

He can make this happen with the least amount of inconvenience for the American people. The question is: Will he or not? Will he or not? Will we play this political shell game with the lives and perhaps the safety and certainly the inconvenience of the traveling public in this country to make the point there is no way we are going to cut any spending out of the Federal Government when it is 89 percent bigger? And, by the way, it is 48 percent bigger under President Obama.

It is a real choice. America is going to get a real choice: Can we in fact respond in a prudent way to run this government in an efficient manner and eliminate low-priority items and put money for items such as NIH in a priority? We can. The question is: Do we have the will to do that?

What we are hearing from the majority leader is: No, we don't want to cut anything. We will take some funny money that doesn't really exist, and if we use it, we are going to borrow, and that will take all the pain away. There won't be any oversight, no streamlining, no priorities made in terms of how we spend money.

Every other American family and business has had to make those decisions. Yet we are refusing to do it. When we asked the President: Do you want the flexibility, he said no. He would veto the bill that gives him the flexibility to put high priorities up here and low priorities down here. That tells me it is all political. It doesn't have anything to do with the FAA; it has to do with creating an event so we won't do what is in the best long-term interests of the country.

With that, I object.

UNANIMOUS CONSENT REQUEST—  
S. 16

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to Calendar No. 19, S. 16, the Inhofe-Toomey bill on flexibility, with an amendment that reflects the current changes for sequestration; that the bill be read three times and passed, as amended, with no intervening action or debate.

The PRESIDING OFFICER. Objection is heard to the prior request.

Is there objection to the following request?

Mr. REID. I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader.

Mr. REID. Madam President, earlier this year the Senate voted on dueling responses through the sequestration. Democrats had a balanced plan—half revenues, half spending. Republicans tried giving flexibility with, of course, no revenues whatsoever. The Senate voted both of these down. We know these plans won't work so there is absolutely no need to repeat what has absolutely failed. So let us try to solve the problem.

I appreciate the mini lecture of my friend from Oklahoma, but it is wrong.

It is good to go back and talk about what has happened. When President Bush took office—and I hate to keep bringing this up; his library is going to be dedicated in a few days—he had a surplus over 10 years of \$7 trillion. When he left office, he had a debt of almost \$2 trillion. Why? Was it because government got bigger? Well, it got bigger because we had two wars, paid for with the \$7 trillion that should have been surplus, but it was all borrowed money. All borrowed money.

During the Clinton years, when Bush stepped into office, President Clinton had created 22 million jobs in 8 years. During President Bush's 8 years, we lost 8 million jobs and lost our entire surplus. So of course those two wars and the tax cuts that were unpaid really created some problems.

The Senator from Oklahoma complains about government is larger than it was 2 years ago. Well, I have talked about that. But one thing my friend fails to acknowledge is Simpson-Bowles. By the way, he voted against that—is that right?

Mr. COBURN. I voted for it.

Mr. REID. That is right. You were with Senator DURBIN and voted for that. Most Republicans voted against that. My liberal friend DICK DURBIN voted for that.

The reason I mention that is because Simpson-Bowles wanted to arrive at a savings of \$4 trillion, as I understand it. We have already done \$2½ trillion. It is not as if we haven't done anything.

I would also talk about my friend from Oklahoma. I know he is smart, and I understand that, but just because you are smart doesn't mean you are always right. We have a situation where this country has been driven by the tea party for the last number of years. When I was in school, I studied government and I learned about the anarchists. They were different from the tea party because they were violent. But they were anarchists because they did not believe in government at any level, and they acknowledged that. The tea party kind of hides that. They do not say we are against government, but that is what it amounts to. They are not doing physically destructive things to buildings and people directly, but they are doing everything they can to throw a monkey wrench into any form of government, whether it is local, State, or the Federal Government. That is what it is all about. So anything they can do to throw a monkey wrench into the wheels of government, they are happy doing that. And I am sorry to say my friend from Oklahoma is helping them, maybe not directly but indirectly, and that is wrong. Government is not inherently bad. Government is inherently good. That is why we have a Constitution, and we direct the activities of this government based upon that Constitution.

We have a situation here that is not good. We have programs being cut all over America. Rather than doing

things with a meat cleaver, as my friend from New York said, we should be doing it with a scalpel—doing things that are fine-tuning and working to eliminate these programs.

My friend asks why doesn't the FAA cut other programs? Listen to this: He wants to cut airport improvement programs. These are job creating. They create jobs at airports—runways, terminals. These are programs that create jobs. Essential Air Service may not mean much to him, but we had a program where—I don't know if it was my friend from Oklahoma but some Republican Senator offered an amendment to get rid of Essential Air Service. One of the places they indicated should be cut is Ely, NV. I said okay, too much per passenger, I will go along with that. I could have stopped that but I didn't do it.

We have had this debate previously. Essential Air Service has been whacked on a number of occasions. There are places in America where Essential Air Service is just what it says, it is essential, to give those rural communities the ability to have an airplane come in there once in a while.

The Congressional Budget Office would give us credit—it wouldn't be toward the deficit—to do something for 5 months and take a little money out of Overseas Contingency Operations. We are going to cut money from that. We are not going to spend all that money that has been set aside to take care of the wars in Iraq and Afghanistan.

It is too bad we are right here with competing unanimous consent requests and the American people are going to continue to suffer—whether it is some little kid not able to go to a Head Start Program or some senior citizen who will miss his Meal on Wheels or the other programs—in addition to the devastation that is going to take place at airports.

