I will repeat that sentence since the writer made that point: That is what we should be doing in the U.S.

Senate—creating new opportunities for Oregon small businesses to succeed in this tough economy. But that is the opposite of what we are doing here. Maybe that is why Oregonians are overwhelmingly opposed to this bill.

I think it is clear that there are some ideas for which, if someone passionately believes in them, they are willing to try them out, they are willing to develop a pilot project before they impose it on the entire Nation.

Certainly out of the 45 States, since so many have come to the floor representing their States passionately, saying this should be done, why don't they have a pilot project among their States and demonstrate that this is not going to be a burden in which there are audits and fees and court appearances and phone calls from the some 9,600 jurisdictions my senior colleague has pointed out? Why don't they demonstrate that first before they decide to run an attack on the success of small businesses in the State of Oregon and, for that matter, across this Nation? How about that? That is a fair proposal. Run a pilot project.

If you love this idea so much, do it among yourselves and demonstrate it and bring the report back to this Chamber for further conversation. But the idea of coercing my citizens of the State of Oregon to do your work, with enormous imposition and uncertainty, when they are trying to succeed as small businesses—and when small businesses are the power of creating jobs in this country—that is wrong.

So for those who speak about the heavy hand of government, those who speak about the power of small businesses, those who speak about bureaucracy and imposition, then live your words in action and kill this vicious attack on small businesses across this Nation.

Thank you, Mr. President.

The ACTING PRESIDENT pro tempore. The Senator from Illinois.

Mr. DURBIN. Mr. President, I understand the passion of my colleagues from Oregon. Oregon is one of five States with no sales tax. I know they have voted down a sales tax by statewide referendum repeatedly, by margins of 2 to 1, I am told. So it is clear they have a passionate feeling about no sales tax in Oregon.

Here is the good news. The bill Senator ENZI and I have introduced and want to pass in the Senate will not impose one penny of sales tax obligation on anyone living in Oregon. Whether they are purchasing over the counter or they are purchasing over the Internet—not one penny of sales tax liability. Their States rights are protected. Their passion against sales tax is honored. And the same is true in Alaska, Montana, New Hampshire, and Delaware—all the other no-sales-tax States.

But this is what it really gets down to. This is not about the people in Oregon paying a sales tax. It is about the businesses—the Internet businesses in Oregon that want to sell into other

States and not collect the sales tax owed to that State. That is it. We are not forcing them to sell in Illinois or Wyoming. That is a business decision they are making. We are just saying: If you sell, collect the sales tax required by Illinois law, Wyoming law, Connecticut law. That is what it comes down to.

Why is it important? It is important because businesses in our State—small businesses—are competing with Internet retailers that get an automatic discount when they do not collect the sales tax.

I listened to the explanation given by one of my friends from Oregon here, and he said that I am defying the natural forces of the free market system, where good-quality goods are chosen over lower quality goods. Well, I cannot argue about the pine trees that are grown in Oregon because I do not know if they are better than the pine trees grown in Washington or some other place. But we are dealing in many instances here with identical goods—the Nike running shoes that you can buy at Chris Koos' sporting goods store in Normal, IL, or buy over the Internet with no sales tax. It is not a question of good quality versus bad quality; it is a question of sales tax or no sales tax.

So what the Oregonians have suggested to us is what they consider to be a perfect solution: Remove any requirement for their Internet retailers to collect sales tax from anybody. Therefore, there would be no Federal mandate.

Well, let me remind them, there is no Federal tax in this bill. There is no new tax in this bill—State, local, or Federal. All we are asking for is the basics. If Oregonians want to sell in an adjoining State such as California, they will collect the sales tax owed to California and pay it back.

Then I listened to them describe how onerous this would be. Right now, eBay, which is no friend of this bill, offers a service available to businesses that they can buy that will tell them the exact sales tax to be collected based on your ZIP Code and address, and that service costs—listen to this onerous cost—\$15 a month. It is \$15 a month. If you want to go to the highest Cadillac version, it is \$140 a month—less than \$2,000 a year.

Incidentally, in our bill we require the States that are asking for the collection of sales tax to provide, free of charge, software to every Internet retailer so they can collect this without any expense to their business.

This is not onerous. It is not unfair. It is just basic leveling of the playing field.

I want to yield the floor to my friend from Wyoming, my cosponsor of this measure.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. ENZI. Mr. President, Senator BROWN was here earlier, and I had wanted to be able to speak briefly. So if, when I finish my remarks, he is here, I ask unanimous consent that he be recognized to speak.

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

Mr. ENZI. I want to talk about what we have just heard here and an implication that we are not champions of small business.

I was in small business. I had shoestores, retail shoestores, so that is why I know some of these problems. I know about the people coming in, trying on the shoes, getting exactly what fits, having all of the service of looking through all of the styles and that sort of thing, and then leaving and making a purchase on the Internet.

Talking to other retailers now, that is not the biggest irritation. They buy it on the Internet, the product has a problem—and every product has the potential of having some problem—and they bring it back to the store where they got the free service, where they did not buy the shoe, and they ask for it to be replaced. I hope people can see the inequity in that.

But we are not talking about the small business like the shoestore I had. We are talking about small businesses that are selling online and are doing over \$1 million a year in sales. I do not think people would consider that to be a really small business—\$1 million in sales. If they are doing \$1 million in sales, you can pretty much guarantee that they are automated. They are automated in their manufacturing, they are automated in their sales. That means they have a computer. Not many businesses today function without a computer. If they have a computer, you would be amazed at some of the things those computers will do.

I go back to Wyoming almost every weekend, and I visit businesses. I visit businesses so they can tell me what kinds of problems the Federal Government is causing for them. I am amazed at the automation they have. I am amazed at what they are able to do. And most of it is because of computers. Now we are saying—and I think computers kind of started out on that coast—that computers just do not have the capability to do these kinds of things. To be able to figure a sales tax? All you have to have is a ZIP Code, and it eliminates the 9,600 jurisdictions we are talking about here. That computer can figure that sales tax, and at the end of the month, that same computer will have kept track of all of this stuff, and it will do the reports that are necessary electronically. It can probably do that with about five or six key taps, maybe less than that. I am sure they could actually be set to send the report on the last day of the month at a specific hour. That is how computers work.

So an argument that this cannot be done—I do not think anybody will buy that. And the States would not be willing to provide those programs free of charge and then put in the protections from liabilities and errors if they were not sure they could do it. The reason they put in those protections for the

retailer is because they are sure it can be done.

I was fascinated by the audits. If they are using that computer program, how could they vary from what they actually take in to actually sell? The program takes it in, the program holds it, and the program sends it out with the report. There is not a lot of room for error.

Then they say they are going to be running around auditing those firms. They are going to audit the firm that looks as if it is shipping everything everywhere and not reporting at all. That is what accountants do. They figure out the high risk. They are not going to go in and look for pennies here and there. They go in and look for enough to at least cover the cost of the audit. If you are not doing probably 10 or 20 times the value of the audit, you are not going to be hired to do many of them.

So those that are complying, using the program, they are not going to have any problem.

But this exempts all the businesses that are doing less than \$1 million online in a given year. Until you do \$1 million online in a given year, you are exempt from it.

I would imagine that a lot of those nurseries do not hit the million-dollar mark. They would like to hit the million-dollar mark, and I would like them to hit the million-dollar mark, and if they got to that million-dollar mark, I think they would be so overjoyed, they would say: I am automating on the computer. I will be happy to do it because maybe I can sell \$2 million worth of sales if that is the case.

