about the results they hoped for. As doctors desperately sought an answer, Jack's young body continued to be riddled with seizures. Within 5 months, he endured a second brain surgery which removed 95 percent of the remaining tumor. But despite this success, in April 2012 the MRI showed that Jack's cancer had returned and doctors determined it was inoperable. So Jack quickly began 60 weeks of chemotherapy, employing an outdated regimen used by doctors for over 25 years.

Unfortunately, diminished research funding for pediatric brain cancer has stunted medical advancements, so treatment options remain limited. But Jack and his parents didn't despair. They remain hopeful and determined to discover God's will in their hardships.

In a recent Omaha World-Herald story, Jack's father Andy is quoted as saying:

I don't know why God chose Jack to have this. But I do know that we can make something good out of it, and that's promote the improvement of treatments of this disease.

So the Hoffmans set out, they set out on a mission to raise awareness for pediatric brain cancer.

This is a rare but devastating disease that poses unique health and developmental problems for the 3,000 child patients who are diagnosed each year. Jack and other children suffering from brain cancer endure seizures, difficulty speaking, and trouble with their balance. The list, unfortunately, goes on. They spend long periods of time away from their families, friends, and classmates. They miss school, they miss football games, and they miss out on childhood.

The Hoffmans' fundraising efforts through the Team Jack campaign have yielded over $300,000, and it is all for pediatric brain cancer research.

Although there are countless worthy charities across our country, my husband Bruce and I feel a special connection with Team Jack, and we have worked very closely with the Hoffman family to increase awareness of pediatric brain cancer.

While Jack and his family have been friends of mine for many years, he was first introduced to most Americans when he became an overnight football star—complete with his own trading card—and he did this at the Huskers spring football game on April 6, 2013. Jack suited up with football pads and a No. 22 jersey, and little Jack ran 69 yards. He scored a touchdown in front of 60,000 screaming fans in our Memorial Stadium in Lincoln, NE.

In a single dash across the gridiron, little Jack Hoffman touched the hearts of millions of Americans, and that includes 7.6 million YouTube viewers, and he increased awareness of pediatric brain cancer.

It didn't take a touchdown, though, to make Jack a hero. He smiles through the pain. His courage and his resilience represent the very best of the human spirit and the very best of our Nation.

I admire the Hoffmans for their unwavering commitment to transform this very personal trial into a force for good. I am deeply grateful for all they have done to find a cure.

Today the Senate commends the Hoffmans, Team Jack, and all those Americans who work tirelessly to battle and bring attention to pediatric brain cancer. The resolution Senator KLOBUCHAR and I are submitting recognizes the unique struggles of pediatric brain cancer for their patients and their families. It commends scientists, researchers, and health care providers working to modernize and improve the diagnosis and treatment options; and, importantly, it designates September 26, 2013, as ''National Pediatric Brain Cancer Awareness Day'' to encourage efforts toward the early diagnosis and treatment and ultimate cure for this disease.

So at this time I ask unanimous consent that the Senate proceed to the consideration of S. Res. 116, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 116) designating September 26, 2013, as ''National Pediatric Brain Cancer Awareness Day''.

There being no objection, the Senate proceeded to consider the joint resolution.

Mrs. FISCHER. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motions to reconsider be laid upon the table with no intervening action or debate.

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

The resolution (S. Res. 116) was agreed to.

The preamble was agreed to.

(The resolution, with its preamble, is printed in today's RECORD under ''Submitted Resolutions.'')

Mrs. FISCHER. Thank you, Mr. President. I yield the floor.

MARKETPLACE FAIRNESS ACT OF 2013—Continued

Mrs. FISCHER. 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. COBURN. I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. COBURN. I ask unanimous consent to speak as in morning business.

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

SEQUESTER

Mr. COBURN. I wanted to spend a minute as we have had a lot of discussions over the pain that is being caused by the American traveling public and businesses on the FAA. We heard the majority leader say we couldn't do the sequester because we still have the same amount of money, and there is no way we could cut the $40 billion out of our budget over the next 6 months.

I thought I would just draw a little comparison for us so we could actually see the Federal budget, and then we could make a comparison to the average family budget. Here is the Federal budget. This is last year's Federal budget. We spent $3.7 trillion, we took in $2.46 trillion, and we had a deficit of $1.32 trillion. We added to our total debt, so we have come to a total debt now of $17.57 trillion. The sequester cuts are $85 billion, and $85 billion sounds like a lot of money.

Now let's compare it to the average family household in America. The median household income in America last year was $53,000. By the way, in real dollars that is less than what it was in 1989—less than what it was in 1989.

If we spent money in households the way the Federal Government spends money, we would have spent $81,000. We would have only earned $53,000, but we would have spent $81,000. We would have had an annual credit card debt that we would have chalked up of $28,000 doing exactly what the Federal Government does, which would have made our total credit card debt $375,000.

We are spending $81,000, and if we cut the amount of spending in the sequester as a percentage of the total Federal budget as to the median family income in America, we would have cut $182. That kind of puts it in perspective.

How many families would continue to be able to operate this way? They wouldn't. No credit card company would continue to give them $28,000 worth of credit card debt. They certainly wouldn't let them run up $375,000 and then say: Oh, by the way, what are you doing about getting your finances in order? Your response would be: I have cut $182 out of my budget this next year.

What we are seeing is a farce when we talk about we can't cut $44 billion or $88 billion out of the Federal budget over a year's period. It is an absolute farce.

Then when you talk about the FAA, in fact, they have less controllers now than they did in 2010. If you look at the budget requested in 2013, there is about a $300 million difference between the sequester level and, actually, it is the same as in 2010.

What the FAA and the administration are telling us is there is no way they can possibly do anything to associate less inconvenience and less delayed flights. Yesterday there were 6,800 flights delayed to make it hurt.

I want to enter something into the RECORD that came up on my whistleblower site. This is an employee of the FAA and what they were told in a meeting on Monday by management. Here is what they were told.

''I hope this is the appropriate channel to contact you through.'' I am not going to say who works for the FAA and asked me to e-mail you. We want to ''let you know that the FAA management has stated in meetings that they need to make the furloughs as hard as possible for the public so that they understand how serious it is. Due to this there is management trying to make everyone take the same furlough day so that the FAA shuts down completely on that day. Union employees are supposed to be able to pick their furlough day, but are being pushed by management to take the same day as everyone else. Example, recently there was a meeting between''—and I am not going to say between which group of employees, but at the FAA, ''management, and union where the union reminded a manager that he cannot force them to take off the same day. A union employee wants Wednesdays off so another employee, under the managers orders, tried to make the union employee change his mind. When the union employee asked why, the other employee said to prove a point. I do not know if any of this information is useful or not. If it is I'' will contact you with more information.

Well, the fact is, if that is really going on, that the management at FAA is trying to make union employees all take the same day off, what is that about? Is that about airline travel in America or is that trying to make the sequester hurt? Is that about $182 out of your budget and we can't even do that?

We have the government's management manipulating a program so that it hurts the American public? How cynical, how un-American is that.

I would ask unanimous consent to submit this e-mail for the RECORD.

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

Sent: Wednesday, April 24, 2013 8:16 AM
To: Coburn, Whistleblower (Coburn)
Subject: FAA Furlough

SEN. COBURN: I hope this is the appropriate channel to contact you through. My wife works for the FAA and asked me to email you for her. She wanted me to let you know that the FAA management has stated in meetings that they need to make the furloughs as hard as possible for the public so that they understand how serious it is. Due to this there is management trying to make everyone take the same furlough day so that the FAA shuts down completely on that day. Union employees are supposed to be able to pick their furlough day, but are being pushed by management to take the same day as everyone else. Example, recently there was a meeting between employees, management, and union where the union reminded a manager that he cannot force them to take off the same day. A union employee wants Wednesdays off so another employee, under the managers orders, tried to make the union employee change his mind. When the union employee asked why, the other employee said to prove a point. I do not know if any of this information is useful or not. If it is I can get my wife to contact you with more information.

Mr. COBURN. Here is another from an FAA supervisor: I am an air traffic control supervisor. I am writing you because I don't want to lose my job but, more importantly, I don't want to see safety across the Nation be deteriorated at the risk of the lives of aviators. Sir, I don't need to remind you about the importance of safety and would like to talk to you about what could have happened on the day OSU played OU 16 February 2013. Please call me day or night.

The fact is there is a bigger story behind that, which I will make a speech on tomorrow, to actually detail what is going on.

When we hear there is no risk to safety, and here is a supervisor saying there is, what are we doing? This is a contrived farce to make the American people think we can't cut $182 out of an $81,000 budget, put in simple family budget terms, or we can't cut $85 billion out of a $3.7 trillion budget.

When we get down and look at it in those terms, everybody in America knows it is possible to do that. Everybody knows all it takes is some common sense and the utilization of priorities that are in the best interests of the country, not the best interest of any political party or political philosophy, to actually accomplish this.

I must say I am disappointed in the Department of Transportation. I am disappointed in the FAA that they would be so callous as to carry this forward.

I also want to make some comments about the remarks of the majority leader 2 days ago about the tea party. I have to say I adamantly disagree. The tea party people I know from Oklahoma and the Midwest love our country. They want an effective, efficient government. They want a government that follows the Constitution. They want the rule of law to be supported all the time.

He related and compared them to anarchists. Nothing could be further from the truth. Are there some crazy opinions on both sides of the extremes in both parties? You bet. But the vast majority of people in America understand over the last few years they have had to do more with less at the same time the government is doing less with more.

To indict a group of people who care just as much about this country but see a different way of solving the problems, who say we should live within our means, that we shouldn't borrow against our children's future, that we should follow the Constitution, that we should follow the enumerated powers, that we should honor the Bill of Rights—that we should honor the Bill of Rights asking us to do the very things that our oath calls on us to do—to me, the fact that the majority leader would attack that group of people as a class and relate their motives to that of anarchy is very shameful. They even make the comparison, but it is also made out of ignorance.

Everybody in this country wants the best in the long term. There is a difference in our view of how we get there, but there is no difference that we do have a Constitution, and it is not un-American to think we ought to honor our oath to that Constitution; that we ought to truly follow the Bill of Rights and not pass laws that abandon it; that we truly ought to embrace the enumerated powers.

Over the last 3 years the GAO has shown us where $250 billion a year in waste is, and yet the Congress has done nothing. Senator FEINSTEIN and I eliminated $6 billion a year in terms of the ethanol blenders credit. That is the only thing that has gone through in 3 years that even comes close to addressing what the GAO has recommended out of $250 billion.

You can understand why people might be cynical of Washington—because we don't have our nose pointed in the right direction. We continue to pass laws that ignore the enumerated powers.

One of the results of that is $250 billion of duplicative programs which have no true metrics on them. If they were all working, that would be fine. But, in fact, most aren't.

I think it needs to be countered that there are a lot of disparate views in our country, but the motivation behind them is really love of country. Whether they are on the hard left or on the hard right, it is just a different path. To compare that group of people to anarchists is both insensitive, inaccurate, and outrageous. What we need in our country today is leadership that pulls us together, not leadership that divides us further. What we are seeing is just the opposite.

I would ask my fellow Americans if they think on a comparative basis we couldn't cut $182 out of an $81,000 budget, if that is too much, especially since the fact that this budget has grown 89 percent in the last 10 years while their income has gone down 5 percent. Which is the better way? Should we raise your taxes and spend more of your money or should we actually decrease and eliminate tremendous amounts of wasteful, ineffective, and inefficient government spending and not sacrifice the future of our children?

I don't think the answer is complicated. I think most of America would agree that we could get $182 out of $81,000. That is the comparative ratio of $85 billion out of $3.7 trillion and what we heard the majority leader say that is impossible to do. It is only impossible to do this because we don't want to do it.

I have spent 8 years outlining waste in the Federal Government. Very few of my colleagues have helped eliminate that waste. The reason is they are double minded. In their hearts they want the best for the country, but they also want to get reelected. Every one of those duplicative, wasteful programs has a constituency.

So parochialism trumps patriotism in the Senate. That is the only explanation for why we haven't addressed

what the GAO has plainly said is duplication, waste, and actual stupidity.

When we have over 100 job training programs, 47 for the nondisabled, and all but 3 of them do exactly the same thing, and most of those do not have a metric—in fact, none of them have a metric to say whether they are effective—and we will not reform it, we are saying we do not care; we cannot cut $182.

When we have 110 teacher training programs, and none of those has a metric, across 9 different agencies, not in the Department of Education, and none of those has a metric. We spend about $4 billion a year on them, and we do not know if they are effective and we will not conform them into 1, even if it is a role for the Federal Government, or into 2, and eliminate and get some consolidated savings, what we are saying is we cannot cut $182 out of an $81,000 budget.

You see, the problems are not insolvable. There is no attempt being made to solve them. So we get a choice, America gets a choice: Continue to operate as we are, and what we are actually going to do is put handcuffs on our children and shackle their legs and take away the opportunity of a life equal to ours. We are stealing that from them.

When we have the majority leader of the Senate say it is impossible for us to cut $182 out of an $81,000 budget, what we are saying is our priorities are wrong. I can go through the list. We have 204 science, technology, engineering, and math programs. Twenty-one different agencies run those. Half of them are at the Defense Department. None of them has a metric to see if they are working. They are well intended. Why do we have 204 science and technology programs? Nobody can answer that question. We just have them because somebody saw a need but did not look to see what we were already doing or make what we were already doing work. It is not rocket science. It is common sense. There is not a thimbleful of it in Washington. There is not a thimbleful of common sense in Washington; otherwise, we would be addressing these programs. We would not have a statement saying there is no way we can cut $85 billion out of a $3.7 trillion budget. America does not believe that.

Now we have sequester and a refusal by the administration to even accept flexibility if we were to grant it, or any request for reprogramming to make it better for the American people. What we have is a political stunt by the FAA that not only inconveniences travelers but puts people at risk, markedly affects business, and changes people's lives. When you think about those people who are not going to make the funeral of one of their loved ones because of this stunt or are not going to be at a graduation because of this stunt or the airlines and the significant losses they are incurring every day because of this stunt, you have got to ask: Who in the world is leading this country and where did they get their motivation? It is an embarrassment.

The fact is the Senate has not acted in the best interests of the country in the long term, and what we have denied—the fact is we cannot cut $182 out of an $81,000 budget. We cannot do that; it is too hard. But nobody in America believes that. Nobody believes it. So what we do is call up all of the heartwrenching things we can to say how terrible it is but do not talk about the real fact that we are living way outside of our means. We are living on the backs of our children. Every day we are stealing their future and we refuse to admit to the very real concept that that is morally wrong. It is especially morally wrong when we, if we did our jobs properly, would not be doing it.

I yield the floor and 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. COBURN. 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. COBURN. Mr. President, I understand there are going to be objections to amendments, but I am going to offer them anyway and let people object. One of the ways the Senate is running now is that we have spent 3 days doing nothing, so I am going to talk about my amendments. If they get objected to, fine. But the fact is the American people should know what we are doing rather than spending all our time in quorum calls.

So I will be calling up several amendments. If they are objected to, I will spend the time talking about those amendments. I have no intention of losing the floor until I have finished calling up all my amendments and talking about each of them.

I just gave a talk on the tremendous waste that is in this government, but there is a lot of other waste and ways to solve it. Most of these amendments have bipartisan sponsors or have had in the past, and they are about good government. I understand there will be objections, and that is fine. Members can defend the objection and the fact that there are not going to be any amendments on the bill, but I am going to offer mine anyway.

The first amendment I would like to call up is amendment No. 753 and I ask unanimous consent for its consideration.

The ACTING PRESIDENT pro tempore. Is there any objection to setting aside the pending amendment?

Mr. DURBIN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. COBURN. I will discuss amendment No. 753, and I appreciate the objection by the Senator from Illinois to that amendment.

We have over $4 billion owed to the Federal Government by Federal employees in past due taxes. I am not talking about taxes that have been adjudicated or settled or that have been worked out. I am talking about taxes owed today that haven't been paid. The Federal Government has the ability to garnish those wages, but they will not.

The way we get rid of a $1 trillion deficit is $1 billion at a time. On active Federal employees right now there is $1.1 billion in tax arrears and $2.2 billion from retired. That is undisputed. I am not talking about disputed. This is undisputed and hasn't been paid. So if there is an agreement that has been worked out, if they are working it out, that is fine, this amendment does nothing.

We are laying off people at the FAA. A portion of these people at the FAA, whether it be in communications or a secretary or whatever, owes the Federal Government thousands of dollars, but we are asking somebody else to take a furlough day rather than either terminating this other individual or garnishing their wages. Something is wrong with that picture.

This amendment says we are going to do that. We are going to actually enforce the rule of law and we will apply it equally to Federal employees as we apply it to everybody else in this country.

This will save, over the next 2 to 3 years, about $3 billion. Yet I can't bring up this amendment. I understand the dynamics that are ongoing. I have no personal animosity toward Senator BAUCUS or Senator DURBIN for objecting to the amendment. I know what is happening. But the fact is we can't bring up an amendment to save us $3 billion.

The Marketplace Fairness Act is going to pass this body. Everybody knows that. But what we can't do is the regular work of the American people and we can't get a vote on an amendment that would actually save us $3 billion.

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

Mr. COBURN. I would be happy to yield to my colleague from Illinois.