Mrs. BOXER. Will my friend yield for a question?

Mr. REID. Sure.

Mrs. BOXER. Madam President, I appreciate Senator REID taking the leadership here, and as I understand it—and I want him to confirm it—what he has done is he has suggested the cuts that are hurting so many of our American citizens be restored and he is paying for that. He is not putting it on a credit card. He is paying for it by taking funds from the overseas account because we are winding down wars. Am I correct that what the Senator is doing is paying a price that equals the amount he is restoring of the sequester?

Mr. REID. That is true.

Mrs. BOXER. And I also want to say to my friend, I understand we are truly suffering in this country. I have examples of people who were turned away from cancer clinics. They can't get their chemotherapy. The Cancer Society—which is not a government entity—has said this is very dangerous.

Is my friend aware that patients are being turned away and not getting the

chemotherapy, grants are not being funded? I know he mentioned that. But I think the fact that patients who need chemotherapy who live—some are being denied this. Is my friend aware of that?

Mr. REID. In addition to that, I say to my friend from California, there is research dealing with dread diseases, in addition to cancer, which research is being curtailed.

Mrs. BOXER. I would also say, I wonder if my friend knew—and I take just a city from the Midwest. In Cincinnati, 200 children will be dropped or denied access to Head Start. Anita Wolf, a mother of two special needs children, said she may have to choose which child can remain in Head Start enrichment programs.

I say to my friend, we are here because this is hurting people. This isn't about statistics, and I am very disappointed we can't work together to restore this. How long does my friend restore these cuts?

Mr. REID. Five months.

Mrs. BOXER. I thank the Senator from Nevada for yielding, and I will listen to my colleagues from the other side.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. COBURN. Madam President, the reason patients can't get their chemotherapeutic treatments has nothing to do with the budget. It has everything to do with the administration's CMS and payment recognition. I have been working on this issue for 3 months. It has nothing to do with the sequester. It has to do with what the CMS has ruled in terms of appropriate payments.

The majority leader is a wonderful man. He has a different view of what it takes to get our country back in shape. He has actually split with the President this afternoon, because the President said the only way he would, in fact, turn off sequester is with a tax increase, and the only way this can be considered a tax increase is spending money we weren't ever going to spend anyway and acknowledging we are going to charge it to our children. So, in essence, it will be a tax increase—just not on us. It will be on every child.

It doesn't have to be this way. The President could agree for flexibility. His Secretaries could ask for reprogramming authority. But they have not done that. Why have they not done that? Because, in the President's own words, he wants sequester to hurt.

What a position for the CEO—the leader of this country—to say: I want to teach you a lesson. I am not going to use judgment and prioritize and categorize things that are most important and find things that are least important; I am going to reject all attempts at flexibility.

I wish to make one other point. The President keeps saying we have saved \$2.5 trillion. The majority leader just said the same thing. What the American people ought to know is \$1.2 tril-

lion of that "savings" is for increases that were planned that aren't going to happen.

Let me say that again: \$1.2 trillion of the savings is for spending increases that were planned that aren't going to happen.

Everybody who runs a family budget or runs a business knows that is no savings. You didn't save any money that you were going to spend but then didn't spend. It wasn't saved because you never spent it. But it is a wonderful way Washington accounts that is different than the way the rest of us have to live our lives.

So let's go back and review.

We as Republicans agree we ought to fund the most important functions of our government, and we believe there ought to be priorities to that. But we also believe we ought to save the future for our children.

The answer to that problem we found ourselves in—sequestration—is to give the administration the flexibility for making priority choices just like the rest of us do. If they don't want to use it, then they don't want to use it.

But the fact is we will not pass that. The same tools that we would all use ourselves, we will not pass that. Why is it we will not pass that, to order things in priority, to do what is most important first?

I would tell you the conferences and the amount of travel for which the FAA spends are a low priority compared to keeping controllers working. We haven't seen any cut in those programs—none. As a matter of fact, the President's budget recommended taking \$800 million out of the airport improvement program—if you will read his budget. That was the President's recommendation. So now we are really at odds with the President because he says we can save that \$800 million.

It is flabbergasting to think there is absolutely no common sense in Washington and that we will not do the things that are in the best long-term interests for the people of this country. So what we do is we create a situation that is going to tremendously impact our Nation—both the business and the common citizen who is traveling—and we do it for political gain to prove a point, not because we have to—because we are going to make sequester hurt.

The security the American people want is to know the future is OK. The future isn't OK with us operating the way we are operating. I know government isn't easy and I know it is messy, but there are some absolute truths. The absolute truth is we can't spend our way out of debt and we can't borrow our way out of debt, and we are taking \$88 billion over the next year out of the \$3.7 trillion budget. If we are not capable of doing that, none of us should be here, either party.

What we fail to recognize is what the real risk is for our country; and the risk is that we are running out of time and the ability to continue to borrow in the world. The only reason we look

good today is because everybody else looks worse. We are the only rose in the bud vase that is not wilted right now, and that is going to change. When it does, the consequences for our kids, for our families, for our economy, for our GDP is going to totally change.

If we went back to historical interest rates today, when we quit printing money—which we will eventually have to do—it will add another \$650 billion a year to our expenses. It does nothing for anybody.

So this small 4.5 percent that the administration refuses to even work on to make it less painful to the American public shows what kind of trouble we are in.

