

year. The Council of Economic Advisers predicted that will cost the country 600,000 jobs.

What else happens? A treaty that will make Americans safer goes nowhere, a treaty supported by the entire military leadership and endorsed yesterday by the Secretaries of State of the last five Republican Presidents. Without the START treaty, there are more nuclear weapons than there should be, we know less about the Russian nuclear arsenal than we need to, and Americans are less safe.

Here is one more consequence of the Republican ultimatum: Thousands of first responders who rushed to Ground Zero on 9/11 got terribly sick from the toxins there. The longer Republicans stall, the longer these heroes have to wait for the health care and compensation they deserve.

Why are tens of thousands of unemployed Nevadans at risk of losing their lifeline? Why is Nevada at risk of losing jobs when we are desperate to create them? Why is the START treaty stalled? Why are the 9/11 heroes still sick with nowhere to turn? Each of these questions has the same answer—because Republican Senators want to give their richest friends a tax break they don't need, many don't want, and none of us can afford.

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, there will now be a period of morning business, with Senators permitted to speak therein for up to 10 minutes each.

Mr. REID. I suggest the absence of quorum.

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

The assistant legislative clerk proceeded to call the roll.

Mr. BAUCUS. 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 President, I ask unanimous consent that the order for the quorum call be rescinded.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. BAUCUS. Mr. President, I ask unanimous consent to speak in morning business for as much time as I consume.

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

Mr. REID. Mr. President, would my friend, the distinguished chairman of the Finance Committee, yield?

Mr. BAUCUS. Sure.

The ACTING PRESIDENT pro tempore. The majority leader.

VOTES TOMORROW

Mr. REID. Mr. President, I think it is appropriate that everyone be notified

there will be no rollcall votes today. We are still working on what time it will be tomorrow. But we, as everyone knows and I have said here—this is the third time—we were within inches of having something worked out on having votes today, but for reasons I do not fully understand, the Republicans did not agree to that at the last minute, and now we have to figure out what time we are going to vote tomorrow. If we cannot work it out by consent, then, of course, we will do it 1 hour after we come in, which is the rule. We have competing interests. We have people who want it late tomorrow. We have people who want it early tomorrow. So we will try to see what we can do to work through that.

Again, I appreciate my good friend for yielding.

Mr. BAUCUS. Mr. President, I thank the leader for all his very hard work. Nobody is working harder than the leader to try to work out the schedule so we can address these issues, and we all thank him.

MIDDLE-CLASS TAX CUTS

Mr. BAUCUS. Mr. President, the textbook definition of "economics" is about scarcity. For example, in his textbook "Principles of Economics," President Bush's chief economic adviser, Gregory Mankiw, wrote this:

Economics is the study of how society manages its scarce resources.

We could say the same thing about fiscal policy. Fiscal policy is about how society, acting through its government, chooses to allocate scarce resources. There is not an endless supply of money. We have to make choices. Every time we put together a budget, we have to make choices. Every time we formulate the Nation's tax policy, we have to make choices.

So when it comes to whether to extend the 2001 tax cuts, once again, we have to make choices. It is a question of priorities. The debate over what to do about the 2001 and 2003 tax cuts for those with the highest incomes is a debate about priorities.

Are we better off devoting scarce resources to a larger tax cut for those at the very top or are we better off devoting those scarce resources to new tax incentives to promote investment and create new jobs or are we better off devoting those scarce resources to reducing the Federal budget deficit and debt? Those are the choices we need to make.

Today, the Senate is considering how we should make those choices. The amendment we have offered says basically: Let's make the middle-class tax cuts permanent. That is something on which pretty much everyone in this Chamber should agree. After we have cut taxes for middle-class Americans, then let's have an honest debate. Let's debate whether extending tax cuts for the very top incomes is the right priority.

But, in any case, making middle-class tax cuts permanent is the right

thing to do. Let's not allow tax cuts for middle-class Americans to be held hostage to partisan wrangling about tax cuts for those who make the very most.

So how did we come to this choice? Let me take a few moments to review how we got here.

In 2001, Congress enacted legislation to let American families keep more of their money. Many of these tax incentives were phased in over several years. In 2003, Congress enacted legislation adding new tax incentives and speeding up implementation of the 2001 law.

The 2001 and 2003 tax laws lowered tax rates for all taxpayers, and those laws provided much needed tax relief for families, education, and small business. Many of these tax provisions have broad support across the political spectrum. But these tax benefits are not permanent. Beginning on January 1, all these 2001 and 2003 tax cuts expire, even those for Americans who need them the most.