Mr. DURBIN. The Senator from Oklahoma is my friend, and we have worked together on many occasions. I wish to state for the RECORD, because he knows it and I wish to put it on the RECORD, that we have what is called a blue-slip problem. There are no Federal taxes as part of the underlying bill. In fact, no taxes—no new taxes. If we add a provision, which the Senator has suggested—and he has six or eight amendments each dealing with the Internal Revenue Code, and many of them very meritorious—they would be objected to and the bill would be rejected in the House because revenue measures have to originate in the House of Representatives.

So it is a technical, procedural objection and does not reflect my feelings about the substance or about the sponsor.

Mr. COBURN. I understand that, but I think this amendment has no technical problem because it does not raise new revenues. It is simply a direction for performance of the Federal Government, which is the marketplace fairness. We are directing what will happen to the States and the involvement of the Federal Government in it. So there may very well be a blue-slip problem with some of the others, but I don't think there is with this one.

The point is here we sit. I just gave a speech saying it is $182 out of a $81,000 budget we say we can't cut. That is the equivalent family situation I just lined up here, and here is a way to get $3.2 billion that is owed and due back into the Federal coffers and we are not going to allow it.

So we could allow the amendment and then table it. The fact is we don't want to do that either. In talking to my House colleagues, it is going to be a while, if ever, if this bill actually sees the light of day. So we ought to be voting on the things that will actually make a difference.

I don't disagree it is unfair on the Marketplace Fairness Act. I think the exclusion level is way too low for any business to be able to afford to comply with it, but that is another story. The very fact is we are not doing what we could do to collect the revenue we are due now. This is an example of just saying: Start enforcing the law. Start using the tools at hand at the Treasury and the different agencies. Yet we are not going to get to vote on that. We ought to vote. If they want to table it, fine, but not to allow an amendment to come up? We are not postcloture, but we are not allowing an amendment, which means I don't have the right to modify a bill or even have a vote on modifying the bill.

I understand what is going on, but I think that is a significant amendment. Most Americans don't know Federal employees who are actively working today owe that kind of money to the Federal Government. Yet nothing is being done about it and no consequence for not paying. I guarantee if you are out there and you are not paying, you are feeling the full force of the IRS.

I ask unanimous consent to bring up amendment No. 751 and set aside the pending amendment.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DURBIN. Mr. President, reserving the right to object, I appreciate I have to object, but I want the Senator from Oklahoma to please explain the amendment.

Mr. COBURN. Can I actually have it read and then the Senator from Illinois object after having it read?

Mr. DURBIN. Whatever way the Senator from Oklahoma wishes to explain it. I will object at this point.

I am sorry, I understand that can't be done.

Mr. COBURN. All right. Let me explain a minute, and the Senator can object ahead of time or later. It doesn't matter when.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. COBURN. This is an amendment to require a report from the Treasury Department on the abuse of tax-exempt status by charitable organizations. What we have seen in studies by the GAO and the IG is that many professional athletes set up charitable organizations and then use them inappropriately to pay the expenses of their lives. All we are asking from the IRS is to take a good look at this. Let's not allow this aspect of a very well-intended tax law to be utilized to skirt expenses and taxes.

On March 31, 2015, ESPN investigative unit ''Outside the Lines'' released the findings of an in-depth look at 115 different charitable organizations founded by prominent athletes. They gave extensive details of that investigation. What they outlined was that 74 percent of these nonprofits fell short of one or more of the acceptable guidelines for nonprofit operating standards. That means they are operating outside the law or do not meet the requirements for a charitable organization. Yet nothing has been done about it.

Here again they are asking for oversight, asking for us to do the right thing, asking us to get the money that is actually due the Federal Government. We are not going to get a vote on it. We are not going to have an ability to vote on it. We are not going to direct the IRS to actually do that and actually recapture some of the money that is actually due to the Federal Government.

All it is is a study: Tell us how bad this problem is and what you are going to do about it. How are you going to fix it? But, no, we are not going to do that. We are going to continue to allow the process to go on so that some of the most wealthy people in our country continue to pay less taxes than what they owe because Congress is dysfunctional.

I am not going into the individuals who were named in the ESPN story. I think it created quite a stir in the media. Yet we have seen no action either in the House or the Senate in this area. All we are asking with this amendment is the number of charitable organizations that existed 10 years ago; the number that had their tax-exempt status revoked each year since 2007; the number and nature of the allegations of the problems made to the Internal Revenue Service with respect to charitable organizations that were founded in this area of expertise for charitable organizations and what the IRS has done about it over the last 6 years; a description of the challenges the Internal Revenue Service faces in trying to enforce and oversee such organizations; the number of criminal investigations of charitable organizations conducted by the IRS since 2010—in other words, what are you doing about the problem—and then finally an explanation of any problems the Internal Revenue Service has had with the U.S. attorneys in prosecuting criminal violations of tax-exempt and charitable organizations.

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

Mr. COBURN. I am happy to.

Mr. DURBIN. I would like to say I would vote for that in a second and I am not ruling out the possibility of agreeing to allow the Senator to offer this as an amendment to the bill. Please let us see if it raises a blue slip issue, which we mentioned earlier, which is a procedural issue, which means if it has a revenue measure in it initiated in the Senate, it would be subject to a blockage or objection in the House, which we are trying to avoid.

This is a measure Senator ENZI worked on for 12 years. I have worked on it for several years. We would like to get this measure up for a vote and for approval in the House. If the Senator from Oklahoma is offering a measure that would not jeopardize that, I am at least going to entertain that idea, and I will talk to my staff about it.

Mr. COBURN. I appreciate the comments of my colleague, and question.

The next amendment I would like to call up is amendment No. 767, which requires all legislation to be reviewed before it is considered by the Senate to determine whether duplicative or overlapping programs are created. I ask that that amendment be called up and the pending amendment be set aside.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. DURBIN. I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. COBURN. Here is one that doesn't get anything as far as a blue slip. What we now have is 3 years' worth of reports by the General Accountability Office showing at least $250 billion in questionable programs that are markedly duplicative of one another. This is multiple areas, and I have them now memorized and all the new ones too. It is layer after layer, agency after agency, program after program.

This is a bipartisan amendment. All this says is that before we create another program in the Senate, we have a report from the Congressional Research Service: Does this duplicate a program that is already out there? If we continue doing what we are doing, we are going to continue to get GAO reports that we are creating programs that duplicate what we are already doing.

It is not the fact that maybe our intent is good, it is the fact that we don't know what is out there now—except GAO does now—and how will we ever know until we put a requirement on ourselves to quit creating new duplicative programs? What the commonsense man would say is that if you have programs that are doing things and they are not working, don't create another one, fix the ones you have. Yet we

refuse to do that. Committee after committee refuses to do the oversight.

There is a bill sitting right now awaiting our determination, coming from the House, that reformed 36 job-training programs that the GAO said were failing and were duplicative and didn't have the metrics, and they converted those to 6, 36 out of 47 because the committee that did this, the SKILLS Act, only had jurisdiction over them. They created six programs, and they put metrics on it. We spend $19.8 billion on those 47 programs. We are going to achieve wonderful savings. But the most important thing we are going to do with the SKILLS Act is we are actually going to give somebody a skill with the money we spend rather than wasting 80 percent in the job-training programs we have, and that is what the oversight says. When you look at it, that is what it says.

For us to not continue adding to the problem, this is an amendment—it does not have a blue slip problem, so what is wrong with considering this amendment? I ask my colleague, what is wrong with considering this amendment? This is common sense. It works. It will actually cause us to not do stupid things in the future. It will actually help us to be better stewards of the public's money. Yet we are going to object to bringing it up.

Mr. DURBIN. If the Senator will yield?

Mr. COBURN. I will be happy to yield.

Mr. DURBIN. Just to restate, we are going through—I think the Senator has six or eight amendments. We are going through those in a good-faith effort to find those which would complement what we are doing and not create a problem substantively. My objection at this moment should not be taken as an objection beyond this moment. We would like to work with the Senator in good faith to do this.

Mr. COBURN. I thank my colleague. I will make my mark on what I am going to reoffer in the future.

I ask unanimous consent to call up amendment No. 766 and have the pending amendment set aside.

The ACTING PRESIDENT pro tempore. Is there objection to setting aside the pending amendment?

Mr. DURBIN. Reserving the right to object, I do not know the substance of the amendment.

Mr. COBURN. I am happy to let the Senator object ahead of time, as he obviously is going to.

Mr. DURBIN. I object. It is a good-faith objection. I hope the Senator understands.

The ACTING PRESIDENT pro tempore. Objection is heard.

Mr. COBURN. Every 4 years the Federal Government spends $200 million so both political parties can have a party. We are $17.4 trillion in debt as we speak at this moment. That is $50 million a year. The way to get rid of a billion-dollar debt is $50 million at a time. The way to get rid of a trillion-dollar debt is $1 billion at a time. Do we really have the capability right now to borrow $200 million every 4 years for parties for the Democratic and Republican conventions and charge it to our children? All this does is put in a prohibition that we are not ever going to do that again. That is not a wise expenditure of taxpayer money. It is probably not constitutional. It has never been challenged. It certainly does not fall within the enumerated powers of the Constitution, article I, section 8. So it is another way of saving us some money.

I would just repeat my point. We have the FAA out there intentionally causing pain and harm to the American public today, and we have the Senate intentionally not doing what will solve those problems—intentionally not doing what will solve those problems. We are not trying to find the waste. We are not offering bills to eliminate the waste. We are not offering bills to eliminate duplication. We are not trying to refine programs to make them better. We are not trying to save Medicare and we are not trying to save Social Security—the very things that are very important in terms of what is getting ready to happen to us.

We cannot point to the administration and say they are cynical without pointing to ourselves as well. Here is $200 million that we spend every 4 years. Why don't we quit spending it? If the political parties—I have never been to a political convention in my life, but if they want to have a party, they ought to pay for it and we should not charge it to DICK DURBIN's grandkids or MIKE ENZI's grandkids or TOM COBURN's grandkids or anybody else's grandkids, which is what we are doing.

We are probably not going to get a vote on this amendment either, which shows again that our focus is not on what is most important for our country; our focus is on us. We have not set about to solve the big problems for our country.

This is a no-brainer. There are not many people other than those people in the political hierarchy of each party who would be against this. Yet it is not even going to get a vote. What does that say to the American people? Sure, it is only $200 million. Two hundred million dollars. Two hundred thousand thousands. We talk about millions as if they are nothing. Most of our fellow citizens will have trouble making that amount of money in their lifetime, and we flip it off as nothing.

This is a simple amendment. It has been objected to. I understand. I have no animosity toward my colleague. I understand what is going on. But do we really want to solve problems for the American people or do we just want to play this game some more? It is disturbing. It has to be disturbing to the average American.

In the last 5 years the average Oklahoma family has truly struggled to get by, and we have been one of the more fortunate States. But they made very hard choices about their priorities. They have had kids go to an instate school who didn't want to because they couldn't afford to go to an out-of-State school. They have driven a car 2 or 3 years longer than they wanted to and put money into an old automobile because they could not afford to go the other way. They have changed the way they enjoy themselves as a family because of what we have done. They have made hard choices. They have gone through the priorities in their lives and said: What is important based on the amount of money we have?

That is not just in Oklahoma; in every State in this country they have done that. Everybody has done that but the Federal Government—the Federal Government. And once we do take $182 out of a $150,000 family budget, which I showed an example of earlier, what we are told is, we can't do that. There is no way. It is impossible. We can't do that.

Then we have a demonstrated, overt exacerbation of something that was not caused by the sequester, that could have been averted, to prove a point that we cannot cut a penny from the Federal budget.

When $100 billion a year in Medicare and Medicaid fraud is ongoing in this country, we are talking about trimming the availability of Medicare services to seniors, and we have not solved that problem. We are not believable anymore; we are not trustworthy anymore.

This is a very simple, straightforward amendment. I know $200 million doesn't sound like much in Washington, but it is a ton in Muskogee, OK. I will offer my amendment again and there will be objections. What will probably happen is that I will not have a chance to offer it again because it is not germane to the bill, and then when we get postcloture, it will be ruled nongermane.

We will not have a chance for Senator DURBIN or Senator ENZI to object in the future because of the rules we are operating under. We are not going to have any amendments until we get postcloture, which means everything I have talked about so far is not even going to be considered.

We could consider them. We could allow them to be voted on. We could demonstrate to the American people we are actually interested in trying to solve some of the problems up here, but we decided we will not do that. It is pretty frustrating to me as a Senator, but it has to be terribly disappointing to the average American.

I have just outlined about $5 billion worth of savings with the four amendments I have talked about. We are not going to get to vote on them. Now, $5 billion is almost Oklahoma's entire State budget for 1 year. This is easy, simple stuff to do. Mark my words, we will never vote on one of these amendments associated with this bill. Since we don't have real amendment opportunities anymore in the Senate, they

will only come forward when the majority leader decides he wants to vote on them. He has been very recalcitrant in offering to vote on hardly anything that will actually make a difference in our future in terms of finances.

I am going to talk about the other amendments I wish to bring up. I will not make the Senator from Illinois object to them, so I will just talk about them.

Amendment No. 29, which I will not call up, is an amendment on something I think is terribly unfair. If this amendment were passed, it would only save us $90 million a year. Does anyone realize the Professional Golfer's Association is a tax-free organization? They raise billions of dollars every year, but the money that goes into the PGA is tax free—that actually goes into the organization. They are a 501(c)6 tax-exempt organization. Not only does it include the PGA tour, it includes the National Football League, the National Hockey League, and it includes the LPGA.

Can anybody tell me why they are tax-exempt other than it is under a loophole we have created? So if they were not tax-exempt and they paid their taxes as other organizations that are in the business of making money, the IRS would collect about $95 million more a year from just these four organizations.

Professional baseball saw the light and gave this up. They said it was not right. They did it a number of years ago. They said it is not right. Yet we continue to allow the well-heeled in our country to take advantage of the Tax Code as we raise taxes on everybody else. I think this is something we ought to fix.

A lot of my colleagues on my side of the aisle don't like this. I think it is inherently unfair that the very profitable sports organizations in our country don't pay taxes on the income their parent organizations make. I am not saying they don't do some positive things.

The President talked about paying your fair share. This is one that is not fair. Let's make it fair. Let's collect that money. It is not going to make any difference in what they do.

There are a few more organizations to add to this list: The ATP, WTP, the U.S. Tennis Association, Professional Rodeo and Cowboy Association, the National Hot Rod Association, as well as the ones I mentioned earlier also get this benefit.

People say this is going to impact their teaching certification or their charitable activities. They already have a 501(c)3. All of these organizations have a 501(c)3. They have a (c)6 just so they don't have to pay taxes. They have a charitable organization for all of their charitable stuff as well as their certifications.

This amendment will take the extra $90-some million and give it back to the American people. By giving that money back, it is giving it back to our kids because that is $90 million we are not going to borrow against their future.

The final amendment I will mention is on subsidies for millionaires for gambling losses. I will admit to Senator DURBIN that this one does have a blue slip. For anyone who reports $1 million in adjusted gross income a year in this country, they have an unlimited amount of gambling losses they can offset against that.

I am not a big fan of gambling. If it was a great business, we would all be gambling and be better off, but we are not. Most of us are losers when we try to gamble. The fact is the high rollers in this country get to deduct their gambling losses, and it is a large amount of money.

We also don't have any cutoff in terms of taking advantage of a lot of other expenses, which is for a speech another day, but here is one that is not necessarily great for society, yet we incentivize because we give an unlimited availability of deduction for the very wealthy. It ought to be something we change.

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

Mr. COBURN. I will be happy to.

Mr. DURBIN. I am not much of a gambler myself. I make a voluntary tax payment every once in a while and buy a lottery ticket, although I realize I will never win.

Refresh my memory—and the Senator probably knows this—do I recall that the only deduction for gambling losses is against gains in gambling and not against ordinary income?

Mr. COBURN. It is against gains in gambling. The Senator is correct.

Mr. DURBIN. I thank the Senator.

Mr. COBURN. Nevertheless, we give an advantage to those with an adjusted gross income of $1 million or more a year. What we have done is given the well-heeled and well-connected an advantage the average American citizen cannot do. I cannot recall, but this morning I read the exact amount of revenue. The point is it is the principle.

Over the next few months will—regardless of this bill, its outcome—the Congress start addressing the real problems facing our country? We just passed $740 billion worth of increased income taxes and payroll taxes at the end of the year. Supposedly we will start cutting $85 billion over the next 12 months. We will see if that actually happens, as we have grown the government 89 percent over the last 10 years, while the average American family income has declined 5 percent over the same time.

I made the statement earlier—and it can be checked on any Web site—if we go by inflation-adjusted dollars, the average American is where they were in 1989. If we look at the size of government, it is almost four times that size. It doesn't seem to me we are accomplishing a whole lot as far as elevating the prosperity of Americans, but we have certainly elevated the prosperity of the Federal Government, and we have certainly undermined the prosperity of our children.

I am worried about our country. I am worried about the loss of confidence in this body. I am worried about our abandonment of common sense. I am worried about the fact that we ignore the enumerated power and then we wonder why we get GAO reports that talk about the duplication and things that are not effective.

There is a great role for government in a lot of areas in this country, but in many areas we are not effective and certainly not efficient. The reasons our Founders put the enumerated power in was so the decisions that could be made on so many things would be made at the local level so it would be done effectively and efficiently.

When we have this year's GAO report showing that there is $98 billion worth of duplicative waste—$250 billion over the last 3 years of duplicative waste—and we don't do anything about it, what we are saying is it is not important. The future is not important, having the confidence of the American people is not important, our kids' future is not important, and don't worry, we will be able to pay all the debt back.