Now, comments on the streamlined sales tax. My State was one of the first ones to get into it. So was South Dakota, so were Nebraska and another 20, 21 States besides those. The comment was that you cannot streamline this. What kind of incentive has there been for them to streamline it more? The purpose of the compact is to streamline it more, but at the moment they are having to protect their sales within their State to make sure they are not losing the revenues they were already counting on.

They knew there was this little Supreme Court case that is now 20 years old that challenged us to fix it. That is what we are trying to do here—fix it. If that fix goes in, I am betting that a lot more States will join the streamlined sales tax and it will streamline more than what we envisioned. But even if they do not, there are requirements in here that keep it uniform enough. And with the computers, we can show examples of how people already do this sort of thing on the computer. That should take care of a lot of their problems.

I yield the floor under the previous order for Senator BROWN.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

Mr. BROWN. Mr. President, I thank Senator ENZI, the senior Senator from

Wyoming, for his good work on this legislation and for his always courteous demeanor.

Mr. President, I ask unanimous consent to speak as in morning business for up to 8 minutes.

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

WORKING FAMILIES TAX RELIEF ACT

Mr. BROWN. Mr. President, this week Senator DURBIN and I are introducing the Working Families Tax Relief Act with a majority of my Democratic colleagues on the Senate Finance Committee.

For a number of years, one area of bipartisan agreement in Washington has been on the need for comprehensive tax reform. Tax reform can clear the Code of wasteful carve-outs and special interest loopholes.

Senator ENZI was part of a bipartisan meeting that the Finance Committee is wont to do, sitting around a table talking about these issues, just last week.

We understand that comprehensive tax reform can place American companies on an even footing with foreign competitors. It can reduce the deficit. It can provide a shot in the arm to economic competitiveness and growth. On that there is agreement.

What comprehensive reform should not do—and there is general agreement on this also—is undermine the earned-income tax credit and the child tax credit. These credits are the single most effective incentive to increase low-income parents participating in the workforce and reward work and promote family formation—all goals which we, I believe, all seek. That is why support for these programs in the past has been broad-based and bipartisan.

President Reagan and former Representative Jack Kemp—the former running mate of Senator Dole in a Presidential election—were champions of the modern earned-income tax credit. When it was expanded in 1986, President Reagan said it is “the best anti-poverty, the best pro-family, the best job creation measure to come out of Congress.” He was right.

In Ohio some 1 million households received the EITC—the earned-income tax credit—and 665,000 households received the CTC—the child tax credit—on average in the 3 years of 2009, 2010, and 2011.

That is why this week Senator DURBIN and I, along with most of our Democratic colleagues, are introducing the Working Families Tax Relief Act. Our bill would make permanent the 2009 levels for the earned-income tax credit and the child tax credit. It would index the child tax credit for inflation. It would allow workers without children to access the full earned-income tax credit. It would reduce the full earned-income tax credit access age to 21. It would simplify the filing process to reduce fraud because there is some acknowledged fraud in this program, as

there is throughout the tax system. And I have pledged to many of my colleagues on both sides of the aisle, as this bill moves forward, to work to reduce that fraud.

The Recovery Act of 4 years ago expanded access and refundability for both the EITC and CTC. It was meant to respond to the great recession but also to ensure the country's finest antipoverty programs keep up with the times. Making these credits permanent at the current level is critical to fighting poverty.

In 2011, the EITC and CTC lifted 10 million people, including 5 million children, out of poverty. The EITC has helped nearly half a million single mothers enter the workforce. These credits do not just reward work, they provide lifelong benefits to children. We know from studies that it improves health outcomes, it increases earning potential for children in low-income families, because those families pulled out of poverty can give advantages to those children that pay off later in life they could not give to those children in those families if their incomes were below the poverty line.

Expectant mothers who receive the EITC are more likely to receive prenatal care. These are not opinions; they are fact. Newborns are more likely to experience birth indicators, such as low weight and premature birth. Behind all of these statistics are real people, people whose lives and opportunities are improved because of these credits.

Let me share a story. Michelle Eddy, a Cleveland native, is a single mother who works hard to support her two daughters. One is 9, the younger is 4. This year the Neighborhood Housing Services of Greater Cleveland helped Ms. Eddy prepare her tax return. She was able to use the credits she received from Earned Income Tax Credit and Child Tax Credit to pay for school supplies, uniforms, and daycare for her two daughters.

She has worked in a retail store as a shift manager for 5 years. She recently, though, started a new job as a restaurant server so she can spend evenings and weekends with her daughters. Without EITC, without CTC, she would almost certainly have to work a second job to make ends meet, leaving her children at home without her far too often. The EITC and the CTC are not what make Michele Eddy a good mother, but they enable her to be there with her children when they need her most.

Right now, some 30 percent of children under the age of 3 are in families with too little earnings to qualify for full CTC. Even worse, nearly 13 percent of children under 3 are in families with no earnings, and as such get into CTC or EITC. We know the Child Tax Credit is not indexed for inflation. By the end of the decade another 1 million children will be forced to grow up in poverty.

The CTC needs to be more robust. We need to reform the Tax Code now. I am

very hopeful that Senator BAUCUS in his last year and a half in the Senate, with Ranking Member HATCH and leaders from that committee such as Senator WYDEN and Senator ENZI and others, can reform the Tax Code, can put measures in place to prevent fraud.

As we introduce the Working Families Tax Relief Act, I remain hopeful our colleagues across the aisle will work with us to make these credits a part of tax reform.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I have enjoyed the discussion on the Marketplace Fairness Act. It is nice to have a good debate and I am looking forward to voting on amendments that are here.

I wish to address two or three points that have been made during the debate. The first is about what we call here regular order. What we mean by that is that the bill was introduced, it goes to a committee, and the committee reports it to the floor, and we bring it up on the floor, and we have a debate and then we vote on it. We want to see more of that around here.

Well, the problem with this bill is that the Finance Committee would not act on it. Let's be straightforward about it. This bill has been around a long time. The Finance Committee chairman is the only one who can schedule a hearing and cause it to be acted on. He did not want to do that, despite the fact that we asked him to do it. So as a result, the majority leader used a procedure that brings the bill to the floor.

To underscore that, let me ask unanimous consent to have printed in the RECORD a timeline for the Marketplace Fairness Act. It details the steps we have taken since 2001.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MARKETPLACE FAIRNESS TIMELINE

107TH CONGRESS (2001–2002)

S. 512, Internet Tax Moratorium and Equity Act, Senator Byron Dorgan—introduced 3/9/2001, Referred to: Senate Finance, Finance Committee hearing—8/1/2001.

S. 1542, Internet Tax Moratorium and Equity Act, Senator Michael Enzi—introduced 10/11/2001, Referred to: Senate Commerce.

S. 1567, Internet Tax Moratorium and Equity Act, Senator Michael Enzi—introduced 10/18/2001, Referred to: Senate Commerce.

Senate Amdt. #2156 to H.R. 1552, Motion to table amendment was agreed to—57 to 43 on 11/15/2001.

108TH CONGRESS (2003–2004)

S. 1736, Streamlined Sales and Use Tax Act, Senator Michael Enzi—introduced 10/15/2003, Referred to: Senate Finance.

109TH CONGRESS (2005–2006)

S. 2152, Sales Tax Fairness and Simplification Act, Senator Michael Enzi—introduced 12/20/2005, Referred to: Senate Finance.

