



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 113th CONGRESS, FIRST SESSION

Vol. 159

WASHINGTON, TUESDAY, APRIL 23, 2013

No. 56

Senate

The Senate met at 10 a.m. and was called to order by the Honorable WILLIAM M. COWAN, a Senator from the Commonwealth of Massachusetts.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, the light for those who know You and the security for those who love You, You formed us in Your image and likeness. Help us, therefore, to live as children of Your kingdom. May we not squander our inheritance of faith, integrity, love, humility, and perseverance in a far country of waste. Empower us instead, O God, to live worthy of Your Name.

Use our lawmakers to do Your will. May they remember not only to serve the haves but also the have-nots: the hungry, the homeless, the persecuted, the voiceless, and the powerless. Fill our Senators with compassion so that they will glorify and honor You.

We pray in Your marvelous Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable WILLIAM M. COWAN led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. LEAHY).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, April 23, 2013.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby

appoint the Honorable WILLIAM M. COWAN, a Senator from the Commonwealth of Massachusetts, to perform the duties of the Chair.

PATRICK J. LEAHY,
President pro tempore.

Mr. COWAN thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. REID. Mr. President, following leader remarks the Senate will be in a period of morning business for 1 hour. The majority will control the first half, the Republicans the final half. Following morning business the Senate will resume consideration of the motion to proceed to the Marketplace Fairness Act. From 12:30 today until 2:15 the Senate will be in a recess to allow for our weekly caucus meetings.

Yesterday evening a number of Senators missed votes. We have talked about this a number of times and become somewhat complacent. We have votes for 15 minutes. We extend it for 5 minutes. We have extended that time for a long period of time.

Because of procedural things around here in the Senate, I had to terminate that vote before 6 o'clock in an effort to save a full day of legislative business. Obviously, there is 30 hours following that cloture vote—wasted time. I have talked about it before, but there was no reason whatsoever that we went into Wednesday rather than Tuesday. So I do not apologize. Everyone here has to understand there are certain things we have to do around here.

We have been somewhat lax in enforcing the length of votes. It is very unfair to people who vote and have other things to do to wait for others before the vote is terminated. I under-

stand how important it is for people to do their votes, but it is also important to get our business done here. I repeat, had we not terminated that vote before 6 o'clock, then it would have kicked us over until Wednesday before cloture could be filed on the bill. I do not know if I am going to file cloture on the bill today, but at least I have the opportunity to do that.

REGULAR ORDER

Mr. REID. Mr. President, my Republican colleagues often demand a return to regular order. We have heard speeches, and the House is also talking about regular order. They have done this many different places but especially where the budget process is concerned. They complained for 2 years that we did not pass a budget, even though there was a law we passed that gave us those budget numbers.

But they still came and talked about our needing to do a budget resolution. I repeat, we did not need a budget resolution because we had enacted a budget with the force of law, a bill the President signed. A resolution, the President does not have to sign that. This year, I repeat, the Republicans again requested we take up a budget resolution.

Until 5 in the morning we took vote after vote on amendment after amendment, more than 100 votes. In the end, we passed a budget resolution without a single Republican vote in the affirmative. After giving the Republicans what they wanted or what they said they wanted, regular order, countless amendment votes, the passage of a budget resolution, a strange thing happened. House Republicans did a complete 180. They flipped. They are no longer insisting on regular order, even though they preached that for years. They do not want to go to conference and work things out. They did not even want to name conferees.

It seems House Republicans do not want to be seen discussing even the

• This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



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possibility of compromise with Democrats for fear there will be a tea party revolt, but that is not a good reason to run away from budget negotiations. In fact, it is ridiculous. So today I am going to ask unanimous consent to name conferees so we can have a budget conference to try to work things out.

I hope, even though I doubt, my Republican colleagues in the Senate will not object for the sole purpose of giving cover to the House Republican colleagues who are certainly directed and guided by the tea party folks over there. If the Republicans are serious about reducing the deficit, we need to get to work, get to work sooner rather than later.

What is regular order? It means we do things the way they are supposed to be done—by the book, so to speak. So I am going to ask that consent soon.

SEQUESTRATION

Mr. REID. Let's talk about sequestration just for a brief time. I talked about it yesterday in the afternoon when the Senate convened. On Sunday, the Federal Aviation Administration implemented sequester furloughs. It will affect tens of thousands of employees. By Monday, yesterday, travelers were already experiencing delays at airports from coast to coast.

According to the Wall Street Journal, flights to New York airports were delayed more than an hour already because of those furloughs. Delays are also reported in Los Angeles and even Baltimore. The FAA assured us things will get much worse before the end of the busy summer travel season, as these arbitrary sequester cuts continue to affect airport staffing levels.

What this means is that every 2 weeks all FAA employees will have to take a day off. At peak travel times, almost 7,000 flights will be delayed every day, some of them by up to 3 hours. On the worst day we had last year because of weather-related issues, less than 3,000 flights were delayed. Now, every day, more than twice that number will be delayed.

These delays will be bad for business, they will be frustrating for families, and they will be devastating for the economy. But flight delays are not the only unintended consequence of these across-the-board cuts. It is not just FAA employees. It will affect 750,000 jobs across the country. It will shred the safety net that keeps millions of seniors, children, veterans, and needy families from falling through the cracks.

It will gut investment in education, medical research that helps America compete in the 21st century. More than 2,700 schools with large numbers of disadvantaged children will see their Federal funding slashed. Seventy thousand little boys and girls will not be able to do the Head Start programs. These cuts will put 10,000 classroom jobs at risk. They will eliminate extra help at

closing the achievement gap for 1.2 million underprivileged students.

More than 7,200 teachers and classroom aids who work with children with disabilities will lose their jobs because of the sequester. Some 33,000 college students will lose their work study jobs. I was a janitor for part of the time I went to school. It helped me pay my tuition. Things have changed over the years, but these jobs are still important, very important. They call them work study jobs.

We are putting the dream of higher education further out of reach for our poorest students if we keep this sequestration going. Families and businesses in every State will feel the pain of the sequester whether they fly or do not fly. But Congress could act now to reverse these cuts without adding a single dollar to the deficit. We can use the savings from wrapping up military operations in Iraq and Afghanistan to avoid the full brunt of these arbitrary cuts.

Right now, there is about \$650 billion in that fund. We could erase the sequester for the rest of the year, which is a fraction of the savings from winding down these two wars. Using those savings, Congress could avert the most painful and senseless sequester cuts, cuts to the FAA and programs that get homeless veterans off the streets, fund research to cure lethal diseases, and provide meals to needy seniors.

I only hope public outcry over long delays at airports will serve as a wake-up call to my Republican colleagues. We cannot put off action any longer.

UNANIMOUS CONSENT REQUEST— H. CON. RES. 25

Mr. REID. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 33, H. Con. Res. 25; that is, the budget resolution; that all after the enacting clause be stricken and that the amendment which is at the desk, the text of S. Con. Res. 8, the budget resolution passed by the Senate, be inserted in lieu thereof; that H. Con. Res. 25, as amended, be agreed to, the motion to reconsider be consider made and laid on the table; that the Senate insist on its amendment, request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees on the part of the Senate, with the appointment of the budget conferees being on the ratio of 7 Democrats to 5 Republicans, and there be no intervening action or debate.

The ACTING PRESIDENT pro tempore. Is there objection?

The Senator from Pennsylvania.

Mr. TOOMEY. Mr. President, the ranking member of the Budget Committee, Senator SESSIONS, is not available because he has a conflict at the moment. On his behalf, I object.

The ACTING PRESIDENT pro tempore. Objection is heard.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will be in a period of morning business for 1 hour, with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans the second half.

ORDER OF PROCEDURE

Mr. REID. Mr. President, I ask unanimous consent that Senator TOOMEY be recognized for up to 4 minutes, that following his remarks the Senator from North Dakota, Ms. HEITKAMP, be recognized.

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

SEQUESTRATION

Mr. TOOMEY. Mr. President, I thank the majority leader.

I feel the need to respond to the comments from the leader about the sequester that has gone into effect. I wish to be very clear. The flight delays that are occurring, the furloughs among air traffic controllers, and the shutting down of air traffic towers are entirely, utterly unnecessary. This is a willful choice being made by this administration in order to inflict as disruptive a process as possible on the American public and on our economy, all to further a political agenda. The political agenda is to attempt to convince the American people there are no circumstances under which we can ever cut spending at all.

If you question why I say this is a willful decision on the part of this administration, I would refer you to legislation Senator INHOFE and I offered prior to the beginning of the sequestration. This legislation, as you may recall, would have granted to the administration complete flexibility in how they achieved the savings of the sequester.

What we hear from the administration, administration officials, and White House spokespeople is that this is terribly unfortunate, but they have no choice and no alternative; the law requires that they make these cuts. However, when Senator INHOFE and I introduced legislation to explicitly grant them all the flexibility they could ask for, complete flexibility to find the most wasteful, most redundant, most unnecessary programs, and to cut there instead of cutting essential services, what did the administration say? They said: If you send us the legislation, we will veto it. They put

out a Statement of Administration Policy insisting that this was a terrible idea, to give them the flexibility to avoid exactly what they are doing.

I don't know how one can come to any conclusion other than that this administration wishes to impose this inconvenience, this disruption, and this cost on the American people and our economy. They have it within their ability to accept the device we were offering, which would have allowed them to avoid this entirely.

I am extremely disappointed the administration would choose to inflict this kind of harm to our economy, this kind of inconvenience to our travelers, all for the purpose of furthering a political agenda. This is no way to run this government.

What I would suggest we do is we revisit the legislation Senator INHOFE and I offered which would have avoided all of this, allowed us to cut some of the waste, excess, duplication, and avoid all of this inconvenience. This is entirely unnecessary, and it is unacceptable.

One of the proper functions of any executive, including the President of the United States, is to look throughout the spending over which he or she has control to find the lowest priority, to find the least necessary and least disruptive way to achieve the savings we need. We are running unacceptably large deficits. We have a huge debt that is already costing this economy the kind of growth we ought to have.

The very modest savings of the sequester could be achieved in a way that wouldn't be disruptive at all. The size of the Federal budget has more than doubled in the last 12 years. To suggest that it is not possible to find 2.5 percent savings is simply ridiculous. It is not true.

I urge my colleagues, let's fix this. We know how to do it. We have the tools available. Senator INHOFE and I offered. There are other ways, and I would be open to any number of them. We need to achieve the savings of the sequester, and we need to do it in a way that is not disruptive and that can be done.

I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Las Vegas is the destination resort of the world. I may get a little static from New York about that, but it is a place a lot of people wish to visit. We understand the importance of doing something about the lines at airports as the result of sequestration. But as I indicated in my remarks, I am also concerned about the little boys and girls who are knocked off Head Start—70,000 of them. I am also concerned about medical research. As I stated yesterday, Duke University is laying off 50 people. Duke does some of the most important medical research there is, dealing with dread disease. I am concerned about homeless veterans. The program will eliminate homeless veterans having a home. This is what sequestration does to them.

The reason sequester is taking effect is because Congress enacted it into law the Budget Control Act of 2011. The vast majority of Republicans voted for this. The Senate considered an alternative that would have altered sequester, and it would have done it with a balanced package. Republicans blocked it earlier this year.

We need to lessen the impact of sequestration. It is not as if we are blind to doing something about deficit reduction. We have already reduced the debt by about \$2.6 trillion.

My friend from Pennsylvania has a reputation for being very concerned about dealing with money, and I admire him for his tenaciousness in that regard.

What I have suggested here certainly seems reasonable. For 5 months, we do a timeout on the sequestration. During the 5 months, sequestration would be paid for with part of the \$650 billion that was in a pot that is a result of the money building up due to reducing the wars in Iraq and Afghanistan. During these 5 months, let's find a better way to go forward with our efforts to reduce the debt. I think this is reasonable, it would be fair, and it would give us time to do something.

Certainly with the debt ceiling coming up and other major issues we need to deal with, I think we should lessen not only the impact of the problems we have at airports around America, but also we should focus on little boys and girls and elderly men and women who are losing Meals On Wheels, their only hot meal of the day.

I think we should do that—look at this sequestration and take a timeout.

I recognize my friend from North Dakota, who is going to give her maiden speech. We are looking forward to hearing what she has to say.

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

FACING CHALLENGES TOGETHER

Ms. HEITKAMP. First, I wish to thank all of my colleagues who came here today to see me offer my first speech on the floor of the Senate. It is a great group, a bipartisan group, and I believe our new class is exactly that—a group of great people who are very bipartisan and very willing to work to solve America's problems. I am proud to be part of this freshman class in the Senate.

People here all think they know each other, and this is absolutely true, but sometimes it is a good reminder to tell people about from where you come. I wish to spend a little time talking about my home State because I think it speaks a great deal about how I believe, how I vote, and who I am.

I grew up in a small town in North Dakota. Many may think that means 90,000 people. No, it is 90 people. My family was one-tenth the population of that small town. When I was born, my mother had four kids, and the oldest was 2 and there were no twins. By the

time my parents were done having children, there were seven children in 9 years. My dad was a seasonal construction worker, and my mom was a school cook and a janitor. Think about those occupations.

My mom never let anyone be bullied. The worst thing a person could do, in my mother's eyes, was to pick on someone who couldn't defend themselves. We knew that was what our role would be throughout our entire lives. This is a value my six siblings and I carry with us.

From my dad we learned about community and building community. My dad built the smallest VFW chapter in the country. He returned from World War II and knew they needed a place to gather, to provide support for veterans and for each other, and that needed to be in his community. He built the ballpark, he built the fire hall, was chief of the volunteer fire department for years, head of the VFW, and was someone who believed in the community. He believed that when Mrs. Poster needed her sidewalk shoveled so she could go to church, it was our job. It wasn't someone else's job. We didn't look around to see who would come; we picked up the shovel and we went down there.

What do you learn from the place where you grew up? In Mantador, ND, as in communities all across this country, people gather at coffee tables usually at 7 o'clock, maybe 10:30 in the morning or maybe a little bit in the afternoon, and they talk about the problems of America. They talk about the problems of their community. There are many ideologies at that table—Democrats and Republicans; as we say in Mantador, there are Lutherans and Catholics; there are Green Bay fans and Vikings fans, which may be the most divisive issue. They gather together and solve all the problems of America, if we would only listen here in Washington, DC. More importantly, even though they have horrible fights, they get together and solve problems in their community. They figure out how to put up the Christmas lights on Main Street. They figure out how to fix the roof on the church, how to pass a school bond so they can expand classrooms.

All across America, people work together. That is the spirit, and that is what I learned growing up in a small town in North Dakota—that we can accomplish things if we keep our eyes on the goals, if we understand and appreciate that we all come from different places and need to work together. Sometimes we are not going to agree, but we need to move forward. We need to work together to move this country forward.

I wish to take a moment, and hopefully I won't get too emotional, but I want to think about this. We live in a country, an amazing country where the daughter of a school cook and janitor and a seasonal construction worker can

stand on the floor of the Senate and address this body. It is an amazing country, and we can never forget that value. But I never thought I would be here. What I mean by that is I never thought I would come to the Senate. Do you know why? North Dakota had Senator Conrad and Senator Dorgan—two giants who came to this body, spoke their minds, and represented their State. I knew they would always represent me. Then something happened: They became tired, frustrated, and moved on with their lives. They asked me to join this fight, the fight for North Dakota and the fight for our values. They asked me to step into their shoes. I am extraordinarily proud to be here, extraordinarily proud to represent agriculture.

What do I mean by that? We have frustration in farm country. There are 16 million jobs in agriculture. It is the bright spot on our economy, and it is helping to reduce our trade deficit. It is everything in my State.

We have small farmers, small family farmers who must spend \$1 million before they can even take a crop out of the ground. That is an average farmer in my State. That is how much it costs to engage in farming. When we don't have a farm bill that provides certainty and security for them, we not only hurt them and hurt American agriculture, we risk our secure food supply. So I came here to speak for North Dakota farmers.

I came here to speak for an energy policy. This is an amazing place. You hear everybody say we believe in "all of the above." In North Dakota, we do "all of the above." We not only are rich in natural gas, oil, and coal, but we also have geothermal, ethanol, and biofuels. We are one of the leading producers in the country of wind energy. We get it. But policies in this body and in this city that provide certainty to our energy producers need to be established.

I am here to address the concerns we have. If we do not have policies that address issues of redundancy and reliability in energy, we will fall further and further behind. And these are new technologies and great innovations that are coming down the pike. We need to address those. We need to move forward.

I came here to speak about reasonable fiscal solutions. We heard a debate—a good debate—about the effects of sequestration. We know we have challenges. On both sides of the aisle, there is a sense of purpose to change the trajectory of this debt. We are borrowing 40 cents of every dollar we spend. We have a national debt that is almost equal to our gross domestic product. We have interest payments that are the third highest payment we make here at a time of record-low interest rates. This is unsustainable and it needs to be addressed, but it needs to be addressed responsibly.

Like many of you, I have my own personal passions. They involve senior

citizens—making sure we provide them with a secure future, but also a secure future for future senior citizens. Veterans, I care deeply about the condition of veterans benefits and what we are going to do to reward and truly thank the 1 percent in this country who step up to serve us. I have a great concern for people living in Indian Country, what we are going to do to make sure they enjoy a future in our State. If we take every problem of America and multiply it times 3, those are the problems in Indian Country that need to be addressed. I care about Head Start. I believe a Head Start investment is a smart investment.

My colleagues might wonder, with all of these concerns and all of these issues, why I am standing today to talk about marketplace fairness. Well, we are going to hear a lot about a case called *Quill v. North Dakota*. What my colleagues may not know is the whole caption of that case is *Quill v. North Dakota ex rel. MK Heidi Heitkamp*.

Over 20 years ago, I heard the despair of Main Street businesses. I had a woman come to me who ran a little wallpaper shop in her town. At the time—and I don't know if it is true today—she had to buy these wallpaper books from the companies, so there was an investment in presenting this product. People would come to her, they would open the book, and she would help them do a little interior design. She would work through the fabrics and all of this, and then they walked out and she never saw them again.

She knew and I knew what they did was go home, look in their catalogues, take the lot number she had given them, and then order the wallpaper. Maybe—maybe—they ordered it more cheaply than just the sales tax, but she wanted to know from me, when I was tax commissioner, how I could justify the 5 percent disadvantage she was having. She wanted to know what I could do to level the playing field so she at least had a chance, she at least could compete.

Well, I listened. And it wasn't just that woman who ran the wallpaper business, it was the furniture stores, and it was the Main Street office supply stores. So we initiated a lawsuit called *Quill*.

For those who think this is going to unduly burden small business, I want them to think about this: In my State we sued *Quill* because they were the third highest retailer of office products in my State—the third highest. It was pretty remarkable. Yet they were enjoying this advantage of not having to collect sales tax. So we took the case to the Supreme Court.

Some might say that didn't turn out very well for us. But let me cite some basic information about the court case because at the time there was a sense there was not due process jurisdiction if one didn't have physical contacts in their State. A lot of us in this body are lawyers, and we know that long-arm

statute had at the time moved on. The question was what in fact would be the contact, and could we, in tax jurisdiction and in sales tax collection, get the court to agree that due process was not disturbed by an extension of regulation and responsibility to Internet sales and at that time catalogue sellers.

The court agreed with that piece, but when they were challenged with the argument did North Dakota's imposition affect interstate commerce—and they heard a lot of arguments we will hear today about a lot of jurisdictions, it is not very streamlined—they said: We aren't comfortable. But you know where this belongs. It belongs where the Constitution puts this discussion. It belongs in the Senate. It belongs in the House of Representatives. It belongs to Congress because Congress has the obligation of regulating interstate commerce.

So here we are almost 20 years later—over 20 years later—since the court case was decided and still debating this issue. This issue has grown tremendously because of the explosion of Internet sales. Remote sellers are getting bigger and our Main Street businesses continue to suffer and continue to struggle.

We will hear a lot today about how this bill discriminates. We will hear a lot about how it is not fair. We will hear how it affects small business. Every time we hear that argument, I want my colleagues, the Members of this body, to think just for a moment that you are that one woman with the wallpaper books or you are the small drugstore trying to sell candles to supplement the prescription drug business you have. You are that small business, and what you see is that you have the burden of collecting this sales tax and you are building your community. You take out a little ad in your school newspaper to help that school newspaper or an ad for the scoreboard down at the high school. When they come around and ask for a little money for the fire hall, you chip in. So you are building the community, and you are there, and you are employing people there and wondering why this government can authorize and approve discrimination against you, and why you have to fight so hard.

We will hear a lot today about small businesses that operate on the margin; right? Retail has a small margin. Exactly. That is exactly the point. That small margin is just as small for that Main Street business, but they have a 5-percent disadvantage.

So today and tomorrow we will hear a lot about this bill. I know feelings are running fairly high for people who oppose it. But when we hear discrimination and we hear it is not the role of this body to take this on, understand this: It is exactly the role of this body. It is exactly the obligation we have—to level the playing field, to make things fair, to respond to the needs of our community. And that is why we are fighting so hard. That is why we are working so hard on this bill.

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

I yield the floor.

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

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

The legislative clerk proceeded to call the roll.

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

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

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

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. The Senator is recognized.

THE SEQUESTER

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

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

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

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

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

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

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

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

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

MARKETPLACE FAIRNESS ACT

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

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

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

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

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

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

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

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

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

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

I yield the floor.

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

COMMENDING SENATOR HEITKAMP

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

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

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

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

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

The legislative clerk proceeded to call the roll.

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

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

MARKETPLACE FAIRNESS ACT

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

It is a big market. We produce 25 percent of all the money in the world. If you don't like Tennessee's rules, as long as they fit the constitutional framework of not imposing a burden on interstate commerce, you don't have to sell in Tennessee. We hope you will. And if it is as easy for you to collect the tax as it is to find out the weather in your hometown, we don't know why you wouldn't.

We don't know why you would even expect that you would be treated better than somebody who lives in Tennessee and goes to work every day in Tennessee and pays taxes in Tennessee and collects taxes in Tennessee. We will treat you just as well as we do the local folks, but we are not going to treat you any better and put you at an advantage with our hometown businesses. That is what this is about, and that is all it is about.

Let's make clear what this is not. It is not a tax. It is about taxes already owed. It is not a Federal tax. It is State taxes already owed. Sales taxes and use taxes, that is all we are talking about.

Are we telling any State they must do this or must do that? No. We are saying to States that we are simply affirming the spirit of the Tenth Amendment, which says: You have the right to decide for yourself, Mr. Governor, Ms. Legislator, what your State tax structure ought to be. It is up to you. If you want to have just some people pay the sales taxes and use taxes that are owed and other people to not pay them, that is up to you too. That is your business. But this is a States rights Tenth Amendment decision that leaves to the States this ability.

I wanted to talk mostly about what we are talking about: We are talking about what happens when you buy something online, from a catalog, and the local store, and making sure that States are able, if they wish, to treat all businesses in the same way. That is why so many conservative leaders, as they have understood this bill, have come to support it.

This is a rarity in the Senate. This is an 11-page bill. Some people say it has been rushed. I wish to respectfully disagree with that. This legislation was introduced beginning in 2001. It was introduced in almost exactly the same form in 2011. It had a full hearing in the Senate Commerce Committee in 2011 in almost the same form of the 11-page bill that is before us today. Exactly this bill was filed on February 14, 2013, so everyone has had plenty of time to read it since February 14.

This is a bill that has been here for a long time, and the reason it is before us and hasn't come through the Finance Committee is because the Finance Committee simply wouldn't hear it, act on it, and report it. We have a chance to amend it. The majority leader has said there will be amendments. It is my hope that Senators will come to the floor with their amendments as early as this afternoon. I hope Senators would want to keep amendments aimed at the subject of the debate, the mar-

ketplace fairness debate. There are many issues that have been raised. Let's bring them up, let's debate them, and let's vote on them. That is what we do when we are acting properly in the Senate.

I mentioned some of the conservative leaders who have talked about this issue. William F. Buckley, before he died, talked about the unfairness of treating in-state sellers one way and out-of-State sellers another way. Another leading advocate for the idea of marketplace fairness is Al Cardenas, who is chairman of the American Conservative Union. He has written eloquently about it.

Former Governor Jeb Bush, former Governor Mitch Daniels, Governor Mike Pence, the Congressman from Indiana—these are leading conservatives on the Republican side. They have all said if Congress does not act, it freezes into place a system that picks and chooses among winners and losers, that treats one taxpayer one way and one business another way. That is not a good principle. That is not a good conservative principle at all. That is why so many of the Republican Governors, the Republican leaders—Art Laffer, President Reagan's favorite economist and distinguished writer, wrote in the Wall Street Journal last week that it would actually help economic growth if States were permitted to collect taxes from all of the people who owe it rather than some of the people who owe it. Mr. Laffer said, and I am paraphrasing, that the best tax policy is one that, when there has to be a tax, taxes the largest number of people at the lowest possible rate.

Governor Haslam of Tennessee, Governor Otter of Idaho, many of the Governors have said if we have the opportunity to collect the taxes from everybody who already owes them, we have in mind a tax rate we would like to lower. We would like to have a lower sales tax rate in Tennessee. We don't like a 10-percent tax rate. One reason we have it is because some people do not pay it even though they owe it. The reason they do not pay it is because out-of-State sellers—catalog, online—many of them do not collect it as others will do.

I think that is a summary of the legislation before us. It is about States rights. It is an 11-page bill. It has been before the Senate for months. The idea has been before the Senate for years. It does not seek to tell any State to do anything.

New Hampshire does not have a sales tax. After this law is passed New Hampshire citizens will not have to pay a sales tax. If a New Hampshire company or Michigan company sells in Tennessee they will have to do what Tennessee companies do, or anybody else who sells in Tennessee will have to collect the tax and send it to the State government—or not sell. But unlike 20 years ago, that is pretty easy today. As I have said, it is as easy as putting in a ZIP code and finding out the weather. One can compute the tax the same way I found out what my ice cream ingredi-

ents from Williams-Sonoma cost and what the tax was, and in the same way I paid that tax.

I look forward to the debate. I hope we can enact this bill. We have had 2 good votes: one at 74 votes and one at 75 votes. A majority of Democrats supported each vote. A majority of Republicans supported each vote. There is substantial support in the House of Representatives. This is an important States rights piece of legislation. It is part of our job to simplify things and not to require States to play "Mother may I?" with Congress about what their tax structure ought to be.

FISHING BARRIERS

Mr. ALEXANDER. Mr. President, seeing no other Senator here, I would like to turn to another matter. In his biography of Thomas Jefferson, Jon Meacham writes that Jefferson liked to fish. Jefferson "had a favorite spot," Meacham writes, "below the old dam on the Rivanna River." Thomas Jefferson, if he were alive, would be pleased to know Americans followed his example. Americans like to fish, and in Tennessee we have nearly 900,000 Tennesseans who bought fishing licenses last year, and they like to fish below the dams just like President Jefferson liked to do because they know that is where the fishing is sometimes the best.

That is why there is such an uproar in Tennessee and in Kentucky and from fishermen all over the country about the unreasonable obstinance of the U.S. Army Corps of Engineers in seeking to put up physical barriers to fishing below the 10 dams on the Cumberland River.

The Corps of Engineers is an honorable institution. The flooding season is upon us, and we all remember the terrific job they did last year and the year before when we had such serious floods along the Mississippi. We are grateful to them for that. But for whatever reason, the Corps of Engineers is rejecting every reasonable proposal from the States of Tennessee and Kentucky to say let us work with you to ensure safety below the dams on the Cumberland River in a way that continues to allow fishing when it is safe and that allows us to attract the jobs into our area.

Senator CORKER, Senator MCCONNELL, Senator PAUL, Congressman WHITFIELD, Congressman COOPER, Congresswoman BLACKBURN—we have all introduced legislation we call the Freedom to Fish Act. I met with every general and colonel I could find. I even talked to the Secretary of the Army and said: What in the world are you doing here? On these 10 dams ever since they have been built in the 1960s, people have been fishing there with their children and grandchildren. Some of the most ardent fisherman are retired Army Corps of Engineers people.

They always come back and say: We have to ensure public safety. Of course they have to ensure public safety, but there are various ways to do that. They do not have to put up physical barriers across the dam. So they are on a path to take \$2.6 million, during a time of sequester, that is needed for other projects to build these monstrosities across the river below these 10 dams.

Up to now it has been mostly those of us in Congress who registered the complaints of the men and women who like to fish. I went to a rally at Old Hickory Lake about a month ago. There were a lot of people there. They were not of any particular party, I would say. They were tea party, environmentalist, outdoors men and women, retired Corps of Engineers people, a lot of grandparents—people were mad because they fished there with their grandchildren and wanted to keep doing it. Then I went up to Kentucky to Lake Barkley a week ago with Senator MCCONNELL, Senator PAUL, and Congressman WHITFIELD and found the same sort of thing there.

The argument is that it is unsafe. Of course it is unsafe when the water is spilling through the dam. That is about 20 percent of the time. The rest of the time it is safe. Restricting fishing below the dams 100 percent of the time when it is only dangerous 20 percent of the time is like keeping the crossing gate down over the railroad track 100 percent of the time. We could do that. I think we have nearly 130,000 railroad crossings, but if we had a gate down on them all the time we could never go anywhere. People expect drivers to have enough sense to stay off the track when the train is coming. The track is not dangerous when the train is not coming and the water is not dangerous for fishing when it is not spilling through the dam.

One reason we are outdoorsmen in this country—and the great American outdoors is a part of the American character and our ethic—is we want to go outside and evaluate the risk. We want to be on our own. We want to be able to make decisions. We don't want a government that is so all powerful and all knowing that it makes it risk free when we go into the great American outdoors.

Now we have an additional voice that comes from the Democratic side of the aisle, and more important from the legal side. The Corps of Engineers, in talking with me, said: You know, we have legal liability. Here is an article that was in the Tennessean yesterday about the comments of Jerry Martin, the U.S. attorney for the Middle District of Tennessee, who retired last week. He was appointed by President Obama as a leading Democrat in the area. This is the U.S. attorney position that was first held by Andrew Jackson at one time. This is what the article said:

Responding to the U.S. Army Corps of Engineers' proposal to limit fishing on dams along the Cumberland River and its tribu-

taries in Kentucky, former U.S. Attorney Jerry Martin said that the Corps' plan is not worth the effort.

Martin, who just weeks ago would have been responsible with carrying out the Corps' wishes, said the Tennessee Valley Authority's siren system, which goes off when water is released from the dams, is enough to ensure public safety.

The Corps has proposed barriers along the river that would limit fishing access, citing safety concerns. Detractors say the move could cost millions of tourism dollars every year.

"These waters belong to the citizens," Martin, who was appointed by President Barack Obama in 2010, said in a prepared statement. "In light of the tremendous protection from liability enjoyed by the Corps, I don't think it's reasonable for the Corps to ban everyone at all times from these public places.

I am concluding my remarks because I see the Senator from Wyoming has arrived.

Let's stop and think about this a minute. The Corps of Engineers now already has everybody in Tennessee of any political stripe saying: You are taking an unreasonable step. They have the wildlife agencies of Tennessee and Kentucky saying: We would like to work with you to help you do a better job of ensuring safety below the dams when the water is spilling through the dams, which is 20 percent of the time. We have the Tennessee Valley Authority with dams on the Tennessee River, which makes the Cumberland look like a stream, and the TVA allows fishing below the dams. It has sirens, it has signs, it has whistles. It assumes people are wise enough not to roll up just below the dam when the water is spilling through it. Just like we assume we are wise enough, if we put on a siren and put on the red lights, not to sit on the railroad tracks when a train is coming.

Now the former lawyer who would have been responsible for defending the U.S. Army Corps of Engineers in a liability case says:

These waters belong to the citizens. In light of the tremendous protection from liability enjoyed by the Corps, I do not believe it is reasonable for the Corps to ban everyone at all times from these public places.

I call on the U.S. Army Corps of Engineers to recognize the voices of the people of our country—all over the country—who fish below these dams and accept the offer of the two States, Kentucky and Tennessee, to work with the corps to develop a reasonable attitude, a reasonable way of ensuring public safety for fishing below the dams. That is our opinion. We will pass a law to make it happen if we have to, but given the statement, especially of the retired U.S. attorney, Jerry Martin, who would have been the corps's lawyer in defending lawsuits about this, the corps needs to change its mind, act reasonably, and spend that \$2.6 million on some more needed project.

I yield the floor.

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

HEALTH CARE

Mr. BARRASSO. Mr. President, recently the Secretary of Health and Human Services, Kathleen Sebelius, gave a speech in which she said she didn't realize how complicated it would be to implement the President's health care law. She didn't attribute this to all of the flaws that all of us know are in the law. The only problems she could see were because, she said, of Republican opposition.