I am disappointed, as is I know the majority leader, that we can't work out a way to solve this problem. But there are two totally competing philosophies; one ensures a productive, successful America, the other shows an America drowning in debt. There has to be a point in time when we say: Can't we run this government more efficiently, more effectively, and do it in a way that preserves the future for our children?

I yield the floor.

Mr. REID. Madam President, there are a number of people on the floor who have been here for some time, and I thought I would try to add a little order to this.

I think Senator MANCHIN got here first. How much time does the Senator from West Virginia wish to take?

Mr. MANCHIN. I have no more than 15 minutes.

Mr. REID. How much time for the Senator from Alabama?

Mr. SESSIONS. I think 10 minutes would be sufficient.

Mr. REID. And Senator BOXER, 15 minutes, I understand.

Mr. SESSIONS. If I were allowed to go first, I would do 5 minutes.

Mr. REID. We have a deal. I ask unanimous consent that the Senator from Alabama be recognized for 5 minutes, the Senator from California be recognized for 10 minutes, and the Senator from West Virginia for whatever time he needs.

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

The Senator from Alabama.

Mr. SESSIONS. Madam President, the proposal of my friend the majority leader—and I know he has a tough job—is how the Nation goes broke, how the Nation loses the confidence of the people we serve.

In August of 2011, this Nation agreed to the Budget Control Act. My friend Senator REID said the Budget Control Act was as good as a budget. It is not, but it has some teeth to it. What it did that is indisputable, it limited the growth in spending.

We said we would raise the debt ceiling \$2.1 trillion immediately, which has already almost been spent—we have run up that much debt since August 2011, another \$2 trillion—but in addition, we would reduce spending over 10 years by \$2.1 trillion.

The sequester involved \$1.1 trillion of that if the committee didn't reach an agreement that would have specified cuts across the board. They are not wise cuts. We shouldn't have done it that way, but it was a reasonable amount of money for sure. So in the Budget Control Act that was passed, spending would have gone up from a flat \$37 trillion over 10 years to \$45 trillion over 10 years instead of going up to \$47 trillion over 10 years. So the growth would be from 37 to 45 and not 37 to 47. That is not a real cut in spending. It is a reduction in the growth in spending.

Now the sequester comes along, and we have proposed many solutions where we could alter these cuts and give flexibility to the cuts so they are not as sharp and as unwise as the sequester called for, so long as the spending stays within that level.

We also agreed—and the President signed it and it was passed by both Houses and Democrats and Republicans and the leader voted for it—it had no tax increases. It was simply an agreement that would reduce spending a little bit over 10 years and that we would raise the debt ceiling by an equal amount. There were no tax increases in that.

Then the President submits a budget, and he wants to do away with the sequester and pay for it with tax increases. That is what the Democratic Senate budget did also. It had increases in taxes and increases in spending and a chunk of that was wiping out the sequester we just agreed to.

We told the American people: Look, we made a little reduction in the growth of spending, American people. Forgive us for raising the debt ceiling. A lot of people didn't want to raise the debt ceiling at all. But we promised we had done something good. We were proud of ourselves.

Before the ink was dry, the President in January submitted his budget on 2012 that wiped out those cuts and spent more money, and his budget and the Senate Democratic budget this year does the same thing.

How can we possibly ever get spending under control if we don't comply with what we promised?

The majority leader has said: The war costs are coming down in the future. We will just score that as savings and, therefore, we don't have to raise taxes. We will not have the sequester take effect. We will just spend all that money, and we will pretend we saved it by not fighting a war 10 years from now.

Let me tell you what experts have said about this gimmick.

Maya MacGuineas, with the Committee for a Responsible Federal Budget—and they worked very hard in a bipartisan way to deal with these issues—said this: “This is such a glaring gimmick at such a serious moment.”

Robert Bixby of the Concord Coalition out of New Hampshire, a long-time

respected bipartisan group, said this: “The mother of all budget gimmicks.”

To pretend we are saving money because we are not spending emergency money on a war that ends, we could still be saving money on World War I at that rate.

Washington Post reporter Lori Montgomery said:

“Counting money not spent on wars that the nation is already planning to end is widely viewed as a budget gimmick.” And it certainly is.

The PRESIDING OFFICER. The Senator has used 5 minutes.

Mr. SESSIONS. Madam President, I ask unanimous consent for 1 additional moment.

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

Mr. SESSIONS. Basically our colleagues say: We cannot even reduce spending growth, even that much. We cannot stand any of that. We refuse to lay out alternatives to make the cuts less painful. We want them to be as painful as possible so we can attack those and oppose even modest reductions in the growth of spending, and we are going to punish the American people because they dared to reduce the growth of spending.

They basically say, the Government is saying: It is not our fault we have a problem. It is yours, American people. You didn't send enough money. You send more money. You send more money. We refuse to reduce the growth of spending.

I yield the floor and thank Senator COBURN for objecting to the proposal of the majority leader.

The PRESIDING OFFICER. The Senator from California.

Mrs. BOXER. Madam President, I worked with my colleague from Alabama on a lot of issues. We do work together on occasion.

Mr. SESSION. We do.

Mrs. BOXER. But on this particular issue we see the world very differently, which is to be respected, and it is with full respect that I say this sequester is not necessary. These across-the-board cuts were put into place to be so difficult and so painful that both parties would come together and come up with a solution. The President has tried and tried. He said to both parties: Why don't we meet in the middle? Let's replace the sequester, these mindless cuts, with other cuts that make sense and are not painful, and the other half with tax reform, doing away with subsidies, tax loopholes such as the billions of dollars a year oil companies have been getting that don't make sense, since they are the most profitable companies probably in the world.