S. 2153, Streamlined Sales Tax Simplification Act, Senator Byron Dorgan—introduced 12/20/2005, Referred to: Senate Finance.

Senate Finance Subcommittee on International Trade hearing on sales tax fairness and other state/local tax issues—7/25/2006.

110TH CONGRESS (2007–2008)

S. 34, Sales Tax Fairness and Simplification Act, Senator Michael Enzi—introduced 5/22/2007, Referred to: Senate Finance.

Senate Commerce Committee hearing on “Communications, Federalism, and Taxation” where it was discussed—5/23/2007.

111TH CONGRESS (2009–2010)

No bill introduced.

112TH CONGRESS (2011–2012)

S. 1452, The Main Street Fairness Act, Senator Dick Durbin—introduced 7/29/2011, Referred to: Senate Finance.

S. 1832, the Marketplace Fairness Act, Senator Michael Enzi—introduced 11/9/2011, Referred to: Senate Finance.

11/30/2011—House Judiciary Committee hearing on “Constitutional Limitations on States’ Authority to Collect Sales Taxes in E-Commerce.”

1/31/2012—Official letter signed by 12 bipartisan Senators requesting Finance Committee hearing on S. 1832.

2/1/2012—Letter sent by 208 national, state and local organizations and companies requesting a hearing on S. 1832, the Marketplace Fairness Act.

4/25/2012—Senate Finance Committee hearing on state and local tax issues, including S. 1832, the Marketplace Fairness Act.

7/11/2012—S. Amdt. 2495, the Marketplace Fairness Act, filed to the Small Business Jobs and Tax Relief Act.

7/25/2012—Official letter signed by 16 bipartisan Senators requesting a Finance Committee markup on S. 1832, the Marketplace Fairness Act.

7/24/2012—House Judiciary Committee hearing on H.R. 3189, the Marketplace Fairness Equity Act of 2011.

8/1/2012—Senate Commerce Committee hearing on “Marketplace Fairness: Leveling the Playing Field for Small Business.”

11/29/2012—S. Amdt. 3223, the Marketplace Fairness Act, filed to the National Defense Authorizations Act. Amendment was blocked from getting a vote.

113TH CONGRESS (2013–2014)

S. 336, The Marketplace Fairness Act, Senator Michael Enzi—introduced 2/14/2013, Referred to: Senate Finance.

2/14/2013—Official letter signed by 16 bipartisan Senators requesting Finance Committee hearing on S. 336, the Marketplace Fairness Act.

3/21/2013—S. Amdt. 578 (Enzi 2nd Degree S. Amdt. #656)—Deficit Neutral Reserve Fund enabling Congress to pass the Marketplace Fairness Act. Senate Record Vote #62—Enzi Amendment agreed to 75 to 24.

Mr. ALEXANDER. To summarize some of these steps, this began in the 107th Congress in 2001. Now Senator ENZI started even before that, I think, with Senator Dorgan. They introduced the Internet Tax Moratorium and Equity Act in 2000 and 2001. Then in 2003, the Streamlined Sales and Use Tax Act was introduced by Senator ENZI. That is 10 years ago.

Then again in 2005 and 2006 Senator ENZI and Senator Dorgan. Then again in 2007 and 2008, Senator ENZI. In the 111th Congress no bill was introduced. But now we are getting to a little more recent history. Last Congress, 2011 and 2012, Senator DURBIN introduced the Main Street Fairness Act. Senator ENZI joined him in that. It was referred to the Senate Finance Committee.

So for all of that time, the Finance Committee has had an opportunity to work on this legislation in the way

they thought it should be. There were hearings in the Senate Commerce Committee in August of 2012 on essentially the same 11-page bill that has been introduced here today and that we are acting on.

There was a partial hearing in the Senate Finance Committee during that year. But that was all. Then, in this year, in February, on Valentine's Day, Senator ENZI introduced the Marketplace Fairness Act we are debating here, this 11-page bill. There was a letter from 16 Senators, Republicans and Democrats, asking the Finance Committee to hold a hearing and to deal with it. But it has not.

I respect the decision of the chairman to be opposed to the bill and not to hold a hearing and not to report the bill to the floor. But if he does that, then I would suggest he should respect the right of the majority leader to bring the bill to the floor and allow the Senate to debate it.

As far as the regular order goes, a week should be long enough to consider this bill, which has been in one form or another around since 2001. We could have begun debating amendments on Monday. That is when the bill came to the floor. But the opponents filibustered it. This was not a Republican or a Democratic filibuster, it was both sides, from opponents. And what that deprived us of was an opportunity to vote and debate amendments on Monday and Tuesday.

Then we had another vote. So we have now had three votes, one during the budget session, one on cloture on the motion to proceed, and then one on the motion to proceed itself. We have gotten 74, 75 votes each time. It is a majority of the Democratic Senators, it is a majority of the Republican Senators. This does not happen all the time, that we have such strong majorities on each side of the aisle, saying in three successive votes of 74 and 75 votes: We favor an important piece of legislation.

I would hope the better course would be to come to some agreement that we can take the amendments we have here from Democrats and from Republicans, bring them up, table them, vote on them, debate them, and act on this and bring this to a conclusion this week.

Then there is substantial support in the House of Representatives for this. The bill could then go to the House. The House could do whatever the House wishes. There could be a conference and we could get a result. Every attempt has been made by the sponsors of this legislation since 2001 to bring this through the regular order, which means take it through the committee. The opponents of the idea have chosen first in the Finance Committee to not allow there to be a markup of the bill, and then on the floor to not allow us to debate amendments.

For example, some people say this legislation taxes the Internet. Of course, that is 100 percent wrong, because there is a Federal law banning

State taxation of the Internet. Senator PRYOR of Arkansas sought to extend that ban for 10 more years today. The opponents of the bill objected even to a vote on taxing the Internet. This is very disappointing. That is the information about the timeline I wanted to put in.

Here is some more information that I ask unanimous consent to have printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,

Washington, DC, February 14, 2013.

Hon. MAX BAUCUS,

Chairman, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

Hon. ORRIN HATCH,

Ranking Member, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN BAUCUS AND RANKING MEMBER HATCH: We urge the Finance Committee to markup the Marketplace Fairness Act of 2013 at the earliest date possible. This bipartisan legislation would allow States to collect the sales and use taxes on remote sales that are already owed under State law.

Since the 1992 Supreme Court decision, *Quill Corporation v. North Dakota*, States have been unable to collect the sales and use taxes owed on sales by out-of-state catalog and online sellers. Congress has been debating solutions to assist States for more than a decade, and some States have been forced to take action on their own, leading to greater confusion and further distorting the marketplace.

Today, 18 bipartisan Senators introduced the Marketplace Fairness Act of 2013, which would give States the right to decide for themselves whether to collect—or not to collect—sales and use taxes on all remote sales. Congressional action is necessary because the ruling stated that the thousands of different state and local sales tax rules are too complicated and onerous to require businesses to collect sales taxes unless they have a physical presence (store, warehouse, etc.) in the state.

Today, if an out-of-state retailer refuses to collect sales and use taxes, the burden is on the consumer to report the tax on an annual income tax return or a separate state tax form. However, most consumers are unaware of this legal requirement and very few comply with the law. Across the country, states and local governments are losing billions in tax revenue that is legally owed. On average, States depend on sales and use taxes for 20 percent of their annual revenue. According to the National Conference of State Legislatures, this sales tax loophole will cost states and local governments over \$23 billion in avoided taxes this year alone. At a time when State budgets are under increasing pressure, Congress should give States the ability to ensure compliance with their own laws.