Here is how one newspaper, Investor's Business Daily, described it: "Blaming GOP for ObamaCare."

The article goes through a list of problems with the law saying it is and it continues to be "unpopular," "expensive," "ill-conceived" and "poorly written."

Democrats in Congress and the administration do not seem to be interested in admitting that there are flaws in their law. They are only interested in trying to make sure someone else takes the blame for their huge mistake. The question is, Are Republicans opposed to this law? Of course we are because it is a terrible law. Democrats know how much of a mess this law is too. Some of them are even finally willing to admit it.

Last week the Senate Finance Committee held a hearing on President Obama's budget for the next fiscal year. Secretary Sebelius testified at that hearing. I wish to read from an article in The Hill newspaper about what happened. The article is entitled: "Baucus warns of 'huge train wreck' in enacting ObamaCare provisions." A huge train wreck. The article identifies Senator BAUCUS as "a key architect of the President's health care law" and quotes him telling Secretary Sebelius: "I just see a huge train wreck coming down." He added: "You and I have discussed this many times, and I don't see any results yet."

It also quotes the Senator saying: "Small businesses have no idea what to do, what to expect."

I agree with Senator BAUCUS. Businesses do have no idea what to expect, and this health care law is a train wreck.

So what does this mean in the real world? It is causing businesses to avoid hiring or to cut back hours. There are new headlines on this every day. Here is what one said last week: "Nation's biggest movie theater chain cuts work-week, blaming ObamaCare."

Regal entertainment has more than 500 movie theaters in 38 different States. Last month it began cutting shifts for employees to 30 hours a week. That is the cutoff under the health care law where an employer has to provide health insurance. The company sent out a memo to its employees explaining why it had to cut shifts. It said:

To comply with the Affordable Care Act, Regal had to increase our health care budget to cover those newly deemed eligible based on the law's definition of a full time employee.

One theater manager said they have had a wave of resignations from managers who have seen their hours cut by 25 percent.

He said:

In the last couple of weeks, managers have been quitting on a daily basis from various locations to try and find full-time work. Mandating businesses to offer health care under threat of debilitating fines doesn't fix the problem, it creates one.

We already had 22 million people in this country who either can't find a job or can't find the full-time work they want. Now we have even more hard-working Americans whose hours are being cut because of the unreasonable burdens of the President's health care law. That is what this law does to jobs in America. That is what the coming health care train wreck looks like.

Here is another headline, this one from the New York Times over the weekend. It is on page 1. At the top of the page is the news about the capture of the second bomber. At the bottom of page 1: "Part-Time Work Becomes Full-Time Waits for Better Job." Part-time work is a full-time wait for a better job. The article talks about exactly this problem of people who want full-time work but can only find part-time work.

The article specifically cites the health care law as a reason why so many people are having trouble. It quotes one economist saying:

There is another reason to believe that part-time employment will stay higher for longer, namely, the incentives to employ part-time workers created by Obama's health care reforms.

The article goes on to add: "Confusion about the law and its requirements abounds."

That is the same point Senator BAUCUS made. Businesses don't know what to expect, people don't know what is going to happen and it is hurting families and it is holding down our economy. Again, that is what the health care train wreck looks like.

The train wreck also means the health care law is going to be very hard on family finances. It is going to increase how much people have to spend for insurance and care. A study by the Society of Actuaries says costs for health claims will go up an average of 32 percent—a 32-percent average increase across the country. Those higher costs are going to be passed along to consumers. That means more money out of the pockets of hard-working people, and that is going to be money they can't afford to lose right now.

We got another sign of the coming health care train wreck when President Obama finally released his budget for the next fiscal year. Of course, it came in over 2 months late. That is later than any other President who was already in office at the beginning of the year.

Why did it take so long? President Obama certainly didn't use the extra time to come up with any sort of a plan to stabilize the Nation's finances. In-

stead, he continues to add to the debt burden of America's children and makes it harder for Americans of all ages to achieve their dreams. Deficits continue far into the future. The President also offered no real entitlement reform and no plan to grow America's stagnant economy. President Obama is truly budgeting from behind.

What is interesting about his budget, though, is not just how late it is; it isn't just what that says about the lack of leadership from the White House. What is also very interesting is what this budget says about the coming train wreck of the President's own health care law.

The train wreck is coming not just because the President's health care law is unaffordable for families; it is also unaffordable for the taxpayers of this country. The President's budget fails to slow down Washington spending, but it is also dishonest about how much of a budget buster his health care law will be.

In fact, the administration has used a lot of smoke and mirrors to try to hide the true costs of the health care law. Here is how the Associated Press put it. They ran an article entitled "Tracking Obama's health law in budget isn't easy." The article points out that the President's budget includes no chapter, no table, not even a mention of what all the health care spending adds up to.

This Associated Press article quotes Bill Hoagland, who is a senior vice president at the Bipartisan Policy Center. He says: "I'm sure somebody has a spreadsheet somewhere, but clearly they are not publishing it in this budget."

The Obama administration knows that if they spelled out exactly how much this law is costing, the American people would be outraged.

So what do we know about the cost of the health care law? We know the President wants almost \$975 billion for the Department of Health and Human Services next year. It is a budget increase of over \$100 billion since just last year—an 11.5-percent increase. The health care law was supposed to help slow down the growth in spending. Instead, it is using taxpayer dollars to fuel the fire, and it is powering us toward the coming train wreck faster than ever.

Part of the money would go to pay for 3,000 more Washington bureaucrats at Health and Human Services. That kind of increase in Washington spending is not something the American people need, and it is not anywhere close to what we as a nation can afford.

In another part of the budget, it says Washington needs \$32 billion to pay for what the administration calls premium assistance credits. Those are the subsidies to help people pay for the new insurance they are going to have to get under the President's health care law. That is taking \$32 billion from taxpayers to help hide how unaffordable this health care law is for families. The President says that 10 years from now

this \$32 billion will grow to \$118 billion a year. That is a train wreck.

What else does the President want? He wants \$772 million for administrative costs at the Centers for Medicare and Medicaid Services. That is going to pay for more than 4,600 bureaucrats.

When I talk to people about their health care concerns, nobody has ever told me—and I am a doctor; I have practiced for over two decades in Wyoming and I was home this weekend at a health care fair—nobody has ever told me the problem is we don't have enough Washington bureaucrats. I have never heard that, not even once.

Still, that is exactly what we are going to get under the President's budget and under this health care law: costs going up instead of down; debt going up, not down; the Washington bureaucracy getting bigger and bigger. That is a train wreck.

The President's budget also asks for \$440 million for the IRS to administer the health care law. That is \$440 million the IRS would not need if Democrats had not forced this law on the American people. The Internal Revenue Service is going to need 1,954 more employees just to implement the health care law, not more doctors, not more nurses—1,954 more IRS employees. That is just the beginning of what the agency is going to be asking for in the next few years. We are going to see an army of new IRS agents and auditors to investigate the health insurance choices of Americans and their families.

The Obama administration isn't worried about all that power in the hands of those IRS agents. It is not worried about how unaffordable the health care law is for taxpayers. The only thing this administration seems to worry about is who is going to take the blame for the train wreck we all know is coming right around the corner.

The President's health care law is bad for our economy, it is bad for consumers, it is bad for patients, and it is bad for the health care providers of our Nation.

Now the President's budget makes clear his health care law is also very bad for hard-working American taxpayers. The people wanted real health care reform, but Washington Democrats instead gave them a train wreck.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

MARKETPLACE FAIRNESS ACT OF
2013—MOTION TO PROCEED

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of the motion to proceed to S. 743, which the clerk will report.

The assistant legislative clerk read as follows:

Motion to proceed to the consideration of Calendar No. 41, S. 743, a bill to restore States' sovereign rights to enforce State and local sales and use tax laws, and for other purposes.

The PRESIDING OFFICER. The Senator from Montana.

Mr. TESTER. Mr. President, I wish to speak on this bill. It is called the Marketplace Fairness Act. It will not do anything but damage to the marketplace, in my opinion.

This bill will impose new burdens on our small businesses. Let me repeat that. It will place new burdens on our small businesses. I have heard folks come to the floor and talk about how great this is going to be for small businesses. This is going to be terrible for small businesses. Small businesses are going to have to bring on more people. This is going to be more bureaucracy, with more accountants, more lawyers. This should be called the bill to employ more attorneys and more CPAs.

The fact is, I do not think the attorneys want this kind of work, nor do the CPAs want this kind of work, because what it will do is fundamentally alter the rights of States by allowing them to tax entities outside their borders.

Who is put at risk by this? Small businesses. If the small business screws up, by the way, they are the ones who are held accountable. We talk about this big old database out there that these folks are going to be able to dub into to determine what the sales tax is for a single entity of the 9,600 cities and States and municipalities that collect sales tax. If the business gets it wrong, they are the ones that have the penalty. I am going to tell you that small businesses are not that profitable to be able to go through this kind of an exercise.

In Montana we are in a little different situation. In Montana our budget has a surplus because we have handled our money wisely. Montanans do not pay a sales tax, we do not have a sales tax, and the people of the State of Montana have twice voted against having one. But our budget continues to operate with a surplus without that sales tax.

Now we are going to have other States balance their budgets on the backs of Montana's hard-working small businesses. It is wrong and, quite frankly, it is insulting. In fact, Virginia—right close here—has already counted these funds as part of their budgeting for a new transportation plan.

I would say this is bad policy that I hope—I know what the cloture vote was yesterday—people take a look at because this is not the direction this

body should be going. At a bare minimum, we should send this bill to committee and let the Finance Committee deal with it.

This has some real problems. It has real problems from an implementation standpoint. If we go down this road, it is a very slippery slope; it is going to create more bureaucracy; it is going to create more burdens for small businesses, including new liabilities for incorrectly collecting this sales tax, as I talked about before.

There are 9,600—let me say it again—there are 9,600 cities, States, and municipalities that collect taxes—different taxes: higher taxes on candy than in a different jurisdiction, sometimes no taxes on food. The list goes on and on and on.

It also leaves questions unanswered about how this could impose new taxes on financial transactions and 401(k) plans. It is bad policy.

What businesses will out-of-State tax collectors go after next? It is an aberration of States rights—rights which so many in this Chamber have supported.

It is a situation where we are going down a road that, quite frankly, we have not gone down before from a States rights standpoint. If we do this, I think it opens a Pandora's box, so to speak, as to new rules, new laws that potentially come down, using this as a basis for it.

As I said before, I empathize with the situation of States that have had their budgets underwater. But they ought not be looking at other States' small businesses—in our case Montana's small businesses—to get their budgets in balance.

I would urge my colleagues to vote against this bill. It would gut States rights. It would impose new tax burdens on small businesses and middle-class Americans. Quite frankly, this is bad policy, and we should not be passing bad policy around here.

I thank the Presiding Officer and 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. WARNER. 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. WARNER. Mr. President, I rise in support of the legislation that is on the floor, the Marketplace Fairness Act. I rise as someone who has spent 20 years in the technology business helping to fund and develop online businesses, understanding the importance they play to our economy, and applaud the enormous growth of Internet-based businesses.

But I also rise in support of this legislation, because in addition to being a technology investor, I also was a Governor and know the importance that sales tax plays in funding so many critical State and local functions. Unfortunately, under the current cir-

cumstances, we have an uneven playing field because local small businesses, oftentimes bricks and mortar, follow the law and collect sales taxes from customers who make purchases in their stores while, on the other hand, many large online businesses that may be located or domiciled in some other State do not collect the same sales taxes. I think on this floor already we have heard repeated stories of some online retailers that even encourage people to go to the brick-and-mortar store to look, go out and price a product and then go back and go online and purchase that product. Not only does that discriminate against the brick-and-mortar store, but from a public policy standpoint, if these sales taxes are not collected, it creates an unlevel playing field between the online vendor and the brick-and-mortar store.

This legislation will help level the playing field. It is about fairness. It is about having a level playing field for all types of retail outlets. Let me make clear, all it simply does is require every business to collect and remit an already legal sales tax that has been put in place at a State or local level.

Because of this unequal playing field, because of current circumstances, because there has been a failure amongst many of our online vendors to collect these sales taxes, this creates a direct and immediate impact on State and local governments. As a former Governor, I can tell you the inability of States and localities to gather uncollected revenues undermines dramatically their ability to invest in K-12 education, police and fire prevention, funding for roads and bridges, public safety, environmental causes. You name it, all the basic core services that State and local governments perform, so many of them are directly funded in a major way by local or State sales taxes.

I would also like to mention how important this bill is to the Commonwealth of Virginia. Most recently in the Commonwealth, Virginia's leadership, with a Republican Governor and a bipartisan legislature, finally enacted legislation to make significant investments in our outdated and overstressed transportation network. Many of the folks work on the Hill or those of my colleagues who happen to live in Virginia know that traffic in Northern Virginia is at an almost debilitating point. We have finally in Virginia passed a funding source to try to address the transportation needs of Virginia.

Part of this solution, though, anticipates revenue from this legislation. So if we are going to be able to solve the transportation crisis that confronts not just Northern Virginia but all of Virginia, Virginia has to have the ability to collect all of its sale tax revenue. This is a large amount. The current uncollected amount of sales tax revenue in Virginia is estimated to be \$422 million over the past year.

That number is going to continue to increase as more and more vendors go

online. Nationally, the amount is a staggering \$23 billion. Again, as I mentioned earlier, at a time when our States and municipalities are struggling to maintain essential core services or government, I think it is irresponsible of us at the Congressional level to, in effect, interfere or not allow these States and localities to collect sales taxes that they have put in place, that are collected from vendors that are in their communities but not certain vendors who operate online.

I would like to take a moment also to address a couple of the concerns I have heard from my community in Virginia. I say there are ways to improve this bill. I am grateful the Northern Virginia technology community is generally supportive of this legislation. They have raised some concerns, concerns I would like to address.

First, there is discussion about the small seller exemption. The current legislation says that those small sellers online that have less than \$1 million in sales will be exempted from this regulation. It is important that a startup business gets going online, that we do not put undue bureaucratic and other restrictions in place. There have been some suggestions that that \$1 million small seller exemption is too small. I think perhaps looking at a slightly higher number may make some sense.

But there have been some who suggested we would take this number all the way up to \$15 million. I have to tell you, I believe taking the small seller exemption up to \$15 million per year in revenues would dramatically undermine this legislation and dramatically cut back the \$422 million Virginia has left on the table and the \$23 billion that is estimated to be left nationally.

So, yes, we can look at something a little larger than \$1 million but to go up to \$15 million would be much too high.

Second, I think there have been reasonable questions about how to make sure, where we are going to create an audit trail, and where we are going to allow those vendors to remit back, not to the literally hundreds of jurisdictions that collect these kind of taxes but to be able to simply remit to a single point of contact.

I think the legislation moves forward in this direction. I again would look at other opportunities. On the issues of remittance, the legislation does put in place a requirement that every State would have a single point of remittance, which I think strikes the right kind of balance needed to not create an undue burden.

On the question of audits, I think there is more work that can be done. I believe there is an analogy here to the telecommunications industry I used to be part of. In the early days of the cell phone industry, there were clearinghouses that were allowed to, in effect, be the settlement agencies between a variety of competing cell phone systems when we were charged roaming

charges. I think we can look to some examples in that industry and others to make sure that in a look-back basis, there is an ability to have a single point of audit so those vendors, particularly small vendors, make sure they get a fair shake.

Finally, I think we need to make sure that, particularly for these smaller vendors, we do all we can to make it easy for them to comply with the law. I am pleased this legislation requires States to make available, at no cost to retailers, common software that will basically calculate the State and local sales tax requirements for any of these online vendors, as well as kind of build in some of the administrative services. I think this is an important step to make sure we continue to allow the entrepreneurial spirit to grow online as well as in the local community.

Again, I think it is terribly important to remember that all we are doing in this legislation is making sure there is a process in place to collect sales taxes that are already due.

Two final comments before I yield the floor. During the course of this debate, some opponents of the Marketplace Fairness Act have made statements about what this bill might possibly do that I do not think are reflected in the legislation.

Among those claims, there is a claim that this bill is the first step toward a State or local transaction tax on the purchase of stocks or derivative contracts. I have reviewed this legislation closely. There is nothing in this legislation that would make it be the first step on a slippery slope toward a transaction tax. There is nothing in this bill that would prohibit that kind of tax. States already have that ability. This legislation will do nothing to take a step toward that. So I think that claim being made by some is not accurate and does not reflect the legislation.

Finally, this legislation comes about because at the beginning of the development of online sales, there was a belief, perhaps accurate at that moment in time, that this growing industry of online retailers needed an extra little benefit, an extra little head start, an ability to have this industry not be squashed at its outset. I think history has shown, as we have seen the growth of retail sales online go up dramatically, faster than the growth of retail sales in bricks and mortar, that whatever needed boost the online industry might have needed at some point, that they now have become an extraordinarily important and successful part of our economy.

I commend all those and many other companies I had the ability to help fund when I was in the private sector. I welcome their success. Online businesses continue to be one of the areas for most entrepreneurial activity. I commend those efforts. But I do believe, in 2013, we do not need to perpetuate what has become at this point an unlevel playing field.

I believe the Marketplace Fairness Act will correct that unfairness, cor-

rect this unlevel playing field. I was pleased to see the overwhelming bipartisan majority that voted to invoke cloture. I hope this week we will be able to finish considering this bill, get it passed, and get it sent over to the House.

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

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

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. 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.

BOSTON BOMBING

Mr. McCAIN. Mr. President, there has been a great deal of misunderstanding about the position the Senator from South Carolina, I, and others have taken on the detention and interrogation of the suspect in the Boston bombing. None of us is saying the suspect should be indefinitely detained as an enemy combatant by the U.S. military or tried in a military tribunal. The suspect is a U.S. citizen and must be treated accordingly, and he will be. What we are saying is that the importance of treating the suspect in accordance with his rights as an American citizen must be balanced with our government's top national security priority, which is the lawful, effective, and humane interrogation of this subject for the purposes of gathering intelligence.

The Boston attacks were clearly inspired by the violent ideology of transnational Islamist terrorism. We need to learn everything we can about what foreign terrorists or terrorist groups the suspect and his brother may have associated with, whether they were part of additional plots to attack our Nation, and what other relevant information the suspect may possess that could prevent future attacks against the United States or our interests.

We need to delve further into this whole issue of the education some people who are motivated by these base ideologies obtain over the Internet and the effect it is having. We should at least know about this.

Our civilian justice system offers a responsible option for striking this balance with American citizens. It allows the Justice Department to delay reading a suspect his Miranda rights if doing so is in the interest of "public safety." The administration had rightly invoked this public safety exception in the case of the Boston suspect, which provided our national security professionals a discrete period of time to gather intelligence from the suspect without the presence of his lawyer.

However, soon after questioning him in this manner, the administration recently reversed itself and read the suspect his Miranda rights. In doing so, the administration gave up a valuable opportunity to lawfully and thoroughly

question the suspect for purposes of gathering intelligence about potential future terrorist plots. Whether we will be able to acquire such information has now been left entirely at the discretion of the suspect and his lawyer. Put simply, the suspect has been told he has the right to remain silent. If he doesn't want to provide intelligence, he doesn't need to.

Is this a responsible balance between a citizen's rights and our national security? The suspect had only been responsive for a couple of days before he was read his Miranda rights. Even then, he could not communicate verbally. Does anyone really believe our national security professionals were able to acquire all of the relevant intelligence possessed by a subject who couldn't speak in only 2 days? This is not a responsible balance between civil liberties and national security.

From the very beginning of this debate, the Senator from South Carolina, the Senator from New Hampshire, I, and others have maintained that the administration should reserve its right to hold the suspect as an enemy combatant for the purpose of gathering intelligence. This was not the only option or even the ideal option. In light of the administration's decision not to continue questioning the suspect under the public safety exception, the only option we are left with is lawfully questioning the suspect as a potential enemy combatant.

The full extent of whether the suspect is linked to al-Qaida or its associated forces remains unclear. The brother's trip to Russia certainly should be the subject of an inquiry. Additional questioning is critical to making it clear.

Today there is ample evidence that would allow the administration to question the suspect for key intelligence. The consequence of not doing so is that our need to question the suspect for such intelligence is left solely at his discretion and willingness to cooperate. This is not a responsible approach to the national security of this country.

Again, this is not to say that we must hold the suspect indefinitely in military detention, nor that the suspect must be or should be tried in a military tribunal. In both cases, there is plenty of precedence for holding a terrorism suspect as an enemy combatant for a limited time before moving him into the criminal justice system for the purpose of standing trial in civil court. What is more, the Supreme Court has consistently upheld the legality and constitutionality of this approach, as well as the ability to hold American citizens as enemy combatants. Ultimately, the broader question is whether one views the United States as part of the battlefield in the global fight against terrorists. I know some don't. I, however, do not see how we can avoid this fact. Those who seek to attack us certainly view the homeland as part of the battlefield—indeed, the central part.

Of course, there will always be and should be differences in how we handle events in the United States and events overseas and differences in what rights are due to American citizens as opposed to foreign citizens. Yet we cannot afford to build a wall between the fight against terrorists abroad and the fight against terrorists who are trying to attack us here at home, including when American citizens are involved in this fight, as some clearly are, and will continue to be.

Just because some don't seem to want to grapple with the difficult, unprecedented legal issues this war presents does not mean they will cease to be real challenges. If we pretend the homeland, the United States of America, is not part of this battle, I believe it will only be a matter of time before we learn this lesson the hard way.

I say to many who are reporting on this issue, I hope it is clearly understood that we are not saying the suspect should be indefinitely detained as an enemy combatant by the U.S. military or tried in a military tribunal. The suspect is a U.S. citizen and must be treated accordingly, and he will be.

During the now-famous discussion of 13 hours on the floor of the Senate, there were certain comments made that I think are important to recall.

The battlefield coming to America or acknowledging that is an enormous mistake.

I am quoting from the debate that took place.

Alarm bells should go off when people tell you that the battlefield's in America.

I'm here to argue that we can't let America be a battlefield because we can't say that we're no longer going to have due process, that we're no longer going to have trial by jury, that we're no longer going to have presentment of charges in grand juries. It is impossible in a battlefield.

This is another quote:

[When people say, oh, the battlefield's come to America and the battlefield's every—where the war is limitless in time and scope, be worried, because your rights will not exist if you call America a battlefield for all time.

The Chair understands as well as anyone that the people of Boston and the people of Massachusetts, of the Commonwealth of Massachusetts, would clearly take exception to a statement such as "the battlefield coming to America or acknowledging that is an enormous mistake." The people of Boston are very well aware that the battle comes to the United States. There are many attempts for it to come to the United States. Tragically, it came to the United States of America in a most tragic and terrible way.

We need to have a larger debate here about the location of the battlefield. To somehow believe the ultimate target of these radical Islamic extremists and other extremist elements is not the United States of America is a gross misreading of what this fight against terrorism is all about.

Quoting from a Wall Street Journal editorial, as I have done in the past:

The Boston bombing also ought to chasten libertarians who keep insisting that the U.S. homeland is not part of the terror battlefield.

"It's different overseas than it will be here. It's different in the battlefield than it will be here," [one Member] told Fox News earlier this year. "Which gets precisely to the argument I have with some other Republicans who say, well, 'the battlefield is everywhere. There is no limitation.' President Obama says this. Some members of my party say the battle has no geographic limitations and the laws of war apply. It's important to know that the law of war that they're talking about means no due process."

Boylston Street looked like a boulevard on Monday, and so did Watertown on Thursday night. The artificial distinction [arises from undue] focus on geography. The vital distinction for public safety is between common criminals, who deserve due process protections, and enemy combatants at war with the U.S., wherever they are.

As for due process, the greatest danger to liberty would be to allow more such attacks that would inspire an even greater public backlash against Muslims or free speech or worse. The anti-terror types on the left and GOP Senators who agree that the U.S. isn't part of the battlefield are making the United States more vulnerable.

Americans erupted in understandable relief and gratitude on Friday with the rapid capture of the terrorist brothers. But we shouldn't forget that their attack succeeded, with horrific consequences for the dead, the wounded and their loved ones. The main goal now is to prevent the next attack.

How do we prevent the next attack? We find out as much information as possible as to what motivated this attack.

Mr. President, I ask unanimous consent that the Senator from South Carolina be included in the colloquy.

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

Mr. MCCAIN. We wish to make sure our position is very clear. We are not saying the subject should be indefinitely detained by the U.S. military or tried in a military tribunal. The suspect is a U.S. citizen and must be treated accordingly, and he will be.

The tragic events we saw in Boston bring home again that this fight is far from over. I don't know if these young men were motivated by the information they received, whether it was overseas or whether it was due to the Internet and various influences there. What we do know is that while living in this country, they changed from apparently normal young people into terrorists who were willing to do anything to take the lives of their fellow American citizens.

The battlefield is the United States of America. Anyone who doesn't believe this ignores the events from which we are recovering.

I yield to the Senator from South Carolina, who has probably been more widely quoted than I have, and request that he clear up this exact situation we are calling for which, frankly, is being portrayed inaccurately in a great deal of the media.

Mr. GRAHAM. Very simply put, I have two goals. I think Americans

want two things to happen in this case. They want the surviving suspect to be brought to justice. I am glad he survived, as hopefully we may learn some information from him that will make us all safer in the future. I am pleased he survived so we may try him in a court of law, before a Federal court in Massachusetts, to hold him accountable for his crimes. In the trial, he will be given a lawyer. He has the right to remain silent. He will be tried by a jury. He will be given all the rights associated with a Federal court trial. He is an American citizen, and we have never suggested otherwise.

As one of the primary authors of the 2009 Military Commissions Act, I expressly exempted American citizens from military commission trials. Why? I wanted to reserve that system for foreign terrorists. It doesn't mean I don't believe there will be domestic terrorism. It doesn't mean I don't envision an American citizen helping the foreign enemy. I do. Every war, unfortunately, we have been in during the history of our country, American citizens have joined forces and sided with the enemy. This is not an unusual event. What would be unusual is to say one could do so and not be treated under the law of war. We would be making history if we adopted that view.

Let me begin with a case in World War II. German saboteurs landed in Long Island. They had been planning for years an effort to come to our country. These were Germans who had lived in our country and went back to Germany and became Nazis. Because they spoke good English, they were recruited by the German intelligence service to come back and plan massive attacks on our homeland.

They had a cell here in America, some of whom were American citizens who joined the plot. Thanks to the great FBI work of this time and day, as soon as they landed the plot was foiled and the American citizens were captured. In 1944, 1945, and possibly as late as 1946, the American citizens who aided the German saboteurs were held as enemy combatants and tried in a military court. Three of them were hanged.

The case went to the U.S. Supreme Court, and the Supreme Court said: When you join the forces of our enemy, you are committing an act of war, not a common crime.

Tokyo Rose sided with the Japanese. She was tried and given a life sentence. Since 9/11, there have been three American citizens who have been involved with al-Qaida or the Taliban or affiliated groups. They have been held as enemy combatants. They have gone to trial in civilian court and the courts have blessed the holding of American citizens as enemy combatants.

Rumsfeld v. Hamdi was an American citizen captured in Afghanistan held under the law of war as an enemy combatant. He was eventually tried and the Court said, as in World War II, we

can hold one of our own as an enemy combatant, recognizing the difference between a common crime and the law of war.

Mr. Padilla was held 4 years by the Bush administration. His case went up to the Fourth Circuit and the Fourth Circuit said: Yes, you can hold enemy combatants off the battlefield. That is the power the United States possesses at a time of war.

When you are fighting a war, the goal is to win the war and to find out about what the enemy is up to. When you are fighting a crime, the goal is to convict someone or have them found innocent. They are two different systems.

This young man will be going to Federal Court and a jury will decide if he is guilty of his crimes. What we are asking of the administration is: How do you gather intelligence in that system? It is not meant to gather intelligence. We don't want to limit ourselves as a Nation to asking questions about future attacks in the criminal justice system because here is the way that works. If I am his lawyer, I am not going to let you ask him any question about anything until I get a benefit for my client. So intelligence gathering now is controlled by the terror suspect and his lawyer. Is that smart? Now you are having to plea bargain to get intelligence.

What we are saying is, conduct the trial in civilian court—the only form available—but because there are international terrorist connections here—clearly they killed people in Boston not because they wanted their property or they were mad with the Boston city government, they killed—they slaughtered a young boy and his family and others because they have adopted a radical jihadist view of us as a Nation. The older brother was quoted as saying we are infidels, we are a colonial Christian power, we have corrupted Islam. They are trying to kill us and destroy our way of life because of what we believe.

The sooner we understand that, the better off we will be.

Here is my view about defending ourselves as a Nation. A criminal court is about due process and giving the accused a fair trial. Military intelligence gathering is about defending the Nation at war. The question we all have to answer for ourselves is: Is America at war? The answer, to me, is yes. We are at war with a radical ideology that hates everything we stand for.

Bin Laden is dead. We celebrate that. But al-Qaida is very much on the march. As a matter of fact, radical Islam is regenerating, and the way they are coming after us is to find people in our own backyard and turn them against us.

How could we have missed this? How could the intelligence services in Russia tell the FBI: You need to watch this guy; we believe he is a radical Islamist coming to your country to hurt you? How could we miss him going to Russia and coming back? How could we miss

his YouTube videos where he is ranting and raving against us and threatening to take us down as a Nation?

These are questions to be asked and answered. And here is what we are suggesting: The surviving suspect, due to the ties these two have to radical Islamic thought, and the ties to Chechnya, one of the most radical regions in the world, the President should declare preliminarily that the evidence suggests this man should be treated as an enemy combatant. We could hold him for a period of time, question him without a lawyer, and none of the evidence could be used against him in the criminal proceeding. That is the best way to gather intelligence. The best way to gather intelligence is to have a rapport with him, take down the stories he is telling us and deconstruct them; spend time with him outside the criminal justice system.

We have gathered so much good intelligence from enemy combatants at Guantanamo Bay. You won't send him to Guantanamo Bay, but during the last decade we have exploited intelligence from enemy combatants—people who have joined the other side—and it has helped us figure out how to defend ourselves and find bin Laden.

All we are saying is when it comes to defending against future attacks, we want to talk to him without a lawyer. That is all we are saying. We want to talk to him without a lawyer so we can find out what he may know about what we face in the future, and when it comes to prosecuting him, we won't use anything we found against him. A first-year law student could convict him, but, my God, look what we are losing as a Nation by using this model. Instead of taking time out to interrogate him without the presence of counsel to learn about what did happen, we are now stuck in a criminal justice system where we can't ask him one question his lawyer won't allow.

I am not blaming the lawyer. My goodness, if I were his defense lawyer, no one would ask him one thing without my permission, and they would have to give a lot to get an answer to anything. All I am suggesting is we are at war, these two people fit the profile of folks who are trying to kill us, they are tied to overseas organizations potentially, so why in the world can't our country have some time with this person in the national security legal system to find out about what he knows and how they planned this attack, to make the rest of us safer.

I believe in due process. And he, in that system, can go to a judge and say, I am not an enemy combatant, and the government would have to prove he is. So he has due process there. But here is what I believe deeply, and then I will turn it over to Senator AYOTTE of New Hampshire. I believe the closer one gets to our homeland, the more rights we have as a people to defend ourselves. I don't want a police state. I don't want to live in a country where

we can't express who we are and what we believe in and to argue and have a different view of religion. But, by God, given the times in which we live, I don't want to become deaf and blind to the threats that are real in our own backyard. I want a system that can find out about guys like this before they kill us.

Let me tell you, ladies and gentlemen, if we don't gather good intelligence and we don't hit them before they hit us, there is more to come.

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senator from New Hampshire be included in the colloquy.

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

Mr. McCAIN. I ask my colleague for a comment on the issue of whether the United States of America is a battlefield. Does my colleague agree with the quote, "The battlefield coming to America or acknowledging that is an enormous mistake"?

Mr. GRAHAM. Not only do I agree, who picked the battlefield? I didn't pick America to be the battlefield. I don't want to be at war with anybody. They chose the battlefield.

Where do you think they want to hit us most, I ask Senator McCAIN? If you could get the top leadership and give them one shot at America anywhere, where would they take that shot? Would they hit us in France? They would hit us here. Why? Because they want to destroy our way of life. They are trying to come here to kill us. All I am suggesting is we should be able to defend ourselves. And the closer they get to us, the more rights to defend ourselves we should have.

Let me say I asked the Judge Advocates General of the Army, Navy, Air Force, and Marine Corps: Is the authorization to use military force against al-Qaida, the Taliban, or affiliated groups limited to outside the United States? They said: No, there is no geographic limitation. So if somebody hijacked a plane tomorrow trying to fly it into the Capitol, our military could shoot it down. We are not going to restrict ourselves to the battlefield being everywhere else but in our own backyard.