But Republicans' answer to that: We are not going to look at taking away these tax breaks from big companies. We are going to not look at trying to see whether millionaires or billionaires can pay anymore. We want to replace the sequester with more cuts.

I know it is a fast-moving country we live in. Lord knows you have gone

through some difficult times in Massachusetts and I thank the Presiding Officer for her leadership. But we do not have that short a memory. We remember this awful recession that almost turned into a depression. We know because it is basic—I am an economics major; it was a long time ago—but there was a basic understanding that when times are tough the government doesn't turn to austerity. The government helps us by saying: You know what, maybe this is a good time to fix those bridges, to build those highways, to do the things we need to do because a great country needs an infrastructure and this is the time to do it—because we need the jobs, too.

We have no partners over there. Now Senator REID comes up with a very sensible plan and here is the plan: For the next 5 months we restore the sequester. We take away those mindless cuts, get us back to normalcy, try to find another solution, a long-term solution, but in the meantime, pay for stopping the sequester by cutting from an overseas war funding account. As we bring home our soldiers from Afghanistan and Iraq, we have an account that can be drawn down. So when our colleagues say Senator REID is raising taxes to do this, he is not raising taxes No. 1. He is cutting spending by taking savings out of this overseas war account.

It makes a lot of sense. The American people want to see the Afghanistan war come to an end. The American people want to see the Iraq war totally completed. We are saying take that money and how about spending it here?

Their answer today, which is so astounding, from Senator COBURN who objected to this very important bill—Senator COBURN said he has the answer. It is called flexibility. What does that mean? It means all of these cuts, these billions and billions of dollars in cuts, we will then tell the agency: Figure it out. You figure out where to fix it.

For example, in the FAA they have an airport improvement fund. They are saying we do not have to fire these air traffic controllers. Let's not do that. Take the money from the airport improvement fund.

If you know anything about the airport improvement fund, it is not an idle fund. It is a fund that is paid for by taxes that people pay so their airports will be improved, hence it is called the airport improvement fund. Whether it is making sure the runways are safe or making sure the terminals are secure—this is why we have airport improvement funds. You cannot rob Peter to pay Paul.

I want to say to my friend—he left the floor—and he is my friend, Senator COBURN: Flexibility is not the answer. If somebody comes to me, a colleague, and says: Senator BOXER, I left my wallet home and I am starving, can you lend me \$10? And I say flexibility—what flexibility? He left his wallet home. Flexibility does not pay for air

traffic controllers. Flexibility does not pay for teachers. Flexibility does not pay for FBI agents. If we ever learned anything from the horror in Boston, it is the unbelievable first responders in addition to the citizens who rushed toward the blast. The people there, the professionals, the doctors who happened to be there—we pay those people.

Earth to the Senate: Not everybody lives off a trust fund.

People need to get paid. Flexibility does not do it. I cannot say, if I get a call from an air traffic controller: Oh, why don't you just volunteer on your day off? He will probably tell me he is going to figure out a way—on his day off that he is forced to have, his furrough—to make some money for his family.

Sometimes I wonder if we are in "Alice in Wonderland" around here. Nothing could be more true than today.

I want you to know that I have people in Los Angeles who are stuck on runways for hours and miss very important functions. How about one of my people in Los Angeles—I have his name. It is not important. He said he missed a funeral on Monday because his incoming flight was delayed. "We had to cancel our whole trip because the funeral is tonight and we are not going to make it."

Flexibility is not the answer. The answer is to restore the money from sequestration. The FAA announced plans to close 149 airport control towers nationwide, including many in my State.

How about people who are getting turned away who need chemotherapy and the American Cancer Society Action Network said that because of sequestration "funding for cancer research and prevention programs are taking a dangerous hit." Again I say to my Republican friend, this is from the private sector on what is happening around here.

The National Breast and Cervical Cancer Early Detection Program will provide 32,000 fewer breast and cervical cancer screenings this year to women who have no other option for affordable, lifesaving screenings. These are lifesaving screenings. Do you want to tell that woman: Flexibility? That is not the answer. The answer is restore the funds from the sequester.

Head Start, about to lose 70,000 of its 1 million slots for children. Let me tell you, in Cincinnati, 200 children will be dropped or denied access to Head Start.

Anita Wolfe, a mother of two special needs children, said she may have to choose which child can remain in Head Start's enrichment program. This is a bad situation.

In Oakland, the housing authority is losing \$11 million, and expects 800 to 900 fewer families will get housing assistance.

In Indiana Head Start programs in two towns resorted to a lottery system last month to determine which kids could remain in the program.

Riverbend Head Start in Illinois has had to cut its school year by 2 weeks,

leaving its staff unemployed and its participating families without childcare for those two weeks.

The Santa Clara County Housing Authority has lost \$21 million in funding and is considering pulling housing assistance vouchers from some of the 17,000 households it serves. Local resident and mother of two Alicia Diaz fears that she may become homeless as a result.

The Sacramento Housing and Redevelopment Agency expects to lose \$13.9 million, affecting housing assistance to 1,700 families.

Many of the 24,000 Los Angeles families relying on Section 8 vouchers could lose all or part of their housing subsidy before the end of this year.