The *Quill* decision also put millions of local retailers at a competitive disadvantage by exempting remote retailers from tax collection responsibility. The “physical presence” standard means that local retailers in our communities are required to collect sales taxes, while online and catalog retailers selling in the same state are not required to collect any of these taxes. In effect, this tax loophole subsidizes some taxpayers at the expense of others and some businesses over others.

State and local governments, retailers, and taxation experts from across the country are urging Congress to pass the Marketplace

Fairness Act of 2013 because it gives states the right to decide what works best for their local governments, residents, and businesses. Given the fiscal constraints all levels of government are facing, we should allow states to enforce their own tax laws.

The Finance Committee held a hearing last Congress titled, “Tax Reform: What It Means for State and Local Tax and Fiscal Policy,” on April 25, 2012, which highlighted the growing demand to close this particular loophole. Two witnesses, Kim Rueben and Sanford Zinman, expressed the need for better federal policies to allow the collection of sales and use taxes from online sales. In fact, Dr. Rueben called passing legislation similar to the Marketplace Fairness Act of 2013 a “no-brainer.” We appreciate your willingness to address this issue and would request an additional forum to further discuss the impacts of this legislation on the U.S. economy.

The Finance Committee is in the best position to address the collection of sales and use taxes on remote sales. We urge the Committee to hold a markup on the Marketplace Fairness Act of 2013 at the earliest date possible. Thank you, in advance, for your consideration of this request.

Sincerely,

Senator Michael B. Enzi; Senator Dick Durbin; Senator Lamar Alexander; Senator Heidi Heitkamp; Senator John Boozman; Senator Tim Johnson; Senator Roy Blunt; Senator Jack Reed; Senator Bob Corker; Senator Sheldon Whitehouse; Senator Amy Klobucher; Senator Al Franken; Senator Ben Cardin; Senator Dianne Feinstein; Senator Mary Landrieu; Senator Joe Manchin.

U.S. SENATE,

Washington, DC, January 31, 2012.

Hon. MAX BAUCUS,

Chairman, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

Hon. ORRIN HATCH,

Ranking Member, Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN BAUCUS AND RANKING MEMBER HATCH: We urge the Finance Committee to hold a hearing on The Marketplace Fairness Act (S. 1832), bipartisan legislation to allow States to collect sales and use taxes on remote sales that are already owed under State law. For the past 20 years, States have been prohibited from enforcing their own sales and use tax laws on sales by out-of-state, catalog and online sellers due to the 1992 Supreme Court decision *Quill Corporation v. North Dakota*. Congress has been debating solutions for more than a decade, and some States have been forced to take action on their own leading to greater confusion and further distorting the marketplace.

On November 9, 2011, five Democrats and five Republicans introduced The Marketplace Fairness Act, which would give states the right to decide for themselves whether to collect—or not to collect—sales and use taxes on all remote sales. Congressional action is necessary because the ruling stated that the thousands of different state and local sales tax rules were too complicated and onerous to require businesses to collect sales taxes unless they have a physical presence in the state.

Today, if an out-of-state retailer refuses to collect sales and use taxes, the burden is on the consumer to report the tax on an annual income tax return or a separate state tax form. However, most consumers are unaware of this legal requirement and very few comply with the law. Consumers can be audited and charged with penalties for failing to pay sales and use taxes.

Across the country, states and local governments are losing billions in tax revenue already owed. On average, States depend on sales and use taxes for 20% of their annual revenue. According to the National Conference of State Legislatures, this sales tax loophole will cost states and local governments \$23 billion in avoided taxes this year alone. At a time when State budgets are under increasing pressure, Congress should give States the ability to enforce their own laws.

The Quill decision also put millions of local retailers at a competitive disadvantage by exempting remote retailers from tax collection responsibility. Local retailers in our communities are required to collect sales taxes, while online and catalog retailers selling in the same state are not required to collect any of these taxes. This creates a tax loophole that subsidizes some taxpayers at the expense of others and some businesses over others.

State and local governments, retailers, and taxation experts from across the country are urging Congress to pass The Marketplace Fairness Act because it gives states the right to decide what works best for their local governments, residents, and businesses. Given our fiscal constraints, we should allow states to enforce their own tax laws and make sure that state and local governments and businesses are not left behind in tax reform discussions. The House Judiciary Committee's hearing on this single issue on November 30, 2011, demonstrated the growing demand to close this loophole, and your committee would provide the best public forum for an open debate in the Senate on the merits of this important policy issue.

The Finance Committee is in the best position to shape the discussion on state and local taxation this year, particularly on sales and use taxes on remote sales. We urge the Committee to hold a hearing on the implications of The Marketplace Fairness Act at the earliest date possible. Thank you in advance for your consideration of this request.

Sincerely,

Michael B. Enzi, Lamar Alexander; John Boozman; Roy Blunt; Bob Corker; Jeff Bingaman; Richard Durbin; Tim Johnson; Jack Reed; Sheldon Whitehouse; Mark Pryor; Ben Cardin.

Mr. ALEXANDER. These are letters from Senators to the leaders of the Finance Committee. The first letter is dated January 31, 2012, last year, at the beginning of the year. It was from five Democrats and five Republicans who introduced the Marketplace Fairness Act. It asks for a hearing, asks for the committee to act. That is the first letter.

The next letter came this year, on February 14, from 16 Senators, both parties, to the Finance Committee, asking the Finance Committee to act on the Marketplace Fairness Act.

Then there is a letter to the leaders of the Finance Committee from the National Governors Association, signed by the Democratic Governor of Washington and the Republican Governor of Tennessee, asking the Finance Committee, on behalf of the States, to consider this legislation and act on it. The Finance Committee elected not to do that.

This information will be part of the RECORD.

Finally, there is also a letter dated April 22 of this year from the National

Governors Association urging Senators REID and MCCONNELL to pass this legislation. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS ASSOCIATION,

Washington, DC, December 11, 2012.

Hon. MAX BAUCUS,
Chairman, Committee on Finance, U.S. Senate,
Washington, DC.

Hon. ORRIN HATCH,
Ranking Member, Committee on Finance, U.S.
Senate, Washington, DC.

DEAR CHAIRMAN BAUCUS AND SENATOR HATCH: Never before has the need for legislation to grant states the authority to collect sales taxes on remote sales been greater. The continued disparity between online retailers and Main Street businesses is shuttering stores and undermining state budgets. Congress has the opportunity to level the playing field for all retailers this year by passing S. 1832, the "Marketplace Fairness Act."

Years ago, the Supreme Court ruled that state sales tax laws were too complex to require out-of-state sellers to collect sales taxes on catalog sales. As a result, states are unable to collect more than \$23 billion in sales taxes owed annually from remote sales made through catalogs over the Internet. It also creates an artificial price disparity between goods bought from the corner store and those bought online. It is in essence an unwarranted yet growing subsidy to Internet sellers at the expense of brick and mortar stores.

Failure to act now will only exacerbate state losses and harm local businesses that are losing sales to online sellers. According to a leading Internet analytics firm, 2012 holiday online sales are up 14 percent from last year. (Wall Street Journal, Real-Time Economics, Dec. 5, 2012.) Cyber Monday was the heaviest online spending day on record at \$1.47 billion. The firm attributes the growth to broad strength in the e-commerce sector and the fact that more than half of those who use the Internet have already made an online purchase this holiday season.