Mr. McCAIN. Finally, again, if there were information of an imminent attack, such as the aircraft that crashed in Pennsylvania that might have been headed for the Capitol, we would take whatever measures necessary to prevent it from happening. To somehow say we would not use every capability in our arsenal to prevent that goes back again to this fundamental error, fundamental misconception about the nature of radical extremists where the battlefield clearly is the United States, and we should be most prepared.

And, by the way, if there is some good news that came out of Boston, it was that some of the measures that had been taken since 9/11 contributed significantly to our ability to track down and eliminate this threat far

more rapidly than we would have prior to 9/11.

Mr. GRAHAM. Yes, if I may, hats off to the Boston, MA, police officers, to the Presiding Officer's town. Our heart breaks for the victims. Bostonians made us proud. They show us how to stay brave. The FBI and everybody did a great job, but how we missed this I still want to know.

The Senator from New Hampshire was the former attorney general of New Hampshire. She knows the difference between fighting a war and fighting a crime.

I have been a military lawyer, I have been a civilian lawyer, and I am all very much for the idea of due process being given to everyone charged with a crime, including this man. He deserves to be presumed innocent, to have a lawyer, and a jury to find him guilty or innocent. He deserves all that because it makes us better and safer. But what we should not give up as a Nation is the ability to find out about future attacks in a logical way. We are at war, and in the law of armed conflict, national security applies here, in my view, because of the type of incident involved and the threats we face.

I wish to hear from Senator AYOTTE, who has become one of the most knowledgeable people on the topic. She has tried people in New Hampshire—death penalty cases—and if she doesn't mind, perhaps she can share with us her view of where the battlefield is, what kind of laws to apply to a situation such as this.

Ms. AYOTTE. I thank my colleague from South Carolina and very much thank my colleague from Arizona for, obviously, their leadership on this issue.

I have great confidence in our criminal justice system, having both defended and tried criminal cases in that system. The purpose of that system, of course, is to bring people to justice. There is no question in this case, in light of what Boston has gone through—and I know the Chair knows all too well the crimes that were committed and the acts of terrorism committed—that we need to make sure the criminal justice system holds that individual, the terrorist who survived, accountable in the Federal criminal system.

I am confident, based not only on what we have seen with video evidence but the great work done by our law enforcement officials, both at the local level in Boston, along with the cooperation of our Federal agencies—they did phenomenal work—that evidence will be used against this terrorist in the Federal court system and he will be found guilty. In fact, with the overwhelming evidence, this is not a difficult case to prosecute, and we should hold him fully accountable.

But our criminal justice system, which I have great respect for, was not set up to gather intelligence to protect our Nation. In fact, protections such as the right against self-incrimination,

when an individual is given their Miranda rights, that is intended to tell people they have the right to a lawyer, they have the right to remain silent so they can't be coerced into confessing to something and then having that confession used to convict them later in a court of law, that doctrine was not intended to stop this Nation from gathering intelligence, to make sure when we have a terrorist attack, such as what occurred in Boston, which was so horrific—and let me say my thoughts and prayers are with the victims of those terrorist attacks—we cannot in the national security context hold that individual for a sufficient period while still being respectful of his constitutional right—which we can be—and gather intelligence.

If we cannot do that, what are we saying about our Nation? What are we saying here? Let us go back to 9/11.

What if we had captured one of those individuals before the second plane hit the second tower or before the plane went down in Pennsylvania. Are you telling me we couldn't hold them for a longer period of time?

Our law enforcement officers relied on what is called the public safety exception to Miranda in this case with the Boston terrorist, but that exception expired very quickly. It expired so quickly that yesterday, while our law enforcement spoke with him, by noon he was being advised by a Federal court judge he had the right to remain silent. Is that enough time to find out whether he has any ties to any foreign terrorist organizations, given that his brother traveled to Dagestan, with ties to Chechnya—with known ties in those areas of the world to al-Qaida? Is that enough time to know whether somebody else or some other organization was funding them or there are other attacks that America can expect? Because that was a very brief period of time, and that is what we are talking about—respecting our values in the criminal justice system but also protecting our Nation.

In this instance, this individual was very quickly advised that he had the right to remain silent. When he came to consciousness, it was a matter of hours that were given to gather all this information. Is that enough, given what happened in Boston, to make sure we know everything this individual knows to protect this Nation from future attacks, if he has ties to al-Qaida or some other foreign terrorist group? That is a very limited time.

What we are saying is, yes, try him in Federal court, and he is entitled to due process in that system as well. But he should have been held initially to make sure we have the maximum information in our national security system to protect our Nation.

Is America the battlefield? We all remember too well 9/11. Unfortunately, the goal is to come to America, and we have to acknowledge we are at war with radical Islamic jihadists who are seeking to kill us—not for anything we

have done but for what we believe in and for what we stand.

I want to show an individual whose name is Anwar al-Awlaki. Anwar al-Awlaki was an American citizen, just like this individual who committed the terrorist attack in Boston whom we are holding right now. This American citizen became an influential leader in al-Qaida in the Arabian Peninsula, advocated for violent Jihad against the United States, used the Internet to recruit followers and inspire attacks, and was linked to dozens of terrorist investigations in our country and with our allies. He was in Yemen, and on September 30, 2011, our administration took him out with a drone strike, and I applaud them for that.

But if Anwar al-Awlaki, a U.S. citizen under the constructs we are under right now, came to the United States of America and was involved in an attack against our country—we can take him out with a drone strike if he is in Yemen. But if he actually gets to the United States of America to carry out the attacks he wanted to as a terrorist and we capture him here, we have to give him Miranda? No. We need to be able to hold individuals such as he, and anyone who is seeking to commit a terrorist attack against our country, in the national intelligence context, to find out what they know to make sure we can disrupt these terrorist networks around the world. That is what we are talking about, and we can do both within our values.

To those who have been writing inaccurate pieces about this, we understand that if someone is an American citizen, they cannot be tried in a military commission; they can only be tried in a Federal court. And we will do that here. If we had caught him, we would have tried him too. But before we do that, we had better know what he knows about the terrorist network to be able to know whom he is involved with and to prevent future attacks on this country because people like him—and unfortunately what we saw in Boston—do want to come here to attack us. We have to be in a position to protect this country.

What concerns me most of all is the construct that this administration has put together. Here we have a construct where even foreigners who are terrorists—not American citizens—are being brought into our civilian system and are being advised of their Miranda rights without giving the maximum opportunity to gather intelligence.

This is a picture of Osama bin Laden's son-in-law sitting next to Osama bin Laden, Abu Ghaith, the day after our country was attacked on September 11. Osama bin Laden's son-in-law, Abu Ghaith, was captured overseas. He spent time in Iran. Instead of being brought to Guantanamo or held for a lengthy period to be interrogated, he was brought right to a Federal court in New York City to be tried there.

This is the construct this administration is using, where they are not treat-

ing this like we are at war even with foreign terrorists. Osama bin Laden's son-in-law, not held as an enemy combatant, tried—just like this individual who was captured committing the terrorist attacks against us in Boston—in the Federal civilian court system.

We are at war, ladies and gentlemen, and we owe it to our Nation to protect our country. The only way we can do that is when we capture individuals who are foreigners who are members of al-Qaida or when we capture individuals who are American citizens who commit terrorist attacks against this country—who may or may not have ties to foreign organizations—we had better find out. If they do, we need to understand what they know to protect our Nation and then hold them accountable, as we will in this case, and make sure they never see the light of day. I hope in this case we seek the death penalty for what that suspect in Boston did in terrorizing those who were there at the Boston Marathon on such a wonderful day.

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

The ACTING PRESIDENT pro tempore. We have an order for a recess at this hour.

Mr. GRAHAM. I ask unanimous consent for 1 minute.

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

Mr. GRAHAM. I thank the Chair.

I would ask the Senator from New Hampshire, how do we get the death penalty when the only way we can get information out of the suspect is to go through his lawyer? If we can't have this national security interrogation, where there is no lawyer, to get information to protect against a future attack that can't be used in a trial, don't you think the lawyer is going to say: I am not going to have my client talk to you unless you promise not to seek the death penalty?

Ms. AYOTTE. I would say to the Senator from South Carolina, I don't know how that isn't possible in this case. Any defense lawyer—as they should—to defend their client, there is no way they will allow that individual who committed the terrorist attack in Boston to speak to one investigator now, if we get additional information or we have followup questions, without taking the death penalty off the table.

That is the defense lawyer's job. I respect them for that. But it puts our Nation in an awkward position to have to negotiate with a defense lawyer when we have questions for someone who has committed a terrorist attack against our Nation.

RECESS

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate stands in recess until 2:15 p.m.

Thereupon, the Senate, at 12:39 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Ms. BALDWIN).

MARKETPLACE FAIRNESS ACT OF 2013—MOTION TO PROCEED—Continued

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. REED. Madam President, are we in regular order?

The PRESIDING OFFICER. We are considering the motion to proceed.

Mr. REED. Madam President, I rise today in support of the Marketplace Fairness Act. I am pleased to join Senators ENZI and DURBIN and many of my colleagues in this bipartisan effort to pass this bill that will help small businesses in my State expand and create jobs by ending a tax loophole that benefits out-of-State remote sellers. I want to particularly commend Senator ENZI and Senator DURBIN for their long-time leadership on this issue. They have been relentless in trying to find an effective way to allow States to collect sales taxes on items that are actually delivered into their States.

This is a huge issue in my State of Rhode Island where businesses are having a very difficult time competing against out-of-State retailers because of, frankly, the outdated rules that require shops on Main Street to collect taxes while their out-of-State online competition does not. When you go to the stores in Rhode Island you'll see that they are facing this with increasing frequency. And small business men and women are demanding help.

When Internet commerce was in its early stages, online companies were basically exempted by what is now, by all accounts, an out-of-date Supreme Court decision, from collecting State and local sales taxes for sales in States where they do not have a physical presence—despite the fact that there was still an obligation to collect sales taxes on those purchases. That obligation was shifted to consumers, who are often unaware they have an obligation. This loophole puts Main Street businesses at a competitive disadvantage, hurts the ability of Rhode Island to keep jobs in the State, and strains State budgets all across the United States.

In order to address this inequity, the bill before us today would give States the ability to enforce their own sales tax laws and, by so doing, relieve consumers of the legal burden to report to State tax departments the sales taxes they owe on online purchases—since they would be paying sales taxes as a matter of course at the time of purchase, just as they would in a regular store.

Essentially it levels the playing field. If you walk into a store in Rhode Island and there is a sales tax charge, you would pay it. If you receive an item you ordered off the Internet, you would pay a sales tax as part of the bundled price of the item. It is what people would expect to do.

The legislation would also ensure that the rules for collecting sales tax from out-of-State retailers are clear and consistent. States can enter into

an already established Streamlined Sales and Use Tax Agreement which my State and 21 other States are party to, or States can adopt a set of alternative minimum simplification standards to make it easier for online businesses to comply with their tax laws.

And this bill makes it easier for businesses—that choose to do business in a State that requires remote sellers to collect sales taxes—to comply with the law by providing software to help them calculate the sales tax.

Furthermore, this bill exempts small businesses with less than \$1 million in gross revenue from having to collect sales taxes on remote sales. Those truly small businesses would not be affected by the legislation before us today.

This bill does not create new taxes or increase existing taxes. Instead, the bill will help States and cities collect billions in unpaid taxes already owed, reducing the need to raise new taxes on tax-compliant businesses and citizens. Indeed, yesterday I was with my Governor and he indicated that if we could pass this at the Federal level and allow the State of Rhode Island to collect approximately \$70 million a year, he would secure a reduction in our sales taxes which would benefit all the people and businesses in Rhode Island.

This is a proposal that I think is not only necessary, it is long overdue. In 2012, as I have indicated, Rhode Island estimated it lost approximately \$70 million in uncollected revenue. The revenue was legally owed but, because of this loophole, it went uncollected. This puts pressure on individuals and businesses that play by the rules. Indeed, if the Marketplace Fairness Act becomes law, Rhode Island has provisions in State law—and the Governor reiterated that yesterday—that would help lower the sales tax from 7 percent to 6.5 percent and eliminate the recent extension of sales tax to clothing purchases over \$250. This would have huge and immediate benefits to the people and businesses of Rhode Island.

The other thing it could do, frankly, is it would encourage local businesses to hire Rhode Islanders. We are facing a 9.1-percent unemployment rate. We have been slowly making progress in terms of putting people back to work—but there is much more to be done. This bill would help with that recovery because one of the barriers main street businesses face in hiring locally is the unfair competition from remote sellers that do not collect sales tax. This bill corrects that.

Now some online retailers who benefit from this unfair tax advantage understand the need to correct the loophole. That is why companies such as Amazon.com, with substantial remote sales, support this legislation. Governors of every political stripe recognize the undue pressure this tax loophole puts on their budgets, businesses, and citizens, and that is why the National Governors Association supports this. Ultimately, the Marketplace

Fairness Act is about revitalizing our real economy by helping Main Street businesses compete against remote sellers that benefit from this tax loophole because these Main Street businesses cannot hire workers or expand if shoppers use their stores just to browse and then make their purchases online in order to avoid paying sales tax.

Yesterday I was with a group of business leaders in Rhode Island. Among them were the Cardi brothers, Ron and Pete Cardi, who own a family furniture store. It has been in the family for generations. They are first-rate businessmen and first-rate community leaders. They tell me it is not uncommon for someone to come in the showroom, get help from one of their skilled sales personnel, order the furniture, have it shipped to their homes so they see it fits exactly right, then call up and have it returned to the store—and then a truck will show up a day or two later at the customer's house, from a remote seller with the same item because the remote seller doesn't collect sales tax. We cannot have our retailers in States such as Rhode Island simply be showrooms for remote sellers. That is one of the consequences of this loophole we have to correct. This bipartisan proposal is designed not only to allow States to keep or retain the tax that is owed, but also, in the case of Rhode Island, to allow a tax reduction; and furthermore, to give local businesses more incentive to hire.

This is legislation that makes extraordinary sense in every dimension. I hope we can get through this debate this week and successfully pass this legislation. We are all encouraged by the 75 votes this proposal received when it was made as an amendment during the budget debate and the 74 votes this bill received on the cloture motion. I am hopeful it will continue to enjoy a similar level of support moving forward.

Once again, let me thank Senators ENZI and DURBIN for their extraordinary leadership, which has helped forge this bipartisan and bicameral bill, and I urge my colleagues to support its passage.

I yield the floor.

The PRESIDING OFFICER. The Senator from Hawaii.

Ms. HIRONO. Madam President, I join my colleague Senator REED of Rhode Island and I thank Senators ENZI and DURBIN for their hard work on S. 743.

I rise to speak in favor of the Marketplace Fairness Act. This legislation will put businesses in Hawaii on an even playing field with their out-of-State competitors. It does this by giving the States—not the Federal Government, the States—the authority to require out-of-State merchants to collect the same taxes local merchants have to collect when they sell goods to customers in Hawaii. This is only fair.

I want to be clear about what this bill does and what it does not do because there is some confusion about

what this bill does and doesn't do. For example, this bill does not impose a new Federal sales tax. This bill does not require the States to do anything. In fact, if this bill becomes law, nothing would change unless a State passes its own legislation.

What this bill does do is to give States that choice. It lets each State choose whether to level the playing field for its local businesses. In addition, this legislation provides a framework that ensures States can exercise this authority in a way that ensures fairness for businesses of all sizes.

For example, it requires any State that chooses to exercise this new authority to streamline its sales and use taxes, and to provide free software to calculate these taxes to out-of-State sellers. This does not impose any kind of burden on these out-of-State sellers who are selling items to people in States such as Hawaii. This legislation protects small online businesses by exempting any business with less than \$1 million of annual sales.

The growth of the Internet has been one of the most significant drivers of innovation in our country's history. More and more Americans rely on the Internet to run their small businesses, access educational and health resources, keep in touch with loved ones, and for entertainment. Expanding fast, affordable, and secure Internet access is an essential building block for a strong 21st century economy.

However, we must be careful to ensure that while we are promoting the economic potential of the Internet, we are also being fair to local businesses and entrepreneurs. These are the businesses that populate the Main Streets of towns all across the country, across all the islands in the Hawaiian chain. These are hardware stores, clothing stores, gift shops, and many others—many of which are small businesses. These are businesses that create jobs, pay taxes, and provide needed goods and services in our communities. In fact, in Hawaii, retail businesses employ nearly 25 percent of the workforce, about 128,000 people. In 2012, these businesses in Hawaii generated \$30 billion in sales as well as \$1.2 billion in tax revenue. Many of these entrepreneurs do not want to just contribute economically, they want to contribute and do contribute to the culture and character of their communities.

For example, my office received a call from the owner of Kona Stories, a small bookstore in Kailua-Kona, HI. Kona Stories opened in 2006 and sells over 10,000 titles of all kinds. But Kona Stories doesn't just sell books, it hosts book clubs, supports local authors and artists, and it also helps promote other local businesses. The programs and meetings Kona Stories hosts focus on promoting the local culture and character of the community. Small shops like these are places that can teach visitors about the unique characteristics of our communities. They also help bring local people closer together around shared experiences and values.

Unfortunately, these small businesses are the ones that are hurt most by the advantage online merchants currently have, because they do not collect Hawaii sales and use taxes. This makes online products appear cheaper because their prices do not include State taxes, even though these taxes are technically still owed. That is not real competition, it is an artificial discount that is unfair to local brick-and-mortar businesses and it puts businesses in Hawaii, such as Kona Stories, at a disadvantage. As small businesses, they have a hard enough time competing with the online giants that can offer lower prices even if they were collecting State taxes.

In addition to allowing States to level the playing field for their local businesses, this bill would also provide a boost for State and local government by letting them collect the taxes that are already owed. According to a 2012 Hawaii Tax Review Commission report, fixing the situation and giving States such as Hawaii that option to enact necessary legislation would mean nearly \$160 million in additional revenue for the State of Hawaii in 2013.

I want to be clear. That money does not come from new taxes. It comes from taxes that are already owed, that are not paid. That is money that should be going to keep teachers in the classroom, firefighters and cops on the beat, and fixing our roads and bridges so we all benefit.

Overall, the Marketplace Fairness Act is a good bill whose time has come. It balances the need to preserve a vibrant and innovative online marketplace with a need to ensure fairness for local businesses. It also ensures that everyone is meeting their responsibilities with regard to paying State and local taxes.

That is why this legislation has such a broad range of support from business, government, labor organizations, big and small, from all across the country. In fact, my home State of Hawaii has been working to try to address this issue on the State level for years. We need this Federal legislation. Passage of this bill will finally give Hawaii the ability to address this disparity and put our businesses on an even playing field. That will be especially important to the 2,000 local businesses that make up the retail merchants of Hawaii.

Madam President, I ask unanimous consent that a list of Hawaii national supporters be printed in the RECORD. There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORTERS OF S. 743, THE MARKETPLACE FAIRNESS ACT

Retail Merchants of Hawaii, National Association of Counties, National League of Cities, U.S. Conference of Mayors, Government Finance Officers Association, National Council of State Legislatures, Bipartisan Policy Center's Governors Council, AFL-CIO, AFSCME, American Federation of Teachers, National Education Association, American Federation of Government Employees, International Association of Fire

Fighters, International Federation of Professional Technical Engineers, International Union of Police Associations, Service Employees International Union, UAW, American Apparel & Footwear Association, Food Marketing Institute, Consumer Electronics Association.

Ms. HIRONO. I hope my colleagues will join me in supporting this important legislation.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MANCHIN). Without objection, it is so ordered.

JUDICIAL NOMINATIONS

Mr. ALEXANDER. Mr. President, occasionally some of my friends on the other side of the aisle will say President Obama is being poorly treated on his nominations. That did not ring true to me because it seems to me that just the reverse was true. I have spent a good deal of time in the last two Congresses to actually make it easier for Presidents—not just President Obama but any President—to have his or her nominations considered in a timely fashion.

There are about 1,000 nominations that a President makes in the whole government that are subject to advice and consent. This is the constitutional authority of the Senate. It was put there deliberately by the Founders to provide a check and balance. The Founders did not want a king. They had been accustomed to tyranny and they wanted to think of ways to avoid that. So they created a President, not a king. They said the President shall, with these important nominations, send them up to the Senate. The Senate has the right to advise and consent. Movies and books have been writing about this. It is well known. Some of the most celebrated debates we have had in the Senate have been about Presidential nominations.

But for the most part, the Senate listens to the President's nominations, extends to him the courtesy that he was, after all, elected by the American people, that he has a right to staff his government. He has the benefit of the doubt on his nominations for judges.

So I was surprised to keep hearing from some of my Democratic friends. Every time we confirmed a judge, somebody would come on the floor and say: The Republicans are holding up President Obama's nominations. I did not think that was true. So I asked my staff to work with the Congressional Research Service. I come to the floor to include in the RECORD the facts which show it is not true.

Here is the bottom line. The Senate has confirmed President Obama's nominations for Cabinet more rapidly than it did those of President George

W. Bush or President Clinton; and has confirmed Obama's nominations to circuit courts—but not his district court nominations—more rapidly than it did those of President George W. Bush.

In 2013, the Senate changed its rules to speed up consideration of those district judge nominations. In the history of the Senate, of course this includes President Obama, no Cabinet member, unless we count John Bolton's nomination by George W. Bush to be the U.N. Ambassador, and no district judge has ever been denied his or her seat because of a filibuster; that is, a failed cloture vote.

In the history of the Senate, only seven circuit judge nominees have been denied their seats by a filibuster, five of George W. Bush's nominees and two of President Obama's nominees. I ask unanimous consent to have printed in the RECORD this summary of President Obama's nominations, along with an article from the Washington Post that points out that President Obama's nominees have been confirmed more rapidly than those of the last three Presidents in his first term.

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

PRESIDENT OBAMA'S NOMINATIONS

BOTTOM LINE:

The Senate has confirmed President Obama's nominations for cabinet and circuit court—but not his district court nominations—more rapidly than it did those of President G.W. Bush or President Clinton. In 2013 the Senate changed its rules to speed up consideration of district judge nominations.

In the history of the Senate, no cabinet member (unless you count John Bolton) and no district judge has ever been denied his/her seat because of a filibuster (failed cloture vote). In the history of the Senate, only SEVEN circuit judge nominees have been denied their seat by filibuster—FIVE G.W. Bush nominees and TWO Obama nominees.

FIRST-TERM CIRCUIT COURT JUDICIAL CONFIRMATIONS:

Obama average time (240 days) is FASTER than G.W. Bush (277 days) from nomination to confirmation.

FIRST-TERM DISTRICT COURT NOMINEES:

Obama average time (221 days) is SLOWER than G.W. Bush (156 days) from nomination to confirmation NOTE: January, 2013 senate rules changes should speed this up.

SECOND-TERM CABINET CONFIRMATIONS:

Obama average time (46 days) is FASTER than G.W. Bush (55 days) or Clinton (68 days) from announcement to confirmation (see attached Washington Post article).

SENATE FILIBUSTERS THAT DENIED A CABINET NOMINEE HIS/HER SEAT DUE TO A FAILED CLOTURE VOTE:

NONE in the history of Senate (with only exception G.W. Bush's nomination of John Bolton in 2005).

SENATE FILIBUSTERS THAT DENIED A DISTRICT JUDGE NOMINEE HIS/HER SEAT BECAUSE OF FAILED CLOTURE VOTE:

NONE in the history of the Senate.

SENATE FILIBUSTERS THAT DENIED A CIRCUIT JUDGE NOMINEE HIS/HER SEAT BECAUSE OF A FAILED CLOTURE VOTE:

SEVEN in the history of the Senate, including five under G.W. Bush and two under Obama.

In 2011, Senate rules changes created “innocent until nominated” working group to make it easier for presidential nominees to be considered and eliminated 169 major and approximately 3000 minor presidential nominations requiring confirmation. And 273 Presidential nominations were placed in an expedited process.

In 2013, the Senate has confirmed 10 Obama judicial nominees (4 circuit, 6 district). President G.W. Bush by comparison had 0 judges confirmed at this point in his second-term.

[From the Washington Post, Mar. 18, 2013]
SENATE MOVING ON OBAMA NOMINEES

(By Al Kamen)

How slowly is President Obama’s second-term Cabinet coming together?

Well, there are two sides to the story.

One part of the equation is how fast Obama is putting up nominees. And it seems he’s been pretty sluggish on that front. With the addition Monday of Thomas Perez for labor secretary, he’s announced eight nominees and still has four more Cabinet or Cabinet-rank jobs to fill. By contrast, George W. Bush had made 11 nominations by this time in his second term—nine of which he made in the six weeks after reelection. Bill Clinton had announced 12 nominees by the end of the December after his reelection.

But in the second half of the Obama administration’s nomination picture—how quickly the Senate is approving those nominees—things are moving apace.

Three of Obama’s Cabinet nominees have been confirmed so far: Secretary of State John Kerry, Defense Secretary Chuck Hagel and Treasury Secretary Jack Lew. For those folks, the average number of days between the announcement by the White House and confirmation is 45.6 days, which beats the averages of the last three administrations that had second terms.

According to the Congressional Research Service, it took an average of 54.6 days for Bush’s second-term nominees; that figure was 67.8 days for Clinton’s picks and 56 days for Ronald Reagan’s.

Who says the Senate can’t step lively these days?

Mr. ALEXANDER. To be more specific about these matters, let’s take circuit court judicial confirmations in President Obama’s first term. According to our research, the average time for President Obama’s nominees was 240 days. That is faster than President George W. Bush, 277 days from nomination to confirmation. So circuit court judicial confirmations which are usually the subject of great interest around here, President Obama treated better than President George W. Bush, slightly better.

First-term district court nominees. The Obama average time, 221 days is slower than George W. Bush, 156 days from nomination to confirmation. That is why in January of 2013 we changed the Senate rules to speed this up. Apparently, that is working. Last time I checked, during this year, the beginning of President Obama’s second term, he has to date had 13 judges confirmed. President Bush, in this same period of time in his second term, had one judge confirmed. Second-term Cabinet confirmations. The average time of President Obama’s nominees is 46 days. That is faster than George W. Bush, 55 days, and faster than Bill Clinton, 68 days from announcement to confirmation.

I mentioned the Washington Post article which said—it was published March 18, 2013. It says:

He has announced eight nominees and still has four more cabinet or cabinet-ranked jobs to fill. By contrast, George W. Bush had made 11 nominations by this time in his second term—nine of which he made in the six weeks after reelection. Bill Clinton had announced 12 nominees by the end of December after his reelection.

In other words, President Obama is a little slower in making his second-term nominations.

According to the Congressional Research Service,—

Says the Washington Post:

—it took an average of 54.6 days for Bush’s second-term nominees; that figure was 67.8 days for Clinton’s picks and 56 days for Ronald Reagan’s. So the Obama nominees were moving more rapidly.

Senate filibusters that denied a Cabinet nominee his or her seat due to a failed cloture vote. It has never happened in Senate history so far as we can find, with the exception of President George W. Bush’s nomination of John Bolton.

There have been occasions when the minority says we are not ready to cut off debate yet. We have more information we want about a Cabinet member. That happened with Secretary Hagel. Many of us made it clear to the majority leader that his motion to cut off debate on Secretary Hagel’s nomination was premature because it had only been reported by committee for 2 days; we requested another 10 days to consider it, that was until after the recess, and said that there would be an up-or-down vote.

But so far as we are able to tell, there has always been an up-or-down vote on any President’s nominee for the Cabinet, after that Cabinet member has gotten to floor. Now it may be that in the past some Cabinet nominees fell by the wayside in committee. I have repeated on the floor my own experience in 1991, when President Bush nominated me to be Education Secretary and Senator Metzenbaum put a hold on my nomination that lasted a month, but I was eventually confirmed unanimously.

So there may have been secret holds in the past that slowed down nominations or even may have killed one. But so far as the Congressional Research Service has found, no Cabinet member by President Obama or any President has been denied his or her seat ultimately by a failed cloture vote.

Same with district judges. No district judge in the history of the Senate has been denied his or her seat by a failed cloture vote. There may have been a cloture vote on one or two occasions, but in the end, that person was finally seated.

Then, as far as circuit judges, one of my great disappointments in the Senate was when I arrived in 2003. The Democrats had cooked up a plan to filibuster President Bush’s circuit court Federal nominees. So far as I can tell,

that had never been done before. There was always an up-or-down vote. Even in the case of Clarence Thomas, for example, a controversial nominee for the Supreme Court, I think the vote was 53 to 47 or 52 to 48. There was no thought of killing Clarence Thomas’s nomination by a cloture vote, by a 60-vote margin.

What happened was, without dwelling on it too much, Democrats decided they did not like some of President Bush’s nominees. It was not they were not qualified. Michael Estrada was one, one of the most eminently qualified persons ever nominated. Bill Pryor was another one, from Alabama, former law clerk to Judge Wisdom for whom I used to clerk. Pickering of Mississippi was another.

They were basically smeared is what happened. It was an outrageous thing. I remember I was waiting to make my maiden speech as a Senator in 2003 on another subject. I got so upset about this. The first time I spoke on the Senate floor was against that, against that practice of denying a President an up-or-down vote on his circuit judge nominees.

If you do not like the person, vote against him or her but at least allow an up-or-down vote. That so enraged the other Republicans that they wanted to change the rules of the Senate. They said: OK. We have the majority. There are 55 of us. We will just change the rules. We will confirm all of President Bush’s judges with 51 votes. That is what the Democrats have tried to do at the beginning of the last two Congresses: We have enough votes to do it. We will change the rules and everything will be 51.

Cooler heads prevailed. I made a couple speeches about it. Democrats and Republicans got together, one of these gangs that we have, maybe 14 Members, they said: Look, except in extraordinary cases in the case of circuit judges, there will always be an up-or-down vote on a President’s nominee.

But a lot of the damage had been done. Five of President George W. Bush’s Federal circuit judge nominees were denied their seat because of a filibuster. So as far as we can tell, with the research of the Congressional Research Service, that was the first time in the history of the Senate that it happened. As one might expect, now Republicans have done the same thing, twice in the case of Ms. Halligan. If we count her as twice, that is three. But we can count Miguel Estrada several times because he was filibustered a half dozen times.

The record is the Democrats have now blocked five of President Bush’s Republican nominees for circuit judge, and Republicans have blocked two of President Obama’s nominees. I don’t believe this is good for the Senate or for the country. It would be better if we had up-or-down votes for Cabinet members and for Federal judges, both Cabinet and district.

The body of the Senate has precedents. My own personal view is as far

as district judges go I will always vote for an up-or-down vote. As far as circuit judges go, I will always do so except in an extraordinary case. I have always thought a President ought to be able to have an up-or-down vote on a Cabinet member. Again, the Democrats, under President Bush, decided once not to do this.

I believe it is important to bring this before the Senate. I would like us not to go any further in the direction we have followed in the last 20 years. I would like for us in the Senate to get back to where we recognize elections have consequences. The President needs to staff his government. Give the President the presumption of the doubt on judicial nominees. If we don't like the judge, vote no.

This means Republicans now need to swallow a little hard because there is a Democratic President and a Democratic Senate. It will not always be this way. We may have a Republican President and a Democratic Senate. Then the Democratic Senate could decide never to confirm a Cabinet member or never to confirm a circuit judge. I think the American people would be very upset with that. It is important to bring this to the attention of the full Senate and place this in the record.

One other aspect which is important, we have had very good conversations at the beginning of the last two Congresses about the rules of the Senate. The rules of the Senate are not as exciting as a debate about guns, immigration, or a debate about marketplace fairness, which is really the 10th Amendment we are having today. However, they are very fundamental to our country's structure.

The wisdom of our Founders was that they set up three competing, sound branches of government. All need to function well in order for us to have our liberty. This is why we have checks and balances. We want our liberty. We don't want a king, we don't want a runaway parliament, and we don't want a runaway court. We want checks and balances so we, as individuals, can retain our liberty.

I wish the Senate to function as it should and the advice and consent nomination to function as it should.

This is why as part of our rules change we took some steps to streamline the advice and consent role of the Senate. We did this when it wasn't clear whether there would be a President Obama or a President Romney, which is one way we were able to do it with the Democratic Senate and a Republican House.

We took some important steps. For example, we reduced the number of Presidential nominees which require a full-blown Senate confirmation by approximately 170. We took approximately 200 of those nominees right to the desk, and they were expedited. Unless an individual Senator says: I wish to have a full hearing on a member of the board for the Goldwater Scholarship Fund—or something such as this,

then it stays on the desk, goes through the committee for vetting, and is moved to the calendar for a vote. This has worked pretty well.