I will close with this: There are a lot of biblical principles about paying interest and going into debt. Last year we paid about $223 billion in interest costs. If we took our historical pattern over the last 30 years of what our interest is, we are actually paying the same interest we were 25 years ago on one-fourth the debt.

If we took our historical interest rate, which is about 5.88 percent, and applied it to where we are today, what we would see is our interest costs would be $880 billion a year. That is going to happen to us pretty soon. Nobody knows for sure when, but interest rates are not going to stay at zero for the Federal Government. We are not going to have the Federal Reserve continuing to print money, and if we do, then the value of our dollar is going to decline and we will all get taxed through the decrease in value of whatever we have or hold.

The point I want to make is that the interest payment doesn't help the poorest person in this country, it doesn't help the single mom, it doesn't help the kid in Head Start, it doesn't help our schools, it doesn't help our military, it doesn't help our foreign service. It doesn't help anybody except the person who has our debt.

Don't we have an obligation to not let that happen? Don't we have an obligation to start addressing the very real problems in front of us? Not one dollar we pay in interest helps anybody in America in the long-term net way.

Last year the Chinese dumped $250 trillion of our debt. We ought to ask ourselves why. Their perception is that as their currency appreciates, our currency is eventually going to depreciate.

As my friends in Oklahoma say, one of the reasons we are doing so well right now is we are the best-looking horse in the glue factory. We look good because everybody else is looking so bad. We are lulled into a position of thinking we, in fact, can get away with continuing to do what we have done for years in Washington when, in fact, we cannot.

I appreciate the time on the floor and my colleagues' consideration of my amendments. I understand what is happening. I am not happy about what is happening in the Senate. I think we ought to be working on solving real problems. They are the biggest problems in front of our country. Saving Medicare is important. In 13 months, Social Security disability is going to be out of money. Those people who are truly disabled are going to see a cut in their benefits. We are not going to be able to address that.

The time for us to be acting is now. I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. ENZI. Mr. President, I appreciate the comments from the Senator from Oklahoma and have enjoyed working with him the entire time he has been here. He brings up a lot of important issues, part of which is the financial shape our country is in right now. I noticed his comment that we are the best-looking horse in the glue factory and so people are pouring money into the United States.

I went to one of the bond issue auctions where we and some people from other countries were willing to take a negative interest rate in order to buy our bonds, which means they think we are the best hope there is out there. But that could change pretty quickly, and 5.88 percent is the average, which changes to $880 billion a year, which is a lot more than we spend on defense. So we need to be looking at some of those issues.

It is difficult to get a bill up around here. It is difficult to get a vote on an amendment around here. I know, because I have been working on the bill that is on the floor for 12 years, hoping to get an opportunity on the floor. So I would love to give Senators all the amendments they want; I was just hoping their amendments might be relevant—not germane, necessarily, relevant—to what we are doing; that it would be something about the sales tax collection. Those ought to come up. But when amendments are brought up as a result of frustration because people haven't been able to bring them up before—or some have even been brought up before and voted down—I would hope they would kind of constrain themselves on trying to make those an amendment to this bill.

Yes, there ought to be an easier way to get things going around here, and I think that would be in kind of a bipartisan way. This is a bipartisan bill. It is even bicameral. We have Republicans and Democrats on the House end working with us, conferring with us, hopefully, so something can be done, and here, of course, it is Republicans and Democrats—more than half of the people—who are supporting this bill.

As I said, I have worked for 12 years to get the bill to this point, and it usually gets blocked at the committee level. This time it didn't go to committee. I prefer bills to go to committee, but if we can't get them to committee and we get an opportunity to bring one up, we do.

One of the difficulties we have here is there are a lot of things that have to be done in the Senate, there are a lot of things people want to have done in the Senate, and there are a lot of things that have tremendous appeal throughout the United States or at least among certain people.

It is my understanding the next thing we are going to go to is water, and if my colleagues want to talk about a sensitive issue in the West, talk about water. My State gets an average of 16 inches—yes, that is right, just 16 inches—of rainfall a year. Other States get 16 inches in a month. We are considered high desert, and we are conscious of our water. So we will be interested in the water bill.

Following that, I think, is the immigration bill which has gotten a lot of publicity. There are a lot of people working on it, and there are a lot of opinions that I think are actually being worked into some kind of a bill.

Again, if we had a process where people could bring their bills up step by step, we could probably go through with a lot more. Because one of the complaints around here is bills often wind up to be a couple thousand pages long and it is hard to digest that. It is hard to bring the American people along on it. But the bill we are talking about here is an 11-page bill, and I think it is probably one of the most readable bills people have ever had to work on. An 11-page bill shouldn't probably take very long around here, but it takes just as long as any other bill. So I am hoping for this one chance we have to shore up some of the State, county, and town revenues, particularly since they are not going to be able to come to the Federal Government for money.

In fact, the Federal Government is taking money away from them right now and is talking about even more ways of taking money away from the States, the towns, the counties, and the municipalities.

What we did recently in that sequester bill is we took 5.3 percent out of the Federal Government's payment in lieu of taxes. They know they own properties in the States that, if they were in private hands, would result in property tax, but they are in the Federal Government's hands, and the States can't tax the Federal Government. But the Federal Government said, We know that is wrong, so we will pay a tax. The Federal Government decided what that tax would be and they don't raise it, so it has no relationship to the actual value of the property and what that property would raise if it were in private hands, which is why there are some appeals around here to sell off Federal property. But this year the Federal Government said, Well, yes, we owe that, and we haven't been increasing it so it is way below what the property tax ought to be, but we are going to cut you out of another 5.3 percent. I know people across America didn't have a choice of saving 5.3 percent of the money before sending it to the Federal Government, but the Federal Government is saying, For the taxes we owe, we are going to take 5.3 percent out of it first. So there are a lot of things there that are going to infringe on States and counties and municipalities.

I used to be a mayor so I know what the money is going to be used for and I know an essential part of that comes from sales tax—in States that have sales tax—and in those States the property tax is usually pretty low. But if they continue to lose revenue on the remote sales that take their revenue away, they are going to have to probably raise some of those taxes. I know there is a desire to force them to reduce some tax in exchange for whatever tax they get from this, but they have been losing tax and they are going to be losing tax.

This is a States rights bill. That is how we got it shortened down so much. The States actually have to take some action in order to be able to do this. I hope we don't try to dictate to the States what they do with whatever money they raise from this. But, again, that is a possibility on an amendment.

I am sorry the Senator from Oklahoma isn't on the Finance Committee anymore because there is the possibility, as we are doing tax reform right now, to talk about a number of these things he brought up, including gamblers who get to deduct their losses and the 501(C)(6) corporations that are tax-free. We need to be talking about whether some of those things should be tax-free, what their purpose is, where the money goes, how much is in the private sector, and what it is used for. Of course, I have been on the Finance Committee and I have been going through these discussions on reforming the taxes, and every time we get into it, we think of a lot more things we could be spending money on. So sometimes we talk about raising the tax instead of making it fairer and simpler. The two things can actually be separate. The policy of how we spend the money is supposed to be appropriation and authorization from the committees. The committees say what they think the money ought to be spent on and then the appropriators are supposed to stay within those limits. But that isn't the way it exactly happens.

If we are going to have fairer and simpler taxes, they are going to have to be fairer and simpler. I know Senator WYDEN has a principle that is a

one-pager. That would be nice, if it were only one page to fill out for our taxes. Of course, that means getting rid of a lot of things we have come to take as standard policy in our taxes. Again, a lot of those could be handled another way and they could be more forthright and more honest on what exactly we are doing, and probably fairer to the recipients of some of the tax expenditures we get.

I appreciate the amendments brought up by the Senator. I hope others will come and at least explain their amendments, but I hope they will try to stick to amendments that actually affect the sales tax provisions. If we try to put on some other kind of taxes or take off some other kind of taxes, we are actually getting into the Ways and Means in the House which has the right to start all of these kinds of issues, and they call that a blue slip. That means they object to it and it is done for. So if we end up with one of those for this bill, what it actually does is kind of kill the bill.

I am hoping after all the years of work that we don't kill the bill, particularly since we found a way to simplify it and make it a States rights situation, so States have to take some action and so the States understand the action they are taking. I am hoping we can do that. But I appreciate those explanations and perhaps there are some of those that somebody won't object to. I don't object.

At this point, I yield the floor and suggest the absence of a quorum.

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

The assistant bill clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Ms. WARREN). Without objection, it is so ordered.

Mr. DURBIN. Madam President, my friend and colleague from Utah Senator HATCH is going to give a speech in a moment. I would like to say before he speaks that after he has spoken, I am going to ask for a unanimous consent which renews an earlier request but expands it, and the request is going to be that we call up three amendments, two of which have been objected to already, and a third one, Senator HATCH's amendment.

For my colleagues who are following this debate in their office, the three amendments we are talking about are amendment No. 740, offered by Senators PRYOR and BLUNT, a bipartisan amendment that relates to the Internet Freedom Act, a 10-year extension, which was objected to yesterday; and then I will ask for consent that we go from that, after an agreed to time for debate, to amendment No. 771, offered by Senators COLLINS and KING, another bipartisan amendment that relates to the effective date of the underlying legislation; and then, to Senator HATCH, I would say that we are going to include in this unanimous consent request his amendment No. 754, which I believe he is going to speak to now on the floor, which relates to the substance of the underlying bill, S. 743.

I am not asking for the consent at this moment but giving notice to my colleagues that this is a request that will be made after Senator HATCH has spoken.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Madam President, on Monday, before the cloture vote on the motion to proceed to the Marketplace Fairness Act, I came to the floor to discuss the need to reinstate the committee process in the Senate.

I have come to the floor many times over the past few months to talk about the importance of restoring regular order. I know a number of my colleagues share the same concerns. Yet here we are today debating another piece of legislation that has not gone through the full committee. It has not gone through the full committee process, and, once again, it appears we will be getting less than optimal results.

I think the legislation before us is a prime example of why regular order is so essential. The Marketplace Fairness Act is a complicated piece of legislation that deserves more thorough examination.

I think the bill is well-intentioned, and I am not fundamentally opposed to it. But make no mistake, there are problems with this legislation as it is currently drafted, problems that likely could have been avoided if the Finance Committee had been given an opportunity to fully consider the bill.

I also understand the feelings of those who feel otherwise. But the committee chairman offered to have a hearing on a set date, a markup on a set date, and go to the floor. I thought that was a pretty good offer.

I am not here today to talk about the process failures we have had with regard to this legislation. I think I have made that point, and others have as well. Instead, I am going to take a few minutes to talk about just a few of the specific problems I see with this legislation and how I propose to fix them.

I have filed an amendment that would address some of my concerns. I believe my amendment would make this bill more workable for businesses and consumers around the country.

For example, my amendment would implement a 5-year sunset on the taxing authority provided under this legislation. Like I said, this is a complicated bill, and we are not precisely sure what the impact is going to be.

Whenever Congress deals with legislation this complex, unintended consequences are to be expected. I believe we need to ensure that Congress has an opportunity to revisit these issues once we have had a chance to see how this bill is implemented. A 5-year sunset would provide that opportunity, but that is not enough. If we are really serious about preventing unintended consequences, we need to change some of the specific provisions of the bill.

One particular troublesome aspect of this bill is the preemption provision. In order to downplay the need for regular order on this legislation, proponents of the Marketplace Fairness Act have repeatedly claimed that the bill has been around in some form or another for over 10 years. And, in a sense, that is true.

However, none of the previous versions of this bill—including the version that was introduced just 18 months ago—have included a preemption provision.

Specifically, this provision states that this legislation ''shall not be construed to preempt or limit any power exercised by a State or local jurisdiction under the law of such State or local jurisdiction or under any other Federal law.''

At first glance this sounds innocuous, but why was it only added to this latest version of the bill? Why was it not included in previous drafts?

My concern is that this provision seeks to address an issue that the authors of the Streamlined Sales and Use Tax Agreement have been wrestling with for years, which is that States are reluctant to surrender any taxing authority at all.

I always have been a proponent of States rights. I have fought hard to preserve the right of States to regulate issues within their own spheres in a number of contexts. But we need to recognize, with this provision in place, we would be backing up State laws with Federal enforcement. By passing this legislation as it currently stands, we would be essentially signing off on laws that have not even been written yet.

I think it is only reasonable to consider whether we should, after passing this bill, expect more aggressive State sales tax laws to be enacted with the promise of Federal authority to enforce them.

My amendment would help us avoid the potential problems with this preemption provision by simply striking it from the bill. As I stated, this is a new provision that deserves more careful examination before being enacted into law.

If the Finance Committee had been given an opportunity to examine this provision more thoroughly, it is possible these concerns could have been addressed. But that is not the world in which we are living. Under the current circumstances, this provision should be removed from the bill.

I should point out that I am not the only person expressing concern about the potential impact of enforcing new State sales tax laws with Federal authority. That is an important issue.

Earlier this week the Securities Industry and Financial Markets Association released a statement saying:

We believe the impact of this legislation on trade and services has not been adequately explored by Congress. The bill could

lead to unexpected costs being passed on to consumers of financial services, including sales taxes on services or state-level stock transaction taxes.

On Monday, I quoted from a letter delivered to Senators from the American Society of Pension Professionals and Actuaries that argued:

The legislation would allow states to impose a financial transaction tax that would apply to American workers' 401(k) contributions and other transactions within workers' accounts.

These are not concerns that can just be cast aside. These are experts in the financial services industry saying there is a set of problems with the way this bill is drafted.

I am not saying the Marketplace Fairness Act will automatically create these new taxes on financial services. But unless we are sure the legislation would prohibit such taxes, we may be handing a blank check of Federal power to States that are becoming increasingly aggressive with regard to tax enforcement.

That is why my amendment requires the Government Accountability Office to study whether, and under what circumstances, the authority granted under this legislation might allow States to impose taxes on financial transactions or retirement contributions.

My amendment provides a simple, straightforward way to address a potentially serious problem with the Marketplace Fairness Act. My amendment would also require the GAO to conduct a study on the costs incurred by remote sellers in complying with the new sales tax requirements that would be imposed by States under this bill.

There are serious questions regarding the economic impact of this legislation. We are talking about a bill that would impose new costs on businesses throughout the country—costs that will most certainly impact the ability of these companies to grow and expand.

I do not need to tell you that these are perilous economic times.

What impact will the Marketplace Fairness Act have on job creation? We simply do not know. This study would help provide us with some answers. But we need to do more to ensure that this legislation will not harm small businesses throughout the country.

Another concern I have with this bill is that it could potentially create a situation in which small remote sellers are routinely audited by multiple States at the same time. This would be a severe impediment to small business growth and job creation. I think we need to ensure that this legislation does not impose administrative burdens that crush small remote sellers under an avalanche of paperwork.

To help address this concern my amendment would institute a 3-year statute of limitations on State audits of remote sellers. This would provide a uniform rule for State sales tax audits, one that mirrors the current Federal statute of limitations in situations where fraud is not alleged.

One of the major driving forces behind this legislation is the fact that over the years, the number of tangible goods purchased over the Internet has increased exponentially. Proponents of the Marketplace Fairness Act believe it is necessary to level the playing field between Internet and brick-and-mortar businesses.

While this is a fair point, it does not address the issues surrounding the sale of digital goods. Digital goods are often consumed in places that are not at the location of either the buyer or the seller. That being the case, applying State sales taxes to the purchase of digital goods presents a number of problems that are simply not contemplated or resolved under this bill.

Some of my colleagues in the Senate have spent time working on legislation in this area. In addition, the Streamlined Sales and Use Tax Agreement has also considered this issue. However, the legislation before us is completely silent on this and other matters.

These issues demand more consideration than will be possible under this bill. That is why my amendment includes a carve-out for digital goods. Exempting digital goods from the sales taxes authorized by this legislation will give Congress an opportunity to examine this matter more fully and provide a solution that makes sense.

Another problem with this legislation is that it does not take into account the costs businesses will face as they transition into this new sales tax system. There is just no way around it. This bill represents a change to longstanding policy that will require many companies to incur additional costs.

For example, as the bill stands as written, businesses that sell into multiple States will likely have to incorporate multiple software packages into their operations or create their own program. Anybody who thinks about it can see that is a big set of problems.

Furthermore, an online retailer will still be required to pay interchange fees on all transactions regardless of whether the amounts transacted represent the tax or the price of the item purchased. My amendment would help to address this problem by providing for compensation for remote sellers that will be required to withhold and remit sales taxes as a result of this legislation.

A simple, fair system of vendor compensation will help businesses overcome the difficulties of transitioning into the new sales tax regime. The amendment would phase out vendor compensation over a 5-year period. It would begin at 10 percent of amounts collected for 2 years, 8 percent of amounts collected for an additional 2 years after that, and then 6 percent of amounts collected for 1 year. I think this is a reasonable provision. I think it would solve a lot of the problems folks are raising on this bill.

This is a simple approach. It would go a long way to ensuring that businesses, particularly small businesses, are not unduly harmed by this legislation. If you hadn't noticed, the common theme running through all of the provisions of my amendment is a desire to protect small businesses. I think we all want to ensure small businesses are allowed to grow, expand, and create jobs. While I do not think the proponents of this bill want to intentionally harm small businesses, I do not think they have done enough to protect them from the burdens this 11-page piece of legislation would impose.