Customs and Border Patrol has furloughed 60,000 agents nationwide and restricted overtime. This is causing delays in cargo processing at the Ports of Hueneme, Long Beach and Los Angeles, which rely heavily on overtime because they are extremely busy ports.

More than 100 dockworkers in Port Hueneme were idled due to delays, and shipments had to wait to be inspected. Every minute of delay costs money for businesses receiving their products late. Customs and Border Patrol estimates that delays could become as long as 5 days.

We are seeing delays in our ports. We are seeing dock workers idled. With these delays, says one of my people, "I have to hire the labor and pay them while I wait for Customs to clear the vessel." It is having an impact on our economy.

Just to finish up, Senator REID took the leadership today. I am so proud to stand with him. He found a place to get the money to put the funds back in and avert the sequester, stop the pain at the airports, stop the pain at the clinics, restore Meals on Wheels to our seniors—all the things I talked about, and he paid for it by going to the war fund that is winding down, and making sure we can fix this problem for 5 months.

It is shocking that my Republican friends would object to this when their constituency is feeling the same pain as the rest of us.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. MANCHIN. Mr. President, I ask unanimous consent to speak up to 15 minutes.

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

Mr. MANCHIN. I rise today to speak in support of the Marketplace Fairness Act. I was a cosponsor of this important legislation in the 112th Congress and I am proud to be a cosponsor in the 113th Congress, because this is truly a matter of fairness. The Marketplace Fairness Act will allow local Main Street—we call them brick and mortar, but they are basically businesses, little stores with real people in them, working hard to make a real living. It will provide much-needed financial relief to

State budgets that have been cut to the bone in recent years and are facing even more cuts in Federal assistance thanks to what we were just discussing here, the disastrous sequestration with the Draconian cuts.

This bill is not a Washington hand-out to businesses. It is not a special treatment. It is not a new tax. It is leveling the playing field. It is a leveling of the playing field. Every day we do not act to pass the bill is another day we risk another small business closing its doors—not only in West Virginia but all across this country.

There is always a lot of talk in Washington about helping small businesses, and rightly so, because small businesses, as you know in your State, account for more than 60 percent of all the private sector jobs. It is the small businesses, not the large businesses.

The Marketplace Fairness Act is a chance to do more than just talk about it for once. We have a chance to do something to show we care about small businesses. It levels the playing field and gives our Main Street businesses a fighting chance competing with Internet vendors that are not required to collect sales tax.

Let me give an example in a small rural State such as West Virginia. We are expanding, working very hard on the Internet, broadband high speed, trying to get to every little holler, up and down every nook and cranny. We are trying to help the people, and that is great. But it really puts more pressure on small businesses, because now, with the convenience, people will not travel. They may not go to the store. But if they want the service and they know the price is the same, there is no unfair advantage, there is a level playing field, the small businesses still have a chance. That is all we are asking for.

Business owners in West Virginia tell me all the time how unfair it is to watch their online competitors offer low prices on the exact same products. We have heard a lot of talk about that today. That is called showrooming and that is basically people shopping. They used to go shopping in the old days. They would go to one store and compare and then go to another store and compare and they worked back and forth and figured out where they had the best deal or where they thought they had the best deal with the best service. That does not happen on line.

First of all, in my State they have a 6-percent advantage because our State tax is 6 percent in all our counties, so that is a 6-percent advantage from the get-go, and in these hard economic times price is the driving force.

That is why this bill has so much bipartisan support: 74 votes. Mr. President, you have been here a short period of time, but you are very observant. You know that. You have watched and seen very few times that we have gotten that type of broad bipartisan support on anything, and that is what is refreshing to see. With all of my

friends who come from States that do not have the taxes, and friends on both sides—my own colleagues on the Democratic side and Republican side—what I understand, and what I know will happen, is first of all they do not collect the tax of in-State residents. If they buy it on the Internet, they will not collect that tax because they do not have a sales tax. If they say it is unfair because they are collecting it for me in my State, even though someone in West Virginia might buy from a State that doesn't have a sales tax but they have an Internet business, that is not going to cause undue pressure, I don't believe, or unfair competition in any way, shape, or form. They still need to use all the services in my State while selling their product in a State where they don't have a sales tax. They are going to use the roads to deliver that product to the customer in my State, they are going to use the people who have been educated through the school system in my State, and all I am asking for is the fair share: the fairness—we charge our own customers and our own businesses collect for us in our State—for those who are using my State as their business to do the same. I don't think that is unfair. I really don't. I think the majority of businesses don't think that is unfair, and a majority of Americans don't think that is unfair.

This is not a complicated piece of legislation. It is only 11 pages. It is pretty short compared to most of the bills we see around here. Basically, it just does what we said: It allows the States to collect sales tax on out-of-State sales, provided these States streamline their tax codes.

There are some restrictions that come with this. They must either voluntarily adopt the measures in the streamlined sales and use tax law, which 24 States have already done, including my little State of West Virginia—do my colleagues know we were the No. 3 State in the Nation to join in this fairness movement many years ago. And when I was Governor, we worked very hard to work with the other States, and we built up to 24 States that basically were acceptable toward tax code fairness. That is really what it is about. Or a State can meet five mandates. There are five mandates they can meet. They can notify retailers of rate changes, they can create a single organization for collecting sales tax, they can establish a uniform tax base, or they can use destination sourcing for sales tax rates and provide free software and hold harmless protection for retailers.