The Marketplace Fairness Act restores fairness by providing states the authority to collect if they are willing to simplify their tax systems to make it easier to do business. It also provides protection to truly small businesses in your state through a small business exception. This common sense approach will allow states to collect taxes they are owed, help businesses comply with different state laws, and provide fair competition between retailers that will benefit consumers and protect jobs. Furthermore, passage of the bill will serve as the equivalent of a \$23 billion stimulus to state and local governments helping to speed recovery and grow the economy.

Best of all, the Marketplace Fairness Act will accomplish these goals without raising taxes or increasing the federal debt.

We understand that you would prefer to take up the Marketplace Fairness Act next year in the context of wide-ranging, comprehensive tax reform. Frankly, our Main Street businesses and states cannot afford to wait. This is our best chance to pass this important legislation and we urge your support for enacting S. 1832 this year.

Sincerely,

GOVERNOR CHRIS GREGOIRE,
Washington.

GOVERNOR BILL HASLAM,
Tennessee.

NATIONAL GOVERNORS

ASSOCIATION,

Washington, DC, April 22, 2013.

Hon. HARRY REID,
Majority Leader, U.S. Senate,
Washington, DC.

Hon. MITCH MCCONNELL
Majority Leader, U.S. Senate,
Washington, DC.

DEAR SENATOR REID AND SENATOR MCCONNELL: On behalf of the National Governors Association (NGA), we urge the Senate to pass S. 743, known as the Marketplace Fairness Act (MFA), as soon as possible.

Just last month, during Senate consideration of its FY14 budget resolution, the Senate voted 75-24, in support of the MFA. This overwhelming, bipartisan vote stands in stark contrast to those who oppose this common-sense legislation.

Never before has the need for legislation to grant states the authority to collect sales taxes on remote sales been greater. The continued disparity between online retailers and Main Street businesses is shuttering stores and undermining state budgets. The Senate has the opportunity now to level the playing field with 21st Century rules for all retailers.

Opponents call this legislation a new tax. Of course, this is not a new tax, nor is it a tax on the Internet or on business. It is merely a means of collecting taxes owed on the sale of goods and services over the Internet.

From the viewpoint of the states, if a company is doing business, selling goods and soliciting customers in their state, that company should have to play by that state's rules. If a state has a sales tax on specific goods, then everybody selling those goods there should have to collect and remit it. This philosophy is not only fair, it also promotes competition, which is good for consumers, good for tax equity, and good for business by leveling the playing field and creating certainty—all accomplished without affecting the federal budget.

NGA urges the Senate to take decisive bipartisan action and pass S. 743.

Sincerely,

GOVERNOR TOM CORBETT,
Chair, Economic Development and Commerce Committee.

GOVERNOR STEVEN BESHEAR,
Vice Chair, Economic Development and Commerce Committee.

Mr. ALEXANDER. Now, finally, I ask unanimous consent to have printed in the RECORD the names of the Governors and former Governors who support this legislation.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Robert Bentley, R-Alabama; Bob McDonnell, R-Virginia; Chris Christie, R-New Jersey; Nikki Haley, R-South Carolina; Brain Sandoval, R-Nevada; Terry Branstad, R-Iowa; Dennis Daugaard, R-South Dakota; Paul LePage, R-Maine; Tom Corbett, R-Pennsylvania; Mike Pence, R-Indiana; Bill Haslam, R-Tennessee; Rick Snyder, R-Michigan; C.L. "Butch" Otter, R-Idaho; Jan Brewer, R-Arizona; Bobby Jindal, R-Louisiana; Rick Scott, R-Florida; Nathan Deal, R-Georgia.

Lincoln Chafee, I-Rhode Island.

Steven Beshear, D-Kentucky; Neil Ambercrombie, D-Hawaii; Mike Bebee, D-Arkansas; Jerry Brown, D-California; Mark Dayton, D-Minnesota; John Hickenlooper, D-Colorado; Martin O'Malley, D-Maryland;

Dannell Malloy, D-Connecticut; Jay Nixon, D-Missouri; Deval Patrick, D-Massachusetts; Patt Quinn, D-Illinois; Earl Ray Tomblin, D-West Virginia.

FORMER GOVERNORS—

Mitch Daniles, R-Indiana; Jeb Bush, R-Florida; Christine Gregoire, D-Washington.

Mr. ALEXANDER. I do that with a little bit of obvious bias as a former Governor. I think it is important that the country know what the Governors think, because the legislation we are talking about today is a States rights bill. It is an 11-page bill. It is a very simple, straightforward bill. It simply says that Tennessee, Alabama, Virginia, New Jersey, any State, has the right to decide for itself whether it wants to collect taxes that are already owed from some of the people who owe the taxes or all of the people who owe the taxes. That is it. That is it. That is all it does.

The Governors who supported it are the Governor of Alabama, Virginia, New Jersey, South Carolina, Nevada, Iowa, South Dakota, Maine, Pennsylvania, Indiana, Tennessee, Michigan, Governor Otter of Idaho, Arizona, Louisiana, Florida, Georgia, Rhode Island, Kentucky, Hawaii.

I just read a bunch of Republican Governors. Now I am into the Democrats: Kentucky, Hawaii, Arkansas, California, Minnesota, Colorado, Maryland, Connecticut, Missouri, Massachusetts, Illinois and West Virginia. The former Governors include Mitch Daniels, Jeb Bush, and the former Democratic Governor of Washington.

Here we have a bill on the floor that we have voted on three times already that has a majority of the Democratic Senators and a majority of the Republican Senators, and 75 votes three times—74 one time, 75 twice. The bill also has the support of a long list of Republican Governors—actually more Republican than Democratic Governors. Yet we have got some people in Washington who say, we do not trust the States to make these decisions. I wonder if these people have ever read the Constitution of the United States? I wonder if they know what the 10th Amendment says? This was a very important part of the creation of this country.

Sovereign States had reserved to them their powers. They didn't expect to come to Washington and play "Mother May I" to a bunch of Senators and Congressmen who fly here on airplanes and think they are smarter than they were when they left Nashville, Memphis or wherever their hometown is. The purpose of this bill is to leave within the States the responsibility for making decisions.

Some people up here think they know best. Maybe they do, maybe they don't. Tennessee doesn't have an income tax. I would like for every State not to have an income tax, but I am not going to impose that from Washington just because I am a Senator.

Tennessee has a right-to-work law. I would like for every State to have a

right-to-work law, but I am not going to impose that from Washington. States have the right to be right, States have the right to be wrong, and Washington has no business telling sovereign States what its tax structure ought to be. Washington certainly has no business standing in the way of States stopping discrimination against taxpayers and businesses because that is exactly what we are doing if we don't act.

We are perpetuating discrimination. Most conservatives I know don't like picking and choosing between winners and losers.

They don't like treating one taxpayer one way and one in a similar situation another way, one business one way and another one another way. That is exactly what we are doing if we don't act.

We are discriminating against the shoestore in Wyoming, against the boot store in Nashville, and against the small store in Maryville, TN. We are saying collect the tax when you sell something, but if your competitor from outside your State sells it, he or she does not have to. That is discrimination.