We did one other thing which was important and which, hopefully, the President and his administration are taking advantage of, we tried to work on the innocent-until-nominated syndrome which has existed around here for a long time.

Whenever someone is nominated for a Cabinet position, we need to go through such a process of vetting, public scrutiny, and general indignation, we wonder why anybody in his or her right mind would do it. Many people won't. This is why we call it innocent until nominated.

One reason for this is because of the multiplicity of forms a nominee such as the Secretary of Education needs to fill out. They might need to fill out one form about what their income was in 1977 and then another form about what their income was in 1977 by a different definition. When they arrive at their hearing and someone has made a mistake, some Senator accuses the nominee of perjury because he was sworn in and said he was going to tell the truth. It was easy to make a mistake under those circumstances.

What we did was create a working group to review all the forms. They made recommendations mainly to the executive branch about simplifying them. The executive branch has worked with our Senate committees. They are doing this now.

As a result, if I am nominated for Secretary of Education, I might fill out a single form which might comprise the only form I would need to fill out for the executive branch. Any Senate committee could ask any question at once and add that to the form, but they might agree to start with this form. It should make it simpler for the nominee, easier for the Senators as we go through the confirmation process, and it might be a way to help encourage talented men and women to enter public service.

The President has said to several of us before that he recognizes part of the reason his nominations aren't moving as rapidly as he would wish is because of the vetting process, the process he and his administration need to go through before they even send anybody over to the Senate.

Much of the delay is in the time which comes before a nomination actually arrives in the Senate.

I hope this review will help to quiet down these—as Senator GRASSLEY said—crocodile tears on the other side of the aisle. We don't think they are deserved.

The President's nominees are moving more rapidly than the last three Presidents, and his circuit court nominees moved more rapidly than those of George W. Bush. As we change the rules to speed up his district court nominees—he is ahead 13 to 1 in terms of nominations in the second term for judges. This is a pretty good record.

It is my desire the President will work with us to speed up the vetting process to develop an innocent-until-nominated effort, which is ongoing to enable it to be an advantage not to just this President but future Presidents. Hopefully, we may give respect and due consideration to any nominee the President sends forward.

At the same time, the President will recognize we have an advice and consent responsibility. It may take some time. We will ask questions and may not want to move to a final vote at the very moment the majority leader may. This doesn't necessarily mean the nominee will be denied his or her seat. As a matter of fact, as far as I can find in the history of the Senate, it has not, with the exception of John Bolton.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Illinois.

MR. DURBIN. Mr. President, I thank my colleague from Tennessee for coming to the floor. He has been here with some frequency together with the Republican Senator from Wyoming to discuss the matter which is pending before the Senate.

What is pending before the Senate is known as the Marketplace Fairness Act. It is a measure which Senator ENZI of Wyoming has been working on for 12 years and one on which I have worked with him for several years. It is an interesting issue because it is one where the Supreme Court challenged Congress 20 years ago. The States went to the Supreme Court and said: We want those who are not physically present in our State, but sell in our State, to collect sales tax. At that time the Supreme Court in the Quill decision said no; this is up to Congress. Congress needs to take action.

Here we are 20 years later and the conversation has changed dramatically. What used to be sales by mail or catalog are now Internet sales, and they are growing in volume by the day. States are finding themselves in a challenging situation.

States pass sales taxes. Senator ALEXANDER was Governor of Tennessee. The State decided on a State sales tax. They say to every business in the State—as Senator MANCHIN understands because he was Governor of West Virginia—every sale you make over the counter collects sales tax for West Virginia, Tennessee, or in the State of Illinois. Those merchants understand their legal responsibility, their civic responsibility, and they collect the sales tax, remitting this amount back to the State.

The problem they now have discovered is what is known as showrooming. Store owners have described this as a situation where a customer shows up and requests to look at running shoes—this happens at Chris Koos running sports shop in Normal, IL. The customer will say: These look good, but do you have them in a different color? Staff goes back and gets another box of shoes for the customer who tries them

on. Then they will say: This looks great but do you have a wider one? Yes, that is perfect. That is the shoe I want. Let me write down the information about the shoe.

The customer will then turn around, go home, and order the shoe on the Internet. The local merchant who did all of the work, who displayed the merchandise, pays the rent, pays the taxes, receives nothing. The person buys it over the Internet because many Internet retailers do not collect sales tax.

In my State this might be 8, 9 or 10 percent difference. Chris, my friend, the mayor of Normal, told me it is not unusual 2 weeks later for them to come back in with the shoes purchased over the Internet and say: These didn't turn out right. He reminds them they didn't buy the shoes in his store.

This is a story repeated over and over. The brick-and-mortar retailers, the shops on Main Street, and the malls feel they are at a great disadvantage. If their competition on the Internet is not collecting sales tax and they are, it puts them at a competitive disadvantage.

In all of the States with a sales tax, approximately 46 States, if I am not mistaken the purchaser over the Internet has a legal responsibility to pay the sales tax. Most people don't know this. In my State of Illinois people are supposed to pay it when they file their State income tax. There is a line: How much do you owe for sales tax and use tax for remote purchases on Internet purchases?

Several months ago I was reminded by my bookkeeper this line was on the form. I said I should take a quick look to see what I owe.

One in twenty people in Illinois fill out this line. We have about 95 percent of the taxpayers in my State who put zero. We know it is more than 5 percent of the people living in Illinois who are purchasing over the Internet. This tax is not paid.

What this bill says is we don't create any Federal tax; no, none at all. We don't create any new State or local tax, none at all. What we do say is States can give the software to these Internet retailers to collect the tax when people make the purchase.

I recently bought a book on amazon.com, put in my address, ZIP code, and they calculated instantly how much I owed in sales tax on that purchase. I paid it and the money was emitted to the Illinois Department of revenue. They are doing this even though there is no legal obligation for them to do so. More and more companies such as Lands End—I called them. They said: We collect sales tax.

More and more companies are doing so, but this would make it uniform. We wrote this law understanding there are some small Internet retailers who perhaps sell several hundred or several thousands of dollars' worth of goods in the course of a year. We exempt them. They don't have to collect the sales tax if their revenues from the previous

year are below \$1 million. We exempt them. That is to put no hardship on the small retailers but to go after the 1 percent with sales in excess—revenue in excess of \$1 million. We go after them to make them pay what they should.

This is what is pending before the Senate. It has been a long time coming. We have been working with retailers across America to accomplish this. They have said this will give them a level playing field when it comes to sales. The same sales tax is collected over the counter which is collected over the Internet. This is the way it works and at no expense to the retailer.

The States need to provide the software for the collection. They are not going to be held responsible if the State gives software which is imperfect. They can't be held responsible for it. If they use the software given to them, they have met their legal obligation. This is what is before us.

We have had two votes now: one a symbolic vote on the budget and another a procedural vote to move forward on this measure yesterday, which 74 Senators voted for, which is pretty substantial in a body of 100 Senators. All but 5 of the Democratic Senators support it, and a substantial number, 24 or 25 Senators, from the Republican side support this, more than half of their caucus.

We are on this measure now. I have said to my colleagues, and I believe Senator ALEXANDER said to his Republican colleagues: If you have an amendment which is relevant and material to this bill, bring it to the floor. Let's get into a debate. Let's talk about these amendments. Let's vote on these amendments, and then let's move to final passage.

Those who will witness this will see a rare occurrence on the floor of the Senate—perhaps an actual debate and vote on an amendment. It doesn't happen very often around here. So you may wish to stay tuned. I encourage all of my colleagues interested in this issue who believe they would like to offer some form of an amendment to please bring it to the floor as soon as it is ready, which I hope will be today. This is our last week in session before we break for a week. We want to get this bill done. We started early in the week—on Monday, yesterday—and we want to get it done by Friday. If we have to stay over, we will stay over—Saturday, whatever it takes. We want to get this done before this break, and it now depends on my colleagues.

Those who are sitting on an idea, it is time to let it hatch. Bring it to the floor, and let's have a vote on it or let's talk about it. It may be something we can accept. If it is, we will try. If it isn't, we will bring it up for a vote and let the Senate decide. We want to act as a Senate because we have a good bipartisan measure, Senator HEITKAMP of North Dakota and I, joining on the Democratic side along with quite a few

others, Senators Enzi and Alexander on the Republican side.

I urge my colleagues and staff who are following this debate, now is the time. If you have an amendment, bring it to the floor today, right now. We will be here to receive those amendments and to work on them.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I see the principal leaders for this legislation, Senators Durbin and Enzi, and I congratulate them for their leadership. What they have been able to do is to come up with a simple, 11-page bill that has two words for a theme—States rights or 10th Amendment. We have a majority of Senators on the Democratic side and a majority of Senators on the Republican side who have indicated their support for it. They voted twice in support of it.

I talked with Senators at the Republican luncheon today, and at least one Member told me he had a couple of amendments, and I encouraged him to bring them on down because we want amendments. We want this to be discussed on the Senate floor. Senator REID, the majority leader, has said there will be amendments. I have a fishing amendment I would like to get passed somewhere, but I will not offer it on this bill because I want to offer amendments that are related to marketplace fairness. But there are a number of ideas that are, and they ought to be discussed.

I wonder if, before I finish, I might ask the distinguished Senator from Illinois a question. Maybe I am just sensitive to this as a former Governor, as I know the occupant of the Chair is as well, but I wonder if the Senator from Illinois finds it a little ironic there are some people in Washington who say they do not trust the States to make decisions about their own tax structure. I was Governor of a State that has a triple-A bond rating, no State debt on roads, no income tax, is one of the best run States, and when I was there had eight balanced budgets. Unfortunately, during the 10 years I have been in the Senate, we haven't had any of that. So I feel just the reverse.

In a constitutional framework that has a 10th Amendment that says decisions are reserved to the sovereign State, it not only smacks of a lack of respect for our constitutional structure, but it makes no sense to me that Members of Congress would not trust the Governor of Tennessee and the Legislature of Tennessee to make their own decisions.

We had a representative today at a meeting that all three of us attended who said that in Ohio, as I recall, the legislature and the Governor have already decided that if we pass this law permitting Ohio to collect taxes from everybody who already owes them rather than just some people, they will reduce their income tax rate.

So does the Senator find it ironic there would be people in Washington

who don't trust the States to make decisions for themselves in a constitutional system that was created by sovereign States?

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I thank the Senator from Tennessee for posing that question, and through the Chair I would say to him that I am in a tough position here facing two former Governors—Governors of West Virginia and Tennessee—but I am sure they agree with what I am about to say.

In this circumstance, the decision was made by the State of Tennessee—and West Virginia as well—as to what the sales tax would be by the people living in the State and making purchases in the State. We don't change that at all. That is up to the States to decide.

As I mentioned, four States, maybe five States, when it comes to sales tax, have no sales tax. What we are putting in this bill will not change that in any way. If you live in Oregon, you will pay no sales tax because of this bill for what is sold over the counter or over the Internet.

Our friends from Delaware are supporting this bill because they think because they are a no-sales-tax State surrounded by Pennsylvania and New Jersey and Maryland, they are going to have an advantage. They believe people will cross the borders to buy in Delaware. So they have calculated this actually helps them.

But we are respecting the decisions made by each State as to the taxes that will be imposed. We are doing it on a fair and equalized basis for those who have brick-and-mortar stores as well as those over the Internet. And I would say that is consistent with the 10th Amendment and consistent with States rights in this area.

Mr. ALEXANDER. Mr. President, I wonder if I could, through the Chair, pose another question to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. If I am not mistaken, there is a Federal moratorium on Internet taxes; that is, there is a Federal temporary ban on State taxes on access to the Internet. Am I not correct that if the Marketplace Fairness Act passes, that ban will still be there? In other words, today there is a Federal ban on Internet taxes, and after this law passes there will continue to be a ban on Internet taxes? And this is not about Internet taxes, it is about State sales and use taxes that are already owed but in some cases are not collected.

Mr. DURBIN. Responding to the Senator from Tennessee through the Chair, he is right. And this has been controversial. I can remember that in the last debate—and it was a few years ago—the argument being made was that we should have free access to the Internet. I don't quarrel with that. The Internet has been a powerful force in

our economy. It is going to grow as a force in our economy, and I don't believe we should tax access to the Internet. There are also a myriad of bills related to services over the Internet and whether they should be taxed. We do not get into that in any way whatsoever. What we are talking about are taxable goods by State law subject to State sales taxes as they currently exist. We don't change those taxes in any way.

A point that was raised in our press conference is an important one. Some States treat food differently, prescription drugs differently. The State has to basically tell the retail community what the State standard is going to be for the categories of goods that are being sold. So we make it as easy as humanly possible for the Internet retailers, providing at the expense of the State the software they need to make this work.

Mr. ALEXANDER. Mr. President, the Senator alluded to this in his remarks, and we both heard Senator HEITKAMP from North Dakota. It is pretty remarkable that a Senator, in her first 3 months, would find herself in the middle of a debate about a problem she created 20 years ago in North Dakota. She brought this case that created this situation.

But let me ask the Senator from Illinois what he envisions will happen if we do not act. If I am not mistaken, under the arrangements we now have today, if a big Internet seller in Illinois—someone who sells more than \$1 million a year—and as I understand it, 99 percent of Internet sellers are exempt from this, but let's say you are in that 1 percent and you want to sell in Tennessee—your responsibility is to file one return in Tennessee, and you are subject to one audit, period. And if you sell in another State, the same thing. So you might be subject to filing one report and one audit in all the States, and many of the States are part of what is called a streamline structure where they work together, so they audit together. And audits don't occur every year.

But there are 9,600 taxing jurisdictions in the United States. So what we have done or propose to do is simplify this greatly so that if you are an Internet seller, if you sell online or by catalog from Illinois to Tennessee, you have a very small number of reports you need to fill out, a very small number of audits to which you might be subjected. And your liability is very limited for making a mistake because the State has to provide the software, and if the software doesn't work, that is the State's fault and not yours.

But what would happen if we didn't act, I would ask the Senator from Illinois? What if we did not act to simplify this system, as the Supreme Court said 20 years ago is our responsibility?

Mr. DURBIN. I would say to the Senator from Tennessee through the Chair that there are two possibilities:

We continue under this current system, which works a disadvantage on

the Main Street stores and shopping malls and denies to those units of government the revenue that would otherwise be coming from the sales tax. That would be one outcome.

The second outcome is—and Senator HEITKAMP has mentioned it—this case may return to the Supreme Court. If it returns to the Supreme Court, it is quite possible it won't be written as mercifully as our version. We have exempted—we have exempted Internet retail sellers with revenues the previous year below \$1 million. We have tried to lean toward an accommodating approach. I don't know if the Supreme Court would reach the same decision when it comes to sales tax liability. I believe it is better for us to accept their challenge, even 20 years later, and get this done.

Mr. ALEXANDER. In addition to that, let's say I am the Governor of Tennessee and I look to the Senate and say: These guys can't get anything done. They have been debating this ever since Senator ENZI has been a Senator. They have been debating it for 14 years. They are never going to do anything.

So I just bring a lawsuit and I say: If you are going to sell in Tennessee, you are welcome, but you are going to collect the tax. I mean, Tennessee businesses collect the tax and send it in. So if you want to come in and sell to us, you do that too. We are going to treat you exactly the same way.

Now, let's say the Congress hasn't acted. Then that seller in Illinois who wants to sell in Tennessee has not only the State taxing jurisdiction to consider, he has 95 counties to consider, he has several dozen cities with local sales taxes to consider, and he has 9,600 jurisdictions across the country to consider if we don't act.

So some of the opponents of this legislation who raise this 9,600 jurisdictions—this is the solution to that problem. If you want to sell by catalog or online, this simplifies it for you, it reduces your liability, it reduces the number of forms, and it requires the States to provide the software that you would use, which many businesses are using today and it works for them.

So I would ask the Senator from Illinois, don't you imagine if we don't act, another consequence will be some Governor in some State will go back to the Supreme Court, and the Supreme Court will say: Twenty years have passed. We now have an Internet. There is no burden on interstate commerce, so it is up to the States to decide what to do.

And then we would have a big free-for-all.

Mr. DURBIN. Responding to the Senator from Tennessee through the Chair, I listened to the speeches of our critics, and they were swooning over the notion of being subjected to 9,600 taxing districts, taxing entities. What the Senator from Tennessee has described is our answer. This bill avoids that problem. This bill simplifies that situation.

We are down to 46 States with the defined goods and the defined sales tax. That is more reasonable for the retailers than running the risk, as the Senator suggests, that this goes back to the Supreme Court, and 20 years after the fact they say: It is wide open. If Congress is not going to act, the Internet retail community has now matured to a point where they should be able to collect sales tax in every taxing entity where a person resides.

I believe that is a much more complex and challenging situation.

Mr. ALEXANDER. Mr. President, I see Senator ENZI is here, and I appreciate his patience in allowing me to go ahead, but I know if I were still the Governor of Tennessee—which I am not, and I won't be again—and Congress did not act on this and I saw an opportunity—if I looked across my State and I saw that our tax laws treated some taxpayers one way and other taxpayers a different way and instate businesses one way and out-of-State businesses better, it wouldn't take me 20 minutes to call the attorney general over and say: Let's take this case to court. Let's go back to court. If somebody is going to sell in Tennessee, they are going to collect the tax.

I believe I would have a reasonably good chance of winning. And I am confident that, knowing a number of the Governors around this country, if we fail to act, I will bet one of them will be in court the next day.

I congratulate Senator DURBIN and Senator ENZI for their persistence in creating what is an 11-page bill about two words—States rights—that will—my prediction—allow many States to lower their tax rates when they collect taxes that are already owed but not paid and treat businesses the same way and taxpayers the same way.

I thank the Presiding Officer, and I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senator from Tennessee, Mr. ALEXANDER, and the Senator from Illinois, Mr. DURBIN, for this discussion they have had where I think they cleared up a lot of the confusion there might be over the bill. They have presented excellent reasons why we need to get this bill done, and why we need to get it done now—so we can continue to grow businesses in our States instead of growing businesses outside of our States.

There are a number of things people have mentioned. One of the big ones I want to talk about is the small seller exemption. I know Senator WYDEN from Oregon has suggested a compromise for the whole bill which was to create the nontax States to be a haven for all Internet sales, and that won't work. Our purpose is not to move all of the business online out of our own States but to keep it there.

But there is a compromise in this bill. It is called the small seller exemp-

tion, and that is where people who are starting in business don't have to collect the tax when they are out of State. With in-State sales, a lot of them will have retail sales in their State as well as hopefully some online sales. On what they sell in their bricks-and-mortar store, they collect sales tax from everybody who buys from them. There is no exemption. But the compromise we made for the online sales was until a retailer hits the \$1 million mark in a year—and we would love for them to hit the \$1 million mark and have that kind of business. But until they do, they are protected in that they don't have to collect the tax. We give them a break over the in-State retailers. Of course, the ones who are in State who are selling out of State have that same online break. But that is why we have a small seller exemption, to continue to grow small businesses that are using the Internet. We want the Internet to grow and are not discriminating against the Internet. And as has been mentioned, there will be no tax on the use of the Internet. That is not a part of this bill.

This is a tax on what people buy on the Internet, because States already anticipate that the sales tax they have in place is going to be paid on every purchase. When that money comes back, part usually goes to the State, part goes to the county, part goes to the towns. That is to provide for their schools, fire protection, for all of the services people who live in the communities are used to. I can tell you that in Wyoming that makes up at least 30 percent of everybody's budget. I know in one town it is 70 percent of their budget.

So if you start eliminating the sales tax by getting products from out of State, you are wiping out services in the local communities. Those local communities are where the Main Street retailers, the shopping center retailers—the brick-and-mortar retailers—are the ones paying property tax. They are hiring local people, and they are also participating in the community in a number of ways. School yearbooks probably wouldn't exist without the participation of the local merchants.

We want to continue to encourage the local merchants, and so we came up with the small seller exemption of \$1 million. You don't start collecting the tax and you don't need to get the free software to be able to collect the tax until you hit the \$1 million mark in a year, and then that would go into effect.

We looked into a number of different levels. Our older bill had ½ million in the Senate bill and the House had \$1 million in their bill. I said, Let's give a little more flexibility. Let's go with the \$1 million. So that is how we wound up with \$1 million.

I will comment more on this later, but I see my fellow Senator is here who would probably like to make a comment.

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

The PRESIDING OFFICER. The Senator from Maryland.

Mr. CARDIN. Mr. President, first let me thank Senator ENZI and Senator ALEXANDER. I completely agree with their position.

I had a chance to talk about this issue when we were debating it on the budget issue. The bill simply removes an impediment from the States being able to collect the sales taxes that are due. It responds to the Quill decision about requiring a physical presence in a State in order to require that State to collect the sales tax.

Senator ENZI points out there are no new taxes; that it is a matter of basic fairness. It really does help small businesses. The brick-and-mortar companies located in our neighborhoods, small shopowners who build a neighborhood and build a community, are the ones who are at risk where they have to pay sales taxes and yet their competitors don't.

I will give a short example with a story told to me about a retailer selling electronic goods. The consumer came into the shop, looked and found the product she wanted, went on the Internet, found the product for the same price on the Internet but didn't have to pay the sales tax, and literally bought it while the shopowner was watching—after the shopowner had given that individual personal service. The shopowner didn't lose the sale because of competitiveness but lost the sale because of tax avoidance. This bill would correct that.

This is \$23 billion. This is a lot of money our States are not collecting. These are taxes that are already imposed. In my own State of Maryland, it is somewhere between \$150 million and \$300 million of taxes that could be used to reduce tax burdens to the taxpayers in my State.

It is a matter of basic fairness, something that needs to be done. As Senator ENZI pointed out, it will simplify the sales tax collections by using the Streamlined Sales and Use Tax Agreement, and we exempt small sellers of \$1-million-or-below sales. So it is an issue that needs to be passed, and I am pleased that we are finally getting around to passing it.

Mr. President, I ask unanimous consent to speak for up to 10 minutes as if in morning business.

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

SEQUESTRATION

Mr. CARDIN. I have never supported the sequestration. I always thought it was a big mistake. These are across-the-board, mindless cuts that say every priority in government is identical to the other. That is not the case.

If you had a problem in your family budget and you had to reduce some spending and you had money put aside for your mortgage payment, your rent payment, or your family food budget, and maybe some money for a weekend

trip, you wouldn't identically cut every category. You may give up that weekend trip in order to be able to save the roof over your family or put food on the table. Sequestration says every priority in government is the same.

It is also not directed to where we need to go to reduce the deficit. Once again, sequestration primarily applies to domestic discretionary spending. It provides a fourth round of cuts when we have already had cuts over the last 3 years. For the agencies that are affected, it is equivalent to about a 10-percent cut. You can't do that without seriously affecting the mission of the agencies, and that is wrong. That is why I have said from the beginning, let's replace sequestration.

March 1 came; sequestration came; people woke up the next day and said, What is the big deal? Well, we are finding out what the big deal is all about. We just heard from the FAA, the air traffic controllers, that because of sequestration they have very little option—85 percent of their operational budget is in personnel, and air traffic controllers are most of the personnel. Therefore, they have announced they have to furlough 11 days during the remainder of this fiscal year. That comes out to about one furlough day over each work period. It is as much as a 10-percent reduction in the workforce to man our towers to make sure air traffic is managed safely. You can't do that with that type of reduction, and we are now looking at whether there are going to be significant delays of flights. Those types of cuts are ridiculous. We know better than that. There is no question about it, these are the types of things that are going to hurt our economy if we can't have a reliable air traffic service.

I was talking to one of the nonprofits in Maryland that manages a Head Start Program, and they were telling me about what the fall enrollment is going to be. They have a waiting list of families who want their children in Head Start and qualify for Head Start and aren't going to be able to get into a Head Start Program. Why? Because of sequestration. The waiting list will get longer. Children will be denied the ability to go to Head Start Programs. Did we intend that? I don't think so. I don't think our colleagues wanted to say we were going to balance our budgets on the backs of children being denied Head Start placement.

I was at the National Institutes of Health not too long ago. The research they do is so critically important to our country's future. It is not only the fact that they are discovering the answers to dread diseases or ways in which we can keep people healthy. They are now working on developing a universal flu vaccine against the influenza so you don't have to get a vaccine every year. Think how many lives that can save. It is also the basic research we need in order to create the jobs in the bioscience areas and the tech areas. This is about creating more jobs in our

communities. Now they are going to have to give up grants as a result of sequestration even though today they are only approving about one out of every seven worthwhile grant applications. We certainly didn't intend that through sequestration.

I could talk about new transit starts. We have some very exciting programs in Baltimore, Washington, and Maryland—a purple line to provide transit between the Washington suburban counties and Maryland. We have transit programs in Baltimore. We have the corridor cities along the 270 corridor. We have southern Maryland that needs help. All these programs need to compete for a limited amount of funds. Now, because of sequestration, there are going to be less funds available, meaning we are going to have more traffic jams rather than less. Do we mean for that to happen?

I could go on and on. I could talk about the cuts to the Department of Defense and what they have to go through. These weren't cuts we initiated, saying this program needs to be reduced. These aren't the types of deliberative actions a Congress would do. It is saying we are going to do a meat ax approach and tell the agency: You cut your program by this percentage amount. We advertised it a little over 5 percent, but in reality it is much higher than that because these cuts over a 7-month period reflect a year's reduction. So the cuts are even more severe when used on an annual basis.

Our Federal workforce deserves more. These are people working hard providing vital services in our country, whether it is protecting our borders or doing research or keeping our food supply safe or making sure our seniors get Social Security checks. The list goes on and on. It is not fair to those who signed up to serve the public as Federal workers, and it is certainly not fair to our economy. This is having a very damaging impact on the economy of this country. We have already seen in the most recent job reports a slowdown of more than we predicted, and most economists say it is directly related to these across-the-board sequestration cuts.

So what should we do? We are in session. It is time for us to act. We are in the fiscal budget year 2013. Yes, we passed a budget at the end of last year. I think it was on January 1 when it finally got around to passing. We passed it at the sequestration levels saying we hoped we would figure out a budget plan to avoid the sequestration cuts in this year. So let us consider a way to avoid these mindless across-the-board cuts, and substitute it for sensible reductions that we know will not have the same type of unintended consequences on services that are vitally important to our economy and to the people of this country.

There are areas where we have savings. We know that. We have that in the overseas contingency accounts under the Department of Defense. We

know we can find savings in tax expenditures. We spend \$1.2 trillion a year in tax expenditures. We know we can certainly find some savings on tax expenditures. I think we have to look at a broader level than just these discretionary spending accounts that are particularly devastated by these sequestration cuts.

I urge this body to find a way we can replace sequestration for fiscal year 2013—this current fiscal year—by more responsible budget savings, and then, working through our appropriations committees, working through the Budget Committee and the other committees for fiscal year 2014, have time under a more normal legislative process to figure out our spending priorities to go beyond the appropriate dollars—what we do on the Tax Code, what we do under mandatory spending. Let's bring up that game plan after the next fiscal year, 2014, which begins October 1. But for the current situation, let's replace sequestration with a more sensible way to get those savings, rather than causing harm—whether it is to those who depend upon air traffic, those who depend upon a place in Head Start, those who rely upon the research done at NIH, or those who depend upon having adequate support within our military. All of the above are adversely affected by sequestration. It is time for us to take action, to do what we were supposed to do: Make the tough decisions. Don't take the way out that every program in government is of equal importance.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from New Hampshire.

Ms. AYOTTE. Mr. President, yesterday I came to the floor to oppose the cloture motion on the motion to proceed to the so-called Marketplace Fairness Act. I, of course, would like to, I think properly, name it the Internet Tax Collection Act because that is what it is. I strongly oppose this bill which has very serious flaws to it and very serious ramifications for not only businesses in my State, online businesses where we have seen great growth, but also online businesses across this Nation.

I strongly disagree with the decision to fast-track this bill, to skip the regular markup process of the Finance Committee. Both the chairman of the Finance Committee, Senator BAUCUS, and the ranking Republican on the Finance Committee, Senator HATCH, had opposed going to this bill without the committee doing its work.

Why? There are a number of concerns that have been raised about this bill by Members on both sides of the aisle. At a very minimum, we believe these concerns warrant a thorough vetting through the regular order. That is why I, along with Senators WYDEN, TESTER, SHAHEEN, RUBIO, LEE, and CRUZ wrote a letter to the majority leader expressing these concerns, asking again for regular order for this bill. But here we are. Cloture was invoked and I suspect the

supporters of this bill certainly do not want to go through the markup process so here we are again without regular order.

This bill is wrong for a great area of growth for our country, which is online businesses. Small business owners get hit the worst under this bill. Small business owners from my State of New Hampshire have told me—and large businesses from my State of New Hampshire that do business online have told me—this legislation would make it harder for them to do business. During the recent Senate work period, I held two roundtable discussions in New Hampshire, one in Manchester and one in Portsmouth. It was a great opportunity to hear directly from those on the ground what the implications of this bill will be to business owners in my State. I would like to share a sampling of the feedback from businesses in New Hampshire about this bill.

Russ Gaitskill, who is the president and CEO of Garnet Hill, in Franconia, NH: "It's going to be a nightmare."

He sent to my office an example of what he would have to do. Understand what this will make online businesses have to do in this country. They now become the tax collectors for other States, even though they do not rely on the services in those States, they do not use the roads in those States, they don't get to vote for the Representatives in those States. Taxation without representation, that is what this bill is about. They now have to collect for the rest of the Nation's 9,600 tax jurisdictions of different not only State sales taxes but local and county sales taxes.

I want to use one example of what this is like and what an administrative nightmare this is for businesses. This is 1 page of a 40-page sales tax manual that is an example of what any online business across the Nation could have to face. In New Hampshire, if there is a customer from Illinois who chooses to buy from an online business in New Hampshire—here we are. If the person lives in Grand Prairie, it is a 6.5-percent rate. But if the person is from Colona or Collison, a 6.5-percent rate or if you live in Dow, it is a 7-percent rate.

There are 9,600 different tax jurisdictions across this Nation and the people pushing this bill, the proponents, say: Oh, no problem for these businesses. Just use software. Every business has this software. It is going to be easy as pie.

So when Dow changes their tax rate half a percent, the whole program changes. Yes, that burden is put on the business. Talk about an administrative nightmare. Do you know why. Because States are in a position where they want to use that as a cash grab to make other States and online businesses do their work of tax collecting for them instead of them doing it themselves. I cannot believe my colleagues are going to go along with this and those who are pushing it.

I think it is especially odd there are Republicans who want to create this

kind of complicated tax mess. I hear from my colleagues on this side of the aisle all the time about how we are going to cut through regulations, we are going to make it easier for businesses. A lot of my colleagues on the Republican end are pushing this notion that a business—oh, just let them purchase some software and then let them try to collect for almost 9,600 tax jurisdictions in the Nation. What could possibly go wrong for an online business? Many of them, smaller businesses in this country, are trying to thrive, trying to grow through a difficult time in our country.

I also heard from E&R Laundry and Dry Cleaners, a small business founded in 1921 in Manchester. About 70 percent of E&R's sales are now Internet based. The company's president said he would not have the resources to calculate, collect, and deliver sales taxes for thousands of jurisdictions across the country.

A bakery in my hometown of Nashua echoed that sentiment. Susan Lozier Roberts of Frederick's Pastries—and anybody who has been there, yum. I can understand why people across the country would want to get some Frederick's pastries. Susan said it would create mass confusion, keeping up with all the individual State tax codes.

I heard the same from one of the most prominent maple sugar producers in the State. In New Hampshire, we are a State that prides itself on its maple sugar products. Peter Thomson—his father was the late Gov. Mel Thomson, a wonderful figure in the history of our State—said it would be a burden we just couldn't afford.

Ken Smith, the owner of Maine-ly New Hampshire, said: I physically don't have the manpower or the hours to be able to handle something like this.

Jenn Coffey, another business owner, said: If I had to become a tax collector on top of what I am already trying to do as a startup—we all know how hard it is to start your own business, by the way—she said: I would be out of business.

I also heard widespread concerns about the threat from faraway audits that this legislation would bring. That is the poster board I had up there, with all these tax rates. In every single one of those jurisdictions, if we divide it by county or we divide it by State, when a business in another State, in New Hampshire, for example—if they are selling to a customer in Illinois, they can then, if their computer program that everyone is saying is so easy doesn't calculate it right, they can be hauled in for an audit in another State where they do not have any physical presence. What do they do? They have to get a lawyer in another State. They have to deal in a court system in another State or with auditors with a department of revenue. Whom do they deal with? Talk about administrative nightmare, to be dragged into another State for potential audits, to have to

hire lawyers in other States—what an administrative mess this bill will create.

It is truly shocking to think that people actually want to say this somehow is going to level the playing field or make it more fair, when it puts this great burden on businesses.