To simplify, what that means is some States might have different tax codes in different counties. Some counties have different taxes they add on to their State tax or they have a municipal tax, so they are saying there will be 9,600 different tax codes, which is almost impossible. For anyone to participate in this piece of legislation, they have to make a decision on one of

those five criteria I just mentioned. That brings the tax code down to 46. It simplifies it. So that argument doesn't hold either, the complication of 9,600 jurisdictions I heard being used by my good friend from New Hampshire.

The beauty is if a State without a sales tax doesn't want to participate, they don't have to. That is the beauty of it. They don't have to. They don't have to participate. They don't have to collect the sales tax from their people, as I said earlier, so they have that option. I know all the arguments against the legislation, but, again, I will say they are just wrong.

Some critics say this is a tax increase. That is wrong. If I am paying 6 percent in West Virginia when I go to a store in Fairmont, Charleston, Huntington, Martinsburg, Greenbrier, or Lewisburg—wherever I go it is the same, 6 percent. The only thing we are saying is if a consumer buys on the Internet, the consumer will be charged the same 6 percent. It is not an increase. It is the same.

I think that makes it pretty simple also. It really does give our little stores, owned by the people who basically are the same people to whom we go to participate, give donations and contributions to the Little League—how many times do we see an Internet company giving to the Little League in our hometown or contributing to the chamber of commerce in our hometown, giving to any of the different fund drives there might be, such as the volunteer fire department. What we are saying is we have to do everything we can to keep them alive and healthy.

Some critics say online services don't use the local services that are paid for by the sales taxes, and they should be required to declare the sales taxes. That is wrong also, and I think we just talked about that. They also say whatever product a customer orders online—let's say it is a book from Amazon or shoes from Macy's or towels from Target—if it was delivered, it still has to get to the customer. It still has to use the infrastructure the State is responsible to invest into, and that is our sales tax.

Sales taxes, in all States that collect them, go into general revenue. General revenue supports a cadre of things—anything we can imagine—from schools to roads to programs people need to supporting senior citizens. The taxes support every aspect of life in the State.

When we look at the whole overall bill, including the fact that the little stores and online retailers sell identical products and use the same infrastructure to deliver those products, and collecting taxes owed on a purchase at the point of sale, whether they are relying on consumers to pay that tax voluntarily, as some critics have proposed, would mean \$23 billion that is going uncollected. That is just the fairness we are adding to it. Just the fairness. But \$23 billion is needed revenue in States that are having difficult times.

We have heard a lot of people give testimony here today that if their little State gets the amount of money it would get by having a fair, level playing field in their taxes, they could reduce their taxes. Well, that is a good opportunity in these difficult times. If West Virginia could have collected sales tax on out-of-State sales during fiscal year 2012 only—not new taxes, just those already owed to the State—if we took the sales done over the Internet, we could have put \$103 million more in our State's budget—\$103 million more. Our budget is around \$4 billion. That is a good chunk of money.

We could have used it to do a couple of things. Let me give an example of what we could have done. With that extra money from Internet sales, we could have built 412 miles of new roads—412 miles. We could hire 2,000 schoolteachers with that money we didn't receive. We could have built 5 high schools. We could have built 7 middle schools or 10 new elementary schools.

Now, we talk about jobs. We talk about infrastructure. We talk about basically investing back into the State, that is money we weren't able to do that with, and that would have helped us.

When we talk about the e-commerce growth, if we look at the growth of business being done online versus business being done in retail stores, we will see quite a disparity, and it is going to continue to grow and put more pressure on businesses. We think this is not going to interfere with the Internet sales, and the reason we say that is because of our busy lifestyles. If that is the way a person wants to shop, that is fine. But they just would not be able to say, well, I can save money because I don't have to pay the sales tax. It might make somebody think they might go down to John's Hardware Store. I know them, and they do a heck of a job. They have a fighting chance now. I want to stay in my local community. They have a fighting chance now.

Trust me, we would not put any Internet businesses out of business. That will not happen. In 2000, the U.S. economy supported \$27 billion in e-commerce, which constituted only 9 percent of all retail sales. Over the next 12 years, e-commerce grew tenfold, totaling \$224 billion, which is equal to 7 percent of all retail sales: Seven percent now of all retail sales, 10 years ago, 1 percent. One market analysis projects that online retail sales in the United States will grow by 10 percent annually through 2017—10 percent annually. So when we look at that, from \$224 billion in 2012, that will be over \$370 billion in the next 4 years.

I will just told my colleagues in 2012 what our little State lost and what we could have done with it. Think of all the missed opportunities we are going to have not just in my State but in States all over the Nation.

So just look at how the Internet use has soared in the United States since

2000. Some 240 million Americans are online today compared to half that amount when the century began. So a little over 10 years ago we only had about 120 million. We are going to have full integration of our Internet, which is good. I think it is good. I just want to make sure it is fair, that is all, just fair.

As broadband speeds grow, home and mobile Internet mobile users will spend more time online, and that means more time online shopping. That is fine too. They just will not be able to say: I am going to save 6 percent. They can't say that upfront. That means they are going to shop around a little bit more, and that means we have a chance. If I have a little store in Farmington, WV, where I came from, I have a chance to survive. It gives me a chance. I don't start out in the hole. I don't start out with my hands in my pocket and 6 percent behind to begin with.

Google researchers have found that already 97 percent of Americans look for local products online. So, clearly, the businesses back home are at a huge disadvantage in competing with online retailers if tax requirements are unequal. This makes sense. State governments are losing billions of dollars in uncollected sales taxes that could build the infrastructure we all need.