That is why the leading conservatives such as the chairman of the American Conservative Union, William Buckley, before he died; and Art Laffer, the economist who helped President Reagan develop his ideas; and the Governors such as Mitch Daniels, Jeb Bush, Chris Christie, and Bill Haslam, that is why these conservatives say they support the bill.

We are not even deciding whether States will collect taxes from out-of-State sellers. We are just saying States have the right to do it. Of course they have the right to do it.

That is why I am including this list of Governors. I think it is part of our job as Senators to respect the sovereign States from where we come, to respect the rights of the States to not think that just because we are in Washington we know better. Most Tennesseans don't like that.

I know when I was Governor nothing used to make me madder than a bunch of legislators coming up with some bright idea in Washington, passing it, turning it into a law, holding a press conference, taking the credit for it, and then sending the bill to me. The next thing you know they would be home making a speech at the Lincoln Day Dinner or Jefferson Day Dinner, if they were a Democrat, about local control. Well, it is about local control.

The idea that people in Washington would say we don't trust the States to make decisions about how to spend money, look at our record. We are running up trillion-dollar deficits every year, borrowing 26 cents out of every \$1 we spend.

I come from a State that has no State debt on roads. It has to balance the budget every year. It has a AAA bond rating. I would trust Governor Haslam, Lieutenant Governor Ramsey,

the Speaker of the House, and the Republican legislature a lot more than I do the Senate and Congress to make decisions about tax dollars.

I think I know pretty well what they will do if they have power to do it. I suspect they will say they are not going to pick and choose winners and losers. I know they are going to say that because the Governor and Lieutenant Governor told me. I expect what they will say is this will bring in more revenue so we will lower our tax rate because we will start collecting money from all the people who owe it instead of some of the people who owe it.

It is correct that some Governors have already said that. We were told today that in Ohio they have already said if this bill passes, they will collect money from everybody who owes it and then they will lower their income taxes.

Art Laffer said in his column in the Wall Street Journal: That is precisely what we ought to do to stimulate growth. He said: If we are going to have a tax, the best tax, said Mr. Laffer, is a tax that covers the largest number of people at the lowest possible rate.

If that is the case, what we are perpetuating within action is the worst kind of tax, which is the tax that States are allowed to tax a smaller range of people at a higher rate. This permits them to tax all the people who are in a similarly situated place at a lower rate, if that is what they choose to do.

The arrogance of those in Washington who would say they don't trust the States to make those decisions, they need to go back to seventh grade, read the U.S. Constitution and learn a little American history about where this country came from.

I am very proud of this Senate for, on this important issue led by Senator DURBIN and Senator ENZI, coming up with 75 and 74 votes 3 consecutive times to say we believe in a two-word principle on this 11-page bill, States rights or 10th Amendment, that we will recognize the power of States to make their own decisions.

If we don't act, all these claims about what happened to the 9,600 jurisdictions will come true. Some Governor—I know I would do it if I were still there—the Senate didn't act on this, the Congress didn't act, I would go right back to the Supreme Court. I would bet that 20 years after the Quill case that Senator HERTKAMP brought, back before there was an Internet, when the Court then said that requiring out-of-State sellers to collect the tax was burdensome, they would look at the Internet.

Those Justices know they can find out the weather in their hometowns by putting in the ZIP Code and putting in the name of the town. They know that an out-of-State seller could figure out the sales tax from the ZIP Code of the buyer. They know that.

I will predict that they would hold it is not an undue burden, and then all

the out-of-State sellers really would have 9,600 jurisdictions to deal with. We are simplifying, and we are creating something that will work. We are following a process that is well tried. There are a great many out-of-State catalog sellers and online sellers that today do exactly what the instate sellers do. They collect the sales tax. They do it through the ZIP Code over the Internet. We are saying everybody should do that except those who sell less than \$1 million a year. They don't have to do anything under this law.

According to many economists, that takes 99 percent of the online sellers out of the effect of this bill. We have tried to bring this through regular order. We are down here trying right now. We have received substantial support. There have been hearings. There has been a lot of work in the House, and there is broad support from the Governors. I am hopeful we will move forward tomorrow, finish this legislation, send it to the House, and take a step toward recognizing the Constitutional framework of our country by honoring the sovereign States rights to make decisions for themselves and stopping this attitude of requiring Governors and legislators to come to Washington and play "Mother May I" with responsibilities that ought to be clearly the responsibility of States.

I yield the floor and note the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. WHITEHOUSE. 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. WHITEHOUSE. Mr. President, I don't think it will take this long, but I ask unanimous consent to speak as in morning business for up to 15 minutes.

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

CLIMATE CHANGE

Mr. WHITEHOUSE. Mr. President, I come to the floor again to address climate change, particularly today the change that carbon pollution is wreaking in our oceans.

Water temperatures are increasing, sea level is rising, ocean water is growing more acidic, and powerful storms are becoming more frequent and more intense. It is time to wake up to the threat to our oceans and coasts posed by carbon pollution.

The rate at which carbon is now being dumped into the atmosphere and absorbed by our oceans is unprecedented. NOAA estimates almost 1 million tons of the carbon dioxide we dump into the atmosphere is absorbed into the oceans every hour—1 million tons every hour. We know with scientific certainty that carbon pollution causes the ocean to become more acidic. Indeed, we measure that carbon pol-

lution has caused the global pH of the upper ocean to increase nearly 30 percent—by some measures nearly 40 percent—since preindustrial times.

In Rhode Island, the Ocean State, coastal activities define our heritage, our culture, and also our economy. Our coastal waters are spawning grounds, nurseries and shelters for fish and shellfish, which we enjoy and from which we profit. Our shores and coastal ponds are barriers that protect our coastal communities from ocean storms and that naturally improve water quality. Our oceans and coasts make coastal States such as ours who we are.

We will continue to take advantage of the ocean's bounty, as we should. We will trade, we will fish, and we will sail. We will dispose of waste, we will extract fuel and harness the wind. We will work our oceans. Navies and cruise ships, sailboats and supertankers will plow their surface. We cannot undo this part of our relationship with the sea. What we can change is what we do in return. If we use our best science and judgment to plan for the uses of our oceans, we will continue to reap the value they provide.

Carbon-driven changes to our planet will continue and will accelerate. The faster you are driving, the better your headlights need to be. Our headlights in this area are scientific research and planning. As we move ever faster into this uncharted territory, our headlights had better be working to preserve the valuable ecosystems upon which our communities and economies rely.

The National Ocean Policy, signed by President Obama in 2010, provides a commonsense framework for sensible research and planning and public-private cooperation, as we face the significant challenges bearing down on our oceans and coasts—on both our ecosystems and our industries.

Last week, the White House released the National Ocean Policy Implementation Plan, a blueprint for effective management of our oceans and the Great Lakes. It is not easy to balance the competing needs of commerce, conservation, culture, and recreation. More than 20 Federal agencies oversee our marine industries, governing everything from fisheries to oil and gas leasing. The implementation plan takes this on and moves us toward better and more collaborative management of ocean resources.

The implementation plan gathered the thoughts of a wide range of key stakeholders: maritime and energy industries, conservation and recreation interests, academic experts, and Federal, State, local, and tribal governments. The plan supports economic growth by streamlining permitting and approval processes, by improving mapping and ocean observing, and by providing greater access to data and information. The plan lays out specific actions and timelines to protect and restore coastal wetlands and reefs and to

prevent economic losses and job losses due to degraded shores and degraded waters.