Let me give you one more example. Businesses making less than $1 million a year in remote sales would be exempt from the sales taxes authorized under this legislation. That may sound like a fair concession, but it warrants further examination. First of all, previous versions of the bill set the exemption at $5 million a year. Why has that number been reduced over time? Is it an arbitrary number that sounds good or is there a specific target in mind? These are the questions I have when I look at that number. My concern with placing the exemption at $1 million is it could subject smaller regional companies and individual sellers to sales tax burdens in States where they only do a small amount of business. In our already fragile economy the last thing we want to do is discourage the businesses from growing, expanding, and creating new jobs. My amendment would set the exemption at $10 million a year in remote sales. It would also index the level of the exemption to inflation to ensure it does not shrink as the years go by.

I recognize coming up with the exact definition of a small business is no easy task. Any number we use will necessarily be a rough figure because it has to encompass different industries and different business models. But setting the exemption at $10 million would protect small businesses in a number of different sectors and ensure we are not discouraging expansion and investment in those types of companies.

I have a number of concerns with the Marketplace Fairness Act as it is currently drafted. These are just some of the concerns I have. I have more, but I thought I would at least make these concerns noticeable by talking about them on the floor. My amendment would go a long way toward resolving these concerns. I respect my colleagues who have worked on this legislation over the years. But I want to work with them to improve the bill.

I respect the distinguished Senator from Tennessee, the distinguished Senator from Wyoming, the distinguished Senator from Illinois. They are sincere, they are dedicated, they believe they are right. I wish to work with them to improve this bill. Everyone knows if we pass this bill in its current form the House is not going to take it. So we may be doing a thankless act here rather than working, as legislators should do, to improve the bill, make it acceptable, hopefully make it so both

Houses will take it, and the President will sign it. But as you can see, there are simply too many problems and too many unanswered questions surrounding this legislation for me to support it as it is.

As I have stated, I believe these problems could easily be resolved by a simple return to regular order. Indeed, if the Finance Committee had been given an opportunity to fully examine this legislation, many of these problems would undoubtedly have been solved already. There are people who do not want this bill; I understand that. The chairman of the committee does not want this bill. But he was willing, knowing he would lose, to go ahead with a committee markup, a committee hearing, and a committee battle on the floor.

As I said, that is not the world we are living in. Once again, I want to work with my colleagues to improve this bill. I hope they will listen to my concerns and consider the changes my amendment would make. If no changes are made to this legislation, if it is forced through the Senate without any real improvement, I am going to have to vote no. That is not where I want to be, but that is what I would have to do. We have already missed some real opportunities to examine and improve this legislation. I hope we can change course and take a good look at all of these implications surrounding this particular bill.

I ask unanimous consent that the pending amendments be set aside, and that it be in order to call up the following amendments en bloc: Collins 744 or 771; Ayotte 759, as amended; Coats 765; Thune 765, with a GAO study; Thune 778, with a GAO study; Coburn 753; Coburn 767; Thune 743; Lee 768; Ayotte 763; Hatch 754; Portman 772; Cruz 794; Coats 797; Portman 792; Paul 755; Cruz 799; Ayotte 776.

I further ask unanimous consent that each amendment be limited to no more than 1 hour for debate equally divided in the usual form; I further ask consent that following the use or yielding back of time on each of the amendments, the Senate proceed to a vote in relation to each amendment with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Illinois.

Mr. DURBIN. Reserving the right to object, this is the first time I have seen this list. It has 17 Republican amendments on it. An hour apiece with a vote would probably take us around the clock or close to it. I wish to review this list with the Senator from Utah and others interested. I said earlier I was going to make a unanimous consent request. I will not make it at this very moment, but I will be making a unanimous consent request within minutes, which will include at least two of the amendments that are on his list, and it will be a starting point. I will object to the request at this moment.

The PRESIDING OFFICER. Objection is heard.

The Senator from Massachusetts.

Mr. COWAN. Madam President, I rise both early and late in my Senate career in strong support of the Marketplace Fairness Act, legislation that Massachusetts-based merchants and Massachusetts municipalities tell me is long overdue.

First, let me congratulate Senators DURBIN, ENZI, ALEXANDER, and HEITKAMP for their tireless efforts over many years on this issue. I strongly encourage my colleagues to vote for this measure and to continue working with the House so we can finally see it enacted into law.

As I see it, in a sense, this legislation finishes the job that was started in the House by former Congressman, now Senator, WYDEN and former Congressman Christopher Cox, when they first introduced the Internet Tax Freedom Act. That law, which Congress first enacted in 1998, officially declared that the Internet and electronic commerce should not bear a higher tax burden than traditional commerce.

Standing here in 2013, knowing how commerce has evolved, how consumer behavior and expectations have evolved, and how technology itself has evolved, I am happy to report Congress largely has been successful. State tax laws do not discriminate against electronic commerce. These transactions do not need any special protection from State tax collectors. Quite the contrary. On the contrary. Now so much commerce routinely is conducted on line, the pendulum has swung in the other direction. It is time to ensure our State tax laws are uniformly applied no matter how a transaction is consummated.

For more than 300 years, New England Main Streets have been anchored by local merchants who not only offer consumers important goods and services but are key employers for our communities. Those Main Street establishments have always been and will always remain an important part of the fabric of our communities.

Today in Massachusetts, the retail sector employs 550,000 people in 60,000 locations across our 351 cities and towns. They represent 17 percent of all the jobs in the Commonwealth—an important percentage, yet one which has declined from a decade ago.

Consumers today are fortunate to have unlimited choices, meaning extremely competitive pricing from retailers and great service in order to obtain and retain customers. That is good for both the consumer and the economy, but it also means retailers necessarily must have very tight margins in order to stay competitive on price. Those tight margins mean many small businesses thrive or die on a daily basis based upon consumer trends and purchasing decisionmaking.

Those of us in government should foster consumer choice and competition but, equally important, we must also take care to prevent unfair market incentives that drive consumers to spend or not spend at certain establishments based upon government policy and decisions.

I find it interesting that many news reports about the bill we are debating now seemed to lead with the headline ''tax-free shopping on the Internet is about to come to a halt.'' Let's be clear about one thing. There was never such a thing as tax-free shopping over the Internet in States such as mine and so many other States that have a sales or use tax. Under the Commonwealth's sales and use tax law—and the laws that exist in 44 other States in this Nation—if you owe a tax when you walk into a store to buy an item, then you owe a tax when you go online, buy it, and have it shipped to your house. You heard me correctly. If you live in Massachusetts or one of the other 44 States that collect sales tax, you owe taxes today on those Internet purchases already.

For 45 years, Massachusetts merchants have competed against sellers in our neighbor State, New Hampshire, which has no sales tax. Some Massachusetts consumers choose to hop in their cars and drive up Route 93 to make purchases. I understand the frustration of Massachusetts merchants, particularly since the tax is still actually due to the Commonwealth in the form of a consumer-remitted use tax.

For the past decade, the growth in competition based upon sales tax collection avoidance hasn't been from north of the Massachusetts border but, rather, from desktop and laptop computers and today from smart phones and tablets. Consumers who are reeled in by the tax avoidance marketing messages of certain sellers don't have to drive to New Hampshire. Avoiding the State sales tax takes only a few keystrokes on their phones.

Billions of sales that otherwise would go to Massachusetts employers are annually sent elsewhere. Those losses are real for our Main Streets, for our retailers, our retail employers, for all our cities and towns, and the losses are growing every year. The annual sales tax loss in Massachusetts is currently estimated to be $335 million. That number grows to $400 million when you include lost income and property taxes from declining employment and darkened storefronts. If we don't act, if we don't pass this bill, that number will grow to over $1 billion by the year 2020. Allow me to repeat that. That is $1 billion in losses to my State.

A sale is a sale is a sale. With today's technology, it shouldn't matter how it is transacted or where it is transacted. Government must be blind and be a nonfactor in our competitive consumer marketplace and in our application of taxation to that market. We understand this fact in Massachusetts. Increasingly, many online sellers recognize this reality too.

Last year I worked with Gov. Deval Patrick to negotiate with amazon.com

to begin collecting and remitting the Massachusetts sales tax. Amazon did the right thing for Massachusetts employers, workers, our schools, services, and for our cities and towns. Amazon recognized that they use our infrastructure, the airports, the highways, and streets to deliver goods to consumers. Furthermore, they understood that their customers who purchase from them use those very same services in Massachusetts and enjoy our vibrant downtown. Amazon and many of the other businesses that support this legislation have stores in multiple States. They have made their online presence and their brick-and-mortar presence seamless to consumers. They already collect and remit applicable sales tax and follow all the other business rules in the States where they do business. If other States want to compete for their customers in the great Commonwealth of Massachusetts, they also should play by all of our rules, including the obligation to collect and remit our sales tax.

It used to be the case that if you wanted to reach a broader marketplace, you opened a location there. You complied with all the State laws that applied in those jurisdictions because it was worth it to expand your reach and build a broader customer base. Why isn't it the same thing now? Why have we been so unwilling to apply the same rules to online businesses that we do to businesses in our States?

This is not an unreasonable proposal. Every time a business opens a physical space in my State, they set down roots there. They create jobs there. They support our communities, and they contribute to the cost of local services. That means they collect and remit sales taxes on the purchases made by the customers who enter their front door. Every open business in the Commonwealth and every consumer in the Commonwealth understands this relationship. Why should we allow an online business transaction better treatment than we provide to our own folks? Outsiders should not be treated better than insiders. Everybody should be treated equitably.

That is all this bill will do. It will allow a State government to require the same sales tax collection obligations of businesses that sell to State residents online that it does to businesses that sell to State residents on Main Street—nothing different, nothing more burdensome.

There has been a lot of misunderstanding about what this bill does, so let me try to clear it up. This bill will not create a new tax obligation for anyone who doesn't already have one. If you live in a State that already imposes sales and use taxes, online merchants will add the sales tax to your purchase in the same way the neighborhood retailer does. If you live in a State without a sales tax, nothing changes for you—nothing. If you don't pay a tax at a store on Main Street, you won't pay one on the Web. It is that simple.

This bill will not crush small businesses. When I served in State government, small business owners and their associations repeatedly called on us to beg Congress to level the playing field. Those same small business owners are the people who sent us here to represent their interests. When our bosses—the people—tell us they want us to act, they should not have to beg. We should act on the will of the people.

Let me be clear about how this bill will work. Businesses that have less than $1 million in remote sales will be exempt from compliance. States that want businesses to collect and remit the sales tax already due will be required to provide those businesses with the software to do it free of charge. The State will set up a simplified process so that businesses only have one point of contact with the State on collections and audits. No business will have to navigate the thousands of taxing jurisdictions opponents of this bill are so fond of asserting.

If a business really does not want to comply, it is easy: they can forgo the customers in that State. If they do, I assure you, those consumers—a very resourceful group—will quickly fill that void with another business that is willing to follow a State's business rules.

This bill will not impose a tax on financial transactions. I admit that when I heard this assertion, it worried me and many of my constituents, so I went back and I read the bill again. This charge is fiction.

The bill is crystal clear. I quote:

> Nothing in this Act shall be construed as encouraging a State to impose sales and use taxes on any goods or services not subject to taxation prior to the date of the enactment of this Act.

I come from State government, as do several of my colleagues in this body. Trust me, budgeting on the State level is a little different from the process that plays out here in Congress. In Massachusetts we rely on a combination of income taxes and sales taxes to cover the costs of the services our citizens tell us they want and need and provide the appropriate measure of investments—in education, infrastructure, and innovation—we know is necessary for a growing and prosperous State economy. Sales tax revenues represent almost one-quarter of our total tax collections.

Sales taxes are a difficult revenue source, I understand, because they are so dependent upon broader economic conditions. As we saw during the recent recession, when people are out of work or believe their jobs are threatened, they pull back on spending. In fact, many small businesses in my State and in others, I am sure, were told by banks that lines of credit needed to be tightened because consumers were pulling back. It was an unfortunate domino effect that our Main Street businesses are still struggling to overcome. Yet, as they were trying to hang on, they also watched the customers walk into their stores, browse the merchandise, take out a cell phone, and walk out, opting to buy a product from an online retailer that could ignore the State sales tax collection. Guess what. Now there is an app for that.

Our States have limited sources of revenue and significant obligations and investments to fund. We know the reality of this situation—that no matter how much our consumers prefer to shop online rather than on the street, they do not and cannot call a virtual ambulance or an online firetruck. We need to do all we can to keep our businesses in business. We need to ensure them a level playing field in which to compete. We need to protect the integrity of our tax laws that ensure we can provide essential services to our residents.

I have listened carefully to the objections to the bill that have been raised by others here on the floor, in the correspondence sent to my office, and the many tweets on my Twitter feed. While I am sympathetic to some of the assertions made against this bill, respectfully, I am not persuaded by them. There are just too many consumers, small businesses, and struggling communities in the Commonwealth of Massachusetts that are shouldering an ever-growing burden because Congress has yet to join forces with the States to help us efficiently enforce our tax laws in a 21st-century marketplace.

I urge my colleagues to support this bill.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, let me first thank my colleague from Massachusetts for an excellent statement in support of the legislation pending on the floor.

Let me remind my colleagues that I am planning to make a unanimous consent request on several amendments. I have asked Senator AYOTTE from New Hampshire to come forward with amendments to be included on this list, and I am hoping she will do that momentarily. After Senator PAUL of Kentucky, who is seeking recognition, concludes his statement, I would like to make this unanimous consent request.

May I ask the Senator from Kentucky if he would be kind enough to tell me how long he will be speaking on the floor.

Mr. PAUL. Between 3 and 5 minutes.

Mr. DURBIN. Without objection, I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

NEUROFIBROMATOSIS 2

Mr. PAUL. My nephew Mark Pyeatt has neurofibromatosis 2, NF2, but that is not who he is. He is an indomitable spirit, a courageous young man, a man who knows and faces each day certain that he is one with his God. He is like many young people on Earth—he is in search of the truth. He reads, he thinks, but he no longer hears.

Neurofibromatosis 2 is characterized by recurrent neurologic tumors. Its signature tumor affects the auditory nerves and destroys the hearing. Its relentless course eventually takes all of the hearing. I have never heard Mark complain.

While my signing is only rudimentary, most of his immediate family are proficient, and at Christmas dinner for 40 family members, nearly everyone is trying to learn some signing. The grandkids sing, ''Happy Birthday, Jesus. I am so glad you came.'' The whole family is learning to communicate with their hands. I mostly like to learn insults so I can taunt Mark on the golf course. I can't use most of the signs he taught me on the Senate floor. I don't know this for certain, but I think the seven words George Carlin said you can't say on TV, I think you can't sign them on TV either. I love the way names for people in sign language are created only by the deaf. Mark's mother Lori is ''L'' to the ear because she is on the phone all the time. My wife Kelley is ''K'' sweet. My middle son Duncan is ''D'' in a hoop because he likes basketball.

Neurofibromatosis 2 is a rare disease. Some call it an orphan disease. Orphan diseases face certain obstacles that others do not. Money is typically allocated to research based on how prevalent a disease is. For rare diseases, the resources are likewise rare.

In order for investors to invest in a cure for neurofibromatosis 2, regulatory obstacles need to be cleared. We need to allow foreign drug studies to be accepted in the United States and not repeated. We need to have speedy approval of drugs that are already being used by the general population in other countries.

My chief of staff's sister Karen has pulmonary fibrosis—another orphan disease. She is 40 years old with a young daughter, and she is likely only alive today through a fluke in the system. She takes a medication that is part of an experimental trial in the United States but has been on the general market in Japan for years. If she didn't live near a research center and if her family couldn't afford to pay $1,500 a month out-of-pocket, she wouldn't receive this drug, even though it is legal in Japan.

The drug should have been cleared already, but we are not doing a good enough job of trying to get drugs cleared. It went through trials here. It has already been approved in Europe and Japan, but 200,000 Americans who have a rare deadly terminal disease are being denied this drug.

We all want safety in the drugs and in the cures for disease. We all acknowledge this is a balancing act. We should all acknowledge the regulatory obstacles and burdens new drugs face in our country are oppressive and counterproductive.

My hope is by putting a face to two orphan diseases—my nephew Mark, with neurofibromatosis, and my staff member's sister Karen, with pulmonary fibrosis—this situation will be made more personal. These are people who are close to our families, and we hope others will come to realize we must do something to get rid of government obstacles to cures for rare diseases.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I have reached out during the statement of the Senator from Kentucky to try and find the Senator from New Hampshire. I know she has a busy schedule, and I couldn't find her to ask her for her amendments to include on this list. I am going to go ahead and make the unanimous consent request, and I give her my word when she comes to the floor I will be happy to amend it to include two of her amendments, which offer I made to her earlier and I wish to make again.

I ask unanimous consent that the pending Enzi amendment be set aside and it be in order for the following amendments to be called up: the Collins-King amendment No. 771, the Pryor-Blunt amendment No. 740, and Hatch amendment No. 754; further, that no second-degree amendments be in order to any of these amendments prior to votes in relation to the amendments.

Unless someone has another suggestion, I am going to suggest we have 20 minutes of debate equally divided between opponents and proponents of each amendment.

The PRESIDING OFFICER. Is there objection?

Mr. WYDEN. Reserving the right to object, Madam President.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Madam President, over the last few days, I have spent a good chunk of my waking hours trying to find some common ground, some opportunity to bring both sides together. I have repeatedly put specifics on paper and provided those specifics to the proponents of this legislation. By and large—and I believe there is a little bit of a Senate code when one talks around here—the response has been: They have 75 votes, and that is kind of it. But I have been trying to deal with the issues that have been raised.