I have heard from so many businesses back home in West Virginia, and I can tell my colleagues there is overwhelming support for this legislation, and there has been from day one, since we became one of the first States to enter into this streamlined compact. That was in 2003. It started with three States, up to 24 States now, and we have a pathway for all the States to have equalization.

"I own a small business that encourages local people to support local West Virginia artists." This is what a lady who wrote to me said. She is a small business owner. Her name is Parween Mascari. She says:

I own a small business that encourages people to support local West Virginia artists. Because we sell from a physical storefront, we must collect and remit sales tax from our customers. Online merchants do not currently have to collect or remit a comparable tax on sales they make online. That is not only fundamentally unfair, but seriously impairs our ability to be competitive in the market when we have to charge our customers a tax that they don't have to pay when they shop online.

I wish to commend Senator DURBIN and Senator ENZI and my senior Senator ROCKEFELLER for taking leadership on this important issue and for introducing the Marketplace Fairness Act. I am a proud cosponsor of it because I believe it is fair and good for America. I believe this legislation restores fairness and balance to our tax system and strengthens our businesses and revitalizes our downtowns. It creates jobs and helps States struggling to provide the services their citizens expect.

This measure has broad support in both parties, as we have seen by the

votes we have already taken. It is backed not only by mom-and-pop stores and Main Street merchants, but also by giant online retailers such as Amazon. I urge Senators to act without any further delay.

I thank my colleagues and, again, I say this is a matter of fairness. It is a matter that I think restores the fairness in American retail.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from New Hampshire.

Mrs. SHAHEEN. Mr. President, my friend from West Virginia says this bill is important for his State. I understand that, but this is a bill that doesn't work for my State of New Hampshire. His suggestion that if States don't like it they have the option not to participate just doesn't work because the businesses in my State of New Hampshire are going to be affected.

This is a proposal that fundamentally violates State sovereignty. It enables one State to impose the enforcement of its laws on the 49 other States and territories without their approval. This legislation would impose new burdens on small businesses not only in New Hampshire but actually across the country.

I represent a State that does not have a sales tax. There are still some States in this country that don't have sales taxes. So my colleagues can understand why I oppose this measure, because this legislation will hurt small, online, family-owned businesses in New Hampshire—businesses that have no experience collecting sales taxes whatsoever.

The proponents of this legislation have said small businesses will not be affected, thanks to the exemption for businesses with less than \$1 million in revenue. That is just not true. This legislation creates a disincentive for Internet firms to grow and create jobs for American workers. We know that the margins for so many small online retailers are very slim. I will give you an example.

I have heard from a small business owner in Hudson, NH. Hudson is down along the border of Massachusetts. I know the Acting President pro tempore knows it well. This small business owner's business is approaching \$1 million in revenues, and he has about six employees—just six employees.

Now, under the Internet sales tax legislation before us, this company would be considered a large business—revenues over \$1 million—because they are almost there. But if this legislation passes, the company's plans to grow will be in doubt. They are going to be forced to reconsider whether they are going to continue to grow, continue to hire more employees, because this arbitrary threshold creates a real disincentive for them to grow.

Now, e-commerce has been a real boon to small businesses in New Hampshire and across the country. It has helped companies find new markets. It

has helped them add new revenues. But for companies looking to grow through online sales, this legislation represents a real ceiling for growth.

That is why I have joined with a number of my colleagues to call on the Senate to rethink this legislation. We need to think through its unintended consequences. Small businesses across the country—not just in non-sales tax States, such as New Hampshire, but small businesses across the country—will see their tax burdens increase. I want to give just a few examples of the new burdens that are going to come with this legislation.

First, as I mentioned, each State has different sales and use taxes, so businesses would need new software to figure out how to collect and remit the right taxes. It is my understanding that the States, under this legislation, would be responsible for providing that software to the businesses in their State. I think this creates an unfunded mandate, for the State of New Hampshire to have to provide that software for the small businesses in the State that would be affected.

Small businesses would also need to collect personal information from each buyer to make sure they are complying with all State and local sales taxes.

These small businesses would also have to deal with audit and enforcement actions from out of State. In other words, they would have to answer to taxing authorities in places where they have no representation whatsoever. And as States and localities consider new taxes, these small businesses would have no voice in that process because they have no representation in those jurisdictions.

So these are just a few examples of the many unintended consequences this legislation would create.

I intend to join with a number of my colleagues in filing amendments to improve this bill, including ways that we can protect States rights and small businesses. If the State of New Hampshire does not want to participate because we have no sales tax and we do not think our businesses should be forced to collect Massachusetts sales taxes or Maine sales taxes or Vermont sales taxes online, then it seems to me we ought to be able to opt out of this legislation.

The citizens and small businesses in New Hampshire that will be affected by this legislation deserve a full hearing on these issues, and I urge my colleagues to join us in addressing these defects before we pass this bill.

Mrs. FEINSTEIN. Mr. President, I rise today in support of the Marketplace Fairness Act. This bill would level the playing field between brick and mortar retailers and their online counterparts by allowing States the right to collect sales taxes on remote Internet purchases.

The current system of collecting online sales taxes puts brick and mortar retailers at a significant disadvantage. Mom-and-pop stores invest in office

space, inventory, and hire salespeople in order to provide service to their customers.

Increasingly, those efforts are falling victim to a practice known as show rooming, where potential customers enter the physical store, take up the salesperson's time, then make their purchases at home online at a discount because no sales tax is collected.