Our coasts need immediate attention, so the plan could not come too soon. It states:

Our nation lost nearly 60,000 acres of coastal wetlands each year between 1998 and 2004. . . . Habitats are being altered by invasive species that threaten native aquatic life and cost billions of dollars per year in natural and infrastructure damage.

The implementation process the administration is pursuing is all about local needs and concerns. So the National Ocean Policy establishes voluntary regional planning bodies. Local people can get together, layer together the relevant data, and promote greater and more responsible use of their region's ocean resources.

In New England, we have seen the value of this cooperative ocean planning. Rhode Island's Ocean Special Area Management Plan—a special area management plan is called a SAMP in the trade—has made ecosystem restoration and industry interests advance simultaneously. I recently spent time at the Northeast Regional Planning Body meeting in Rhode Island and I know our region is excited to move forward with a regional process.

So let's look at some of the practical results when you get the information and the affected people in the room together. In Rhode Island, the wind energy industry, with its vast potential for manufacturing and maintenance jobs, is rapidly developing wind farms off of our coasts. Thanks to the groundwork that was laid by the Rhode Island SAMP, wind developers moved fairly smoothly through the regulatory thicket and they have avoided interference with marine highways, critical fisheries, habitats, and naval training ranges.

There is actually quite a good report I commend to all my colleagues on the ocean SAMP published by the Rhode Island Ocean Special Area Management Plan. It is a practitioner's guide, and it is a very effective document that shows how well this worked.

In this process, local people were listened to and they were heard. When the Federal Bureau of Ocean Energy Management announced this wind energy area here off of the Rhode Island coast, there was an area named Coxes Ledge, and the fishermen were concerned. The floor of the ocean at Coxes Ledge made it particularly rich fishing grounds and they didn't want it interfered with by having that area put up for wind farm development. Sure enough, when the map came out, the curve of Coxes Ledge is going right through the middle of the wind farm area, protected for the fishermen. They were listened to and they were heard.

So much of this is simple common sense. In Massachusetts, the endangered North Atlantic right whale, a population of about 450 of them, feeds in the waters just off of Boston. The whale strikes between shipping and the

right whales were becoming a problem. And because the right whale is endangered, it was becoming a real risk for shipping going in and out of Boston Harbor. So they found data that showed where the whale strikes were likely to be and they mapped that data. When they mapped the data, they saw if they moved the shipping channel out of Boston Harbor up a little bit they could come through an area that was largely safe from whale strikes. The cost to the industry was somewhere between 9 and 22 minutes of extra transit time—virtually nothing—while the number of whale strikes has dropped significantly.

Here is another example from outside of Delaware. The green sort of neon-colored dots here track the signals coming off cargo ships going in and out of Delaware Bay. As you can see, there is a pretty solid track coming out of Delaware Bay right through here. When Delaware first proposed its wind energy areas, they proposed these light green blocks as wind energy areas. This one, as we can see here, was planned right on top of the main shipping channel heading southeast out of Delaware Bay.

Critics say these kinds of efforts to get the data and the people in the room together “zone” the ocean. That is just plain factually wrong. The policy brings together people who use our ocean. In this case, the case of Delaware Bay, simply putting everybody in the room allowed the wind energy areas to be modified to avoid the conflict. So the southeastern area comes out and the turbine areas are beside it and the problem has been solved. That is not zoning, that is what military officers would call situational awareness; what the military would call deconfliction. What it really is is common sense.

As Nancy Sutley, the Chair of the White House Council on Environmental Quality, said:

With increasing demands on our ocean, we must improve how we work together, share information, and plan smartly to grow our economy, keep our ocean healthy and enjoy the highest benefits from our ocean resources, now and in the future.

Our ocean and coastal economy is important. Shoreline counties in this country generate 41 percent of our gross domestic product. In 2010, 2.8 million jobs were supported by maritime economic activities; commercial ports supported 13 million jobs; energy and minerals production supported almost three-fourths of a million jobs. But all of this activity creates opportunities for conflict.

The National Ocean Policy Implementation Plan is a blueprint to resolve those wasteful conflicts, to “deconflict” intelligently, and to streamline efforts across the Federal Government to keep our oceans and our ocean economy thriving. And it lets each region go forward at its own pace.

Michael Keyworth, recent head of our Rhode Island Marine Trades Associa-

tion, helped develop the Rhode Island Ocean Special Area Management Plan, SAMP, said this:

The National Ocean Policy Implementation Plan will enable regions like New England to move ahead with this smart ocean planning by engaging people like me, who live and work on the water every day, while not forcing planning on other regions that do not currently want to engage in the process.

Climate change is upon us, and its effects will only accelerate as we continue to spew megatons of carbon into our atmosphere. Changes are occurring fast in the oceans. That fact makes it all the more important that Congress remain vigilant and that we put our full support behind the commonsense framework of the national ocean policy.

I yield the floor and I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. WHITEHOUSE. 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.

PROTECTING SOCIAL SECURITY

Mr. WHITEHOUSE. Mr. President, last month, the Senate approved a budget that included a blueprint for balanced and responsible deficit reduction. That budget was skillfully managed by our Budget Committee chairman, Senator MURRAY. It would complete the deficit reduction needed to stabilize our Nation's finances with a mix of smart spending cuts and revenue from closing wasteful tax loopholes. Top economists agree we need about \$4 trillion of deficit reduction to make our finances sustainable, and our budget gets us there. Together with the deficit reduction enacted last Congress, the Senate budget would reduce the deficit by \$4.3 trillion through a nearly 2-to-1 mix of spending cuts and revenue.

House Republicans took a very different approach with their budget, making only cuts—drastic cuts—to education, law enforcement, medical research, and even ending Medicare as we know it for future retirees. The House budget derives its deficit reduction from cuts that primarily hurt low-income and middle-class Americans, while refusing to touch a single tax giveaway to wealthy and well-connected special interests. Senate Democrats took a middle course; House Republicans produced an extremist tea party wish list.

In his own budget plan, President Obama included some smart provisions such as investments in infrastructure and the Buffett rule for tax fairness. I respect the President's outreach to a compromise with Republicans, but I cannot support the cuts to Social Security benefits in his plan. It is simply wrong to place the burden of deficit reduction on seniors and the disabled.

Social Security—one of the fundamental pillars of the American middle class—has not contributed and will not contribute to our deficits. Social Security is fully funded by its participants through payroll taxes and cannot by law add to the deficit.

Under current payroll tax levels, Social Security will have the funds to pay 100 percent of benefits until 2033. It is true we do need to make some adjustments to ensure that full benefits can be paid beyond that date, but that task has nothing to do with deficit reduction. Even if Congress did nothing before 2033, the projected shortfall would force automatic benefit cuts, not deficit spending.

I do look forward to working with Senators of both parties to ensure that Social Security remains fully solvent for generations to come, but that discussion does not belong in the unrelated debate on our Nation's budget deficits.

The Social Security cuts the President has proposed are not just in the wrong discussion, they are wrong themselves. To reflect inflation, Social Security recipients each year get cost-of-living adjustments, what we call COLAs. The President's proposal changes the formula used to make that determination, shifting to something called the chained Consumer Price Index or chained CPI. It sounds innocuous, but make no mistake, it is a benefit cut cloaked in technical jargon.