For example, my colleague from Illinois sincerely believes that unless Oregon's small businesses are not coerced into enforcing out-of-state laws, that Oregon is going to become a small business haven. He says Oregon has to be coerced by this bill or it is going to be a small business haven. I would just say to my colleagues that is not the reality of what we see in the Pacific Northwest every day.

Washington State has a sales tax. Oregon does not have a sales tax. So if my colleague from Illinois was right, we would be seeing moving vans all the time coming across the borders from Washington State to Oregon because somehow Oregon was going to be an Internet tax haven.

We all know States rights means States take different approaches with respect to this issue. To me, what we ought to be looking at are approaches that bring people together. So I offered Senator DURBIN a chance to test out this question of whether Oregon would be an Internet tax haven and try it out for a period of time. That was unacceptable.

So now this amendment includes the Pryor-Blunt legislation, which, for example, says we ought to reauthorize the Internet Tax Freedom Act. Colleagues, I wrote that legislation. It says in section 2 you can't have discriminatory taxes on electronic commerce. The Internet tax freedom proposal Senator DURBIN seeks to include in his base bill is basically trying to add some sugar into a very bitter cup of coffee. He is taking our legislation, which has been a real boost for the economy, and trying to put it into this very bitter cup of coffee that is his legislation.

I just don't think that makes a lot of sense. This bill is going to make it possible—the base bill—for discriminatory treatment of electronic commerce because online retailers in communities across the country are going to be subjected to burdens that brick-and-mortar retailers would not be subject to.

I know my colleague from Montana wishes to speak on this as well, but I would just close by saying I will have to object to the Senator's request because this particular amendment, including the bill I wrote, in effect, is akin to adding sugar to the bitter cup of coffee. The base bill offered by the proponents undermines the Internet Tax Freedom Act by allowing the very discrimination on electronic commerce the Internet Tax Freedom Act was all about.

This effort needs more time to bring about some common ground. I will close with this. Our technology policy over the last few years has been built on three kinds of principles:

No. 1, we would take voluntary steps. We wouldn't use coercion. This bill uses coercion. In fact, it was the voluntary steps, starting with some of the first laws that encouraged investment in social media, that were so important. This bill moves away from any semblance of voluntariness.

No. 2, I have outlined the discriminatory aspect of the legislation where we are going to have brick-and-mortar retailers not have to do certain things that online people do.

Finally, No. 3, what is just breathtaking is this gives foreign retailers a leg up on a Montana business, on an Oregon business, and, frankly, it gives a leg up on every business in the United States because the foreign retailer will not be subjected to what a business in our country is subjected to.

I know my colleague from Montana wants to speak on this issue as well, so I am going to maintain my reservation

so my colleague can speak, but I will have to object.

The PRESIDING OFFICER. The Senator can object or not object.

Mr. WYDEN. I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I am happy the Senator from Oregon is objecting. I am not going to get into how many times the Senator from Illinois and anybody else wrote the Finance Committee to work on this bill. That is frankly irrelevant, and it is not a discussion that is worth getting into. It misses the whole point. The whole point is whether this is sound legislation. The whole point, in my judgment, is we should try to find a process where we do make this sound legislation.

I think I am known around here as not somebody to unnecessarily hold up legislation. I have been here it will be close to 36 years, and that is not my style. That is not who I am. It is not in my DNA. I am someone who wants to work out things fairly, work both sides fairly but not stand and filibuster, not delay for the sake of delay or to try to get leverage. That is not what I do. I think, by and large, that is not very productive.

I have said many times, and I will say it again, we can improve upon this bill if we would go to the Finance Committee and work on the bill the next work period and report the bill out. I have made that commitment; that the Finance Committee will have a markup on this legislation in the next work period and report it out so we can work on a lot of problems that are in this bill. There are a lot of them.

One of the problems that comes to my mind—and I haven't had time to analyze it; nobody has had time to analyze it because there is no forum for it. Sure, Senator ENZI has worked on this for many years, but that was another provision. That was other legislation which States rejected because they couldn't reach agreement. So Senator ENZI found another solution, which is the bill he has introduced, and that has not ever been, to my knowledge, thoroughly examined in any committee.

One of the problems I have is audits—out-of-State audits. Nothing in this bill protects States from an out-of-State audit which is oppressive in duration. This bill says there will only be a single audit. How long is a single audit? How many years is a single audit? How much pressure will an out-of-State taxing authority push on another State's seller—a single seller or a bunch of sellers? What is a single audit; a single audit for all the sellers in a State or a single audit per seller? This legislation doesn't say.

What is the enforcement provision? What if a taxing authority from one State wants to go to another State, feeling that State is not living up to the provisions of this bill? What protection does that State have from an out-of-State taxing authority, an out-of-State audit? There is none here, but there could be. There could be protections if we go to committee and reasonably find a way to deal with this.

Those are just some of the problems with this bill, and there are many others that have not really been thought through—many others. I have deep respect for Senators standing on the floor and pointing out their States are losing some revenue. I understand that argument. But most of those States don't go the next step. Most of those Senators don't go the next step. They have not read the bill. I have read it all. It is right here. It is 11 pages.

As I have pointed out, with respect to audits, with respect to enforcement, there is no protection whatsoever. There are some nice wishful words in this bill, but when we stop to think about it, if someone is a small businessperson, they start asking a lot of questions. What does that out-of-State taxing authority do to me? What does it do to me, an out-of-State taxing authority?

We are not talking about a Federal taxing authority. We are talking about an out-of-State taxing authority as it affects me as a seller in my home State. Whether you are a sales tax State is irrelevant. Let's take Massachusetts and a remote seller in the State of Massachusetts. Let's say, for example, some other State feels that remote seller in Massachusetts isn't properly adhering to the provisions of this bill. Let's say it is a California taxing authority and it goes to the remote seller in the State of Massachusetts and audits that remote seller and brings an enforcement action against that remote seller in the State of Massachusetts—I don't know—or if you are a nonsales tax State, such as the State of Oregon or Montana.

There are a lot of questions. Frankly, I believe very strongly it makes much more sense for this legislation to go to the appropriate committee where we can work on it, especially when the committee has made a promise to report that bill out in the next work period. I grant you it will be a short period of time to work on it, during the next work period, but that is the compromise between those who want this bill up now—who want to ram it through, ram it through—with no significant committee consideration on the one hand and on the other hand having several weeks to work it out and report the bill to the floor.

For that reason, I join my friend from Oregon in objecting to these amendments. We can't write the bill on the floor of the Senate. We have to go to committees where we can work things out.

I yield the floor.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Madam President, I respect my colleagues from Oregon and Montana, but I respectfully disagree with the way they have described the situation.

We are talking about asking Internet retailers around America, when they make a sale, to collect the sales tax on that sale. That is it.

My colleague, Senator HEITKAMP from North Dakota, was tax commissioner in her State and took a case to the Supreme Court 20 years ago about the collection of sales tax for remote sales—catalog sales, mail order operations.

She took the case to the Supreme Court, across the street, and 20 years ago they said: Congress, you have to fix this problem.

She had hoped she found the solution, but they said, no, you can't fix it State by State. Congress has to fix this problem.

Here we are 20 years later. Senator ENZI of Wyoming has been working on this issue for 12 years. I have joined him for the last 3 or 4, partnering with him in this effort. This is not a new issue. It is not new to me, not new to Senator HEITKAMP or anyone on the floor. As far as this version of the bill, this version of the bill was introduced, if I am not mistaken, in February—is that correct? This version of the bill, 11 pages—by Federal standards, this is not a big, complex piece of legislation.

We asked for hearings before the Finance Committee and we did not get our wish. We brought it directly to the floor. I wish it would have been heard before the Finance Committee. Perhaps they would have made some adjustments or changes that might have been beneficial. But it reached the point where we said we have to get this done. After all these years, we have to get this done.

Why do we have to get it done? First, understand if you happen to be a person who has made a sacrifice and opened a small business in your hometown—think in terms of your sporting goods store to start with—you invested your capital. You and your spouse are there every single day. You are part of the community, to sponsor that Little League team. They came around asking for money for the United Way and you say our sporting goods store always gives to you. We are part of this community.

Then the customers walk in the door and sit down and say I want to try on that pair of running shoes, maybe try the next larger size. Do you have a different color? Once they find the right running shoe, they say, can I write down a few numbers here? And you know what happens next. They walk out the door, go home, get on the Internet, and buy that product without paying sales tax on it. So that sporting goods store down on the corner or at the mall is a showroom for goods they are not selling.

We are trying to change that. We are trying to make sure if you sell goods in a State, you collect the sales tax of that State. We do not create any new taxes. The tax we are collecting is already owed by the consumer. We certainly do not create any new Federal

taxes whatsoever. It is just a matter of collection.

Why are we tied up in knots here? The two States represented by the last two Senators to speak, Oregon and Montana, have no sales tax. There are three other States that have no State sales tax: Alaska, Delaware and New Hampshire. You would think from their arguments, the coercion they are talking about, we are trying to impose a sales tax on Oregonians or Montanans. That is not true. If this bill passes, Oregonians will not be required to pay a penny in sales tax whether they buy over the counter or over the Internet. The only people who will be affected by this are Internet retailers in that State who choose to sell their products in States that have a sales tax. We put an exemption in this bill and said if your Internet retailer has less than $1 million in sales the previous year, you are exempt; you do not have to collect sales tax.

Let's take a look at the specific States that are objecting to this bill. Of the roughly 1,000 Internet retailers who will be affected by this bill across the United States, there are 11 in the State of Oregon. Five already collect sales tax. Let me read their names because you will know them right off the bat: Adidas of Oregon already collects sales tax, Columbia Sportswear is already collecting sales tax, Nike is already collecting sales tax, Harry and David—I have gotten that as a gift once in a while—already collects sales tax. Five of the 11 Internet retailers in Oregon already collect sales tax. This is no new burden on them.

What we are talking about, then, is six Internet retailers in Oregon that I assume do not want to collect sales tax.

In Montana there are two Internet retailers with Web sales above the exemption in this bill—actually there are four in the list of Internet retailers, but one already collects sales tax and the other one is below the exemption level so they are not covered by this bill.

When I hear this objection about stopping this bill and the impact it is going to have on these States, we are talking about five businesses in Oregon, one or two businesses in Montana. That is what it is about.

But it is about much more, because these sales tax revenues are important to States and localities and local units of government. This is the money they use to avoid raising your property taxes and income taxes. This is the money they use to provide basic services for the people who live in the communities around these local stores and it is a question of leveling the playing field for the businesses as well.

What happened today, happened yesterday, and this morning? We attempted to bring to the floor amendments to this bill—and I would say that three of the five amendments we were bringing to the floor were being offered by Senators who oppose the bill. We know it. They don't want to see this bill pass. They want to try to change the bill, perhaps even jeopardize the bill. We are prepared to debate their amendments. How much more fair can you be? We have opened this bill to amendments, we have opened it to amendments that are critical of the bill, and the Senators object to our even debating them.

To the folks on C–SPAN, I am sorry, call for a refund because the Senate is not going to be the Senate today. We are not going to debate. We are not going to vote. We are in the midst of a filibuster where we are trying to bring amendments to the floor for an actual debate and a vote on a bill and we are being stopped from doing that. Is that why we ran for this office, so we can find ways to stop debate, stop amendments? I think not. I think we are sent here to do a job. If someone has a good idea on this bill, I am ready to consider it. The Internet freedom amendment we talked about here is a bipartisan amendment. Senator PRYOR, a Democrat of Arkansas, Senator BLUNT, Republican of Missouri, came together and said we want to extend for 10 years the prohibition against taxing people for using the Internet. I am for that. I am for that amendment. I want to consider it and I want to vote for it.

The Senator from Oregon said, oh, that is a spoonful of sugar in a bitter cup of coffee. For goodness sake, what we are trying to do is improve this legislation, and if he has a good idea, offer it as an amendment. We have opened it—Senator ENZI on the Republican side, I have opened it on the Democratic side. Bring your amendments to the floor. We are ready to debate them. But for the last 2 days consistently, those from no-sales-tax States have stopped every effort to bring an amendment to a vote.

I think that is unfortunate. Eventually this matter will be brought to a vote. We have had three different votes already—75 votes in favor of it, 74 votes in favor of it, and 75 votes. Clearly a bipartisan majority of the Senate wants to finally meet the challenge the Supreme Court gave us 20 years ago. We want to get this done. We put a lot of effort into it—no one more than Senator ENZI of Wyoming.

I thank Senator ALEXANDER of Tennessee and Senator HEITKAMP from North Dakota. I am going to yield the floor at this point and say to my colleagues, I don't know what it takes for the Senate to be the Senate. This notion of sitting here staring at one another, hoping we never get to a vote, is a disappointment, not only to those of us on the floor but I think to those who have a lot more hope for the Senate.

The PRESIDING OFFICER (Mr. COONS). The Senator from Wyoming.

Mr. ENZI. Mr. President, I want to make a couple of comments on what has transpired here this afternoon and for the last several days. One of the toughest things to do is to pass a bill. One of the easiest things to do is to kill a bill. You can do that simply by creating some confusion. Around here you can do it by applying some rules and suggesting that part of the process could be backtracked and done differently and done over.

It is pretty hard to get a bill to the floor. It doesn't happen very much. It could happen easier, it could happen more often. When you get one here, there are still a lot of ways to kill a bill and that is kind of what we are seeing because there are some people who say: Gee, if we don't get our amendment, we are going to kill the bill. We are going to vote against cloture, which is the only way to move on in the Senate because we like debate, we like pretty much unlimited debate.

Debate can be constructive. There are things that need to be done on bills. I heard several good ideas. They have been objected to, so we are not going to get to actually vote on those. But one thing as an accountant that I want to bring up is this thing about audits, because that can loom pretty strong for a business. Audit is something that we know from the IRS and it is very scary. But the audits they are talking about are not going to happen to nearly the extent they think they are going to happen. Somebody will have to be avoiding the sales tax entirely and they will have to have a very strong suspicion that they exceed $1 million online in a year before they will ever audit because it costs money to audit. Especially it would cost money if you went over the border to another State to audit. Then there are some difficulties with being able to collect what is discovered in the audit. But it is only done when something seems very wrong.

One of my clients I worked with for 10 years had big sales in the oilfield—lots of sales in the oilfield. We got audited on sales tax once in 10 years. I am pleased to say they did not find anything. It took them 2 weeks to do the audit and that was a very big business. It was very technical stuff. Of course they looked at it because a lot of them are very big sales. There are some confusing things in the sales too. But you have to have an audit in there for a little bit of honesty. So that is why that is in there. But it is not going to be something the States are going to jump on because it has some costs.

If you are a government that wants to do audits—I remember when I was in the Wyoming legislature they used to talk about how much return they got out of their audit. They would get $20 or $30 to the $1 of cost. Consequently they used that as an argument for hiring even more auditors because they would find a lot more money. The intent of an audit is not to find $1 for every dollar that is expended. It is to find $20 or $30, somebody who is violating the law in a big way so you can afford the cost of the audit. That of course keeps all of the people a little bit more honest. So audit has to be in here but audit is being blown out of

proportion, probably so we can try to kill the bill. I hope that is not the intention.

They talked about needing to go to committee. I have gotten a couple of hearings on this in 12 years but have never been able to get a markup in the committee. This process has gotten this bill to the floor and I am hoping everybody will listen to their retailers and help out on this bill and get it finished. I can tell you, being in charge of this bill and one of the drafters of this bill, it is not a popularity contest you are winning. It is just the right thing to do. It is what the States need if they are going to have the revenue to provide all of the services that are in the municipalities—whether it is police or fire protection or cleaning the streets or whatever is done there, plus all of the charitable work people in the communities do too, because that is the sense of community they have so they contribute. All of that is going to dry up.

If you ask your municipality how much money they get out of sales tax, I think the minimum one of them will say is 30 percent. Probably the maximum is 70 percent. But that is a lot of budget and that is declining as the Internet grows and the sales happen without the tax. So I hope people will help pass this bill and get this into effect. It is only an 11-page bill. That is a miracle around here. It is possible for people to read the bill.

I thank the Senator from Massachusetts and appreciate the comments he made. He is new to the Senate but he obviously read the bill. I am very impressed with the comments he made. I hope people will help pass this bill.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Ms. HEITKAMP. Mr. President, I will be very brief. I want to respond to a couple of claims that have been made, especially with how they relate to foreign corporations. I think there is a sense that foreign corporations have absolutely no State tax obligations no matter what they do in their State or what their presence is.

I want to clarify a couple of points. People argue that foreign corporations that make remote sales will have an advantage over domestic companies. We need to understand that is not true. The Marketplace Fairness Act treats foreign corporations the same as it treats domestic corporations, and by that I mean corporations which are incorporated in the 50 States in our country.

All online retailers who make over $1 million in remote sales, regardless of where the retailer is located, must collect and remit sales tax to States that require it. States currently have and do exert jurisdiction over foreign companies. In fact, States collect different types of tax from foreign companies even when those companies are exempt from Federal taxation.

Locating facilities—there has been a big argument here—means people will now move their operations to Canada and operate out of a foreign country. That has its own brand of problems for any corporation that would consider that, and I will outline some of those.

Locating facilities outside of the 46 States while still selling to the U.S. consumers would actually increase some costs for retailers and complicate the sales process. Locating farther away from customers would increase shipping costs. Many online retailers are moving their distribution and other facilities closer to their consumers so they can be more responsive to their customers. In fact, we are seeing 1-day shipping or same-day shipping.