I have witnessed this firsthand. Imagine you are in the women's shoe department of a nice retail store. An attentive salesperson spends a considerable amount of time with a potential customer finding the right size, trying several pairs of shoes, and answering the customer's questions.

Then the customer pulls out their phone and orders the same pair of shoes online at a lower price, in effect bilking the salesperson for the time spent with the customer. Some people are brazen about doing this.

Effectively, brick and mortar retailers are providing services to online retailers at no charge.

This bill simply brings State sales and use tax collection into the 21st century. When the Supreme Court first considered the issue of collecting out of State online sales taxes, it was in the early 1990's and there were only a trivial amount of online sales.

The ensuing two decades have brought sweeping changes to the online marketplace and the technology that facilitates online sales tax collection.

Online sales continue to increase relative to conventional retail sales. And applications exist that allow retailers to easily collect taxes on out of State sales.

The Marketplace Fairness Act would level the playing field by doing the following:

Allow States the option to collect remote sales taxes; require States to set up a streamlined tax collection process in order to simplify remittance for online businesses, require States to provide the tax collection software to retailers free of charge, and exempt online retailers with less than \$1 million in remote sales from having to collect and remit online sales taxes.

It is important to note that many States are already moving to collect sales taxes on remote sales. Just last year, California came to an agreement with amazon.com that required the online sales giant to start collecting sales taxes on purchases made in California.

Furthermore, State laws currently require the collection of online sales taxes. However, rather than the retailer being in charge of collection, it is up to individual taxpayers to calculate and remit the sales taxes they owe on online purchases.

It is estimated that only 1.4 percent of Californians actually remit sales taxes from online purchases, a number roughly in line with other States. State and local governments, which rely in part on sales taxes to fund local schools and infrastructure, are increasingly burdened by their inability to

collect sales taxes on online purchases that are lawfully owed.

So this is not a new tax. It is not overly burdensome on small businesses. And it accounts for the fact that more and more retail sales will be taking place online.

The Marketplace Fairness Act puts every business on a level playing field and ensures that tax loopholes do not create unfair advantages for certain retailers. It is time that our tax policy reflects fundamental changes in the retail marketplace, and I strongly encourage my colleagues to support this bill.

I thank the Chair.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. DURBIN. I ask unanimous consent that the Senate proceed to a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

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

#### CONVENTION AGAINST TORTURE

Mr. UDALL of Colorado. Mr. President, I rise to recognize an important anniversary—the 25th anniversary of the signing of the Convention Against Torture—and would like to do so in the context of the recent publication of an important report on the U.S. policies and programs put in place following the terrorist attacks of September 11, 2001.

After 9/11, Americans came together and set aside their differences. Those terrible events unified this country in a common desire to bring to justice those responsible and to do whatever was necessary to prevent future attacks.

We have spent over a decade successfully reducing al Qaida's ranks, and—until last week—doing so without another major attack on U.S. soil. Yet there have been countless mistakes and costs incurred in the pursuit of these goals.

One of these key mistakes is the program that the Central Intelligence Agency initiated after 9/11 to detain and interrogate terrorist subjects. The details of how this program came to be and how it was conducted are outlined in the Senate Intelligence Committee's 6,000-page report on the CIA's detention and interrogation program—based on a documentary review of over 6 million pages of CIA and other records and including 35,000 footnotes. In December

I voted with a majority of my colleagues on the committee to report out the study and to send it to the CIA for its review and comments.

I believe that the CIA's detention and interrogation program was severely flawed. It was mismanaged. The "enhanced interrogation techniques" were brutal. And perhaps most importantly, the program did not work. Nonetheless, it was portrayed to the White House, the Department of Justice, the Congress, and the media as a program that resulted in unique information that "saved lives."

At his confirmation hearing, I urged CIA Director John Brennan to lead in correcting the false public record about the CIA's program and in instituting the necessary reforms to restore the CIA's reputation for integrity and analytical rigor. I firmly believe that the CIA cannot be its best until its leadership faces the serious and grievous mistakes of this program.

Some say that by looking backward, we are focusing on "archaeology" to the exclusion of our national security interests today. I would argue that acknowledging the flaws of this program is essential for the CIA's long-term institutional integrity—as well as for the legitimacy of ongoing sensitive programs. The findings of this report directly relate to how other CIA programs are managed today.

The CIA, the White House, and other agencies continue their review of the committee's report on the CIA's detention and interrogation program, and the Senate Intelligence Committee expects to see an official response soon. But this is not a report I can talk much about or share, since it remains classified.

That is why I am thankful for the release of a report by the Constitution Project's Task Force on Detainee Treatment. The task force was led by former Representative Asa Hutchinson and former representative and retired Ambassador James Jones and made up of former high-ranking officials and experts from across the political spectrum. This was a 2-year effort, based on an examination of available public records as well as interviews with over 100 former detainees, military and intelligence officers, interrogators, and policymakers.

In a news article on the report, Mr. Hutchinson—who served in several roles in the Bush administration, including as undersecretary of the Department of Homeland Security—said that after researching this issue for nearly 2 years, "he had no doubts about what the United States did." He concluded that "it's incredibly important to have an accurate account not just of what happened but of how decisions were made." He added, "The United States has a historic and unique character, and part of that character is that we do not torture."

I couldn't agree more with his sentiments. As one of the task force's contributors, former Ambassador Thomas