Travis Adams, with whaddy.com, based in Nashua, said: One tax audit from another State or jurisdiction would completely crush us.

Ben Baker, an online retailer in Barrington, said: Small businesses like mine just can't handle that kind of accounting burden. If I have to hire a bookkeeper or pay my current offsite accountants significantly more per month to track all this, you can bet my plans to expand my business in the next 6 months are a lot less likely.

Paul Ford, an online dealer in Portsmouth, perhaps summed it best when he said: The last thing we need is legislation like this.

I would also like to mention a comment from Joel Maloy, a friend of mine, a great business owner in New Hampshire, president of Polaris Direct. He said: This is not about making Main Street more competitive. It is about passing new taxes on to consumers. That is consistent with what other business owners have told me from across New Hampshire, and I have certainly also heard it from businesses across the Nation. They know this is not about competitiveness. It is about helping States get more money to spend on programs they cannot afford.

That is what the Wall Street Journal said this week. The paper called the Marketplace Fairness Act an online revenue raid. They said this is a bill—of course, do you know who is pushing this bill? Big business, big retail business. Do you know what it does, according to the Wall Street Journal—and I fully agree with them on this—". . . big business and big government are uniting to pursue their mutual interest in sticking it to the little guy."

"[B]ig business and big government are uniting to pursue their mutual interest in sticking it to the little guy." Haven't we had enough of that in our Nation? The paper concluded that "the new revenues will merely fund larger government."

Some of my conservative colleagues have tried to justify their support for this big government bill on the notion that their States will be able to reduce their income or sales tax. I think we all understand there is no requirement in this bill that States have to reduce some other tax burden if they collect taxes in this way. This is just about spending more money.

Let's talk about the Constitution. By imposing collection requirements on businesses that have no physical presence outside their home State, I also fear this is going to trample on existing State sovereignty. Under current Supreme Court precedent, in the absence of an actual sufficient nexus, a State cannot reach beyond its borders

to compel out-of-State Internet vendors to collect taxes on a particular transaction. That is the Quill decision.

By usurping and changing the standard, it would undermine an important limitation in the commerce clause, the nexus requirement. So now your nexus with a State is a click; instead of a physical presence in a State. If an online business in New Hampshire has to collect and remit sales taxes for online customers from Massachusetts, what is to prevent Congress from later expanding the commerce clause even further to require New Hampshire brick-and-mortar businesses to collect the Massachusetts tax, because Massachusetts has already tried to do this to New Hampshire. In fact, when I was attorney general of the State, we brought a case to the Massachusetts Supreme Court because there were customers from Massachusetts who came over to buy some tires in New Hampshire and the Massachusetts DRA tried to get New Hampshire businesses to collect that tax.

That is exactly what we are doing with this bill. It actually places an unfair burden on online businesses versus brick-and-mortar businesses that are in that situation that now do not have to collect that. But I worry that will be the next step for businesses in my State of New Hampshire and other States across this Nation that do not have a sales tax.

What about stores that sell through catalogs. Their customers are frequently older and less likely to have transportation or be online. Will catalog vendors also have to collect and remit State sales taxes?

Finally, what about other unintended consequences on consumers, retirees, and investors? That is the type of information we would have talked about in a committee hearing that we did not have on this bill before the Finance Committee. There was a hearing, but there was no markup. A markup is when we try to improve and deal with unintended consequences to a bill.

Could this bill open the door to taxes on financial services or transaction taxes? Some of the financial organizations have raised that issue. In my home State of New Hampshire, it is a matter of pride that we do not have a sales tax, and this bill tramples on that choice for the State of New Hampshire. That is because we know it gives our retailers, yes, an advantage in a competitive marketplace, but we also know low taxes are the result of low spending. This legislation threatens to trample on retailers in all States, forcing them to become tax collectors for other States—nearly 9,600 tax jurisdictions, as I have mentioned.

I said it before, and I will say it again. This truly is taxation without representation because businesses in New Hampshire or online businesses in other States can now be subject to doing the business of governments in other States, of collecting their taxes, when they don't elect the representa-

tives there, when they don't rely on the roads there or the services there. Here we have it—the ultimate in taxation without representation. I say to my conservative colleagues, why would they want to support such authority given by the Federal Government?

Supporters of this amendment argue that they have created an exemption for small businesses of \$1 million for small sellers, but this amount is not indexed to anything. What about the business that is \$1 million and \$1 in sales? Then they have to do it, and it is going to discourage businesses from growing.

Also, this limit is far lower than the SBA—the Small Business Administration—actually defines a small business.

Even with this exemption, trust me, once this exemption is in place and the States don't get all the revenue they want, they will be back. They will be back before this body to say: We didn't get enough money, so the Senate needs to authorize us further. Get rid of the exemption. We have a right to collect from those businesses as well or have them collect for us as well because that is what it is—requiring them to collect for us.

A broad coalition of groups is opposed to this far-reaching legislation. Let me talk about a few of them.

No. 1, Americans for Tax Reform. Americans for Tax Reform said:

This legislation grants states new tax collection authority without removing equivalent taxing authority elsewhere. Therefore, this legislation can only be viewed as a tax increase.

The Financial Services Roundtable said:

This legislation has the potential for unintended consequences. It's important for Congress to explore all possible outcomes and costs of this proposal, especially the impact on consumers.

A transaction tax on financial services products will hurt retail investors, retired Americans, and small businesses, effectively making it more expensive for them to invest and plan for the long term. Without hearings, these implications and others will not be properly addressed.

Again, the Securities Industry and Financial Markets Association has raised similar concerns, saying that this could lead to a financial transaction tax which will hurt all of us.

TechNet opposes this, saying:

Imposing a new Internet sales tax regime is a tremendously complex issue that should be addressed through regular order, starting in the Senate Finance Committee, and done in a thorough and deliberative manner.

That has not been done here.

We should not rush a proposal that is riddled with holes and, most importantly, does not provide enough protections for small businesses, the back bone of our economy.

Americans for Prosperity opposes this. Americans for Prosperity says:

This bill would not level the playing field; it would burden online retailers in a way that brick-and-mortar stores are not. Complying with the internet sales tax would be a considerable administrative burden for companies, particularly for small businesses.

Freedom Works opposes this as well. Heritage Action for America opposes

this. The National Taxpayers Union opposes this. The Competitive Enterprise Union opposes this. Competitive Enterprise Institute opposes this, as well as the Council for Citizens Against Government Waste. These are groups that are committed to low taxes, less government, and free enterprise so we can have a strong economy.

Again, I encourage my colleagues on both sides of the aisle—especially my colleagues on this side of the aisle—to listen to the red flags these groups and several of my other colleagues have raised.

I will conclude by once again restating the serious concerns I have about this legislation. I have concerns about the impact on small business owners in my State and in States across the Nation. I have concerns about the impact on online businesses that have been such an area of growth for this country.

The concerns about the administrative application of this bill—I showed my colleagues all the tax jurisdictions. To put that burden on businesses is absolutely wrong. It is wrong for creating jobs in this country, and it is absolutely wrong to put such an administrative burden on people who are working so hard in starting their businesses and thriving and making sure they grow.

I believe we are opening Pandora's box with this bill, and this shouldn't be done in the manner it has been—without regular order. We are talking about a massive reorganization on how sales taxes are collected in this country. What will be next? What will the States ask us for the authority to tax next? That should be a very big question for our colleagues.

I strongly encourage my colleagues to put the brakes on this bill and to think about the harm this legislation would do to small online retailers across America. When consumers and online retailers in the States of my colleagues find out what is actually in this bill and they don't understand why their Senators would support an online sales tax bill, I know they will raise many concerns to my colleagues when they have the administrative burden and the nightmare of trying to collect for 9,600 tax jurisdictions in this Nation.

I urge my colleagues to oppose this bill. Thank you.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. FRANKEN. Mr. President, I rise today in support of the legislation that will level the playing field for brick-and-mortar retailers in Minnesota and across our Nation. I join my bipartisan group of friends, including Senators DURBIN, ENZI, HEITKAMP, and ALEXANDER, in support of the legislation we are debating this week, the Marketplace Fairness Act. It will simply allow States to help their brick-and-mortar retailers, including the mom-and-pop shops on Main Street, stay competitive in a marketplace where online sales

have become a fact of life. This legislation is a commonsense measure that brings our sales tax laws into the 21st century.

In Minnesota the retail industry includes nearly half a million workers—about one in five jobs in our State—and those retailers need to compete on price and on service every single day. But the current sales tax system makes it impossible for them to compete on an even playing field.

Take Michael Norby, who owns Norby's, a department store in downtown Detroit Lakes, MN, whom I met last August. His situation and what I have learned from him explains a lot about why I support this bill. Norby's has been in his family since 1906. Mr. Norby wants to compete with the big guys—with the Amazons and the Overstocks of the world. He said he can compete with anybody just as long as it is on a level playing field. He said: Once you bring those guys onto the same playing field as the rest of us, we will compete with them.

But there is a problem. Mr. Norby described what they see in Norby's every day. We have heard it from other Senators. It is called showrooming. The customers come and check out the merchandise, they get help from a sales associate, then they pull out their smart phones and say: I can get this cheaper online. When Norby's has to collect sales tax and the other guys don't, it makes it impossible to compete. Mr. Norby describes this simply as an issue of fairness. And he is right.

Brick-and-mortar stores such as his should be able to compete on the same terms as online retailers. That is what this bill does, and that is why Mr. Norby supports the Marketplace Fairness Act. But it is not just about fairness. When Mr. Norby is able to compete on fair terms, he will be able to hire more people. That is what will happen when the Marketplace Fairness Act passes. And what goes for Norby's goes for other businesses around Minnesota. The Marketplace Fairness Act is going to help the local businesses in our communities that provide jobs to our constituents. And when customers shop at local retailers, that money then supports the local community and it stays in that community.

The Marketplace Fairness Act will help our States and our communities in another way. State and local budgets have been hit really hard since the great recession. One thing that has meant is that even though the private sector jobs have grown for the past 37 months, the public sector has shed a tremendous number of essential jobs—teachers, firefighters, police officers. That is why so many Governors across this country support efforts of reform, because it is the right thing to do for their States.

Republican Governors in Alabama, Arizona, South Dakota, Georgia, South Carolina, Idaho, and many other States support the concept of leveling the playing field for small businesses be-

cause it brings much needed revenue to their States without creating a new tax. There is no new tax created here. It is simply going to improve compliance under existing laws.

Minnesota has lost an estimated \$397 million in revenue in 2011 alone from taxes owed but not collected on remote sales. I am sure that \$397 million could do a lot for the people of Minnesota, including hiring back some of those teachers and firefighters and police officers, making improvements in infrastructure, in education, and in so many of the things that create prosperity and that affect the middle class.

I have heard from big retailers in Minnesota, such as Best Buy and Target, about how important this issue is, but I have also heard from countless mom-and-pop stores, such as Norby's Department Store. I have spoken with the Minnesota Retailers Association and the Metro Independent Business Alliance. In addition to retailers, I have heard from the League of Minnesota Cities, from mayors across the State, and from our Governor—all who understand what that revenue they are missing can do for our communities.

The Marketplace Fairness Act is bipartisan, and it is a commonsense bill. I urge my colleagues to support this legislation.

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

THE PRESIDING OFFICER. The Senator from Missouri.

MR. BLUNT. Mr. President, I ask unanimous consent to speak as in morning business as my remarks will not relate to the business at hand.

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

MR. BLUNT. Mr. President, first of all, I wish to talk about the bill that is on the floor. I agree with Senator FRANKEN—this is a bill that enjoys bipartisan support. We saw in the budget debate just how broad and how bipartisan that support is. It is the right thing to do. It is the fair thing to do. It is a situation where government no longer decides that one business located in a community that provides the police protection, the sidewalk, and whatever else one might use as one goes into a local store and looks something over, is disadvantaged over a business that is located somewhere else.

Also, there is a fundamental policy of the importance of having laws on the books that are actually enforced. In almost all the States—I think the number is somewhere near 37 or 38 States—this tax is currently due. This tax is supposed to be voluntarily paid, and winking and nodding on not paying this tax creates real concerns. I think in Missouri last year—a State where this tax is supposed to be paid as a use tax—300 people filed that they owed this tax and paid some of that use tax. Now, my absolute certain guess is that more than 300 Missourians received something in the mail at their house that didn't have taxes paid on it when they received it.

So my view would be that we should do one of two things: We should either take all of those laws off the books or determine a way where the laws that States have are actually able to be enforced by those States.

States have a right to decide, no, we don't want to be a part of this compact. We don't want to be a part of it. We don't want this sales tax revenue. We don't want to collect the money that is due on the same product in our State. But they also have the right to say, yes, that is our law, and we need to collect that tax, and we do not want to pick winners and losers.

From the point of view of some of the most conservative leaders in the country, including those who are in government—Al Cardenas, the chairman of the American Conservative Union, says:

When it comes to state sales taxes, it is time to address the area where federally mandated prejudice is most egregious—the policy toward Internet sales, the decades old inequity between online and in-person sales as outdated and unfair.

Governor Mike Pence from Indiana says:

I don't think Congress should be in the business of picking winners and losers. Inaction by Congress today results in a system today that does pick winners and losers.

Another Indiana Governor, Mitch Daniels, said:

Sales taxes that states impose ought to be paid, and paid by everybody equally and collected by everybody in the retail business.

Art Laffer, in a Wall Street Journal article just this week, said:

The principle of levying the lowest possible tax rate on the broadest possible tax base is the way to improve the incentives to work, save and produce—which are necessary to reinvigorate the American economy and cope with the nation's fiscal problems. Properly addressing the problem of e-fairness on the state level is a small, but important step toward achieving this goal.

Art Laffer—President Reagan's adviser on exactly that concept of having a tax that is fairly applied in the broadest possible way—is supportive of this, along with Mitch Daniels and Mike Pence and Al Cardenas and many other conservatives who have looked at this as both a fairness issue and an issue of simply providing a way that States are allowed to enforce their law.

Regulating interstate commerce is one of the principal reasons to have a Constitution and a Federal Government.

ESSENTIAL SERVICES ACT

Mr. President, the other thing I would like to talk about is what happened beginning on Sunday in the country as people tried to travel when approximately 47,000 Federal Aviation Administration employees were furloughed, and furloughed in a way that created needless airport delays nationwide.

The announcement came on the heels of a report that the President has cut other public services, such as the self-guided tours at the White House. I cannot imagine how much the self-guided

tours at the White House cost, but I do know it was cut when for almost every school student in America who comes to Washington, one of the things they would like to see is the White House. So I guess there is some immediate pain involved there, just like there has been pain involved at airports since Sunday.

The airline industry was not even told until late last week that this was going to happen. This has been mismanagement, and intentional mismanagement. As late as September 28, the Office of Management and Budget sent out a notice to the entire executive branch of the government that said: Spend your money—this is for the spending year that begins October 1—spend your money like the law will not be obeyed. Suddenly, 6 months into the spending year, the spending caps, the budget caps, the amount of money that had been appropriated beyond that—it is twice as big a problem as it would have been October 1. Then you have to give notice to people that they are going to be furloughed, if that is the option you have taken, and it is a bigger problem than it needed to be.

During his sworn testimony before Congress last week, FAA Administrator Michael Huerta admitted that the agency has the flexibility under current law to transfer up to 2 percent of funding from one activity to another without congressional action, and also they could ask to transfer up to 5 percent—setting priorities—by asking Congress. It would be 2 percent without even asking Congress and 5 percent by asking Congress that could be transferred.

There was a serious discussion and an amendment offered early this year in the continuing resolution debate to give the agencies the authority they needed to set priorities between now and September 30. But the administration clearly said it did not want to be able to set those priorities.

The idea that any reduction in Federal spending has to create the maximum amount of pain is offensive to me. I think it is offensive to most Americans.

The FAA currently spends \$2.7 billion annually on nonpersonnel costs. The day they started this, saving \$600 million by furloughing employees, they announced \$474 million of new grants for sustainable and livable communities.

I am actually for sustainable and livable communities, but this is a new program. It is a program that I would bet a considerable amount of money that if the Department of Transportation would have come to Congress and said: Could we spend this \$474 million on keeping the airlines and the airports working—the freight that goes all over the country, the people who go all over the country to do business and create jobs—I will bet you Congress would have said: Absolutely, take that \$474 million. Do not announce those new grants that you have not told any-

body they have yet and use it to solve this problem, while we work to see if there are better ways to solve this problem.

Last week, I introduced the Essential Services Act as a standalone bill. I introduced that same act, in fact, during the continuing resolution debate. We were able to get a part of it into the continuing resolution for food safety inspectors.

But what the Essential Services Act says is that people who are essential to public health and safety have to show up for work. The basis for that is President Clinton, in 1995, on August 22, issued a letter, an excerpt from which I ask unanimous consent to have printed in the RECORD.

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

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,

Washington, DC, August 22, 1995.

MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES

FROM: Alice M. Rivlin Director
SUBJECT: Agency Plans for Operations During Funding Hiatus

OMB Bulletin 80-14, dated August 28, 1980 (and amended by the OMB Director's memorandum of November 17, 1981) requires all agencies to maintain contingency plans to deal with a possible appropriations hiatus. The bulletin requires agency plans to be consistent with the January 16, 1981 opinion of the Attorney General on this subject.

The Office of Legal Counsel of the Department of Justice has issued an opinion dated August 16, 1995 that updates the 1981 opinion. A copy of the August 16th opinion is attached. You should review your plans in light of this opinion, make any changes necessary to conform to the opinion, and otherwise ensure your plan is up to date.

Please send a copy of your updated plan to your OMB program examiner no later than September 5, 1995. Any questions should be directed to your program examiner.

U.S. DEPARTMENT OF JUSTICE,
OFFICE OF LEGAL COUNSEL,
Washington, DC, August 16, 1995.

MEMORANDUM FOR ALICE RIVLIN DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET

From: Walter Dellinger, Assistant Attorney General

Re: Government Operations in the Event of a Lapse in Appropriations

This memorandum responds to your request to the Attorney General for advice regarding the permissible scope of government operations during a lapse in appropriations.

The Constitution provides that "no money shall be drawn from the treasury, but in consequence of appropriations made by law." U.S. Const. art. I, §9, cl. 7. The treasury is further protected through the Antideficiency Act, which among other things prohibits all officers and employees of the federal government from entering into obligations in advance of appropriations and prohibits employing federal personnel except in emergencies, unless otherwise authorized by law. See 31 U.S.C. 1341 *et seq.*

In the early 1980s, Attorney General Civiletti issued two opinions with respect to the implications of the Antideficiency Act. See "Applicability of the Antideficiency Act Upon A Lapse in an Agency's Appropriations," 4A Op. O.L.C. 16 (1980); "Authority for

the Continuance of Government Functions During a Temporary Lapse in Appropriations," 5 Op. O.L.C. 1 (1981) (1981 Opinion). The 1981 Opinion has frequently been cited in the ensuing years. Since that opinion was written, the Antideficiency Act has been amended in one respect, and we analyze the effect of that amendment below. The amendment amplified on the emergencies exception for employing federal personnel by providing that "[a]s used in this section, the term 'emergencies involving the safety of human life or the protection of property' does not include ongoing, regular functions of government the suspension of which would not imminently threaten the safety of human life or the protection of property." 31 U.S.C. §1342.

With respect to the effects of this amendment, we continue to adhere to the view expressed to General Counsel Robert Damus of the Office of Management and Budget that "the 1990 amendment to 31 U.S.C. §1342 does not detract from the Attorney General's earlier analyses; if anything, the amendment clarified that the Antideficiency Act's exception for emergencies is narrow and must be applied only when a threat to life or property is imminent." Letter from Walter Dellinger to Robert G. Damus, October 19, 1993. In order to ensure that the clarification of the 1990 amendment is not overlooked, we believe that one aspect of the 1981 Opinion's description of emergency governmental functions should be modified. Otherwise, the 1981 Opinion continues to be a sound analysis of the legal authorities respecting government operations when Congress has failed to enact regular appropriations bills or a continuing resolution to cover a hiatus between regular appropriations. . . .

Mr. BLUNT. That letter from Alice Rivlin, the Director of OMB, says: Here are the people who have to show up for work if the government shuts down. The government did shut down, we all remember, in 1995, and these people did show up for work.

On April 6, 2011, it appeared we might have another government shutdown, and the Obama administration put out a similar letter based on the same groups of people. These are not hard people to identify, as it turns out. On April 6, 2011, the examples they gave of essential employees who would have to work would be: FAA employees who would keep the air traffic control system open, FEMA disaster operations would continue, Social Security checks would be sent out to beneficiaries, the National Weather Service alerts and forecasts would be maintained, the U.S. Postal Service would continue to collect mail and deliver mail, the Customs and Border Protection activity would continue, and the food safety inspectors would show up.

There is a list. Mr. President, I ask unanimous consent to have this notice from the Obama administration printed in the RECORD.

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

EMAIL GUIDANCE FROM OPM TO AGENCIES
(APRIL 6, 2011)

Shutdown Contingency Planning

The Administration is committed to working out a compromise for funding the remainder of the fiscal year so that we can avoid a costly and disruptive shutdown that

would imperil our economic recovery. Yet, the Administration is preparing for all possible outcomes.

In the event of a Government shutdown, Federal departments, agencies, and the District of Columbia are legally prohibited from incurring further financial obligations for those activities that are funded by the annual appropriations that have lapsed—with the exception that an agency may incur those obligations that are necessary to carry out an orderly suspension of operations and to perform certain legally-defined “excepted” activities. Excepted activities include the safety of life and protection of property. (Since the general prohibition on incurring obligations relates to those activities that are funded by the annual appropriations that have lapsed, an agency may continue to carry out activities that are supported by other sources of funding which continue to remain available to the agency, such as existing balances of a multiyear appropriation.) Across the Federal Government, a shutdown would mean that many of the essential services that Americans rely on would be suspended or required to operate at lower levels, and many Federal employees would be furloughed and unable to work.

Below is a snapshot of how many major Federal activities would be affected. This is not a comprehensive list. For more details, please contact the relevant Federal agency directly.

EXAMPLES OF SERVICES THAT WOULD BE AFFECTED

The Federal Housing Administration (FHA) would not endorse any single-family mortgage loans or have staff available to process and approve new multifamily loans. FHA single-family lending represents a market share of more than 20 percent of overall loan volume (home purchases and re-financing).

No new approvals of SBA-guaranteed loans for business working capital, real estate investment or job creation activities would occur.

National Parks, National Forests, and the Smithsonian Institution would be closed.

Those filing paper tax returns would not receive tax refunds from the IRS, and many taxpayers would be unable to receive service from the IRS to help them meet their tax obligations. For example, 400 walk-in service centers would be closed.

The Mine Safety and Health Administration would not be able to conduct regular safety and health inspections.

Only emergency passport services would be open; normal processing would not.

Department of Commerce grant-making programs for economic development would cease, as would most payments by HUD’s Community Development Block Grant program to State and local governments.

USDA would not be able to approve any grants, loans or loan guarantees for its rural housing, utilities, business, and community facilities programs.

Farm loans, farm payment, and enrollment in conservation programs would cease.

Agricultural export credit and other agricultural trade development and monitoring would stop.

The Community Development Financial Institutions Fund would suspend its grants and technical assistance to communities across the country, delaying investments that finance businesses and create jobs in distressed neighborhoods.

Inspections of stock brokers, receipt and publication of corporate financial disclosures, and routine oversight of financial markets by Federal agencies would cease.

Enforcement actions would be postponed in all but a few cases.

Certain FEMA flood mitigation and flood insurance operations would be suspended.

Agricultural export credit activity and other agricultural trade development and monitoring would cease.

Most of the Veterans Benefits Administration customer support services would be suspended.

Most Department of Defense budget planning and preparation would cease; military personnel would not receive paychecks during a funding lapse.

Customer service would be reduced across the federal government.

Department of Justice civil litigation activities, including civil rights enforcement and defensive litigation (where the U.S. government is a defendant), would mostly stop.

Freedom of Information Act (FOIA) processing would cease.

EXAMPLES OF SERVICES THAT WOULD REMAIN OPERATIONAL

The Federal Aviation Administration would keep the air traffic control system open and safe.

FEMA disaster operations would continue. Social Security checks would be sent to beneficiaries.

National Weather Service alerts and forecasts, as well as volcano and earthquake monitoring by other agencies, would continue.

The U.S. Postal Service would continue mail collection, delivery, and other operations.

Customs and Border Protection activity would continue.

Military operations in Afghanistan, Libya, and Iraq would continue.

NASA satellite missions currently in operation would continue.

SNAP, WIC, and other child nutrition benefits would continue.

Most Federal Student Aid operations would continue.

Core Federal law enforcement, such as the FBI and U.S. Marshals, would continue, as would prison and detention operations.

Medical services for veterans would continue to be available.

FDA monitoring of drug imports would continue.

Meat and poultry inspection would continue.

Treasury’s core payment and collection programs would remain operational.

OMB is working diligently with Agencies to finalize operational plans for all possible scenarios, including a Government shutdown. We will continue to make new information available to the media and general public as it is finalized.

Mr. BLUNT. This is not very complicated. All the Essential Services Act says is that the people whom the government said had to show up if there is no money to run the government would also be the people who would be prioritized and would be allowed to show up if there is a 2.5-percent cut. Who can argue with that?

People are told: The weather is really bad today. If you think you have some risk to your person to get to work, do not come in. But these people are told: If you can possibly get to work, get to work. If the food safety inspector does not get there, 500,000 Americans could not work that day if they did not show up at every food safety facility where that one Federal employee has to be there for everybody to work. If the air traffic controller does not get there, and the runways are cleared off and

planes can land and planes can take off, that may not happen if the air traffic controller is not there.

This says those people would not be subject to furlough under the new Budget Control Act. They would have the same priority on a day when there is a reduction in the funding for a Department that they had in the day when there was no funding for the Department. If people are told they have to show up when there is no money to run the government, surely those same people need to show up if there is a 2.5-percent reduction.

The definitions set by President Clinton and President Obama in their administrations are fine with me for this purpose. Washington is living outside its means today. Federal spending has skyrocketed 19 percent since 2008. The Federal debt is approaching \$17 trillion. Clearly, we have to do something about spending, and we can do that without interrupting people’s lives. We can do that by prioritizing what the government should do.

Last week, we had Mr. Huerta before the Commerce Committee that Senator ROCKEFELLER chairs and Senator THUNE is the ranking Republican. I think it was on Wednesday. There was no discussion that on Sunday we are going to start furloughs of air traffic controllers.

In the legitimate oversight responsibility of our committee, we are to be told by the FAA Director: Our plans are drawn up. We are about to execute them. I am here to testify before the Congress. I think one of the things I should tell you is that all kinds of flights are going to be delayed on Sunday and Monday because of this plan. It was not mentioned. Plenty of questions, even questions about how you were going to furlough employees, but no answers.

I encourage Americans to visit our Web site: bitly.com/cutwasteful spending. Let’s find the things we can cut rather than finding things that you cut—from the White House tours, to vaccines for kids, to air traffic controllers, to border security guards. I hope we will do the right thing. I encourage Senator REID to allow a vote on the Essential Services Act and prioritize the way we spend money.

Back to the start of my remarks, I am a proud cosponsor of the Marketplace Fairness Act. Senator PRYOR and I intend to offer an amendment on that to just clarify current law, that we are not taxing use of the Internet; we are just having a fair tax for products people buy over the Internet.

I suggest the absence of a quorum. The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Ms. HEITKAMP. Mr. President, I rise in response to my good friend, the Senator from New Hampshire, who obviously feels very passionately about the bill, as do all of us who have worked for years and years to try to create a marketplace that is fair and equitable for so many people in this country, particularly our brick-and-mortar Main Street businesses.

I can certainly appreciate that remote sellers in New Hampshire who have, in fact, enjoyed a nice opportunity to move products into the marketplace free of any burden—unlike a Main Street business with any tax collection burden—that they do not want to lose that advantage they have. In many States that advantage can be quite significant.

I want to give you an example. Today, in our news conference we heard from a woman named Teresa Miller. Teresa Miller sells pet supplies both in her store and remotely. She operates out of the State of Missouri, and in many of the jurisdictions where she sells pet supplies, the tax rate can be as high as 9.5 percent. She has a trained sales force that listens to customers' concerns about their pets and what their pets need in terms of nutrition.

The customer will walk out of the store, never to return. It is pretty clear those customers are buying those products on the Internet having used the expertise of Ms. Miller's staff.

I would suggest that is exactly the situation that we are trying to address. The Senator from New Hampshire raised a fair number of points which, ironically, can all be responded to and can be addressed by simply reading the bill. The first point I want to make is the point that someone will have to deal with upwards of 9,600 different jurisdictions.

That is not true. In fact, this bill mandates that if you are going to expand your collection obligation to remote sellers, you need to participate as a State in a streamlined process either through the streamlined process that is already set up or you need to look at a bill or some kind of process in your State that will reduce those compliance burdens to simply 46 State jurisdictions.

The other concerns that have been raised—and I want to just take a moment. Sometimes too often we do not actually look at what we are debating. I want to take a moment and talk a little bit about page 3 of the bill. Page 3 provides that in order to qualify, a single entity within the State responsible for all State and local taxes and return processing and audits for remote sales needs to be sourced to the State. There is a single audit requirement and a single State or use tax return.

So these jurisdictions will be limited to simply one within the State. The bill clearly provides that. In discussing the certified software, talking about how that would provide additional burdens, again, understand this bill re-

quires that certified software be provided for free to the remote seller. If the remote seller, in fact, does use the certified software, that certified software then gives them immunity from any future tax liability and audits and gives them basically the ability to say: I did my job. I did my due diligence. I used the software you told us to use. I do not expect that there is going to be an audit that could assess me any additional taxes having used that safe harbor.

The next issue the Senator from New Hampshire raised is the effect of this bill on nexus requirements. It gets a little tricky because in law we have an obligation in this body to regulate interstate commerce. But what we do not, I believe—and some people may disagree. I believe, as a lawyer who has litigated a lot of cases, this body does not have the authority to determine due process standards under the Constitution. To reiterate, it is clearly stated that nothing in this bill affects State nexus. So when the good Senator from New Hampshire suggests that this will change nexus standards, that is absolutely incorrect.

The final issue I want to touch on is the issue of the financial services tax. I want to make the point that in the bill itself it is clearly limited to imposing a sales and use tax obligation. It clearly states no other tax will be, in fact, affected by this bill. So I think frequently we get into discussions about what if. All of those discussions can be clearly clarified by simply reading the bill. That is what I would suggest. It is 11 pages. It is very straightforward. There has been a lot of work put into this piece of legislation over very many years, and a lot of accommodations, including an accommodation that you are only required to do this if you have \$1 million in remote sales.

I am going to close with the words of Teresa Miller. When someone asked her how she would feel about this, because she also markets on the Internet, she said she would be thrilled to have this obligation because it would mean that her remote sales exceeded \$1 million.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Ms. KLOBUCHAR. Mr. President, I rise today in strong support of the Marketplace Fairness Act. I would like to thank Chairman ROCKEFELLER. I would like to thank the two major sponsors of this bill, Senator DURBIN and Senator ENZI, who have been working on this for years, and Senator HEITKAMP for her longtime knowledge and leadership on this bill, as well as Senator ALEXANDER.

I am proud to be a cosponsor of this important legislation. It has been very important for years for businesses in Minnesota, both big and small, and across the country, giving them the certainty they need. That is what this bill will do so they can succeed and grow.

I am encouraged to see the Senate coming together in a bipartisan way to create a level playing field for our businesses on Main Street to compete. That is all they want to do. They just want an even playing field to compete. The bipartisan support for the Marketplace Fairness Act is a reminder that when we put politics aside we can get things done, something the Presiding Officer from the State of West Virginia knows about very much.

During the budget debate, 75 Senators came together and we succeeded in passing an amendment that I cosponsored to the budget resolution that helped outline the broad support for a very simple idea: that all businesses need to play by the same set of rules.

When I go around my own State, as I know Chairman ROCKEFELLER does in his, I hear from small locally owned retailers, and competitive issues are raised all the time. We have small businesses—this gives a sense of what we are talking about—places such as the Uffda Gift Shop in Red Wing, MN. I hope all of you will visit there. I have been there and did Christmas shopping there. There is Mary's Morsels, which is a bakery in Eveleth, MN, on the Iron Range, northern Minnesota, where my dad grew up; Sleepy Eye Floral—I suggest all of you go to Sleepy Eye, MN, at some point in your life. You can then go and buy some flowers at Sleepy Eye Floral. You will find big support for this legislation, the Marketplace Fairness Act.