International sales may be subject to duties. Foreign currency exchanges may be needed to conduct the sale, and so it is a whole brave new world. It is a very complicated world.

The other thing is there is a big discussion about how to enforce it. States can currently request information from Customs and Border Protection about international shipments into their States so they know what products are coming in and where they come from.

I want to take a moment to explain how this works. As my colleagues have heard in this discussion on the floor, I, in fact, was the tax commissioner of the State of North Dakota who initiated the action in Quill, but that is not the extent of my experience. I also spent a great deal of time—in fact, 6 years of my life—as a tax commissioner collecting sales and use taxes.

We frequently have people go across the border and shop in Canada or spend a weekend in Canada. Their Customs reports are filed. We typically would send a sales tax auditor up to review those Customs reports and send use tax collection statements out as a result of that. That kind of compliance is already happening.

States also have enforcement options available to them to ensure that foreign corporation compliance is completed, including liens and other kinds of discussions.

I want to offer a CRS report on this issue, which said:

> Finally, some have noted that U.S. based retailers may respond to the expanded state tax collection authority by shifting operations outside the U.S. to avoid the collection burden. The costs of moving operations and increased shipping costs, however, would seem greater than any benefit conferred by avoiding the collection burden.

Again, as my colleagues have heard over and over, we have heard about how expensive this is. Yet we have vendors out there. In fact, eBay is charging no more than $15 a month to provide this service to businesses they have.

Some may say, Well, that is all fine and good, Senator HEITKAMP, I don't believe that actually happens. I requested some information from our current tax commissioner in the tax department in North Dakota because I know a little bit about sales and use tax, and I know we actually have foreign corporations—Canadian corporations—that are, in fact, licensed or permitted as retailers.

In fact, the State tax department records show that in calendar year 2011 we collected $1.6 million from Canadian companies that were registered and actually remitted the tax. So anyone listening understands the level of business North Dakota is doing; our sales tax is 5 percent. There was a big leap in 2012 as we saw almost $3.8 million. That is, I am sure, due to Canadian companies supplying North Dakota corporations and North Dakota businesses in the oilfield.

We already do this, and very many Canadian companies already know what these requirements are, just like a North Dakota domiciled company that does business and takes advantage of the Canadian marketplace will be subject to Manitoba taxes or subject to Sasquatchian taxes. We know what our obligations are.

It is very important that we do not mix concepts here. I think the Senate is a place where they do understand foreign tax treaties. But provinces of Canada and States such as North Dakota are subnationals, which is their classification within trade law. They are not bound by very many of these treaties. They are not obligated under these foreign tax agreements we hear over and over, and it is not make-believe. The reality is that in States such as North Dakota, we collect taxes from Canadian companies.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that as soon as I finish my brief remarks, the Senator from Montana be recognized to respond to the remarks of the Senator from North Dakota.

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

Mr. REID. Mr. President, this is not a partisan bill. There are times I am on the floor advocating for partisan advantage, but that is not what we have here. We have managers of this bill who have worked very hard for a long time, and this is where we are now. We are to a point where there have been a number of amendments offered, there have been objections made, and so no amendments are allowed to be debated or voted on, and that is where we find ourselves procedurally.

As the manager of the Senate, I am left with no option except to look to the next alternative to try and move things along, which will be after midnight tonight. At 12:30 a.m. or 1 a.m. this morning, we would have a vote on cloture on the bill.

I say to my friends who oppose this—and I know they believe in their opposition to it fervently—it is a big waste of time. We have had overwhelming votes twice. Whether we vote after midnight tonight or at 6 p.m. this evening, it will still be the same result. So I would hope those who oppose this

will take a look at this and maybe arrive at a point so we can have a vote earlier. If that doesn't happen, everyone should understand we are going to come here sometime after midnight tonight and move forward on this legislation. After that, of course, it is only a majority vote to complete this legislation.

The managers are still ready to allow amendments to be offered. It is getting late in the day. The 30 hours is grinding to a halt. I hope we can get something done and move on.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I wish to ask the Senator from North Dakota a question. I guess I will ask the question through the Chair.

Mr. President, I wonder if the Senator from North Dakota would tell me where in this bill—and I have read it—a State would have the authority to audit and bring enforcement action against a remote seller in any other country, such as China. Where in this bill does the State of North Dakota have the taxing authority to go to a remote seller in China that is selling goods in North Dakota? Where in the bill does it say that? What is the language in the bill which allows any State to bring enforcement action against a remote seller in any other country?

Ms. HEITKAMP. Mr. President, I say to the Senator from Montana, what the bill exerts jurisdiction over is remote sellers. It does not differentiate whether they are foreign nationals or domestic corporations. In State law we have the ability to enforce State laws against anyone who is obligated under the jurisdiction of the State to comply. I will tell the Senator that the jurisdiction in here is not over States. It is not over Oregon or New Hampshire. It is over a remote seller. It does not differentiate anywhere in this bill in terms of a remote seller.

I will also tell the Senator that as the former tax commissioner of the State of North Dakota, I have enforced State tax laws against foreign corporations just as foreign corporations have enforced their provincial laws against North Dakota domiciled companies. It happens every day in America.

Mr. BAUCUS. Mr. President, I have another question. This is very similar to the context of this bill, and that is, I have asked the Senator from North Dakota many times to provide me with the authority for that proposition. I am wondering if the Senator from North Dakota could provide me the authority for that proposition rather than just asserting it. What is the authority? Is there a case? Is there a Federal law? Is there a Supreme Court case on that authority? I wish to know.

Ms. HEITKAMP. Mr. President, and my friend from Montana, we will provide the citations and the Supreme Court cases that talk about the exertion of jurisdiction over foreign corporations by State taxing authorities.

I will offer up this document which outlines that we are not parties to foreign treaties: Nelson v. Sears, Roebuck & Co., which is a 1941 Supreme Court case. Felt & Tarrant Manufacturing v. Gallagher, which is a 1939 U.S. Supreme Court case.

It is a well-established and longstanding precedent in this country that if a company is doing business as a foreign company in a State or in our jurisdictions, we have jurisdiction and can apply our State law and our State taxing authority over a foreign company that has jurisdiction and nexus in our——

Mr. BAUCUS. The Senator just said the magic word. The Senator is talking about States where there is nexus. I ask for the proposition where there is no nexus. That is the whole point of a lot of this discussion here.

The point in Quill is that in a State where there is no nexus, a sales tax cannot be enforced. Where there is nexus, it can be enforced. I will bet those cases the Senator cited have to do with whether a State is doing business in another State, and that is nexus. We are not talking about that here. We are talking about remote sellers where there is not nexus and not doing business in the State.

Let's say there is a remote seller in China selling merchandise in North Dakota. I will bet dollars to doughnuts those cases have nothing to do with remote sellers generally.

I will make a second point, that I think North Dakota will have a hard time enforcing the provisions of this bill in some province in China. Is North Dakota going to go to Hunan Province and have the Premier of Hunan Province enforce this? I doubt it. It is not just China, it is any other country.

The Senator is confusing nexus from remote sellers, and that is not the point here. The point is remote sellers. That is just one of the problems of this bill when we start looking at it and start thinking about it and what is in it. That is why this bill should have gone to committee in the first place so we could correct it.

One other point, and I don't think this is understood by very many Senators. This is not just a nonsales-tax issue, by any stretch of the imagination. For example, let's say two States—and they are both sales-tax States. There is a remote seller in one State—let's say Massachusetts—selling to a State such as California, and both have sales taxes. Under this legislation, California State taxing authority could audit the online seller in Massachusetts if it wants to and bring an action against that online seller in Massachusetts.

So this applies to remote sellers in all States. This is not just nonsales-tax States but all States. This bill allows all States to bring enforcement actions and audit actions against remote sellers in any State. This bill does that. That is what it provides. This is not just a nonsales-tax State question. This is a question that affects all small businesses, all remote sellers all around the country in addition to the point I mentioned earlier—and I cannot for the life of me think any State can bring an enforcement action in many countries around the world where that remote seller does not have nexus in the State in question. This is another reason why this bill is fraught with problems and why it should have gone to committee in the first place.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Ms. HEITKAMP. Mr. President, I wish to clarify one point about nexus versus commerce clause, and I think it has been misstated about tax jurisdiction.

There was a case decided in the 1950s called National Bellas Hess that said remote sellers do not have nexus nor can we apply the collection burden because of the commerce clause. When it was decided, what was decided is that, yes, North Dakota had nexus over Quill. We could not apply the sales tax because it was in violation of the commerce clause.

The nexus standards have changed from physical presence to economic activity and that is why we are here. We cannot, in my opinion, as a body—and as a lawyer who has studied this area—we cannot change the nexus standards by any statute in this body, so every State will have to defend their own application of nexus.

What we are talking about is not nexus; it is commerce clause jurisdiction—the ability to apply it and not violate the interstate commerce clause.

So I think we need to be very careful about our terminology.

I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I wish to engage the Senator from North Dakota, if I may, in a colloquy for a few minutes on the subject, so we may speak through the Chair to each other.

The PRESIDING OFFICER. Does the Senator from North Dakota agree?

Ms. HEITKAMP. Yes.

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

Mr. ALEXANDER. The Senator from Montana has raised a good question about audits. Let me say to the Senator from North Dakota, I wish to paint a picture, and I wish to ask the Senator from North Dakota to help me because she may be one of the newer Members of this body, but she knows more about this subject than most of us put together because of her experience, with all respect to all the Senators already here in the Senate. I wish to paint a picture of what would happen if we don't act.

We are talking about audits. We are talking about businesses. Let's think about what we are talking about. I want to look to Washington from Nashville, TN, or from some other State

capital—the requests that States are making of us is that if I am a Governor of Tennessee or a legislature, I want to be able to make the decision myself as a sovereign State about whether people who sell in our State are treated in the same way.

A person may be a catalog seller or an Internet seller or a brick-and-mortar seller, but if an entity is going to sell in our State and we have decided we are going to have a sales tax instead of an income tax, if we require the local business to collect the tax, we are going to require everybody who sells there to collect the tax. If an entity wants to sell in our State, that is what they need to do. If they want to drive in our State, they follow our speed limit. They follow our criminal laws. If one lives in our State, they pay our income tax. If someone sells in our State, wherever they are in the world, we want them to collect the tax and send it to us. That is what we are talking about, treating everybody the same in that way.

So the obvious thing comes up: What about all these different jurisdictions? We hear a lot about 9,600 taxing jurisdictions, and I live in Maryville, TN. So the city might have a sales tax and the State might have a sales tax and they might be different than what the next city is.

So my question to the Senator from North Dakota is—what this law does is it streamlines these 9,600 jurisdictions. It simplifies the whole process to make it easier for out-of-State sellers. It takes advantage of the technology of the Internet so there could be a single tax return for each State, a single audit for each State, and States often work together with audits and there can only be one audit per year; in other words, it reduces this burden.

Of course, if an entity is in Kansas and they are selling in Tennessee, they may be subject to an audit and they file a report every year electronically. But, according to this, there can only be one a year.

What if we didn't pass this law? Let's say I am an enterprising Governor of Tennessee, which I once was, and I say, the Senate can't get anything done. They can't even agree when they have 75 people on both sides of the aisle who already have voted 3 times for the bill. So I have given up on them. So I am going back to the Supreme Court 20 years later, after Senator HEITKAMP wins as tax collector for North Dakota, and I am going to say, back then, 20 years ago, we didn't know anything about the Internet and this case came to the Supreme Court and the Court said it is too much of a burden on interstate commerce for you to require out-of-State sellers with no physical presence in the State to do the same thing you already require your instate sellers to do on taxes that are already owed—taxes that are already owed. I am going to go back to the Court and say things have changed. Times are different. I can take my computer out and I can put in my ZIP Code and type in ''Williams-Sonoma,'' figure out the sales tax I owe when I buy my ice cream freezer online, and they can collect it and send it to the State of Tennessee. So it is not any sort of burden on interstate commerce.

It is my right as a sovereign State to make everybody who wants to sell online or by catalog into the State of Tennessee—I am going after them. I am going after them if they don't collect the tax. Then, my friends in Mississippi see me do that and they do it too and then Kentucky does it and then the next State does it and then all 9,600 taxing jurisdictions go after this single remote seller.

They might come back to the Senate and say: Why didn't you guys do your job a few years ago? Why didn't you simplify this system? Why didn't you create something that was easy, which limited our liability, which made the States provide us with the software that makes this work, which limited the audits to one a year, which limited the tax to one per State? Why didn't you make it so even a smaller seller—99 percent of the Internet sellers are exempt from this act—a smaller seller wouldn't have to worry about it?

So I ask the Senator from North Dakota if she would respond, given her 20, 30 years of experience in this whole issue, am I exaggerating? What would it be like if the State of Tennessee got tired of the Senate not being able to act after all this time and went back to the Supreme Court and won the case and Tennessee and North Dakota and all the other States started enforcing their laws against remote sellers?

Ms. HEITKAMP. Mr. President, in response to my friend from Tennessee, the first thing I will say is the tools we have today were not available 20 years ago. The simplification, the immediacy of buying a $15 opportunity from e-bay so you can collect sales tax in all jurisdictions on products that are unique to each State, that was not even a thought when we litigated Quill. Yet we came pretty close to convincing the Court this should be allowed under the interstate commerce clause. I think, at the end of the day, the Court decided that case because they were concerned mainly about retroactivity. But now, if we compare the experience of 20 years ago to what we know in terms of data availability and the ease of administration today, which is being further streamlined by requiring a streamlined tax, one single tax base—what do I mean by that? The city of Fargo imposes sales tax. Let's assume for a moment we allow them to tax different products than what the State taxes. This requires one tax per product. We don't get to have different tax bases. So we have streamlined that piece that concerned the Court at the time. When we think about it, local sales taxes were not unique and were prevalent even at the time we litigated Quill.

This argument was overwhelming for the Court. They looked at the burden on interstate commerce, coupled with the potential of retroactive application, which would have meant huge audits where there was no opportunity to collect, and said: You know what. We think this is better left to Congress. We share an obligation with Congress on interstate commerce. We think Congress can do the right thing.

The world has changed since then. What we know that Internet sellers know about us today is remarkable. Can we imagine litigation, I say to my friend from Tennessee, where we show that we simply order—in my case one plus-size blouse—and we get all kinds of plus-size ads on the side. Some people think that is kind of insulting, but I think it is an interesting evaluation of how much these retail sellers know about us individually. If they can know that, they can collect the sales tax.

The other piece of this that is new in this statute that I think further compels us is we are not talking about the small mom-and-pops. The other reason why I am supporting this legislation is I have small beekeepers who make wax candles and maybe they put those wax candles on the Internet; maybe they make $20,000, $30,000 a year selling wax candles. I don't want them, after further litigation, to have a burden of sales tax collection. They are small mom-and-pops, and we are talking about $1 million.

So, in many ways, this legislation is prosmall business, it is prostreamlining tax. If we let this go back to the Court with a better argument than we are not burdening interstate commerce, with an argument that we can do it for $15 a month, the Court is going to be persuaded that there is no impediment to interstate commerce, and that is the risk we run by not acting and not acting soon.

Mr. ALEXANDER. Mr. President, I thank the Senator for her knowledge and her contribution to the debate. Of course, what she is emphasizing is that if we do act, we simplify things for the small businessperson. For one thing, we exempt anyone whose revenues are less than $1 million. That, by some economists' studies, is 99 percent of all Internet sellers. If we don't act and a case is won in the Supreme Court today, that is different than 20 years ago. There is no $1 million exemption—there is no $1 million exemption—and there is exposure to 9,600 tax districts if they win that case.

So the thing to think about is if we do our job, and the Supreme Court said 20 years ago we are the ones to do it—and 74 or 75 of us 3 times now have indicated we think we should through this 12-page bill, we will provide an exemption for virtually all Internet sellers, we will create rules that simplify, and we will give States the opportunity to do what States should have the opportunity to do. My heavens, I hear some people say—and I have said this on the floor—Washington didn't trust the States to make these decisions about tax matters. Nobody in Tennessee

trusts Washington to make decisions about tax matters. So what this bill does is say to the State of Tennessee or Delaware, it is your business; you decide it. If what you want to do is collect tax from some of the people who owe it and not all of the people who owe it—States have the right to be right; States have the right to be wrong. That is what the 10th Amendment is about. In some States, they will use the money to pay teachers more for teaching well.

In the State of Ohio they have already decided if this passes, they are going to lower the income tax. The Governor of Idaho said he already has his eye on a tax he would like to lower. If we can collect taxes from everybody who already owes them—and that is the important point to make. We are not talking about new taxes; we are talking about taxes people aren't paying that they owe. So why should I have to pay my tax, and if the Senator from Delaware is in the same similar situation, why should he not have to pay? So in each State, the same people ought to have to pay.

Art Laffer, the distinguished economist who wrote a good column in the Wall Street Journal endorsing this idea of marketplace fairness, said the best tax, if there has to be a tax, is one that affects the largest number of people at the lowest possible rate. If we have a 10-percent sales tax in Tennessee and 25 percent of the people who buy things are not paying a tax they owe, they ought to be paying it. They ought to be paying it. If they all pay it, we can lower the rate for everybody. That is what—we are not deciding that here; we are just deciding the States could have the right to decide.