The argument for a chained CPI is that it is a more accurate measure of inflation—that it takes into account real-world decisions consumers make to modify their buying habits as prices fluctuate. As the price of apples goes up, we buy more bananas, so the overall effect on our budget is moderated. The result is lower annual cost-of-living adjustments—about 0.3 percent each year. But let's take a look at how seniors fare under the existing COLA structure.

In 2010 and 2011, seniors received no cost-of-living adjustment whatsoever—0.0 percent in 2010, 0.0 percent in 2011. But according to the existing consumer price formula used by government accountants, prices didn't rise enough to justify COLAs. That is what the COLA formula says. But in real life, what did it look like?

According to the Bureau of Labor Statistics, seniors saw food prices rise 1.5 percent in 2010, medical costs increase 3.3 percent, and they saw their gas and home heating oil go up by more than 13 percent each, and the COLA covered zero percent.

The next year, 2011, these costs increased again. Food prices jumped 4.5 percent, medical care jumped 3.5 percent, gasoline jumped 9.9 percent, and fuel oil jumped 14.3 percent, and again the COLA for seniors was zero.

So 2010 and 2011 add together; they are not included in one another. So food and beverage is a total of 6 percent, plus, allowing for compounding, 6.8 percent for medical care, 23.7 percent for gasoline, and 27.8 percent for

fuel oil—all with a COLA of zero percent.

The numbers show what Rhode Island seniors know: The problem with the Social Security COLA is that it is too low, that it doesn't meet the real costs seniors experience in real life.

Why does this happen? The existing cost-of-living formula considers prices across the whole economy, including products seniors are not so likely to buy, such as flat-screen TVs and smart phones and sporting equipment. Their prices may have fallen, but seniors don't benefit much from those lower prices.

The problem is that the current system fails to account for seniors' true costs in these areas. So my position is that we should move on to a more accurate formula for seniors, one that focuses on food, medicine and heating oil and gas and the other things seniors actually buy. I have been proud to support legislation to change the Social Security COLA formula to one that is geared more toward seniors, and I will continue to fight for the adoption of that new formula.

Chained CPI takes us in the opposite direction. It assumes consumers will alter the types of goods they buy as prices rise. But seniors on fixed incomes have little ability to shift their buying habits away from these basic expenses, things such as food, medical care, gasoline, and fuel oil. It is hard to shift away from those. The lower COLAs that chained CPI would produce will only cut into seniors' already tight budgets, and force seniors to bear the burden of reducing deficits that Social Security had no part in creating. A 0.3-percent reduction each year might sound small, but over time the power of compound interest makes those benefit cuts significant.

For people currently nearing retirement, these cuts would amount to annual benefit reductions of \$658 by the time they reach age 75, \$1,147 by the time they reach age 85, and \$1,622 by the time they reach age 95. That same power of compounding makes these cuts even larger for future generations of seniors. Perhaps \$658 or \$1,162 doesn't sound like much money to some folks around here, but to a senior in Rhode Island living on Social Security, that is real money.

After getting no COLA for 2 years in a row, Bethany, a senior from Smithfield, RI, wrote to me:

My health is not the best and it's not easy trying to survive on my Social Security and the increasing prices of gas, food, etc. and co-pays for medical. . . . The COLA calculation for Social Security doesn't work. We need an increase yearly to stay even with rising premiums and everyday expenses. Please continue to fight for Social Security and Medicare.

Deanne from Coventry, RI, wrote to me in February:

I am 68 years old and retired. I cannot work even part time because of severe Arthritis. My son lives with me who is permanently disabled due to an accident when he was 9 years old. He is now 44 years old. We

just make ends meet with Social Security as we have no other income. We wear sweat shirts and pants to bed and coats in the house during the winter because we can't pay the high prices of oil. If Social Security gets cut, I don't know how we will make it. I have worked all my adult life until the last two years. I NEED my Social Security. . . . In the face of ever-increasing prices for health care, home heating, prescription drugs and grocery bills, asking seniors to give up more and more of their Social Security benefit as they age when every dollar counts is just plain wrong.

These are real-life experiences of people who are the kind of folks chained CPI would affect. Yes, we need to make additional sacrifices to complete the job of deficit reduction; no, those burdens should not fall on our elderly and disabled constituents. Our deficits come from unnecessary Bush-era tax cuts that virtually exclusively benefited the wealthy, they come from a decade of wars we didn't pay for, and they come from the worst economic crisis since the Great Depression. They have nothing to do with Social Security, so don't take it out on the seniors.

As the Senate budget shows, we can complete the task of stabilizing our Nation's finances in smart ways, in fair ways, in balanced ways, in ways that don't put the burden on those who can least afford it.

When I ran for this office, I pledged to the people of Rhode Island that I would oppose cuts to Social Security, and I will keep that promise.

I yield the floor and 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. WHITEHOUSE. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

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

MORNING BUSINESS

Mr. WHITEHOUSE. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with Senators permitted to speak for up to 10 minutes each.

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

CONGRATULATING THE STILLER FAMILY FOUNDATION

Mr. LEAHY. Mr. President, I rise today to congratulate Bob and Christine Stiller and their Stiller Family Foundation for receiving the Most Outstanding Foundation Award of 2013 from the Association of Fundraising Professionals.

The Most Outstanding Foundation award is given annually to honor a foundation that demonstrates outstanding commitment through financial support, innovation, encourage-

ment, and motivation of others to take leadership roles in philanthropy and community involvement.

Previous recipients of this prestigious award include the John D. and Catherine T. MacArthur Foundation, the Susan G. Komen Breast Cancer Foundation, the Alfred P. Sloan Foundation, and the John S. and James L. Knight Foundation, among many others.

The Stiller Family Foundation has benefited youth centers, arts organizations, urban renewal projects, and education institutions throughout Vermont. The foundation recently announced a major grant to create the Robert P. Stiller School of Business at the Champlain College of Vermont and established a permanent endowment for the study of appreciative inquiry at the school.

My wife Marcelle and I have known Bob and Christine a long time. As lifelong philanthropists, they have made a positive impact in communities around the globe through their pointed leadership, innovative ideas, and generous funding. It is hard to mention all of their many achievements. As founder of the highly successful Green Mountain Coffee Roasters, Bob continues to promote sustainable business practices through environmental and fair trade initiatives all over the world. And Christine has been a strong advocate for Champlain College's Single Parents Program, which offers single parents the opportunity to break generational cycles of poverty by helping them fund a college education. Vermont is a better place because of all the work done by Bob and Christine Stiller.

I request unanimous consent that this article from the Burlington Free Press be printed at this point in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Burlington Free Press, Apr. 12, 2013]

STILLER FAMILY FOUNDATION RECEIVES NATIONAL RECOGNITION

The Association of Fundraising Professionals recently honored Green Mountain Coffee Roasters Founder Bob Stiller and his wife Christine and their Stiller Family Foundation with the Most Outstanding Foundation Award of 2013.

The award was made at the Association's international conference in San Diego on April 6.

The Most Outstanding Foundation award is given annually to honor a foundation that demonstrates outstanding commitment through financial support, innovation, encouragement and motivation of others to take leadership roles in philanthropy and national, international and/or community involvement.

The award dates back to 1989, and has previously been given to the John D. and Catherine T. MacArthur Foundation, the David and Lucile Packard Foundation, the Susan G. Komen Breast Cancer Foundation, the Alfred P. Sloan Foundation and the John S. and James L. Knight Foundation, among others.

The Stiller Foundation's initiatives are primarily focused on people and communities in Vermont and Florida. The Stillers