In my time in the Senate I have been committed to a competitive agenda that promotes long-term economic growth. Part of that agenda includes not only bringing our debt down in a balanced way, promoting exports, making sure that our workforce is trained for the jobs of today, but it also means an even playing field and making sure that all businesses can compete.

That is what America has been built on. I know our businesses in Minnesota want that level playing field. It is time we give it to them. That is exactly what this bill does. It allows brick-and-mortar retailers the ability to compete against out-of-State Internet retailers. States are currently unable to require out-of-State or online-only retailers to collect sales tax. It puts local mom-and-pop shops at a significant disadvantage.

Not only that but this loophole—by the way, this is not about adding a tax. That is why we have such strong bipartisan support. It is only about allowing those taxes to be collected, something most people support. I have to tell you that because these taxes are not being collected, it creates a loophole that is literally draining billions of dollars in lost revenue from State and local governments at a time when they need it for police officers, they need it for firefighters, and when they need it for our schools.

Some \$23 billion last year alone was lost because these laws were not being enforced in an even way. My State lost

about \$394 million in 2011 from out-of-State sales taxes that are legally due but not collected. This lost revenue translated into over 7 percent of Minnesota's general sales tax liability in 2011.

In our State, local brick-and-mortar retailers assess sales tax at a rate of 6.875 percent, while their online competitors typically assess no sales tax. That is simply not right. When this happens, city and State governments either have to find revenue from other sources, such as raising taxes, or they must cut critical services.

Let's also be clear about what the legislation that Senator HEITKAMP has so intelligently pointed out—let's be clear about what the legislation does and does not do. It does not create any taxes or increase existing taxes. It simply gives States the ability to enforce their own sales and use tax laws, which reduces the need to raise taxes.

It also relieves customers of the legal obligation to report to State tax departments the sales taxes they owe. One of the longstanding principles of tax fairness is that taxpayers who engage in similar economic transactions should face the same tax consequences.

Today, that is simply not the case. Minnesota is home to these thriving small businesses, but also to many large businesses that are in retail, such as Target and Best Buy. I have seen with my own eyes people go into Best Buy, spend half an hour with a very eager salesperson who is helping them in any way, looking at dozens of TVs, and then go back outside the store and buy it on the Internet.

That is not how things should work. We have to have fairness. That is why this bill is called the Marketplace Fairness Act. This bill has such strong support from business, such strong support in this Chamber. I am very excited about what is going on. We have been having this debate for over 10 years now. It is one of the first things I heard about when I got to the Senate 6 years ago. It is long past time to get this done.

I yield the floor.

Ms. HEITKAMP. I suggest the absence of a quorum.

The PRESIDING OFFICER (Ms. WARREN.) The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

SEQUESTRATION

Mr. REID. Madam President, my friend from Oklahoma is on the Senate floor. I would ask if he would be kind enough to wait while I say a few words and withhold offering the consent agreement to allow Senator SCHUMER to speak for 5 minutes. Following Senator SCHUMER, I will offer the consent agreement. Would that be appropriate for the Senator from Oklahoma?

Madam President, the arbitrary spending cuts in the Budget Control

Act were designed to be painful—so painful that both parties would come together to find a bipartisan way to reduce the deficit. Thus far, it hasn't worked. We have reduced the debt by doing a number of different things by approximately \$2.5 trillion. We have cooperated in that regard. The deep cuts required by the sequester failed to bring the Republicans to the negotiating table to find more savings or more revenue.

Even after both the House and the Senate passed budget resolutions, the House Republican leadership has refused to go to conference to work out our differences. Republicans have been telling us for a long time that they want regular order. When we come to regular order, they don't want regular order.

Republicans are afraid to even be seen considering a compromise with Democrats. I speak more strongly, as the Republicans here in the Senate are doing their objection here on going to conference more to protect the House. This applies much more to the House Republicans than it does to the Republicans in the Senate. The Republicans in the House are afraid to be seen considering a compromise with us.

Because Republicans have refused to negotiate a compromise, sequestration kicked in with devastating effect. We are just beginning to feel the impact of these deep cuts. Nationwide, the sequester will cut 750,000 jobs this year alone. More than 70,000 little boys and girls will be kicked off the Head Start Program. Programs funding medical research with Duke University, as I indicated on the floor yesterday, and scores of other programs that do the same and programs that help get homeless veterans off the streets are being decimated. Yesterday I spoke about Meals on Wheels. Meals on Wheels is one of the programs that are so helpful. Homebound seniors receive one meal a day, and it is usually only during the day. These are being significantly hammered. I have spoken about Head Start for young children, but education programs are being hit very hard. These are programs that deal with impoverished children.

We know the sequester is causing massive delays. I am from Las Vegas. I am from Nevada. No place in America is more desperate to have the flights on time than tourist-oriented Las Vegas. It is the same in Reno. These cuts are hurting tourism in Las Vegas and in all of the country.

It is not only the furloughs at the FAA, it is some of the programs I have spoken about and many more. We have seen the dire effects of these arbitrary budget cuts, and we have an obligation to stop them. That is why I am going to ask unanimous consent to take up and pass legislation that would block sequestration until the end of this fiscal year, until the first day of October. This would give us 5 months to sit down at the negotiating table and work out an agreement to reduce the deficit

in a balanced way, in a way that doesn't punish the American people and our economy in the meantime.

The legislation I am proposing is simple, and it deserves quick approval. There is no reason to go back, even though I would agree to it through the Buffett rule.

Let's do some spending cuts, let's do some more cutting.

We tried that. It wouldn't work.

Let's try the flexibility.

That also won't work because we are dealing with the same amount of money.

I hope this simple solution I am offering will be supported by my Republican friends—establishing binding caps on the war spending. The wars are winding down, and currently there is \$650 billion there. And as this bill proposes, the one on which I will ask consent, it will close that loophole and propose more than enough savings to offset the cost of delaying sequestration for 5 months.

Let's put a stop to the furloughs, delays, and a stop to the job losses. Let's put a stop to the devastating cuts to programs that keep our poor children from receiving an equal shot in life. Let's stop senior citizens and homeless veterans, who are the most vulnerable among us, from falling through the cracks. They may not be as transparent as what is happening at our airports, but these are devastating to human beings. Let's do it in a fiscally responsible way and do it now. Then let's get to work finding a broader agreement to strengthen our economy and reduce our long-term deficits.

I yield 5 minutes to my friend the Senator from New York as indicated with the tentative agreement I requested earlier. Then I will resume on the floor to ask for the consent, and my friend from Oklahoma will respond.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. I rise in strong support of the proposal by our Democratic leader. We all know that sequestration was a blunt instrument, and now it is beginning to hurt. There is delay after delay at airports throughout the Nation.

This is not only a question of traveler inconvenience. Our economy in all likelihood will lose many more dollars in the next week or two than it costs to furlough the air traffic controllers when businesspeople can't travel, when tourists can't travel. I know my home city of New York is greatly affected. No one stays in the hotels, no one dines in restaurants, and no one attends the shows. This may be repeated in destination after destination throughout the country. If people are so uncertain of air travel that when they show up at the airport, they may wait 1 hour or they may wait 5 hours, they won't go. A good percentage will stop their trips.

So it doesn't make sense to go forward. I think we are in agreement. The problem is, how do we fix it? There aren't many ways to fix it because if

you simply say, give flexibility, the Transportation Department has very little flexibility because many of its funds are off limits. The highway trust fund, for instance, isn't affected by sequestration because those are our nickels and dimes that go into the gas tax per gallon, which wasn't affected by sequestration. An extremely high and disproportionate number of the Transportation Department's expenditures are air traffic controllers themselves.

We have this problem. As Leader REID pointed out, we have other problems—stopping cancer research and cutting back on NIH and NSF, which has always been our seed corn. NIH created a biopharmaceutical industry that is second to none and employs millions of people in your State and mine. NSF research basically created the Internet, which has created millions of jobs and makes the U.S. industry the envy of the world.

So we are cutting our seed corn, the kinds of programs for our homeless veterans, and the kinds of programs for our homebound seniors. The meat-ax approach of sequestration cuts those across the board.

My preference would be to close some tax loopholes to get rid of sequestration. I don't think we should give tax breaks to oil companies. We should not give tax breaks to companies that send jobs overseas. That would be my preference. But we know our friends on the other side of the aisle are against any revenue increases right now, so to put this on the floor immediately would be an exercise in futility.

The leader's plan is the right plan. It is ingenious. We have \$600 billion on the budget that we know we won't spend the vast majority of because no one believes we will have troops in Iraq or Afghanistan 5 years from now. Yet that money is sitting there on our budget and preventing cancer research, air traffic controllers, and money for homeless vets from being used where it was supposed to be.

So the proposal to take a certain amount of money out of the OCO—the overseas contingency operations—which we know we won't spend, makes no sense. Now you say: Well, you know you won't spend it; it is a gimmick.

It is not a gimmick. It is sitting there in the budget occupying space and could be used by these other agencies. And to insist the OCO continue is causing real pain, causing our economy not to grow as quickly, causing vulnerable people to be hurt, and causing research—the seed corn of America—to decline.

Our colleagues on the other side of the aisle are saying that President Obama is to blame for these delays. He has very little choice if we don't change things, and this is a way to change things.

If we want to get rid of these delays, which we all on both sides of the aisle very much desire, I would propose to my colleagues that the solution proposed by the majority leader is the best

way to go given the political necessities on the other side, the desire not to have any revenues—even closing certain tax loopholes.

So I would hope we could come together and vote on this solution. Cutting the OCO has been supported by Republicans. I remember Senator Kyl, a former Senator from Arizona, was advocating this late last year to deal with the doc fix, the DRGs, and other things. The people will come together on this. So I hope we can vote for this proposal, put the air traffic controllers back to work off their furloughs, get rid of these delays, and then come together in a grand agreement in time for the September budget.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

UNANIMOUS CONSENT REQUEST— S. 788

Mr. REID. Madam President, I ask unanimous consent that the Senate proceed to the consideration of S. 788.

My friends on the other side have had this legislation for a short time, not a long time, but it is not that difficult to understand. I have tried to explain it the best I can.

I ask unanimous consent that the Senate proceed to the consideration of S. 788, the text of which is at the desk, which is a bill to suspend the fiscal year 2013 sequestration and offset that with funds from the Overseas Contingency Operations; that the bill be read three times and passed; and the motion to reconsider be laid upon the table, with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

The Senator from Oklahoma.

Mr. COBURN. Madam President, reserving the right to object, and I plan to object, I will take some time to explain why I object.

What is happening in the Senate is phenomenal, and I want the American people to see this. The Federal Government is 89 percent bigger than it was 10 years ago. We just heard the majority leader say flexibility can't work because we are already dealing with the same amount of money—89 percent more than we were 10 years ago.

I didn't vote for the Budget Control Act. I think sequester is a stupid way to cut spending. But I want us to understand exactly what is going on. This is a contrived situation because no effort—zero effort—by the FAA or the Department of Transportation has been made to have any flexibility in terms of how they spend their money. They have made no request for a reprogramming of funds within the FAA. They have over \$500 million unobligated sitting in balances that aren't obligated, so none of this had to happen. This has been a created situation.

I want my colleagues to think for a minute about the number of people who didn't make it to their aunt's funeral yesterday because of a contrived

situation; the number of people who may not get to the birth of a grandchild; the number of business meetings that aren't going to occur because we have created a contrived situation. Our problem is we are continuing to spend money we don't have.

So we have taken FAA, we have put the airlines at risk—and they are, by the way, suing the government because they haven't made a good-faith effort to do it in another way—and we have created a situation where we are going to discomfit and inconvenience hundreds of thousands of American people on a political point because we can't cut any spending in Washington.

Let me outline for my colleagues a moment what the FAA could do. They could save \$105 million by cutting their overhead expenses for consultant supplies and travel by 15 percent. That is one-seventh or one-sixth of all the money they need to keep all their controllers on. They could save \$41 million by eliminating funding the President has already recommended eliminating in terms of programs for airports that are on the national plan of integrated airports. They have already recommended doing that, but they are not doing that. They have the flexibility to do that but they are not doing it. That is another \$41 million.

They can save \$6 million on small community air service—flexible. They could reduce the Airport Improvement Program. They have plenty of flexibility there. That is up to \$926 million. They could do that. They could reduce or eliminate—and they would have to have our help to do this—the Essential Air Service Program where at many airports across this country we are paying a \$1,200 subsidy to fly less than 10 people a day out of an airport less than 90 miles away from a major airport. So to say there is no flexibility, they do not want any flexibility. And the fact is our country is headed toward bankruptcy.

Let me talk about OCO for a minute. It is true OCO money is in the budget, because we thought we were going to have to spend it. But every penny of that money will be borrowed money—borrowed money. So if we weren't going to spend it, we are saying now we are going to go over here and take care of sequestration? A 4-percent cut in the Federal budget—4 percent. It is only 89 percent bigger than it was 10 years ago and we can't find 4 percent within the FAA?

Let me outline a few other things going on at the FAA. They have posted requirements for nonessential employees since sequestration started. They have made no efforts at flexibility. They have made no efforts to do what they could do to keep the most number of controllers working.

This isn't going to happen. We are not going to borrow money anymore against the future of our kids when in fact we have other ways to do it.

I will make my final point. The President is the CEO of this country.

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 furlough—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 Qaeda'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

Pickering, states in a Washington Post opinion piece I will ask to have printed in the RECORD, "Admitting our mistakes is the only legitimate basis on which we can reassure the world that America remains committed to the rule of law and to upholding human rights and democratic values."

I commend the report of the Constitution Project's Task Force to my colleagues. I also urge the administration to work closely with the Senate Intelligence Committee as it conducts its review of the Committee's report.

In marking the 25th anniversary of President Reagan's signing of the international Convention Against Torture, I remind my colleagues and this administration that the government has an obligation to the American people to face its mistakes transparently, help the public understand the nature of those mistakes, and correct them. Director Brennan and this administration have an important task ahead in this regard.

I ask unanimous consent that the article to which I referred be printed in the RECORD.

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

[From the Washington Post, Apr. 16, 2013]

AMERICA MUST ATONE FOR THE TORTURE IT
INFLICTED

(By Thomas R. Pickering)

Thomas R. Pickering is a member of the Constitution Project's Task Force on Detainee Treatment. He was undersecretary of state for political affairs from 1997 to 2001 and served as ambassador and representative to the United Nations from 1989 to 1992.

It's never easy in this volatile world to advance America's strategic aims. For more than four decades, in the service of Democratic and Republican presidents, it was often my job to persuade foreign governments to adhere to international law and observe the highest standards of conduct in human rights—including the strict prohibition of torture. A report released Tuesday by an independent task force on detainee treatment (to which I contributed) makes it clear that U.S. officials could have used the same advice.

Unfortunately, the U.S. government's use of torture against suspected terrorist, and its failure to fully acknowledge and condemn it, has made the exercise of diplomacy far more daunting. By authorizing and permitting torture in response to a global terrorist threat, U.S. leaders committed a grave error that has undermined our values, principles and moral stature; eroded our global influence; and placed our soldiers, diplomats and intelligence officers in even greater jeopardy.

It's not just the Bush-Cheney administration that bears responsibility for diminished U.S. standing, although the worst abuses undeniably took place in the years immediately after the Sept. 11, 2001, attacks. The Obama administration also has failed to be as open and accountable on such fundamental questions of law, morality and principle as a great power that widely supports human rights needs to be.

What can be done to mitigate the damage and set this country on a better course? First and foremost, Americans need to confront the truth. Let's stop resorting to euphemisms and call "enhanced interrogation

techniques"—including but not limited to waterboarding—what they actually are: torture. Torturing detainees flies in the face of principles and practices established in the founding of our republic, and it violates U.S. law and international treaties to which we are a party. Subjecting detainees to torture, no matter how despicable their alleged crimes, runs counter to the values embodied in the U.S. Constitution.

Too much information about the abuse of detainees remains hidden from the American people. Specifically, the Obama administration's ongoing concealment of the details about our use of torture has made it impossible for the United States to comply with its legal obligations under the U.N. Convention Against Torture and has contributed to a disturbing level of public support for torturing suspected terrorists.

President Obama should direct relevant officials to declassify as many related documents as possible as quickly as possible—starting with the more than 6 million pages of classified documents that were the basis for the Senate intelligence committee's recent report on the CIA's interrogation program, and the still-secret report itself—so that the American people may finally learn what was done in our name. Admitting our mistakes is the only legitimate basis on which we can reassure the world that America remains committed to the rule of law and to upholding human rights and democratic values.

Second, Congress needs to work with the administration to close the loopholes that allowed torture to occur under a pretense of legality. In 2009, Obama signed an executive order giving interrogators clear instructions about permissible techniques. But future presidents could reverse course with the stroke of a pen—and no public notice.

To ensure that cannot happen, the federal Anti-Torture Statute should be amended to make clear that the deliberate infliction of severe pain and suffering is torture—regardless of the duration of the torment being inflicted. The War Crimes Act should be amended to make clear that cruel, inhuman or degrading treatment of detainees is a federal crime even when it falls short of torture. Instead of being told to rely on secret legal memos or doctors' unethical monitoring of brutal interrogation sessions, interrogators should be given unambiguous orders that all detainees are to be treated in strict compliance with Common Article 3 of the Geneva Conventions, which is the basic provision of international law outlawing torture. And there should be clear, public rules ensuring prompt access to detainees by the International Committee of the Red Cross.

Third, the United States must not transfer detainees to torture in other countries. Such transfers, known as "renditions," have occurred under Presidents Bill Clinton, George W. Bush and Obama—despite the fact that they violate the Convention Against Torture. In part, this is because of a policy of reliance on "diplomatic assurances" from other countries that detainees would not be tortured, despite clear evidence that these assurances were not credible. In part, this is because the United States has refused to acknowledge that the prohibition against transfers to torture is legally binding outside of U.S. territory. Both must change.

Democracy and torture cannot peacefully coexist in the same body politic. Successful human rights diplomacy and torture can't either. Our country and its place in the world—as well as the Americans bravely serving in military, intelligence and diplomatic posts around the globe—deserve nothing less.

ADDITIONAL STATEMENTS

ALASKA RESCUE COORDINATION
CENTER

• Mr. BEGICH. Mr. President, I would like to take the time today to congratulate the Alaska Rescue Coordination Center, RCC, for completing their 5,000th mission since July 1, 1994.

The Alaska Rescue Coordination Center has operated in Alaska since 1961, but since July 1, 1994, the RCC has been staffed solely by Alaska Air National Guardsmen under the operational active-duty commander of the 11th Air Force. Since that time, the men and women of the Alaska Air National Guard have kept watch 24 hours a day, seven days a week, coordinating an average of more than five missions a week for nearly 19 years.

The 12 Alaska Air National Guard members who work in the RCC on a rotating schedule all have a background in either rescue operations as a member of the Alaska Air National Guard's 210th, 211th or 212th Rescue Squadrons, or are command and control specialists with experience in rescue control operations.

On March, 27, 2013, the RCC coordinated the Alaska Air National Guard's successful recovery of a pilot who crashed a Super Cub aircraft near the Bering River northeast of Cordova, AK, completing their 5,000th mission.

The RCC relies heavily on the support of other agencies during search-and-rescue missions. Aside from the Alaska Air National Guard and Alaska Army National Guard, during a mission, these agencies can also be called upon: Alaska State Troopers, U.S. Coast Guard District 17, Civil Air Patrol, National Park Service, North Slope Arctic Borough Search and Rescue, Alaska Mountain Rescue, SEADOGS K-9 Search and Rescue Team, Anchorage Nordic Ski Patrol and various other volunteer search groups.

Their busy season follows the weather trends with an increase in search-and-rescue missions toward the end of summer into the fall hunting season. Ask anyone in the rescue business, and you will hear that no two search-and-rescue cases are alike. Throughout the years, there have been many high-profile missions adding up to the 5,000 missions and Alaskans are thankful for their knowledge, dedication, and expertise.

Thank you for allowing me to take a moment to recognize the heroic efforts of the Alaska Rescue Coordination Center and their 5,000 missions.●

TRIBUTE TO ARLENE MULDER

• Mr. KIRK. Mr. President, today I wish to honor Arlington Heights Mayor Arlene Mulder. After 20 years of service to the village as mayor, she is taking a well-deserved retirement.

For 34 years, Mayor Mulder has been a tireless public servant—from park

district commissioner to village trustee and eventually mayor. She has served on countless boards and commissions, but the title that I was most grateful for was that of "friend".

I have known Arlene since the days I was a congressional staffer for Congressman John Porter. Arlene was a "get things done" mayor. It is why she was tapped by both Democrats and Republicans to partner on issues. When I first took office as Congressman for the 10th Congressional District, Arlene quickly became my go-to mayor for a host of issues.

Whenever we wanted to schedule a townhall meeting in the northwest suburbs, Arlene was my first call. I remember during the health care debate we had a townhall meeting at the village building. When hundreds of citizens showed up and it was clear our room would not be large enough to hold everyone, Arlene immediately went into action and helped us have not one townhall meeting, but two back-to-back. Her resourcefulness ensured that we could communicate with twice the number of constituents on a very important issue.

While we Senators may feel as if we have a full workload between constituent and committee meetings, votes and briefings, Arlene's membership in outside organizations is enough to make even the best multitasker dizzy. She has served on more than a dozen outside boards, commissions, and committees, many focused on the importance of transportation. As a member of Metra's board of directors, she became an advocate for thousands of suburban commuters who rely on commuter rail to get to their jobs. As chair of the O'Hare Noise Compatibility Commission, she led efforts to ensure a balance between the economic development role of O'Hare International Airport and the impact on surrounding communities.

But what I will miss most is our time at the Arlington Heights Memorial Day Parade. Each year, we would honor a local veteran with a military award that was earned but never received. It was always a moving day, and while she will not be the mayor at future ceremonies, I know I will see her there for many years to come.

While I am honored to serve as Arlene's Senator, I am more proud that Arlene was my mayor. Her dedication to the village and people of Arlington Heights will not be forgotten. I wish Arlene and her husband Al and their entire family all the best as she begins the next phase of her public service. Arlington Heights and the State of Illinois were lucky to have her. Thank you, Arlene for all that you have done for us.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The messages received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 6:42 p.m., a message from the House of Representatives, delivered by Mr. Novotny, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 1246. An act to amend the District of Columbia Home Rule Act to provide that the District of Columbia Treasurer or one of the Deputy Chief Financial Officers of the Office of the Chief Financial Officer of the District of Columbia may perform the functions and duties of the Office in an acting capacity if there is a vacancy in the Office.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 788. A bill to suspend the fiscal year 2013 sequester and establish limits on war-related spending.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of a nomination was submitted:

By Mr. BAUCUS for the Committee on Finance.

*Marilyn B. Tavenner, of Virginia, to be Administrator of the Centers for Medicare and Medicaid Services.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. GILLIBRAND (for herself, Mr. BEGICH, Mr. BLUMENTHAL, Mrs. BOXER, Mr. DURBIN, Mr. FRANKEN, Mr. HARKIN, Mr. LAUTENBERG, Mr. MERKLEY, Mrs. MURRAY, Mr. SANDERS, Mrs. SHAHEEN, Mr. WHITEHOUSE, and Mr. WYDEN):

S. 777. A bill to restore the previous policy regarding restrictions on use of Department of Defense medical facilities; to the Committee on Armed Services.

By Mr. BURR (for himself and Mr. BEGICH):

S. 778. A bill to authorize the Secretary of Veterans Affairs to issue cards to veterans that identify them as veterans, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BURR (for himself, Mr. COBURN, and Mr. THUNE):

S. 779. A bill to amend the Internal Revenue Code of 1986 to provide for reporting and disclosure by State and local public employee retirement pension plans; to the Committee on Finance.

By Mr. WHITEHOUSE (for himself and Mr. HATCH):

S. 780. A bill to amend title 35, United States Code, to provide for an exception from infringement for certain component parts of motor vehicles; to the Committee on the Judiciary.

By Mrs. FEINSTEIN (for herself and Mrs. BOXER):

S. 781. A bill to modify the boundary of Yosemite National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. CASEY (for himself, Mr. TOOMEY, and Mr. KING):

S. 782. A bill to amend Public Law 101-377 to revise the boundaries of the Gettysburg National Military Park to include the Gettysburg Train Station, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. WYDEN (for himself and Ms. MURKOWSKI):

S. 783. A bill to amend the Helium Act to improve helium stewardship, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BAUCUS (for himself and Mr. JOHANNIS):

S. 784. A bill to expand agricultural opportunities for military veterans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. PAUL:

S. 785. A bill to amend title 5, United States Code, to eliminate the use of official time by Federal employees; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ROBERTS:

S. 786. A bill to require agencies to quantify costs associated with proposed economically significant regulations, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ROBERTS:

S. 787. A bill to require agencies to set forth reasons for determining that a proposed regulatory action is significant; to the Committee on Homeland Security and Governmental Affairs.

By Mr. REID:

S. 788. A bill to suspend the fiscal year 2013 sequester and establish limits on war-related spending; read the first time.

By Mr. BAUCUS (for himself, Mr. INHOFE, Mr. BURR, and Mr. TESTER):

S. 789. A bill to grant the Congressional Gold Medal, collectively, to the First Special Service Force, in recognition of its superior service during World War II; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. MCCASKILL (for herself, Mr. PORTMAN, Mr. COATS, Mr. COBURN, Mr. TOOMEY, Mr. VITTER, Mr. FLAKE, Mr. LEE, and Mr. JOHNSON of Wisconsin):

S. 790. A bill to require the United States International Trade Commission to recommend temporary duty suspensions and reductions to Congress, and for other purposes; to the Committee on Finance.

By Mr. WYDEN (for himself and Ms. MURKOWSKI):

S. 791. A bill to amend the Federal Election Campaign Act of 1971 and the Internal Revenue Code of 1986 to require the disclosure of contributions and expenditures for independent Federal election-related activity, and for other purposes; to the Committee on Finance.

By Mr. REID (for Mr. LAUTENBERG):
S. 792. A bill to strengthen the enforcement of background checks with respect to the use of explosive materials; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REED (for himself, Mr. ENZI, Mr. MERKLEY, Mr. CRAPO, Mr. JOHNSON of South Dakota, Mr. BARRASSO, Mrs. MURRAY, Mr. COCHRAN, Mr. CARDIN, Mr. WICKER, Mrs. HAGAN, Mr. BLUNT, Mr. DURBIN, Ms. WARREN, Mr. FRANKEN, Mr. COONS, Mr. BAUCUS, Mr. JOHNSON of Wisconsin, Mr. BROWN, Mr. LAUTENBERG, Mr. WARNER, and Ms. LANDRIEU):

S. Res. 105. A resolution designating April 2013 as "Financial Literacy Month"; considered and agreed to.

By Mr. CASEY (for himself and Mr. CHAMBLISS):

S. Res. 106. A resolution commending rehabilitation counselors and supporting the goals and ideals of National Rehabilitation Counselors Appreciation Day; considered and agreed to.

By Mrs. MURRAY (for herself, Ms. AYOTTE, Ms. LANDRIEU, Mr. HELLER, Mr. MANCHIN, Mrs. BOXER, Mr. BAUCUS, Mr. PRYOR, Mrs. HAGAN, Mr. WHITEHOUSE, Mr. CARDIN, Mr. MENENDEZ, Mr. SCHATZ, Mr. WARNER, Ms. MIKULSKI, Mr. SANDERS, Ms. WARREN, Mrs. GILLIBRAND, and Mr. CHAMBLISS):

S. Res. 107. A resolution honoring military children during the National Month of the Military Child; considered and agreed to.

By Ms. KLOBUCHAR (for herself and Mr. BURR):

S. Res. 108. A resolution designating April 2013 as "National 9-1-1 Education Month"; considered and agreed to.

ADDITIONAL COSPONSORS

S. 258

At the request of Mr. BARRASSO, the name of the Senator from Arizona (Mr. FLAKE) was added as a cosponsor of S. 258, a bill to amend the Federal Land Policy and Management Act of 1976 to improve the management of grazing leases and permits, and for other purposes.

S. 327

At the request of Mr. BARRASSO, the names of the Senator from Nevada (Mr. HELLER) and the Senator from Arizona (Mr. FLAKE) were added as cosponsors of S. 327, a bill to authorize the Secretary of Agriculture and the Secretary of the Interior to enter into cooperative agreements with State foresters authorizing State foresters to provide certain forest, rangeland, and watershed restoration and protection services.

S. 345

At the request of Mrs. SHAHEEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 345, a bill to reform the Federal sugar program, and for other purposes.

S. 369

At the request of Mr. RUBIO, the name of the Senator from Pennsyl-

vania (Mr. TOOMEY) was added as a cosponsor of S. 369, a bill to amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions.

S. 403

At the request of Mr. CASEY, the names of the Senator from Colorado (Mr. BENNET), the Senator from Hawaii (Ms. HIRONO), the Senator from North Carolina (Mrs. HAGAN), the Senator from Oregon (Mr. WYDEN) and the Senator from West Virginia (Mr. MANCHIN) were added as cosponsors of S. 403, a bill to amend the Elementary and Secondary Education Act of 1965 to address and take action to prevent bullying and harassment of students.

S. 462

At the request of Mrs. BOXER, the name of the Senator from Montana (Mr. TESTER) was added as a cosponsor of S. 462, a bill to enhance the strategic partnership between the United States and Israel.

S. 471

At the request of Mr. SANDERS, the name of the Senator from Hawaii (Mr. SCHATZ) was added as a cosponsor of S. 471, a bill to amend the Fair Credit Reporting Act to require the inclusion of credit scores with free annual credit reports provided to consumers, and for other purposes.

S. 486

At the request of Mr. BURR, the name of the Senator from West Virginia (Mr. MANCHIN) was added as a cosponsor of S. 486, a bill to authorize pedestrian and motorized vehicular access in Cape Hatteras National Seashore Recreational Area, and for other purposes.

S. 545

At the request of Ms. MURKOWSKI, the name of the Senator from Delaware (Mr. COONS) was added as a cosponsor of S. 545, a bill to improve hydropower, and for other purposes.

S. 571

At the request of Mr. KIRK, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 571, a bill to amend the Federal Water Pollution Control Act to establish a deadline for restricting sewage dumping into the Great Lakes and to fund programs and activities for improving wastewater discharges into the Great Lakes.

S. 603

At the request of Mr. BARRASSO, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 603, a bill to repeal the annual fee on health insurance providers enacted by the Patient Protection and Affordable Care Act.

S. 633

At the request of Mr. TESTER, the name of the Senator from Nevada (Mr. HELLER) was added as a cosponsor of S. 633, a bill to amend title 38, United States Code, to provide for coverage under the beneficiary travel program of

the Department of Veterans Affairs of certain disabled veterans for travel in connection with certain special disabilities rehabilitation, and for other purposes.

S. 635

At the request of Mr. BROWN, the names of the Senator from Wyoming (Mr. BARRASSO) and the Senator from Maine (Mr. KING) were added as cosponsors of S. 635, a bill to amend the Gramm-Leach-Bliley Act to provide an exception to the annual written privacy notice requirement.

S. 687

At the request of Mr. MORAN, the names of the Senator from Pennsylvania (Mr. CASEY) and the Senator from Connecticut (Mr. MURPHY) were added as cosponsors of S. 687, a bill to prohibit the closing of air traffic control towers, and for other purposes.

S. 695

At the request of Mr. BEGICH, the name of the Senator from Hawaii (Ms. HIRONO) was added as a cosponsor of S. 695, a bill to amend title 38, United States Code, to extend the authorization of appropriations for the Secretary of Veterans Affairs to pay a monthly assistance allowance to disabled veterans training or competing for the Paralympic Team and the authorization of appropriations for the Secretary of Veterans Affairs to provide assistance to United States Paralympics, Inc., and for other purposes.

S. 724

At the request of Mr. BLUNT, the names of the Senator from Kansas (Mr. MORAN), the Senator from Georgia (Mr. ISAKSON), the Senator from Alaska (Mr. BEGICH) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. 724, a bill to provide flexibility to agencies on determining what employees are essential personnel in implementing the sequester.

S. 728

At the request of Mr. SCHUMER, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 728, a bill to amend the Internal Revenue Code of 1986 to extend the exclusion from gross income for employer-provided health coverage for employees' spouses and dependent children to coverage provided to other eligible designated beneficiaries of employees.

S. 731

At the request of Mr. MANCHIN, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 731, a bill to require the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency to conduct an empirical impact study on proposed rules relating to the International Basel III agreement on general risk-based capital requirements, as they apply to community banks.

S. 742

At the request of Mr. CARDIN, the name of the Senator from Ohio (Mr.

BROWN) was added as a cosponsor of S. 742, a bill to amend the Internal Revenue Code of 1986 and the Small Business Act to expand the availability of employee stock ownership plans in S corporations, and for other purposes.