But the important point of the Senator from North Dakota is that if we act, we are protecting the small seller by creating the $1 million exemption. We are protecting the small seller or any remote seller by saying you have a limited liability, a limited number of audits, a limited number of States to do it in, and if we don't act and the Supreme Court hears this case, Katy bar the door, and out-of-State sellers all over the world will be coming to the Congress and saying: Why didn't you do your job?

So there is a good reason why we have a majority of Democrats who have voted three times to express their support for this bill and a majority of Republicans who have done the same. There is a good reason why leading observers across the country, from the chairman of the American Conservative Union and others who don't like to see States picking and choosing between winners and losers—there is a good reason all of those people support this. And there is a good reason it is an 11-page bill. It is a simple idea.

We have sovereign States. States make their own tax laws. Unless States, by their tax laws, create an unconstitutional burden on an out-of-State seller, it is no business of ours. We should create the environment the court says to give them the freedom to make those decisions for themselves. Some may do it one way, some may do it another, but States have the right to be right, States have the right to be wrong, and we have the responsibility to recognize the constitutional framework of our country which was created by sovereign States.

Thank you, Mr. President.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SESSIONS. Mr. President, I ask unanimous consent to be able to speak as in morning business for up to 15 minutes.

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

IMMIGRATION

Mr. SESSIONS. Mr. President, we have an attempt to move and rush through the Senate an immigration bill before the American people can absorb what is in it. I think this is a very bad policy. The bill was introduced at 2 a.m. 8 days ago. It was set for markup in the committee today. Our diligent staff has been trying to read it and absorb it, and they are having a great deal of difficulty sifting through this complicated 844-page bill.

Senator GRASSLEY, the ranking Republican on the committee, has asked for the bill to be put over for 1 week. Next week is a recess, so now it will come up in 2 weeks to be presented and passed out of committee.

On Monday, we had a hearing. I will not say it was a circus, but it was impossible to absorb all the information. Twenty-three witnesses testified, one right after the other, 5 or so minutes each. The Senators who were here on Monday—not a lot—had 5 minutes of questioning and not much was resolved. They did not know what was in the bill either. They were just testifying about policy, basically. Nobody could explain exactly how the bill is going to work.

So people say: You should be able to handle a bill like that. You should be able to read an 844-page bill.

So I just want to show why this is a pretty complicated process and why a piece of legislation such as this has to be carefully read. It is not easy to do so.

So this is page 65 of the bill that I will show you. It deals with an issue I talked about yesterday. Secretary Napolitano issued a prosecutorial directive and guidance to ICE officers that was so upsetting to the ICE officers that they sued her and their Director, Mr. Morton, in Federal court, saying she is directing them not to follow plain U.S. law.

I brought it up in the hearing, and Chairman LEAHY said: Well, a lot of people file lawsuits. Very few win. Well, yesterday or the day before yesterday, the Federal judge basically ruled in favor of the officers and said a Secretary of DHS has no authority to issue guidelines that counteract plain mandatory Federal law. So, basically, the Secretary was saying: Do not remove certain people from the country that current law says must be removed. She was refusing to do what the law of the United States says. This is one of the reasons we have such a problem reforming and fixing immigration law. It is because the American people have little or no confidence in the willingness of our officials to even follow present law, much less new law.

They have planned to fix this in the bill so now the Secretary would have even more power. In the legislation we have already found maybe 200 references to waivers and discretion of the Secretary. But look at page 65:

(B) WAIVER.—

(i) IN GENERAL.—The Secretary may waive the application of subparagraph (A)(i)(III) or any provision of section 212(a) that is not listed in clause (ii) on behalf of an alien for humanitarian purposes, to ensure family unity, or if such waiver is otherwise in the public interest. Any discretionary authority to waive grounds of inadmissibility under section 212(a) conferred under any other provision of this Act shall apply equally to aliens seeking registered provisional status under this section.

(ii) EXCEPTIONS.—

Exceptions to that.

The discretionary authority under clause (i) may not be used to waive—

(I) subparagraph (B), (C), (D)(ii), (E), (G), (H), or (I) of section 212(a)(2);

(II) section 212(a)(3);

(III) subparagraph (A), (C), (D), or (E) of section 212(a)(10). . . .

So if I am a Senator, and I am trying to protect the interests of the people of the United States to understand what a piece of legislation means, I have to go back and read every one of those subparagraph exceptions.

This is gobbledygook. My staff tells me every time they go back and read it, they see more difficulty. I have not even had a chance to look at this. Oh, but do not worry about it, we have set up a vision. We have a vision of this great immigration bill that is going to be comprehensive and fix all our problems. Trust us. Do not worry about it. You will find out what is in it later. Right? Just like health care, I guess.

This is not a way to do business. The immigration policy of the United States is just as important as the health care policy of the United States.

I am not going to consent to this bill. We ought to find out what is in it. It goes on more and more and more, this kind of gobbledygook.

Continuing:

(IV) with respect to misrepresentations relating to the application for registered provisional immigrant status, section 212(a)(6)(C)(i).

And it goes on.

It is not right to say that people who are concerned about the legislation are

obstructing the process. We are trying to find out what the bill does.

A headline yesterday in the Christian Science Monitor said: How many people will be made legal under this bill? It then quoted one of the supporters of the bill as saying: We don't know.

So I asked at the Judiciary Committee this morning—one of the sponsors was there, Senator SCHUMER—I asked: Do you want to tell us how many people are going to be legalized under the bill? Oh, we don't know.

So we do not know that. We do not know answers to other questions, such as: How much will the bill cost the Treasury of the United States? What kind of expenses will be incurred? What is the total number of people who will be admitted?

What we have discovered has revealed that the legislation fails to live up to virtually all the promises that have been made about it so far. I hate to say that, but that is the truth.

Let me list a few instances. These are promises we have been told are taken care of or will be effectuated by the legislation if we just vote for this good bill. Just vote for it. It is 844 pages. Just vote for it. Here are some of the things:

We were told the bill would be enforcement first. But the plan confers immediate legalization in exchange for future promises of plans for enforcement, many of which will likely never occur. We have plain law now that requires removal in lots of cases that the Secretary is failing to follow.

In fact, a major loophole that jeopardizes the entire border security section commands that the Secretary of DHS grant current illegal immigrants permanent legal status and, therefore, a guaranteed path to eventual citizenship after 10 years if just one of the so-called triggers that is supposed to ensure enforcement is prevented from occurring by a lawsuit. So all they have to do is to keep an enforcement trigger tied up in court for ten years, and then the people are not going to be deported if the enforcement does not occur.

We were told the Secretary would be required to build a fence at the border. We passed a law in 2007 that required 700 miles of double-strength fencing at the border—not the whole border but 700 miles. How many miles have been built since then? Thirty. Congress passed a law that said we would do this enforcement in the future, but it has not occurred.

We were told the bill would reduce the deficit. We have been told it will reduce the deficit and strengthen Social Security and Medicare. But the effect will be to legalize large numbers of low-skilled immigrants. Over half of those illegally here today do not have a high school diploma and will add trillions to the unfunded liabilities of Medicare, Social Security, and the President's new ObamaCare health care bill.

We are talking about trillions of dollars when Social Security and Medicare need to be strengthened, not weakened; and the numbers are not going to be disputed. It is not going to strengthen Social Security and Medicare, as many advocates say. It is going to weaken it, and it is also going to weaken the financial stability of the ObamaCare legislation.

We were told illegal immigrants would not have access to public benefits, but the bill ensures that millions of illegal immigrants will immediately be eligible for State and local public assistance. If people need something, need health care, they are going to get it somewhere. Some will get formal benefits in as short as 5 years and will be eligible for all Federal welfare programs at the time of the grant of citizenship.

We were told there was a 10-year path to green cards or permanent legal residence and a 13-year path before one could become a citizen. But 2 to 3 million of those who are in the country illegally are expected to assert that they came into the country as younger people and, therefore, would be eligible for citizenship in 5 years under this remarkably broad DREAM Act provision that removes any age cap on the persons who can assert that they came as a youth. Even those who had been removed from the country can come back and claim the benefits of this bill.

Illegal agriculture workers will also get green cards in 5 years. Individuals working illegally in agriculture today would be able to get legal permanent resident status in just 5 years. This would enable them to receive benefits of some kind. We were told this legislation was for illegal immigrants who have deep roots in the country. But the amnesty is extended to recent arrivals, including those who may have come here alone just over a year ago.

Millions would be legalized who overstayed their visas. People who are not even living in the country anymore could return and receive benefits and legal status. Those who have been deported multiple times could receive benefits under this legislation. That is just what is in this complex 844-page bill.

We were told the legislation would curtail the administration's aggressive undermining of Federal law. That somehow the law was going to be enforced more. But it provides the Secretary of Homeland Security with even more discretion than she has today. It is filled with grants of waiver power and discretionary power. The American people are very dubious of the willingness of our government to do anything that would consistently and effectively enforce laws.

I believe the American people's heart is right about the issue of immigration. I believe the American people should be respected and their opinions valued. What are they saying? They say: We need a lawful system of immigration. People should be treated fairly. They believe in immigration. Right now we are bringing in 1 million people a year legally. The American people say that is about right, although a recent poll showed that over half of the American people believe that number is too high. They would like to see it brought down some at this time of unemployment and falling wages.

They still strongly favor immigration for America. They are not mad at immigrants. They do not hate immigrants. They do not dislike them. They respect people who want to come to America. They understand the desire of good people around the world who would like to come to America. But what they are angry about is people in high office flatly telling them time and time again: We are going to fix this system, we are going to make it lawful, and we will make it one that you can be proud of. Then they do not do it. They say they are going to build a fence, and it does not get built. They say they passed a law that requires removal of certain people who violate the law; they do not get removed. The American people are right about this. It is Congress and the President who have not been fulfilling the right standard.

We were told there would be strict standards for amnesty, but the bill grants amnesty for those who have been convicted of multiple crimes. There are a whole host of exceptions to ineligibility. We were told the bill would make us safer. But Mr. Chris Crane, the head of the ICE association, said it will not; that immigration officers have been undermined. They have voted—the 7,000-member association voted no confidence in Mr. Morton, their supervisor. They filed a lawsuit for the failure of their officials to allow them to enforce the law, basically complaining about their supervisors directing them to violate the law.

That is what they complained about. That is what the judge seemed to take very seriously. We were told this would move us toward a merit-based, high-skilled immigration system with a responsible future flow that would be more effective in identifying people who could be successful in America. This might be the biggest and most dangerous flaw of all. It does not look like it is going to move our numbers in any way in that direction.

The bill would remove limitations on the number of visas for spouses and children of green card holders. That would apply to both those here illegally and all current and future legal immigrants. It would clear the 4.5 million illegal immigration backlog of people who filed to come under chain migration, family migration. Only so many were supposed to be admitted per year. You file and wait until your time comes up, then you get admitted. So, apparently, the drafters of the bill felt bad because people said: You are giving people who came illegally advantage over those who have been waiting their time.

So how did they solve that? That is a pretty brilliant way to solve it. They

agreed to let everybody who has filed to come in immediately and exempt from them from the caps. That would solve the problem all right.

Those who are approved under the DREAM Act, persons who came as younger individuals, can obtain green cards on an expedited status for their spouses and children. We have to be careful that we do not create a system that allows aging parents to be brought to the country in large numbers. That will be a burden on us. Truly, we have to be thoughtful about that. We have to be responsible. As a member of the Budget Committee, we are looking at these numbers. We have to reduce our costs, not add to it wherever possible.

The agriculture worker program is expanded, giving the Secretary of Homeland Security almost unchecked authority to increase the visas to whatever number he or she sees fit. Think about this: The Christian Science Monitor asked: How many will be illegal immigrants will be admitted?

I asked the bill sponsors and supporters today in committee: How many would be admitted over the next 10 years?

Under current law, we should be admitting about 1 million people a year, the largest number any Nation in the world allows, to come into our country legally. That would be 10 million over 10 years. Under this bill, we believe the number would be 30 million-plus.

Let me say to my colleagues, I respect their work and their efforts. I know we have always valued immigration in our country, but it is time to create a system that serves the national interest, a lawful system where those who violate the law are not rewarded, those who do not violate the law are validated, a system that brings in the kind of person that has the best chance to be successful and not be a ward of the State or charge of the State.

There are a lot of things that we really need to do: protect our national security, have a system and a policy that we are proud of, that is morally defensible. I am afraid this bill is not there. That is why I am concerned about it. I look forward to doing the best I can to examine it carefully.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, over the course of the next several weeks, I hope to come to the floor and visit with my colleagues about the immigration bill that will soon be going through the Judiciary Committee. Today I want to share my thoughts on the parts that deal with the border security section of S. 744.

The immigration bill is very likely to allow millions of people who entered our country illegally or overstayed their visa to receive legal status and eventually green cards. However, it is very unlikely to result in true border security. The bill provides that those in a probationary status—and that is known in this legislation as ''registered provisional immigrant status''—be given green cards as soon as the Secretary of Homeland Security certifies that four conditions have been satisfied.

On page 11 of the bill it lays out the process. The Secretary certifies that the border and fencing strategies, and those strategies are ones that she wrote, are substantially deployed, operational, and completed. She also has to implement a mandatory employment verification program and electronic exit system at airports and seaports. The authors of the bill envision that this will happen in 5 or 10 years down the road.

There are three reasons this process is problematic: First, the Secretary has unbridled discretion to conclude that the four provisions have been satisfied even if they have not been satisfied. The Secretary determines if the strategic plans are substantially deployed, operational, and completed according to requirements of the law. For example, the Secretary could say she is using an electronic exit system by collecting visa and passport information even if that system is not totally effective. The bill establishes no deadline for implementing any of these conditions.

Second, the bar is set very low for certifying that these conditions have been met. One of the four triggers to green card is a summation of a border fencing strategy. The bill defines in one sentence in section 5 the contents of that border fencing strategy condition. At a hearing on Tuesday before our Judiciary Committee, Secretary Napolitano testified that fencing was not a priority of this administration.

Considering how sensitive of an issue this is, one would not think she would say that. She did not really want $1.5 billion to be designated just for fencing. She implied that no more fencing was needed. Well, ask the people down on the border if that is true. She testified that the Department would prefer flexibility to use technologies other than fences. She stated that if she determined that little or no additional funding were necessary for fencing, she might then be able to certify this condition very quickly.

Third, litigation could ensure that legalization could occur in 10 years, regardless of whether any and all of the four border security triggers in the bill are met. The bill does this in four ways: First, green cards can be issued if litigation of any kind prevents any conditions from being met. Second, green cards can be issued if the Supreme Court rules that the implementation of any of the conditions is unconstitutional. Third, green cards can be issued if the Supreme Court grants review of litigation on the constitutionality of the implementation of these conditions. I note that this provision is especially ill-considered because it could trigger green cards merely because the Supreme Court agreed to review the condition's constitutionally, a highly likely event even if the Court later upheld that.

Fourth, the bill restricts litigation challenging one particular decision of the Secretary to a constitutional challenge only. But that limitation expressly does not apply to litigation challenging implementation of the conditions. Litigation brought against the conditions can be based on any legal theory.

Under the bill, if any court in this country issues a stay on implementing one of the conditions, then green cards are to be issued after 10 years.

The bill does not specify what sort of ruling must prevent implementation or even that the ruling be based on the merits, nor does the bill require that appeals run their course, even if the appeal upholds the condition. It says that the Secretary ''shall permit''—and this is mandatory language—''shall permit'' applications for adjustment to LPR status if ''litigation . . . has prevented one of the conditions from being implemented.''

Under the plain language of the bill, 10 days after the day that any court prevents any of the border security conditions from being implemented, then, of course, the floodgates for green cards are to be opened. And nothing in the bill stops the administration from agreeing to a consent decree that prevents one of the conditions from being met.

Because I listened to over 7 hours of testimony on Monday and because on Tuesday the Secretary of Homeland Security shared her thoughts, I summarize to this one statement: During all that time, not one person disputed the fact that legalization begins upon the mere submission of both a southern border security and fencing strategy. Thus, the undocumented become legal after the plans are submitted despite the potential that the plans could be flawed and inadequate.

If enacted today, the bill would provide no pressure on this Secretary or future Secretaries to actually secure the border.

Secretary Napolitano has stated that the border is stronger than ever before. She even indicated that Congress should not hold up legalization by adding border security measures and requiring them to be a trigger for the program.

I am concerned that the bill we will be taking up repeats the mistakes we made in 1986. Maybe people will resent my referring to 1986, but I do that because I went through this before, and we thought we were doing it absolutely right in 1986. We didn't secure the border then and assumed legalization alone would stop the flow of more people crossing the border without papers.

Simply, we screwed up. We need to learn a lesson because the basis of this whole legislation is that the borders will be secured. The people don't want some phony language that allows the Secretary to circumvent congressional intent.

I urge all my colleagues to really understand what the bill does in regard to border security and, in the process, to make sure the same mistakes of 1986 aren't repeated and to insist that the border be secured instead of trusting what the Secretary says.

In regard to this whole issue, there has been a lot of finger-pointing going on in Washington in the past 2 weeks as it relates to immigration. It is a lot like the weeks and months after 9/11. What warning signs were missed about the brothers who bombed the Boston Marathon? Law enforcement and intelligence agencies tell conflicting stories. Bureaucracies are gearing up to do battle over who dropped the ball. They are preparing their defenses. They are leaking bits and pieces of information favorable to themselves.

