

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 President, I ask unanimous consent that the order for the quorum call be rescinded.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