S. 743

At the request of Mr. ENZI, the name of the Senator from Connecticut (Mr. MURPHY) was added as a cosponsor of S. 743, a bill to restore States' sovereign rights to enforce State and local sales and use tax laws, and for other purposes.

S. 751

At the request of Mr. COATS, the name of the Senator from Minnesota (Ms. KLOBUCHAR) was added as a cosponsor of S. 751, a bill to amend the Food, Conservation, and Energy Act of 2008 to authorize producers on a farm to produce fruits and vegetables for processing on the base acres of the farm.

S. 758

At the request of Mrs. MURRAY, the name of the Senator from New York (Mrs. GILLIBRAND) was added as a cosponsor of S. 758, a bill to establish a comprehensive literacy program.

S. 759

At the request of Mr. CASEY, the names of the Senator from New York (Mrs. GILLIBRAND) and the Senator from Arkansas (Mr. BOOZMAN) were added as cosponsors of S. 759, a bill to amend the Internal Revenue Code of 1986 to allow a credit against income tax for amounts paid by a spouse of a member of the Armed Forces for a new State license or certification required by reason of a permanent change in the duty station of such member to another State.

S. 767

At the request of Mr. BARRASSO, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 767, a bill to amend title II of the Social Security Act to provide for Congressional oversight and approval of totalization agreements.

S. RES. 65

At the request of Mr. GRAHAM, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 65, a resolution strongly supporting the full implementation of United States and international sanctions on Iran and urging the President to continue to strengthen enforcement of sanctions legislation.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. WYDEN (for himself and Ms. MURKOWSKI):

S. 783. A bill to amend the Helium Act to improve helium stewardship, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, today Senator MURKOWSKI and I are introducing the Helium Stewardship Act of

2013. This legislation is designed to establish a responsible management strategy for the Federal Helium Reserve that will prevent the disruption of the entire helium supply chain that impacts major parts of the U.S. economy.

Helium is a valuable national resource that is used for a wide range of applications such as a coolant for magnetic resonance imaging machines, semiconductor manufacturing, military aviation, aerospace, and Federal R&D; pressurizing and purging systems; leak detection; welding; and breathing mixtures. Helium uses are diverse. Substitutes are often unavailable. The current global supply is constrained.

The Federal Government has long been in the helium business. In the 1920s, helium was used to float blimps or national defense purposes. Since that time the Federal Government has continued to play a significant role in the production, refining, and storing of helium. This has included establishing a U.S. underground stockpile known as the Federal Helium Reserve located just outside of Amarillo, TX. The Reserve currently supplies 40 percent of the domestic and 30 percent of global helium demand. Eventually, the helium supplies in the Reserve will become too depleted to be used, but for now they provide a critical source of supply.

Current law requires the Federal government to sell off the crude helium remaining in the Federal Helium Reserve in order to repay the U.S. Treasury the \$1.3 billion debt incurred creating it. That debt will be fully repaid this fiscal year. As a result, the helium program will terminate in October absent Congressional action. The result, if Congress does not extend operation of the Reserve, will be significant disruption in sector after sector of economy—everything from medical imaging to semiconductor manufacturing.

We need to act. It is important that we act now.

Our bottom line goal is to keep the Federal Helium Reserve open, until new sources of supply can be developed, and prevent significant disruptions to a number of critical U.S. industries.

This bipartisan bill has two primary objective; one is to ensure helium market stability for end-users, and to ensure a fair return on this Federal asset to American taxpayers. We believe that it is essential that there be an adequate price discovery mechanism for the sale price of helium to nongovernmental organizations. Our bill would require the Secretary of Interior to establish an auction process to ensure that government prices for helium reflect its value in the marketplace based on an initial auction of 10 percent of supply and increasing that amount by an additional 10 percent a year. But it is also important to keep in mind that the Reserve currently provides major shares of the domestic and global helium supply and we do not

want this legislation to disrupt the many industrial and health care activities that are dependent on helium.

I believe this legislation strikes the right balance. The bill provides for an orderly, gradual transition among three phases, resulting in minimal market disruption to end users. It introduces a price discovery mechanism and transparency measures that will increase the taxpayer return and stimulate investment in private-sector sources. It further gives priority to meeting the needs of Federal users at Federal agencies, national laboratories, and universities. This legislation maintains access to crude helium for Federal users to perform the experiments that lead to the discoveries that drive economic growth, while requiring the development of a long-term plan for Federal helium purchases.

Helium may not be the most high profile natural resources, but it is one resource that is central to our economy. This legislation is urgent, critical, and necessary to ensure that we continue on a trajectory for economic growth that protects the jobs of domestic manufacturers and industrial partners as well as Federal users across the Nation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 783

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Helium Stewardship Act of 2013".

SEC. 2. DEFINITIONS.

Section 2 of the Helium Act (50 U.S.C. 167) is amended to read as follows:

"SEC. 2. DEFINITIONS.

"In this Act:

"(1) CLIFFSIDE FIELD.—The term 'Cliffside Field' means the helium storage reservoir in which the Federal Helium Reserve is stored.

"(2) FEDERAL HELIUM PIPELINE.—The term 'Federal Helium Pipeline' means the federally owned pipeline system through which the Federal Helium Reserve may be transported.

"(3) FEDERAL HELIUM RESERVE.—The term 'Federal Helium Reserve' means helium reserves owned by the United States.

"(4) FEDERAL HELIUM SYSTEM.—The term 'Federal Helium System' means—

"(A) the Federal Helium Reserve;

"(B) the Cliffside Field;

"(C) the Federal Helium Pipeline; and

"(D) all other infrastructure owned, leased, or managed under contract by the Secretary for the storage, transportation, withdrawal, purification, or management of helium.

"(5) FEDERAL USER.—The term 'Federal user' means a Federal agency or extramural holder of 1 or more Federal research grants using helium.

"(6) LOW-BTU GAS.—The term 'low-Btu gas' means a fuel gas with a heating value of less than 250 Btu per standard cubic foot measured as the higher heating value resulting from the inclusion of noncombustible gases, including nitrogen, helium, argon, and carbon dioxide.

"(7) PERSON.—The term 'person' means any individual, corporation, partnership, firm,

association, trust, estate, public or private institution, or State or political subdivision.

“(8) PRIORITY PIPELINE ACCESS.—The term ‘priority pipeline access’ means the first priority of delivery of crude helium under which the Secretary schedules and ensures the delivery of crude helium to a helium refinery through the Federal Helium System.

“(9) QUALIFIED BIDDER.—

“(A) IN GENERAL.—The term ‘qualified bidder’ means a person the Secretary determines is seeking to purchase helium for their own use, refining, or redelivery to users

“(B) EXCLUSION.—The term ‘qualified bidder’ does not include a person who was previously determined to be a qualified bidder if the Secretary determines that the person did not meet the requirements of a qualified bidder under this Act.

“(10) QUALIFYING DOMESTIC HELIUM TRANSACTION.—The term ‘qualifying domestic helium transaction’ means any agreement entered into or renegotiated agreement during the preceding 1-year period in the United States for the purchase or sale of at least 20,000,000 standard cubic feet of crude or pure helium to which any holder of a contract with the Secretary for the acceptance, storage, delivery, or redelivery of crude helium from the Federal Helium System is a party.

“(11) REFINER.—The term ‘refiner’ means a person with the ability to take delivery of crude helium from the Federal Helium Pipeline and refine the crude helium into pure helium.

“(12) SECRETARY.—The term ‘Secretary’ means the Secretary of the Interior.”

SEC. 3. AUTHORITY OF SECRETARY.

Section 3 of the Helium Act (50 U.S.C. 167a) is amended by adding at the end the following:

“(C) EXTRACTION OF HELIUM FROM DEPOSITS ON FEDERAL LAND.—All amounts received by the Secretary from the sale or disposition of helium on Federal land shall be credited to the Helium Production Fund established under section 6(d).”

SEC. 4. STORAGE, WITHDRAWAL AND TRANSPORTATION.

Section 5 of the Helium Act (50 U.S.C. 167c) is amended to read as follows:

“SEC. 5. STORAGE, WITHDRAWAL AND TRANSPORTATION.

“(a) IN GENERAL.—If the Secretary provides helium storage, withdrawal, or transportation services to any person, the Secretary shall impose a fee on the person that accurately reflects the economic value of those services.

“(b) MINIMUM FEES.—The fees charged under subsection (a) shall be not less than the amount required to reimburse the Secretary for the full costs of providing storage, withdrawal, or transportation services.

“(c) SCHEDULE OF FEES.—Prior to sale or auction under subsection (a), (b), or (c) of section 6, the Secretary shall annually publish a standardized schedule of fees that the Secretary will charge under this section.

“(d) TREATMENT.—All fees received by the Secretary under this section shall be credited to the Helium Production Fund established under section 6(d).

“(e) NEW STORAGE.—In accordance with this section, the Secretary shall allow any person or qualified bidder to which crude helium is sold or auctioned under section 6 to store that helium in the Federal Helium Reserve.”

SEC. 5. SALE OF CRUDE HELIUM.

Section 6 of the Helium Act (50 U.S.C. 167d) is amended to read as follows:

“SEC. 6. SALE OF CRUDE HELIUM.

“(A) PHASE A: ALLOCATION TRANSITION.—

“(1) IN GENERAL.—The Secretary shall offer crude helium for sale in such quantities, at such times, at not less than the minimum

price established under subsection (b)(7), and under such terms and conditions as the Secretary determines necessary to carry out this subsection with minimum market disruption.

“(2) FEDERAL PURCHASES.—Federal users may purchase refined helium with priority pipeline access under this subsection from persons who have entered into enforceable contracts to purchase an equivalent quantity of crude helium from the Secretary.

“(3) DURATION.—This subsection applies during the period—

“(A) beginning on the date of enactment of the Helium Stewardship Act of 2013; and

“(B) ending on September 30, 2014.

“(b) PHASE B: AUCTION IMPLEMENTATION.—

“(1) IN GENERAL.—The Secretary shall offer crude helium for sale in quantities not subject to auction under paragraph (2), at such times, at not less than the minimum price established under paragraph (7), and under such terms and conditions as the Secretary determines necessary—

“(A) to maximize total recovery of helium from the Federal Helium Reserve over the long term;

“(B) to maximize the total financial return to the taxpayer;

“(C) to manage crude helium sales according to the ability of the Secretary to extract and produce helium from the Federal Helium Reserve;

“(D) to give priority to meeting the helium demand of Federal users in the event of any disruption to the Federal Helium Reserve; and

“(E) to carry out this subsection with minimum market disruption.

“(2) AUCTION QUANTITIES.—For the period described in paragraph (4) and consistent with the conditions described in paragraph (8), the Secretary shall annually auction to any qualified bidder a quantity of crude helium in the Federal Helium Reserve equal to—

“(A) for fiscal year 2015, 10 percent of the total volume of crude helium made available for that fiscal year; and

“(B) for each subsequent fiscal year, a percentage of the total volume of crude helium that is 10 percentage points greater than the percentage available for the previous fiscal year, but not to exceed 100 percent.

“(3) FEDERAL PURCHASES.—Federal users may purchase refined helium with priority pipeline access and at the in-kind price under this subsection from persons who have entered into enforceable contracts to purchase an equivalent quantity of crude helium from the Secretary.

“(4) DURATION.—This subsection applies during the period—

“(A) beginning on October 1, 2014; and

“(B) ending on the date on which the volume of recoverable crude helium at the Federal Helium Reserve (other than privately owned quantities of crude helium stored temporarily at the Federal Helium Reserve under section 5 and this section) is 3,000,000,000 standard cubic feet.

“(5) SAFETY VALVE.—The Secretary may adjust the quantities specified in paragraph (2)—

“(A) downward, if the Secretary determines the adjustment necessary—

“(i) to minimize market disruptions that pose a threat to the economic well-being of the United States; and

“(ii) only after submitting a written justification of the adjustment to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives; or

“(B) upward, if the Secretary determines the adjustment necessary to increase partici-

pation in crude helium auctions or returns to the taxpayer.

“(6) AUCTION FORMAT.—The Secretary shall conduct each auction using a method that maximizes revenue to the Federal Government.

“(7) PRICES.—The Secretary shall annually establish, as applicable, sale and minimum auction prices under subsection (a)(1) and paragraphs (1) and (2) using, if applicable and in the following order of priority:

“(A) The sale price of crude helium in auctions held by the Secretary under paragraph (2).

“(B) Price recommendations and disaggregated data from a qualified, independent third party who has no conflict of interest, who shall conduct a confidential survey of qualifying domestic helium transactions.

“(C) The volume-weighted average price of all crude helium and pure helium purchased, sold, or processed by persons in all qualifying domestic helium transactions.

“(D) The volume-weighted average cost of converting gaseous crude helium into pure helium.

“(8) TERMS AND CONDITIONS.—

“(A) IN GENERAL.—The Secretary shall require all persons that are parties to a contract with the Secretary for the withdrawal, acceptance, storage, transportation, delivery, or redelivery of crude helium to disclose, on a strictly confidential basis—

“(i) the volumes and associated prices in dollars per thousand cubic feet of all crude and pure helium purchased, sold, or processed by persons in qualifying domestic helium transactions;

“(ii) the volumes and associated costs in dollars per thousand cubic feet of converting crude helium into pure helium; and

“(iii) refinery capacity and future capacity estimates.

“(B) CONDITION.—As a condition of sale or auction to a refiner under subsection (a)(1) and paragraphs (1) and (2), effective beginning 90 days after the date of enactment of the Helium Stewardship Act of 2013, the refiner shall make excess refining capacity of helium available at commercially reasonable rates to—

“(i) any person prevailing in auctions under paragraph (2); and

“(ii) any person that has acquired crude helium from the Secretary from the Federal Helium Reserve by means other than an auction under paragraph (2) after the date of enactment of the Helium Stewardship Act of 2013.

“(9) USE OF INFORMATION.—The Secretary may use the information collected under this Act—

“(A) to approximate crude helium prices; and

“(B) to ensure the recovery of fair value for the taxpayers of the United States from sales of crude helium.

“(10) PROTECTION OF CONFIDENTIALITY.—The Secretary shall adopt such administrative policies and procedures as the Secretary considers necessary and reasonable to ensure the confidentiality of information submitted pursuant to this Act.

“(c) PHASE C: CONTINUED ACCESS FOR FEDERAL USERS.—

“(1) IN GENERAL.—The Secretary shall offer crude helium for sale to Federal users in such quantities, at such times, at not less than the minimum price established under subsection (b)(7), and under such terms and conditions as the Secretary determines necessary to carry out this subsection.

“(2) FEDERAL PURCHASES.—Federal users may purchase refined helium with priority pipeline access under this subsection from persons who have entered into enforceable

contracts to purchase an equivalent quantity of crude helium from the Secretary.

“(3) EFFECTIVE DATE.—This subsection applies beginning on the day after the date described in subsection (b)(4)(B).

“(d) HELIUM PRODUCTION FUND.—

“(1) IN GENERAL.—All amounts received under this Act, including amounts from the sale or auction of crude helium, shall be credited to the Helium Production Fund, which shall be available without fiscal year limitation for purposes considered necessary by the Secretary to carry out this Act (other than sections 16, 17, and 18), including capital investments in upgrades and maintenance at the Federal Helium System, including—

“(A) well head maintenance at the Cliffside Field;

“(B) capital investments in maintenance and upgrades of facilities that pressurize the Cliffside Field;

“(C) capital investments in maintenance and upgrades of equipment related to the storage, withdrawal, transportation, purification, and sale of crude helium from the Federal Helium Reserve;

“(D) entering into purchase, lease, or other agreements to drill new or uncap existing wells to maximize the recovery of crude helium from the Federal Helium System if the Secretary determines the actions to be cost-effective; and

“(E) any other scheduled or unscheduled maintenance of the Federal Helium System.

“(2) EXCESS FUNDS.—Any amounts in the Helium Production Fund described in paragraph (1) that exceed the amounts that the Secretary determines to be necessary to carry out paragraph (1) shall be deposited in the general fund of the Treasury.

“(e) MINIMUM QUANTITY.—The Secretary shall offer for sale or auction during each fiscal year under subsections (a), (b), and (c) a quantity of crude helium that is the lesser of—

“(1) the quantity of crude helium offered for sale by the Secretary during fiscal year 2012; and

“(2) the maximum total production capacity of the Federal Helium System.

“(f) MAINTENANCE OF HELIUM SUPPLY.—The Secretary shall minimize disruption in the supply of helium from the Federal Helium System during the transition between phases of helium sales under subsections (a), (b), and (c).”

SEC. 6. INFORMATION, ASSESSMENT, RESEARCH, AND STRATEGY.

The Helium Act (50 U.S.C. 167 et seq.) is amended—

(1) by repealing section 15 (50 U.S.C. 167m);

(2) by redesignating section 17 (50 U.S.C. 167 note) as section 20; and

(3) by inserting after section 14 (50 U.S.C. 167l) the following:

“SEC. 15. INFORMATION.

“(a) TRANSPARENCY.—The Secretary, acting through the Bureau of Land Management, shall make available on the Internet information relating to the Federal Helium System that includes—

“(1) continued publication of an open market and in-kind price;

“(2) aggregated projections of excess refining capacity;

“(3) ownership of helium held in the Federal Helium Reserve;

“(4) the volume of helium delivered to persons through the Federal Helium Pipeline;

“(5) pressure constraints of the Federal Helium Pipeline;

“(6) an estimate of the projected date when 3,000,000,000 standard cubic feet of crude helium will remain in the Federal Helium Reserve and the final phase described in section 6(c) will begin;

“(7) the amount of the fees charged under section 5;

“(8) the scheduling of crude helium deliveries through the Federal Helium Pipeline; and

“(9) other factors that will increase transparency.

“(b) REPORTING.—Not later than 90 days after the date of enactment of the Helium Stewardship Act of 2013, to provide the market with appropriate and timely information affecting the helium resource, the Director of the Bureau of Land Management shall establish a timely and public reporting process to provide data that affects the helium industry, including—

“(1) annual maintenance schedules and quarterly updates, that shall include—

“(A) the date and duration of planned shutdowns of the Federal Helium Pipeline;

“(B) the nature of work to be undertaken on the Federal Helium System, whether routine, extended, or extraordinary;

“(C) the anticipated impact of the work on the helium supply;

“(D) the efforts being made to minimize any impact on the supply chain; and

“(E) any concerns regarding maintenance of the Federal Helium Pipeline, including the pressure of the pipeline or deviation from normal operation of the pipeline;

“(2) for each unplanned outage, a description of—

“(A) the beginning of the outage;

“(B) the expected duration of the outage;

“(C) the nature of the problem;

“(D) the estimated impact on helium supply;

“(E) a plan to correct problems, including an estimate of the potential timeframe for correction and the likelihood of plan success within the timeframe;

“(F) efforts to minimize negative impacts on the helium supply chain; and

“(G) updates on repair status and the anticipated online date;

“(3) monthly summaries of meetings and communications between the Bureau of Land Management and the Cliffside Refiners Limited Partnership, including a list of participants and an indication of any actions taken as a result of the meetings or communications; and

“(4) current predictions of the lifespan of the Federal Helium System, including how much longer the crude helium supply will be available based on current and forecasted demand and the projected maximum production capacity of the Federal Helium System for the following fiscal year.

“SEC. 16. HELIUM GAS RESOURCE ASSESSMENT.

“(a) IN GENERAL.—Not later than 2 years after the date of enactment of the Helium Stewardship Act of 2013, the Secretary, acting through the Director of the United States Geological Survey, shall—

“(1) in coordination with appropriate heads of State geological surveys—

“(A) complete a national helium gas assessment that identifies and quantifies the quantity of helium, including the isotope helium-3, in each reservoir, including assessments of the constituent gases found in each helium resource, such as carbon dioxide, nitrogen, and natural gas; and

“(B) make available the modern seismic and geophysical log data for characterization of the Bush Dome Reservoir;

“(2) in coordination with appropriate international agencies and the global geology community, complete a global helium gas assessment that identifies and quantifies the quantity of the helium, including the isotope helium-3, in each reservoir;

“(3) in coordination with the Secretary of Energy, acting through the Administrator of the Energy Information Administration, complete—

“(A) an assessment of trends in global demand for helium, including the isotope helium-3;

“(B) a 10-year forecast of domestic demand for helium across all sectors, including scientific and medical research, commercial, manufacturing, space technologies, cryogenics, and national defense; and

“(C) an inventory of medical, scientific, industrial, commercial, and other uses of helium in the United States, including Federal uses, that identifies the nature of the helium use, the amounts required, the technical and commercial viability of helium recapture and recycling in that use, and the availability of material substitutes wherever possible; and

“(4) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report describing the results of the assessments required under this paragraph.

“(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as are necessary.

“SEC. 17. LOW-BTU GAS SEPARATION AND HELIUM CONSERVATION.

“(a) AUTHORIZATION.—The Secretary of Energy shall support programs of research, development, commercial application, and conservation (including the programs described in subsection (b))—

“(1) to expand the domestic production of low-Btu gas and helium resources;

“(2) to separate and capture helium from natural gas streams; and

“(3) to reduce the venting of helium and helium-bearing low-Btu gas during natural gas exploration and production.

“(b) PROGRAMS.—

“(1) MEMBRANE TECHNOLOGY RESEARCH.—The Secretary of Energy, in consultation with other appropriate agencies, shall support a civilian research program to develop advanced membrane technology that is used in the separation of low-Btu gases, including technologies that remove helium and other constituent gases that lower the Btu content of natural gas.

“(2) HELIUM SEPARATION TECHNOLOGY.—The Secretary of Energy shall support a research program to develop technologies for separating, gathering, and processing helium in low concentrations that occur naturally in geological reservoirs or formations, including—

“(A) low-Btu gas production streams; and

“(B) technologies that minimize the atmospheric venting of helium gas during natural gas production.

“(3) INDUSTRIAL HELIUM PROGRAM.—The Secretary of Energy, working through the Advanced Manufacturing Office of the Department of Energy, shall carry out a research program—

“(A) to develop low-cost technologies and technology systems for recycling, reprocessing, and reusing helium for all medical, scientific, industrial, commercial, aerospace, and other uses of helium in the United States, including Federal uses; and

“(B) to develop industrial gathering technologies to capture helium from other chemical processing, including ammonia processing.

“(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section such sums as are necessary.

“SEC. 18. HELIUM-3 SEPARATION.

“(a) INTERAGENCY COOPERATION.—The Secretary shall cooperate with the Secretary of Energy, or a designee, on any assessment or

research relating to the extraction and refining of the isotope helium-3 from crude helium at the Federal Helium Reserve or along the Federal Helium Pipeline, including—

- “(1) gas analysis;
- “(2) infrastructure studies; and
- “(3) cooperation with refiners.

“(b) **FEASIBILITY STUDY.**—The Secretary, in consultation with the Secretary of Energy, or a designee, may carry out a study to assess the feasibility of establishing a facility to separate the isotope helium-3 from crude helium at—

- “(1) the Federal Helium Reserve; or
- “(2) an existing helium separation or purification facility connected to the Federal Helium Pipeline.

“(c) **REPORT.**—Not later than 1 year after the date of enactment of the Helium Stewardship Act of 2013, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Natural Resources of the House of Representatives a report that contains a description of the results of the assessments conducted under this section.

“(d) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section such sums as are necessary.

“SEC. 19. FEDERAL AGENCY HELIUM ACQUISITION STRATEGY.

“Not later than 2 years after the date of enactment of the Helium Stewardship Act of 2013, the Secretary (in consultation with the Secretary of Energy, the Secretary of Defense, the Director of the National Science Foundation, and the Director of the National Institutes of Health) shall submit to Congress a report that provides for Federal users—

- “(1) an assessment of the consumption of, and projected demand for, crude and refined helium;
- “(2) a description of a 20-year Federal strategy for securing access to crude helium;
- “(3) an assessment of the effects of increases in the price of refined helium and methods and policies for mitigating any determined effects; and
- “(4) a description of a process for prioritization of uses that accounts for diminished availability of helium supplies that may occur over time.”.

SEC. 7. CONFORMING AMENDMENTS.

(a) Section 4 of the Helium Act (50 U.S.C. 167b) is amended by striking “section 6(f)” each place it appears in subsections (c)(3), (c)(4), and (d)(2) and inserting “section 6(d)”.

(b) Section 8 of the Helium Act (50 U.S.C. 167f) is repealed.

SEC. 8. EXISTING AGREEMENTS.

This Act and the amendments made by this Act shall not in any manner affect or diminish the rights and obligations of the Secretary of the Interior and private parties under agreements in existence on the date of enactment of this Act, except to the extent that the agreements are renewed or extended after that date.

SEC. 9. REGULATIONS.

The Secretary of the Interior shall promulgate such regulations as are necessary to carry out this Act and the amendments made by this Act, including regulations necessary to prevent unfair acts and practices.

By Mr. BAUCUS (for himself and Mr. JOHANNIS):

S. 784. A bill to expand agricultural opportunities for military veterans, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. BAUCUS. Mr. President, in 1787, Thomas Jefferson wrote a letter to

George Washington in which he wrote “Agriculture is our wisest pursuit, because it will in the end contribute most to real wealth, good morals, and happiness.”

Those words remain true for our farmers and ranchers today but they also ring true to for veterans who are returning from service and returning to the land.

Our veteran unemployment rate is shameful, and it really hits home in rural States like Montana where so many folks volunteer for service. I believe we must think outside the box and look for ways to boost jobs for our veterans in everything we do. Which has me turning to the Farm bill.

Today I, with my colleague Senator JOHANNIS, have introduced the Agricultural Opportunities for Military Veterans Act which will help create new opportunities for our veteran populations hoping to become involved in farming and ranching.

With over 45 percent of those who serve in the military coming from rural communities Congress must ensure our returning servicemembers have a variety of resources at their disposal.

My bill will help boost veteran employment through the Farm bill. It would create a veteran preference in programs that make it cheaper and easier to institute best practices in farming and ranching.

The bill also creates a new Military Liaison Office to assist veterans at the U.S. Department of Agriculture and expands outreach programs to help make sure veterans are aware of the resources available to them.

I urge my colleagues to join myself and Senator JOHANNIS in supporting veterans through our programs at the U.S. Department of Agriculture.

By Mr. REID:

S. 788. A bill to suspend the fiscal year 2013 sequester and establish limits on war-related spending; read the first time.

Mr. REID. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 788

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SUSPENSION OF THE 2013 SEQUESTER.

Notwithstanding the sequestration order issued by the President pursuant to section 251A(7)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901a(7)(A)), there shall be available for the Federal Government for fiscal year 2013 the amount that would have been made available for the Federal Government for fiscal year 2013 but for sections 251 and 251A of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 and 901a), sections 3001 and 3004 of the Consolidated and Further Continuing Appropriations Act, 2013, and any sequestration order issued by the President.

SEC. 2. AMENDMENT TO OCO ADJUSTMENTS.

Section 251 of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901) is amended—

- (1) in subsection (a), by striking paragraph (2) and inserting the following:

“(2) **ELIMINATING A BREACH.**—

“(A) **IN GENERAL.**—Each nonexempt account within a category shall be reduced by a dollar amount calculated by multiplying the enacted level of sequester budgetary resources in that account at that time by the uniform percentage necessary to eliminate a breach within that category.

“(B) **OVERSEAS CONTINGENCIES.**—Any amount of budget authority for overseas contingency operations and related activities for fiscal years 2014 through 2016 in excess of the levels set in subsection 251(b)(2)(E) shall be counted in determining whether a breach has occurred in the security category.”; and

- (2) in subsection (b)(2)—

(A) in subparagraph (A)(ii), by inserting “for fiscal years 2017 through 2021,” before “the Congress”; and

- (B) by inserting at the end the following:

“(E) **OVERSEAS CONTINGENCY OPERATIONS/ GLOBAL WAR ON TERRORISM.**—If, for fiscal years 2014 through 2016, appropriations for discretionary accounts are enacted that Congress designates for Overseas Contingency Operations/Global War on Terrorism in statute on an account by account basis, the adjustment for the fiscal year shall be the total of such appropriations for the fiscal year in discretionary accounts designated as being for Overseas Contingency Operations/Global War on Terrorism, but not to exceed—

- “(i) for fiscal year 2014, \$92,289,000,000 in additional new budget authority;
- “(ii) for fiscal year 2015, \$37,283,000,000 in additional new budget authority; and
- “(iii) for fiscal year 2016, \$37,283,000,000 in additional new budget authority.”.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 105—DESIGNATING APRIL 2013 AS “FINANCIAL LITERACY MONTH”

Mr. REED (for himself, Mr. ENZI, Mr. MERKLEY, Mr. CRAPO, Mr. JOHNSON of South Dakota, Mr. BARRASSO, Mrs. MURRAY, Mr. COCHRAN, Mr. CARDIN, Mr. WICKER, Mrs. HAGAN, Mr. BLUNT, Mr. DURBIN, Ms. WARREN, Mr. FRANKEN, Mr. COONS, Mr. BAUCUS, Mr. JOHNSON of Wisconsin, Mr. BROWN, Mr. LAUTENBERG, Mr. WARNER, and Ms. LANDRIEU) submitted the following resolution; which was considered and agreed to:

S. RES. 105

Whereas, according to the Federal Deposit Insurance Corporation (referred to in this preamble as the “FDIC”), at least 28.3 percent of households in the United States, or nearly 34,000,000 households with approximately 67,888,000 adults, are unbanked or underbanked and therefore have not had the opportunity to access savings, lending, and other basic financial services;

Whereas, according to the FDIC, approximately 30 percent of banks reported in 2011 that consumers lacked understanding of the financial products and services banks offered;

Whereas, according to the 2012 Consumer Financial Literacy Survey Final Report of the National Foundation for Credit Counseling—

- (1) approximately 42 percent of, or nearly 98,000,000, adults in the United States gave themselves a grade of C, D, or F on their

knowledge of personal finance, and 4 out of every 5 adults admitted that they could benefit from additional advice and answers to everyday financial questions from a professional;

(2) the number of adults in the United States who admit to not paying their bills on time has increased from 28 percent in 2011 to 33 percent, or nearly 77,000,000, in 2012;

(3) only 43 percent of adults in the United States keep close track of their spending, and more than 13,000,000 adults do not know how much they spend on food, housing, and entertainment, and do not monitor their overall spending; and

(4) 2 out of every 5 adults in the United States, or more than 93,000,000, are saving less than they did in 2011, and approximately 39 percent of adults report that they have no non-retirement savings;

Whereas the 2012 Retirement Confidence Survey conducted by the Employee Benefit Research Institute found that—

(1) only 14 percent of workers were “very confident” about having enough money for a comfortable retirement, which is a sharp decline in worker confidence from the 27 percent of workers who were “very confident” in 2007; and

(2) approximately 56 percent of workers say they or their spouses have not calculated the amount of money they need to save for retirement;

Whereas, according to a 2012 “Flow of Funds” report by the Board of Governors of the Federal Reserve System, aggregate household debt in the United States was \$12,800,000,000 at the end of the fourth quarter of 2012;

Whereas, according to the Survey of the States 2011: Economic, Personal Finance, and Entrepreneurship Education in Our Nation’s Schools, a biennial report by the Council for Economic Education—

(1) only 22 States require students to take an economics course as a high school graduation requirement;

(2) only 16 States require testing student knowledge of economics; and

(3) only 12 States require students to take a personal finance course either independently or as part of an economics course as a high school graduation requirement;

Whereas, according to the Gallup-Operation HOPE Financial Literacy Index, only 54 percent of students in the United States have money in a bank or credit union account;

Whereas expanding access to the mainstream financial system will provide individuals with less expensive and more secure options for managing finances and building wealth;

Whereas quality personal financial education is essential to ensure that individuals are prepared to manage money, credit, and debt, and to become responsible workers, heads of household, investors, entrepreneurs, business leaders, and citizens;

Whereas increased financial literacy empowers individuals to make wise financial decisions and reduces the confusion caused by an increasingly complex economy;

Whereas a greater understanding of, and familiarity with, financial markets and institutions will lead to increased economic activity and growth;

Whereas, in 2003, Congress determined that coordinating Federal financial literacy efforts and formulating a national strategy is important; and

Whereas, in light of that determination, Congress passed the Financial Literacy and Education Improvement Act (20 U.S.C. 9701 et seq.), establishing the Financial Literacy and Education Commission: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2013 as “Financial Literacy Month” to raise public awareness about—

(A) the importance of personal financial education in the United States; and

(B) the serious consequences that may result from a lack of understanding about personal finances; and

(2) calls on the Federal Government, States, localities, schools, nonprofit organizations, businesses, and the people of the United States to observe Financial Literacy Month with appropriate programs and activities.