Meanwhile, Congress and the public have a growing number of questions. I have written to the Department of Homeland Security and the FBI. Senator PAUL and I have written on another matter to the FBI. But the Senate Judiciary Committee has not yet received clear answers to our questions, and there are very serious questions about whether our government has forgotten the lessons of 9/11.

The most important of those lessons is this: When extremist fanatics say they want to wage war against us, we should take them seriously. Our government was reportedly warned on multiple occasions that one of these brothers had become a radical jihadist. Do we still have agencies failing to follow up, failing to share information, and failing to connect the dots?

In this morning's Washington Post, the editorial board asked, ''Is the FBI focused enough on the real bad guys?'' The editorial pointed out that in addition to the older brother in Boston, several people who have been investigated by the FBI have gone on to commit attacks. The Post cited 2 examples: the man who shot 2 soldiers at a Little Rock military recruiting office in 2009 and the man who was accused of shooting and killing 13 people at Fort Hood later that year.

According to the editorial, ''Meanwhile, the FBI has devoted considerable resources to sting operations . . . sometimes on what look like dubious grounds.'' For example, the FBI launched an elaborate sting operation in Boston against a man planning to attack the U.S. Capitol with a remote-controlled model airplane loaded with grenades.

The Post concluded:

> In [some cases], it's not clear that a sometimes far-fetched plot would have gone forward without the encouragement and help of FBI informants.

That is a very good point. It may be easier for an FBI informant to draw someone into a far-fetched plan, but it is harder to detect the real terrorist plot, such as the one in Boston. Unfortunately, it is connecting the dots that keeps us safe, not those easy sting operations.

Other warning signs about the older brother may have been missed because tips about him weren't shared between law enforcement. The older brother's best American friend was murdered in an unusual triple homicide. My office has been told that local authorities investigating the murder were unaware of the warnings from Russia about his radicalization. Thus, those local authorities in turn apparently didn't know they should make the FBI aware of the murder.

Four months later the older brother traveled to Russia, just as the Russian Government had warned us. The FBI claims it was unaware of the older brother's trip, even though the Homeland Security Department says its systems alerted them to the travel. Did the Homeland Security Department fail to share that information with the FBI?

The immigration reform bill, with all of its bells and whistles, can't make agencies share information with each other. That bill is supposed to require background checks on the 12 million people who are in our country undocumented. Yet it seems we have a hard time doing successful background checks just on those here legally.

Lack of information-sharing and failure to see real warning signs are probably things that no bill will fix. What has to change is the culture, and, of course, that begins at the top. It requires true leadership.

At the end of the day, this is about much more than who dropped the ball. It is about learning from mistakes and doing a better job next time. In order to do that, we need real transparency about what happened, not just talking points from agencies trying to deflect the blame.

The immigration bill before the Senate will make enforcement of immigration laws more inefficient, time-consuming, and ineffective.

I would refer my colleagues to section 3502 of the bill. That section governs immigration court proceedings. Under current law, people here illegally who are going through removal proceedings are not entitled to legal counsel at government expense, and the Justice Department is not required to provide that. However, this section opens the law wide, making taxpayers foot the bill for attorneys who will represent people here who are undocumented. It provides that ''the Attorney General, in the Attorney General's sole and unreviewable discretion, may appoint or provide counsel to aliens in'' removal proceedings.

The heading of the section implies that court proceedings would run more efficiently, when in actuality the goal is to ensure that people here illegally have every opportunity to fight removal orders. Some of these aliens could be dangerous. They certainly don't deserve free counsel whenever the Attorney General is inclined. Making it harder to deport aliens who should be deported will make it harder to deter aliens from entering the country illegally. Of course, there are organizations, such as law firms, law school clinics, and others, that provide pro bono legal services to aliens at no cost to the taxpayers.

The bill's language is just so astounding. There are very few statutes that say that any government official can do anything in his or her ''sole and unreviewable discretion.'' That means no oversight. However, time and again throughout this bill this language pops up. It means that no court can stop what that official wants to do. That is hard to square with our principles of democracy and a government based on the principles of checks and balances.

Ironically, the title for the section implies that this measure would ''reduce costs,'' but in fact it only increases the costs for taxpayers. This measure to provide legal counsel for people here illegally would be paid for from the newly created fund known as the Comprehensive Immigration Reform and Trust Fund. This fund, on the date of enactment, will have $6.5 billion, which is transferred from the General Treasury. How much will this section cost? We won't know until CBO scores it, but it won't be borne by the people in the removal proceedings, and that is going to be hard for the American people to swallow.

Anything that makes deportation harder or that makes deportation proceedings more likely to be about delaying tactics should be avoided, but the immigration bill appears to desire those results as goals. We should decline that invitation to mischief that is going to be a direct result.

DRUG PREVENTION AND TREATMENT PROGRAMS

Mr. President, I have long been a strong advocate for the responsible stewardship of taxpayer dollars.

Throughout my career I have sent countless requests, letters, and conducted numerous investigations all in the interest of preventing waste, fraud, and abuse of taxpayer dollars. Today, we are confronted with a government that is recklessly spending tax dollars and running up a huge Federal budget deficit and debt. We are also confronted with the need to tighten the government's belt when it comes to this reckless spending.

One area where we need to do a better job of responsibly using taxpayer dollars is through our drug treatment and prevention efforts. I have a strong commitment to ensure drug abuse does not flourish in communities throughout the country. I have championed numerous efforts to prevent drug abuse before it starts including my sponsorship of the Drug Free Communities grant program.

Drug abuse is very costly to society. The National Survey on Drug Use and Health estimates that 22.5 million Americans aged 12 and older used drugs in 2011. This is clearly a problem that needs to be addressed in an aggressive but wise manner.

Senator FEINSTEIN and I requested the Government Accountability Office

to conduct a study of the Federal drug treatment and prevention programs that has recently been released. This report and another, which annually reports on the duplication or overlapping of Federal programs, states that out of 76 drug abuse prevention and treatment programs 59 or nearly 80 percent had evidence of overlapping efforts. In Fiscal Year 2012, 4.5 billion taxpayer dollars were allocated to these programs.

The Government Accountability Office reported that some programs, including the Drug Free Communities program, have a low risk for duplication because they have coordinated their efforts among their respective administering agencies. However, 29 of the 76 programs surveyed reported that no staff have coordinated with other agencies or programs to reduce duplication. This is almost 40 percent of all Federal drug prevention and treatment programs. The report further states that the Office of National Drug Control Policy, which is responsible for coordinating the government's anti-drug efforts, has not systematically assessed drug abuse prevention and treatment programs to examine the extent of overlap or opportunities for coordination.

It is with disappointment that I learned that the President has proposed a significant increase in his Budget to many of these programs. Specifically, the President has proposed a $1.5 billion increase for drug treatment programs, which is an increase of 18 percent from fiscal year 2012. Many of these programs have good intentions and may even do good work, but in a time when we are making many painful cuts throughout most federal agencies and programs to rein in spending should we be making such large increases?

Further, should we be spending more taxpayer dollars on programs that are duplicating efforts before they correct their problems? The last thing we need to be doing now is chasing good money after bad, and this is what the President is proposing with his budget.

Before we start increasing any program budget, we must first ensure that program is responsibly tracking and utilizing every taxpayer dollar it currently has and not wasting it by duplicating the work of another program. One example of success in eliminating duplication can be found with the National Drug Intelligence Center.

This center had repeatedly been listed as a duplicating agency for a number of years. The funding for this center was eventually eliminated in fiscal year 2011 while the work of the center has been consolidated.

I am pleased that the Office of National Drug Control Policy agrees with the recommendation of the Government Accountability Office report to assess the extent of overlap and duplication across all drug prevention and treatment programs by identifying where agencies can better coordinate their efforts. Yet these actions should have been taken years ago. However, it is with disappointment that I saw no mention of any effort to assess prevention and treatment programs in the President's recently released 2013 National Drug Control Strategy.

In fact, it appears that the President wants to expand many of the programs that currently do not coordinate efforts in his strategy. An assessment must be done and actions must be taken to eliminate waste before any expansions take place.

Failure to adhere to the Government Accountability Office recommendation will result in more wasted taxpayer dollars and less recipients benefitting from those dollars. The people most vulnerable to drug abuse, our Nation's youth, require our best efforts with the limited resources we have to ensure they receive the proper education and professional help so that they can grow into healthy adults. By failing to carefully safeguard taxpayer dollars, we are failing our children and grandchildren. We must do better.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, I ask unanimous consent that the vote on the motion to invoke cloture on S. 743 occur this evening at 5:35 p.m.; further, that if cloture is invoked, all postcloture time be considered expired at 5 p.m. Monday, May 6; the Durbin amendment No. 745 then be withdrawn; that no other second-degree amendments be in order; that the Senate then proceed to vote in relation to the Enzi-Durbin amendment No. 741; that upon disposition of the amendment, the Senate proceed to vote on passage of the bill, as amended, if amended; finally, that the filing deadline for second-degree amendments be 4 p.m. Monday, May 6.

Mr. President, just briefly, I appreciate very much the fact this is a consent agreement I had nothing to do with. I appreciate all the good work of everyone who was involved in this.

The ACTING PRESIDENT pro tempore. Is there any objection to the request?

Without objection, it is so ordered.

The clerk will report the motion to invoke cloture.

The assistant 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.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that 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, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from California (Mrs. BOXER) and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

Mr. CORNYN. The following Senators are necessarily absent: the Senator from Texas (Mr. CRUZ), the Senator from Texas (Mr. CORNYN), the Senator from Arizona (Mr. FLAKE), the Senator from Ohio (Mr. PORTMAN), and the Senator from Mississippi (Mr. WICKER).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) would have voted ''nay.''

The PRESIDING OFFICER (Mrs. HAGAN). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 63, nays 30, as follows:

[Rollcall Vote No. 111 Leg.]

YEAS—63

Alexander	Fischer	Menendez
Baldwin	Franken	Mikulski
Begich	Gillibrand	Moran
Bennet	Graham	Murphy
Blumenthal	Hagan	Murray
Blunt	Harkin	Nelson
Boozman	Heinrich	Pryor
Brown	Heitkamp	Reed
Cantwell	Hirono	Reid
Cardin	Isakson	Rockefeller
Carper	Johanns	Sanders
Casey	Johnson (SD)	Schatz
Cochran	Kaine	Schumer
Collins	King	Sessions
Coons	Klobuchar	Shelby
Corker	Landrieu	Stabenow
Cowan	Leahy	Udall (CO)
Donnelly	Levin	Udall (NM)
Durbin	Manchin	Warner
Enzi	McCain	Warren
Feinstein	McCaskill	Whitehouse

NAYS—30

Ayotte	Heller	Risch
Barrasso	Hoeven	Roberts
Baucus	Inhofe	Rubio
Burr	Johnson (WI)	Scott
Chambliss	Kirk	Shaheen
Coats	Lee	Tester
Coburn	McConnell	Thune
Crapo	Merkley	Toomey
Grassley	Murkowski	Vitter
Hatch	Paul	Wyden

NOT VOTING—7

Boxer	Flake	Wicker
Cornyn	Lautenberg	
Cruz	Portman	

The PRESIDING OFFICER. On this vote the yeas are 63, the nays are 30. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

VOTING EXPLANATION

● Mrs. BOXER. Madam President, I was unable to attend the roll call vote that occurred on April 25, 2013 because of a family obligation. Had I been present, I would have voted in favor of the motion to invoke cloture on S. 743, the Marketplace Fairness Act.

As electronic commerce has grown dramatically, new policies are necessary to maintain a level playing field so that businesses of all types can both compete and prosper. This bipartisan bill has the support of a broad coalition of Governors, mayors, business leaders, and labor groups, and is especially important to our local governments. I look forward to working with my colleagues to ensure that implementation of these changes is manageable for small businesses in California and elsewhere.●

The PRESIDING OFFICER. The majority leader is recognized.

MORNING BUSINESS

Mr. REID. Madam President, I ask unanimous consent that notwithstanding rule XXII, the Senate proceed to a period of morning business, and during that period of time Senators be allowed to speak for up to 10 minutes each.

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

The Senator from Delaware.

Mr. COONS. Madam President, I ask unanimous consent to enter into a colloquy with the Senator from Alaska for up to 30 minutes.

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

ENERGY STRATEGY

Mr. COONS. Madam President, Senator MURKOWSKI of Alaska is a strong leader on energy issues, and I am proud to work with her on the Energy and National Resources Committee. It is fitting that we are here despite representing different States from different regions of the country to talk about an issue we believe can bring us together.

Republicans and Democrats alike can agree that when it comes to American energy, we need a comprehensive, all-of-the-above strategy, and that is the only way we are going to succeed in securing homegrown and affordable sources of energy for the next generation.

In my view, oil and gas are not going away anytime soon. If renewable sources of energy are going to grow and become central players in the American energy marketplace, we have to make sure they are operating on a level playing field. Right now the playing field is anything but equal.

For nearly 30 years, traditional sources of energy have had access to a very beneficial tax structure called Master Limited Partnerships. This is a financing arrangement that taxes projects like a partnership, a pass-through, but trades their interests like a corporate stock. This prevents double taxation and leaves more cash available for distribution back to investors.

This allows limited partners and general partners to come together and invest capital in a Master Limited Partnership and form an operating company. For the last 30 years, that has been used in natural gas, oil, and coal mining, predominately in pipelines but also in fossil fuels.

Not surprisingly, this structure means MLPs have had access to private capital at a lower cost, and that is something capital-intensive projects, such as oil pipelines, badly need. Frankly, it is something alternative energy projects in the United States need more than ever.

Let's work together and level this playing field. Let's remove the restriction that allows only traditional energy projects, such as, oil, gas, coal, and pipelines, to form MLPs. It is literally in the original statute that only nonrenewable forms of energy are eligible. In my view, we should open it up to include clean and renewable energy and then let the free market take it from there. So this week, Senator MURKOWSKI and I joined Republicans and Democrats from the House and the Senate to introduce the Master Limited Partnerships Parity Act of 2013—a bill that will do just that. We are grateful for the support of Senators JERRY MORAN of Kansas and DEBBIE STABENOW of Michigan, as well as Congressman TED POE of Texas, MIKE THOMPSON of California, PETER WELCH of Vermont, and CHRIS GIBSON of New York, who are original cosponsors.

Our bill does not change these benefits for traditional energy sources at all. It doesn't touch existing MLPs and their well-established benefits for coal and oil and natural gas; it just allows renewable energy projects to compete fairly by also accessing this tax advantage capital formation field. It gives an equal chance for success for projects using energy from wind and the Sun, the heat of the Earth, and biomass; breakthrough technologies to consumers with affordable homegrown energy for generations to come.

This bill is this year a new and improved version of the Master Limited Partnership Parity Act from last year. We introduced a version last year that earned strong support from Republicans and Democrats, as well as outside experts and the business community. This year we are expanding the scope of the bill to also include additional energy projects that qualify as MLPs: waste heat to power, carbon capture and storage, biochemicals, and energy efficiency in buildings. We wanted to include a broader array of clean energy resources because that is how we can get the best competition and deliver the most affordable and efficient energy to consumers from Delaware to Alaska and across our whole country.

MLPs are complicated financial structures, but our bill is very simple. It is just a few pages long. It makes one simple tweak to the Tax Code to bring these renewable energy and clean energy projects into the existing structures of MLPs. It is the embodiment of what I have heard from many colleagues in the last 3 years, that we should not be picking winners and losers in energy technology, and we should have an ''all of the above'' strategy.

This change, in my view, will bring a significant new wave of private capital off the sidelines and into the renewable energy marketplace. It allows the private sector to look at clean energy in a whole new way. Today, master limited partnerships have reached a market capitalization of close to $450 billion with about 80 percent of it devoted to traditional energy projects—oil and gas—and the majority of that to pipelines. Access to this kind of scale of private capital could drive the investment that is essential to creating new jobs in a fast growing new field.

It would also, in my view, bring some fairness, some modernization to this well-established section of our Tax Code. As the Presiding Officer knows, our Tax Code hasn't been broadly modernized in decades. In the mid-1980s, Congress enacted provisions to establish MLPs for oil and gas, timber and coal, and midstream energy industries. This tax benefit hasn't been significantly changed, expanded, or modernized in nearly 30 years.

Just to be clear, we are not talking about taking away any of these benefits for any existing beneficiary industry, just updating them to recognize the modern market reality of new energy technologies and to reflect the changing investment opportunities in the emerging markets of renewable energy. In fact, one of the lead cosponsors of this legislation in the House, Congressman TED POE—Judge POE—a Texas Republican, said at a recent press event we did that over the course of his career, he has represented as many oil refineries as any other Member of Congress. Yet he sees this as an efficient and effective opportunity to expand from its traditional use of pipelines of oil and gas to the broader energy marketplace of the United States, and he is confident expanding this structure to include clean sources of energy would create jobs.

I wish to ask the Senator from Alaska, Ms. MURKOWSKI, if she has seen the same thing in Alaska. Does the Senator from Alaska see this as an opportunity that will help us grow an ''all of the above'' energy strategy for the United States?

Ms. MURKOWSKI. I say to my friend, the Senator from Delaware, yes. In fact, I view this as an opportunity. I view this as a positive direction as we build out an energy policy that works for the entire country.

The Senator's question is specific to my home State of Alaska, an area that is known for its enormous potential with our fossil fuels, our oil, our natural gas, and the opportunities that have been available to a State such as mine where we have the more traditional fossil fuels. But we are also a State that is rich with potential for renewable energy resources whether it is geothermal, whether it is marine