SENATE RESOLUTION 106—COMMENDING REHABILITATION COUNSELORS AND SUPPORTING THE GOALS AND IDEALS OF NATIONAL REHABILITATION COUNSELORS APPRECIATION DAY

Mr. CASEY (for himself and Mr. CHAMBLISS) submitted the following resolution; which was considered and agreed to:

S. RES. 106

Whereas rehabilitation counselors conduct assessments, provide counseling, support families, and plan and implement rehabilitation programs for individuals in need of rehabilitation;

Whereas the purpose of professional organizations for rehabilitation counseling and education is to promote the improvement of rehabilitation services available to individuals with disabilities through quality education for counselors and rehabilitation research;

Whereas various professional organizations have vigorously advocated up-to-date education and training and the maintenance of professional standards in the field of rehabilitation counseling and education, including—

(1) the National Rehabilitation Association;

(2) the Rehabilitation Counselors and Educators Association;

(3) the National Council on Rehabilitation Education;

(4) the National Rehabilitation Counseling Association;

(5) the American Rehabilitation Counseling Association;

(6) the Commission on Rehabilitation Counselor Certification;

(7) the Council of State Administrators of Vocational Rehabilitation; and

(8) the Council on Rehabilitation Education;

Whereas, on March 22, 1983, Martha Walker of Kent State University, who was President of the National Council on Rehabilitation Education, testified before the Subcommittee on Select Education of the Committee on Education and Labor of the House of Representatives, and was instrumental in bringing the need for qualified rehabilitation counselors to the attention of Congress;

Whereas the efforts of Martha Walker led to the enactment of laws that require rehabilitation counselors to have proper credentials, in order to provide a higher quality of service to those in need of rehabilitation; and

Whereas March 22 is National Rehabilitation Counselors Appreciation Day: Now, therefore, be it

Resolved, That the Senate—

(1) commends—

(A) rehabilitation counselors, for the dedication and hard work rehabilitation counselors provide to individuals in need of rehabilitation; and

(B) professional organizations, for the efforts professional organizations have made to assist those who require rehabilitation; and

(2) supports the goals and ideals of National Rehabilitation Counselors Appreciation Day.

SENATE RESOLUTION 107—HONORING MILITARY CHILDREN DURING THE NATIONAL MONTH OF THE MILITARY CHILD

Mrs. MURRAY (for herself, Ms. AYOTTE, Ms. LANDRIEU, Mr. HELLER, Mr. MANCHIN, Mrs. BOXER, Mr. BAUCUS, Mr. PRYOR, Mrs. HAGAN, Mr. WHITEHOUSE, Mr. CARDIN, Mr. MENENDEZ, Mr. SCHATZ, Mr. WARNER, Ms. MIKULSKI, Mr. SANDERS, Ms. WARREN, Mrs. GILLIBRAND, and Mr. CHAMBLISS) submitted the following resolution; which was considered and agreed to:

S. RES. 107

Whereas more than 2,000,000 men and women are demonstrating their courage and commitment to freedom by serving in the Armed Forces of the United States;

Whereas 43.9 percent of members of the Armed Forces, when deployed away from their permanent duty stations, leave families with children behind;

Whereas no one feels the effect of deployments more than the children of deployed members of the Armed Forces;

Whereas, as of March 2013, 4,802 children had lost a parent serving in Operation Iraqi Freedom and Operation Enduring Freedom;

Whereas the daily struggles and personal sacrifices of children of members of the Armed Forces too often go unnoticed;

Whereas countless children live with a parent who is a member of the Armed Forces and who bears a visible or invisible wound of war;

Whereas the children of members of the Armed Forces are a source of pride and honor to the people of the United States and it is fitting that the United States recognize their contributions and celebrate their spirit;

Whereas the National Month of the Military Child, observed in April each year, recognizes military children for their sacrifices and contributes to demonstrating the unconditional support of the United States for members of the Armed Forces;

Whereas, in addition to programs of the Department of Defense to support military families and military children, various programs and campaigns have been established in the private sector to honor, support, and thank military children by fostering awareness and appreciation for the sacrifices and the challenges they face; and

Whereas a month-long salute to military children will encourage support for those organizations and campaigns established to provide direct support for military children and families: Now, therefore, be it

Resolved, That the Senate—

(1) joins the Secretary of Defense in honoring the children of members of the Armed Forces and recognizes that those children also share in the burden of protecting the United States; and

(2) urges the people of the United States to join with the military community in observing the National Month of the Military Child with appropriate ceremonies and activities that honor, support, and thank military children.

SENATE RESOLUTION 108—DESIGNATING APRIL 2013 AS “NATIONAL 9-1-1 EDUCATION MONTH”

Ms. KLOBUCHAR (for herself and Mr. BURR) submitted the following resolution; which was considered and agreed to:

S. RES. 108

Whereas 9-1-1 is recognized throughout the United States as the number to call in an emergency to receive immediate help from police, fire, emergency medical services, or other appropriate emergency response entities;

Whereas, in 1967, the President’s Commission on Law Enforcement and Administration of Justice recommended that a “single number should be established” nationwide for reporting emergency situations, and various Federal Government agencies and governmental officials supported and encouraged the recommendation;

Whereas, in 1968, the American Telephone and Telegraph Company (commonly known as “AT&T”) announced that it would establish the digits 9-1-1 as the emergency code throughout the United States;

Whereas Congress designated 9-1-1 as the national emergency call number in the Wireless Communications and Public Safety Act of 1999 (Public Law 106-81; 113 Stat. 1286);

Whereas section 102 of the ENHANCE 911 Act of 2004 (47 U.S.C. 942 note) declared an enhanced 9-1-1 system to be “a high national priority” and part of “our Nation’s homeland security and public safety”;

Whereas it is important that policy makers at all levels of government understand the importance of 9-1-1, how the 9-1-1 system works, and the steps that are needed to modernize the 9-1-1 system;

Whereas the 9-1-1 system is the connection between the eyes and ears of the public and the emergency response system in the United States and is often the first place emergencies of all magnitudes are reported, making 9-1-1 a significant homeland security asset;

Whereas more than 6,000 9-1-1 public safety answering points serve more than 3,000 counties and parishes throughout the United States;

Whereas dispatchers at public safety answering points answer more than 200,000,000 9-1-1 calls each year in the United States;

Whereas a growing number of 9-1-1 calls are made using wireless and Internet Protocol-based communications services;

Whereas a growing segment of the population of the United States, including individuals who are deaf, hard of hearing, or deaf-blind, or have speech disabilities, is increasingly communicating with nontraditional text, video, and instant messaging communications services and expects those services to be able to connect directly to 9-1-1;

Whereas the growth and variety of means of communication, including mobile and Internet Protocol-based systems, impose challenges for accessing 9-1-1 and implementing an enhanced 9-1-1 system and require increased education and awareness about the capabilities of different means of communication;

Whereas numerous other “N-1-1” and 800 number services exist for nonemergency situations, including 2-1-1, 3-1-1, 5-1-1, 7-1-1, 8-1-1, poison control centers, and mental health hotlines, and the public needs to be educated on when to use those services in addition to or instead of 9-1-1;

Whereas international visitors and immigrants make up an increasing percentage of the population of the United States each year, and visitors and immigrants may have

limited knowledge of the emergency calling system in the United States;

Whereas people of all ages use 9-1-1 and it is critical to educate people on the proper use of 9-1-1;

Whereas senior citizens are highly likely to need to access 9-1-1 and many senior citizens are learning to use new technology;

Whereas thousands of 9-1-1 calls are made every year by children properly trained in the use of 9-1-1, which saves lives and underscores the critical importance of training children early in life about 9-1-1;

Whereas the 9-1-1 system is often misused, including by the placement of prank and nonemergency calls;

Whereas misuse of the 9-1-1 system results in costly and inefficient use of 9-1-1 and emergency response resources and needs to be reduced;

Whereas parents, teachers, and all other caregivers need to play an active role in 9-1-1 education for children, but can do so only after first being educated themselves;

Whereas there are many avenues for 9-1-1 public education, including safety fairs, school presentations, libraries, churches, businesses, public safety answering point tours or open houses, civic organizations, and senior citizen centers;

Whereas children, parents, teachers, and the National Parent Teacher Association make vital contributions to the education of children about the importance of 9-1-1 through targeted outreach efforts to public and private school systems;

Whereas the United States should strive to host at least 1 educational event regarding the proper use of 9-1-1 in every school in the country every year;

Whereas programs to promote proper use of 9-1-1 during National 9-1-1 Education Month could include—

(1) public awareness events, including conferences, media outreach, and training activities for parents, teachers, school administrators, other caregivers, and businesses;

(2) educational events in schools and other appropriate venues; and

(3) production and distribution of information about the 9-1-1 system designed to educate people of all ages on the importance and proper use of 9-1-1; and

Whereas the people of the United States deserve the best education regarding the use of 9-1-1: Now, therefore, be it

Resolved, That the Senate—

(1) designates April 2013 as “National 9-1-1 Education Month”; and

(2) urges governmental officials, parents, teachers, school administrators, caregivers, businesses, nonprofit organizations, and the people of the United States to observe the month with appropriate ceremonies, training events, and activities.

AMENDMENTS SUBMITTED AND PROPOSED

SA 740. Mr. PRYOR (for himself and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 743, to restore States’ sovereign rights to enforce State and local sales and use tax laws, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 740. Mr. PRYOR (for himself and Mr. BLUNT) submitted an amendment intended to be proposed by him to the bill S. 743, to restore States’ sovereign rights to enforce State and local sales and use tax laws, and for other pur-

poses; which was ordered to lie on the table; as follows:

At the end, add the following:

SEC. ____ . EXTENSION OF INTERNET TAX FREEDOM ACT.

(a) IN GENERAL. Section 1101 of the Internet Tax Freedom Act (47 U.S.C. 151 note) is amended by striking “November 1, 2014” and inserting “November 1, 2024”.

(b) GRANDFATHERING OF STATES THAT TAX INTERNET ACCESS.—Section 1104(a)(2)(A) of such Act is amended by striking “November 1, 2014” and inserting “November 1, 2024”.

NOTICE OF INTENT TO OBJECT TO PROCEEDING

I, Senator CLAIRE MCCASKILL, intend to object to proceeding to the nomination of Lt. Gen. Susan J. Helms to be Lieutenant General in the U.S. Air Force, dated April 23, 2013.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on April 23, 2013, at 9:30 a.m.

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

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on April 23, 2013, at 10 a.m. to conduct a hearing entitled “The Consumer Financial Protection Bureau’s Semi-Annual Report to Congress.”

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on April 23, 2013, at 10 a.m., in room SD-366 of the Dirksen Senate Office Building.

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

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on April 23, 2013, at 2:30 p.m. in room SD-366 of the Dirksen Senate Office Building.

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

COMMITTEE ON FINANCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on April 23, 2013, at 10 a.m., in room 215 of the Dirksen Senate Office Building, to conduct a hearing entitled “The

Antwone Fisher Story as a Case Study for Child Welfare.”

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

COMMITTEE ON HEALTH, EDUCATION, LABOR,
AND PENSIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet, during the session of the Senate, to conduct a hearing entitled “Successful Primary Care Programs: Creating the Workforce We Need” on April 23, 2013, at 10 a.m., in room 430 of the Dirksen Senate Office Building.

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

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on April 23, 2013, at 9:30 a.m., in room SH-216 of the Hart Senate Office Building, to conduct a hearing entitled “The Border Security, Economic Opportunity, and Immigration Modernization Act, S. 744.”

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

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate, on April 23, 2013, at 4 p.m., in room SD-226 of the Dirksen Senate Office Building, to conduct a hearing entitled “Drone Wars: The Constitutional and Counterterrorism Implications of Targeted Killing.”

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on April 23, 2013, at 2:30 p.m.

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

SUBCOMMITTEE ON EMERGING THREATS AND
CAPABILITIES

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Emerging Threats and Capabilities of the Committee on Armed Services be authorized to meet during the session of the Senate on April 23, 2013, at 2:30 p.m.

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

SUBCOMMITTEE ON SCIENCE AND SPACE

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Science and Space of the Committee on Commerce, Science, and Transportation be authorized to hold a meeting during the session of the Senate on April 23, 2013, at 2:30 p.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, “Challenges and Opportunities for Human Space Exploration.”

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

SUBCOMMITTEE ON OCEANS, ATMOSPHERE,
FISHERIES AND THE COAST GUARD

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Oceans, Atmosphere, Fisheries, and the Coast Guard of the Committee on Commerce, Science, and Transportation be authorized to hold a meeting during the session of the Senate on April 23, 2013, at 10 a.m. in room 253 of the Russell Senate Office Building.

The Committee will hold a hearing entitled, “Oversight of the President’s Fiscal Year 2014 Budget Requests for Coast Guard and NOAA.”

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

PRIVILEGES OF THE FLOOR

Mr. REID. Mr. President, I ask unanimous consent that Augustus Ilag, an intern for the Finance Committee, be allowed on the Senate floor for the remainder of this calendar year.

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

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that Molly Crawford, who is on detail to the Committee on Commerce, Science, and Transportation, from the Federal Trade Commission, be granted floor privileges for the duration of the consideration of S. 743, the Marketplace Fairness Act of 2013.

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

UNANIMOUS CONSENT
AGREEMENT—EXECUTIVE SESSION

Mr. DURBIN. I ask unanimous consent that on Wednesday, April 24, at 10:30 a.m., the Senate proceed to executive session to consider Calendar No. 60 and Calendar No. 64; that there be 90 minutes for debate equally divided in the usual form: the time from 10:30 a.m. to 11 a.m. on Calendar No. 60 and the time from 11 a.m. to 12 noon on Calendar No. 64; that upon the use or yielding back of time, the Senate proceed to vote without intervening action or debate on the nominations in the order listed, with 2 minutes for debate equally divided in the usual form between the votes; that the second vote be 10 minutes in length; that the motions to reconsider be considered made and laid upon the table, with no intervening action or debate; that no further motions be in order to the nominations; that any statements related to the nominations be printed in the RECORD; that the President be immediately notified of the Senate’s action and the Senate then resume legislative session.

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

UNANIMOUS CONSENT
AGREEMENT—H.R. 475

Mr. DURBIN. Mr. President, I ask unanimous consent that if the Senate

receives H.R. 475 from the House of Representatives and the bill is identical to the text which is at the desk, then the bill be read three times and the Senate proceed to a vote at a time to be determined by the majority leader, in consultation with the minority leader, with no intervening action or debate.

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

RESOLUTIONS SUBMITTED TODAY

Mr. DURBIN. I ask unanimous consent that the Senate proceed to the immediate consideration, en bloc, of the following resolutions, which were submitted earlier today: S. Res. 105, S. Res. 106, S. Res. 107, and S. Res. 108.

There being no objection, the Senate proceeded to consider the resolutions en bloc.

Mr. DURBIN. I ask unanimous consent that the resolutions be agreed to, the preambles be agreed to, and the motions to reconsider be laid upon the table en bloc, with no intervening action or debate.

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

The resolutions were agreed to.

The preambles were agreed to.

(The resolutions, with their preambles, are printed in today’s RECORD under “Submitted Resolutions.”)

MEASURE READ THE FIRST
TIME—S. 788

Mr. DURBIN. Mr. President, I understand that S. 788, introduced earlier today by Senator REID, is at the desk, and I ask for its first reading.

The ACTING PRESIDENT pro tempore. The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (S. 788) to suspend the fiscal year 2013 sequester and establish limits on war-related spending.

Mr. DURBIN. I now ask for its second reading and object to my own request.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be read for the second time on the next legislative day.

APPOINTMENTS

The ACTING PRESIDENT pro tempore. The Chair announces, on behalf of the President pro tempore, pursuant to Public Law 110-315, the appointment of the following individuals to be members of the National Advisory Committee on Institutional Quality and Integrity: Senator Bill Armstrong of Colorado, vice Wilfred M. McClay, and Mr. Rick O’Donnell of Texas, vice Bruce Cole.

The Chair announces, on behalf of the Republican leader, pursuant to Public Law 101-509, the reappointment of Thomas Mackey, of Kentucky,

to the Advisory Committee on the Records of Congress.

ORDERS FOR WEDNESDAY, APRIL 24, 2013

Mr. DURBIN. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, April 24, 2013; that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, and the time for the two leaders be reserved for their use later in the day; that following any leader remarks, the Senate be in a period of morning business until 10:30 a.m., with Senators permitted to speak therein for up to 10 minutes each, with the time equally divided and controlled by the two leaders or their designees, with the Republicans controlling the first half and the majority controlling the final half; further, that following morning business, the Senate proceed to executive session, under the previous order; and that when the Senate resumes legislative session, the Senate resume consideration of the motion to proceed to Calendar No. 41, S. 743, the Marketplace Fairness Act, and immediately proceed to vote on adoption of the motion.

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

PROGRAM

Mr. DURBIN. Mr. President, there will be two rollcall votes at noon tomorrow on confirmation of the Kelly and Burwell nominations.

Additional votes in relation to the Marketplace Fairness Act are possible on Wednesday. We have urged all Senators with amendments to bring them forward to the floor in an expedited fashion so we can consider them in a timely way.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. DURBIN. If there is no further business to come before the Senate, I ask unanimous consent that the Senate adjourn under the previous order.

There being no objection, the Senate, at 7:01 p.m., adjourned until Wednesday, April 24, 2013, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate:

OVERSEAS PRIVATE INVESTMENT CORPORATION

ROBERTO R. HERENCIA, OF ILLINOIS, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION FOR A TERM EXPIRING DECEMBER 17, 2015. (REAPPOINTMENT)

DEPARTMENT OF STATE

CARLOS PASCUAL, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSISTANT SECRETARY OF STATE (ENERGY RESOURCES), VICE JOHN STERN WOLF.

UNITED STATES POSTAL SERVICE

DAVID MICHAEL BENNETT, OF NORTH CAROLINA, TO BE A GOVERNOR OF THE UNITED STATES POSTAL SERVICE

FOR A TERM EXPIRING DECEMBER 8, 2018, VICE THURGOOD MARSHALL, JR., TERM EXPIRED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

YVETTE ROUBIDEAUX, OF MARYLAND, TO BE DIRECTOR OF THE INDIAN HEALTH SERVICE, DEPARTMENT OF HEALTH AND HUMAN SERVICES, FOR THE TERM OF FOUR YEARS. (REAPPOINTMENT)

IN THE COAST GUARD

PURSUANT TO SECTION 53(B), TITLE 14, U.S. CODE, THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE DIRECTOR OF THE COAST GUARD RESERVE IN THE GRADE INDICATED:

To be rear admiral

REAR ADM. STEVEN E. DAY, USCGR

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DAVID L. GOLDFEIN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DOUGLAS J. ROBB

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. RICHARD J. TORRES

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. MICHAEL DILLARD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. DONALD E. JACKSON, JR.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. WILLIAM A. BROWN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10 U.S.C., SECTION 601:

To be vice admiral

MARK I. FOX

IN THE AIR FORCE

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR AIR FORCE UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant colonel

MATTHEW J. GERVAIS

IN THE ARMY

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

THOMAS G. BEHLING

GARY D. COFFEY

JAKIE R. DAVIS, JR.

DAVID D. FARR

RAYMOND G. STRAWBRIDGE

IN THE NAVY

THE FOLLOWING NAMED INDIVIDUAL FOR APPOINTMENT TO THE GRADE INDICATED IN THE REGULAR NAVY UNDER TITLE 10, U.S.C., SECTION 531:

To be lieutenant commander

LATANYA A. ONEAL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

ERIC WASHINGTON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JEANNE E. PRICER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

TIMOTHY E. JOHNSON

ROBERT L. MARK II

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

MATTHEW R. BUTKIS

HANS HARTWIG

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

MICHAEL S. DORRIS

JOYCE F. RICHARDSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

PATRICK W. MCNALLY

SCOTT M. MILLER

RON A. STEINER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

RONALD R. SHAW, JR.

ANGELA H. WALKER

KEITH E. WILLIAMS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JOHN A. DAUGHETY

DAVID M. HERSCHEL

RICHARD O. TOLLEY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

PAULA D. DUNN

TODD A. MARTIN

JERALD A. ROSTAD

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

MARY A. GWOREK

CHRISTOPHER P. MURPHY

MATTHEW G. REARDON

LAURA M. SCOTTY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

GLENN E. MURRAY

INGRID M. RADER

MARK T. SMITH

VICTOR A. WHITE

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

BRYANT E. HEPSTALL

NORMAN C. OWEN

KIMBERLY J. SCHULZ

ERIC J. SIMON

JOHN F. ZREMBSKI

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

DOUGLAS J. BROWN

MATTHEW A. CARR

JOHN M. FREYMAN

WESLEY S. HUEY

JEFFREY S. MCPHERSON

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

MICHAEL L. DOUGLAS

WILLIAM J. EKBLAD

SEAN R. HERITAGE

JOEY J. JOHNSON

WILLIAM A. LINTZ

DOUGLAS R. SCHEL

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

EDWARD R. CARROLL
 RICHARD F. COLEMAN
 NEIL A. DABOUL
 WILLIAM S. FEDOR
 DAVID J. GLASS
 JORGE E. GRACIA
 ANDREW MURRAY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

JOHN S. CRANSTON
 BRETT T. FULLERTON
 MARK A. IMBLUM
 JOHN R. MORRIS
 BRENT D. SADLER
 SAM J. VALENCIA
 WILLIAM C. WHITSITT

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

KIM C. BRICHACEK
 ROBERT A. DEWS, JR.
 STEVEN F. FRILLOUX
 WISTAR A. HARDISON
 RALITA S. HILDEBRAND
 MERY A. S. KATSON
 KATHLEEN A. KERRIGAN
 CAROL M. KUSHMIER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

ALFRED D. ANDERSON
 JAMES D. CRAYCRAFT
 JAMES L. HANLEY
 LUIS A. HERNANDEZ
 EDWARD D. KATZ
 CHARLES M. PHILLIP
 HUGH RANKIN
 JOHN B. VLIET

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

THOMAS A. HAGOOD, JR.
 TIMOTHY R. HALLADAY
 LEONARD D. LAPORTEZA
 HUAN T. NGUYEN
 EUGENE P. OPALLON
 EUGENE A. RAMOS
 GURPARTAP S. SANDHOO
 NICHOLAS H. TAYLOR

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

THOMAS C. CECIL
 ROBERT D. CROXSON
 JOSEPH B. HORNBUCKLE
 ROBERT G. JOHNSON
 ANDREW J. MCFARLAND
 JAMES M. MUSE
 WILLIAM J. PALERMO
 TODD D. STLAURENT
 KYLE T. TURCO

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

DON E. CHERAMIE
 SCOTT V. CHESBROUGH
 JENNIFER K. EAVES
 MARK A. GERSCHOFFER
 LAURA R. HATCHER
 THOMAS M. HENDERSCHIEDT
 SEAN P. KELLEY
 FREDERICK W. MOSENFELDER
 MARA A. MOTHERWAY
 CHRISTINA L. SIMINGTON
 RALPH R. SMITH III

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

HERMAN L. ARCHIBALD
 VINCENT A. AUGELLI
 EUGENE R. BAILEY
 ERIC R. JOHNSON
 MATTHEW R. LEAR
 BRADLEY F. MAAS
 ERIC S. MCCARTNEY
 SHAWN P. MURPHY
 MARGARET M. SCHULT
 ARLENE J. SHOULTS
 RAMBERTO A. TORRUCELLA
 MATTHEW H. WELSH

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

STEVEN A. BEALS

BRUCE A. BEAM, JR.
 JOHN J. BELLINO
 ELLEN M. CHANG
 DAVID J. DACYCZYNSKI
 MATTHEW K. DAVENPORT
 PATRICIA A. ENRIGHT
 KATHLEEN H. HAWK
 RICHARD D. KILDOW, JR.
 MATTHEW J. LITTLETON
 KEVIN J. LOWELL
 KIRK T. LUKER
 JOHN S. SCHLOTTERER
 MARVIN L. SLUSSER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

BENITO E. BAYLOSIS
 KEVIN R. GALLAGHER
 JOHN D. GERKEN
 ANDREW S. GIBBONS
 CHRISTOPHER J. HANSON
 WILLIAM L. HARDMAN
 ANDREW P. JOHNSON
 DANIEL L. LANNAMANN
 PHILIP E. MALONE
 HOWARD B. MARKLE
 GERALD R. PRENDERGAST
 JACK S. RAMSEY, JR.
 JOHN P. ROBINSON II
 TIMOTHY C. SPICER
 MICHAEL E. TAYLOR
 KAI O. TORKELSON
 GUSTAVO J. VERGARA

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

JENKS D. BRITT
 ANGEL C. CRUZ
 GREGORY P. DAVIS
 WENDELL S. EARGLE
 JAY A. GAGNE
 JEFFREY D. GRANT
 WAYNE D. GUNTHER
 SCOTT V. HANNA
 GERALD T. HEYNE
 MARK A. HOPMANN
 DOUGLAS HOWELL
 STEVEN D. HULL
 JOHN L. KROUSE
 MATTHEW M. MCGONIGLE
 ALEKXANDER MCGUINNESS
 KENNETH MCNEILL
 KIMBERLY MILLER
 ALBERT M. V. ORGAIN
 GREGORY P. REILLY
 MICHAEL J. STEFFEN
 RICHARD B. THOMAS

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY RESERVE UNDER TITLE 10, U.S.C., SECTION 12203:

To be captain

DANIEL H. ADAMS
 JAMES C. ALLEN
 ANGUS E. ANDERSON
 ROBERT A. ARSENEAULT
 JAMES B. BACA
 CRAIG E. BARTON
 STEVEN J. BLATUS
 RANDOLPH W. BORGES III
 KEITH A. BRANNER
 BOBBY J. BRAY, JR.
 CHRISTOPHER P. BRIGGS
 KEVIN D. CANTRILL
 DEMETRI C. CAPETANOPOULOS
 RACHEL E. COUSER
 GREGORY E. COLLINS
 GEOFFREY T. COLPITTS
 BETH A. CREIGHTON
 CANDACE C. ECKERT
 STEPHEN J. ERON
 DALE A. EYMANN
 DEREK K. FELD
 DAVID W. FLANAGAN
 THOMAS R. GESELL
 BRIAN M. GILK
 GREGORY F. GRANIERI
 CHARLES E. GRDINA
 ERIC T. GUNN
 MARK F. HAIGS
 ANDREW S. HAMILTON
 JOSEPH A. HANRAHAN
 ROBERT P. HARDEGEN
 DAVID W. HARROD
 MARK E. HECKEL
 BRIAN L. HEYM
 TIMOTHY E. HIBBETTS
 CORDELL D. HONRADO
 MICHAEL B. KALINA
 MARC S. LEDERER
 DAVID LUM
 ALASTAIR M. MACGREGOR
 MAUREN M. MAGNAN
 DEPINILLOS J. MARTINEZ
 BRIAN J. MCDREVITT
 HUGH J. MCFARLANE
 SHAWN M. MCGEEHEE
 ROB R. MCGREGOR
 MARK E. MILIUS
 JOHN P. MOONEY, JR.
 RICHARD M. NELMS, JR.

CHRISTOPHER M. NERNEY
 TIMOTHY F. NOONAN
 CHRISTOPHER W. OGDEN
 BRIAN K. PAUL
 DANA W. PERKINS
 SIGURD T. PETERSON
 DONALD M. PLUMMER
 JOHN F. PRICKETT
 JESUS RIVAS
 ROBERT C. ROWLAND
 MARK J. SAVIN
 CURTIS J. SNEDDON
 SCOT P. SOMES
 KRISTA P. STURBOIS
 PATRICK B. TAGLAVORE
 JEFFREY D. VANSICLEN
 ALBERT C. WEAVER III
 KURT E. WEIDMAN
 BENJAMIN J. WILLKIE
 KENNETH L. WORTHY
 STEFAN M. WUSSTIG
 JONATHAN D. YOUNG
 WILLIAM M. ZACHMAN, JR.

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES NAVY UNDER TITLE 10, U.S.C., SECTION 624:

To be captain

KEVIN T. AANESTAD
 DOUGLAS J. ADAMS
 GEORGE B. AGUILAR
 CHRISTOPHER D. ALEXANDER
 RICHARD B. ALSOP
 WAYNE W. ANDERSON, JR.
 CHARLES H. ANDREWS
 ANTHONY J. ANGLIN
 GEORGE R. ARNOLD II
 THOMAS D. BARBER
 JOHN J. BARRY III
 TROY D. BAUDER
 JAMES A. BELZ
 JEFFREY A. BENNETT II
 CHRISTOPHER BERGEN
 JAMES M. BILOTTA
 MARK J. BOLLONG
 CHRISTOPHER J. BOYLE
 KEVIN M. BRAND
 PATRICK T. BRITT
 JAMES E. BROWN
 THOMAS R. BUCHANAN
 NICHOLIE T. BUFKIN
 WILLIAM A. BULLARD III
 VORRICE J. BURKS
 JOSEPH F. CAHILL III
 PAUL F. CAMPAGNA
 PAUL A. CARELLI
 CURTIS C. GARROLL
 CHRISTOPHER J. CASSIDY
 CHRISTOPHER J. CAVANAUGH
 MAXIMILIAN CLARK
 BRETT W. COFFEY
 BRAD J. COLLINS
 TIMOTHY M. COOPER
 ANTHONY P. CORAPI
 WILLARD J. COX III
 WILLIAM T. COX, JR.
 JEFFREY A. CRAIG
 MICHAEL A. CRAIG
 BRETT E. CROZIER
 PAUL A. CRUMP
 DAVID C. CULPEPPER
 SCOTT B. CURTIS
 WILLIAM R. DALY
 MARK E. DAY
 DENNIS A. DEBOBES
 BRIEN W. DICKSON
 PAUL L. DINIUS
 MICHAEL D. DOHERTY
 DONALD J. DONEGAN
 JOHN W. DONLITTLE
 GEORGE B. DOYON, JR.
 JEFFREY J. DRAEGER
 CURTIS B. DUNGAN
 BRYAN W. DURKEE
 DAVID V. EDGERTON
 JEFFREY W. EGGERS
 STEPHEN S. ERB
 JEFFREY N. FARAH
 SCOTT T. FARR
 RICHARD J. FIELD
 BRIAN J. FINMAN
 PATRICK V. FOEGE
 RONALD A. FOY
 THOMAS A. FROSCH
 STEPHEN F. FULLER
 BRADLEY R. GARBBER
 JAMES P. GARDNER
 JOHN A. GEARHART
 BRIAN A. GEBBO
 MICHAEL J. GIANNETTII
 DANIEL J. GILLEN
 DARREN W. GLASER
 DOUGLAS V. GORDON
 MICHAEL J. GRABOWSKI
 GUSTAVO GUTIERREZ
 KAVON HAKIMZADEH
 SEAN P. HALEY
 DAVID B. HALLORAN
 JASON G. HAMMOND
 MATTHEW J. HARRISON
 JASPER C. HARTSFIELD
 JAMES D. HAWKINS
 CHARLES J. HAYDEN III
 CHRISTOPHER D. HAYES
 STEVEN T. HEJMANOWSKI
 GERALD C. HENNESSEY, JR.

JOHN C. HENSEL II
 TIMOTHY M. HILL
 JOHN C. HOWARD
 CORY R. HOWES
 PETER W. HUDSON, JR.
 THOMAS R. HUERTER
 ANTONIO D. HULL
 MICHAEL E. HUTCHENS
 ADOLFO H. IBARRA
 MARK E. JOHNSON
 DONALD E. KENNEDY
 KEVIN M. KENNEDY
 GREGORY R. KERCHER
 PATRICK E. KEYES
 SCOTT H. KRAFT
 PATRICK E. KULAKOWSKI
 DOUGLAS W. KUNZMAN
 ROBERT T. LACY
 MARK A. LAKAMP
 GEORGE M. LANDIS III
 HUNG B. LE
 MARK S. LEAVITT
 JEAN M. LEBLANC
 FITZHUGH S. LEE
 MATTHEW J. LEHMAN
 LANCE L. LESHNER
 ANDREW C. LYNCH
 LEONARD M. LYON
 CHRISTOPHER T. MARTIN
 TODD R. MARZANO
 ROBERT W. MATHEWSON
 EDWARD D. MCCABE
 JAMES A. MCCALL III
 LARRY G. MCCULLEN
 RICHARD C. MCDANIEL
 SEAN P. MCDERMOTT
 JOHN E. MCGUNNIGLE, JR.
 DARREN G. MCPHERSON
 KEVIN A. MELODY
 MARK A. MELSON
 ROGER E. MEYER

BRETT W. MIETUS
 MICHAEL V. MISIEWICZ
 LEIF E. MOLLO
 GEOFFREY C. MOORE
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