At the same time, the Federal debt is at its highest level since shortly after World War II, and our fiscal challenges are growing with the retirement of the baby boom generation. The amendment we consider today responds to both these challenges.

So what would our amendment do? First, our amendment would extend tax cuts for middle-class American families. Our amendment would permanently extend the lower tax rates for income up to \$250,000 for married couples and \$200,000 for individuals.

Extending these lower tax rates would benefit all taxpayers—all taxpayers—including higher income taxpayers. In fact, higher income taxpayers would receive the largest tax benefits in terms of dollars per taxpayer. That is, of course, because we have our marginal tax rate system in America. So making the tax cut permanent for all taxes of Americans below \$250,000 will benefit all Americans—not only those below \$250,000, but those above \$250,000, will, under this amendment, get a benefit. As I said, in fact, higher income taxpayers receive the largest tax benefits in terms of dollars per taxpayer, even under the \$250,000 amendment.

Our amendment would make permanent the provisions that help working families with children. The number of people living in poverty is at a 15-year high. One out of every five American children lives in poverty. Many of these provisions in our amendment would help keep children and their families out of poverty.

The amendment would make permanent the expanded earned-income tax credit for families with three or more children. The increased tax credit provides more help to families with children. The partially refundable portion of the credit allows families to receive a benefit even when their tax liability is low, as long as the family has earned income of more than \$3,000.

This credit helps to support 13 million children in low-income working

families every year. These families are likely to spend every dollar they receive right away. That means this provision would also help the economy.

The increased dependent care credit recognizes the increased cost of childcare for working families. People should be able to go to work and have the quality care they need for their children. In 2008, the dependent care credit helped more than 6.5 million working families to make ends meet.

Our amendment would make permanent a tax benefit for employers who construct, build or expand property used as a childcare facility. This benefit recognizes the contribution that some employers make to help their employees balance child-raising and a career.

The amendment would provide permanent marriage penalty relief. That way, married couples would not get higher taxes as an added wedding present.

The amendment would direct that certain government programs disregard refundable tax credits when determining eligibility for the programs. This would ensure that America's most in need would not be worse off because of tax incentives. We don't want to give with one hand and take away with the other.

Our amendment also addresses the importance of getting a quality education and the increased cost of getting an education. Our amendment would make it easier to deduct student loan interest, to eliminate the restriction on the number of months eligible for the deduction, and it would expand the eligibility to more postgraduates. Our amendment would make permanent the American opportunity tax credit. This would help students to afford a higher education. This provision is a partially refundable tax credit up to \$2,500 of the cost of tuition and fees, including books. The amendment includes an income exclusion for loan repayment for programs where a postgraduate becomes a health professional in an underserved area. The amendment would include continuing education for workers by allowing an exclusion from income for employer-provided educational assistance programs.

What do we do about capital gains and dividends? Right now, capital gains are currently taxed at a maximum rate of 15 percent and dividends are treated as capital gains. This treatment expires at the end of this year. Starting January 1, unless we act, capital gains will be taxed at 20 percent and dividends will be treated as ordinary income.

Our amendment would make permanent the current capital gains rate for taxpayers with incomes up to \$250,000 for married couples and up to \$200,000 for individuals. The amendment continues to treat dividends as capital gains for all taxpayers, so dividends would not be treated as ordinary income for any taxpayer. This would level the playing field. This would en-

sure that the Tax Code will not favor one type of investment over the other.

What do we do about the alternative minimum tax? Our amendment would provide 2 years of relief from the AMT. Every year, we talk about the AMT and how it ensnares hard-working Americans. Originally, Congress created the AMT to stop—get this—just 155 millionaires from completely avoiding income taxes. That was the point of the AMT. It was an attempt to make sure all taxpayers paid their fair share. What about today? Now, millions of hard-working families are subject to this dreadful tax—not 155 millionaires but millions of people—families who are working hard, raising children, and find themselves hit with increased taxes. We are not talking about millionaires; we are talking about a larger group of Americans. AMT has this effect because it was not indexed.

To keep the number of taxpayers subject to this tax from growing, Congress has to pass an AMT patch every year. Without an AMT fix, the number of taxpayers subject to the tax would explode. In Montana, Congress's failure to enact a patch would mean that more than six times as many taxpayers would have that burden.

Our amendment would take care of the AMT for 2010 and 2011. During that time, Congress can deal with this stealth tax once and for all as part of tax reform.

What about small business? Our amendment would benefit small business owners by making permanent the 2007 expansion of section 179 expensing.

What about the estate tax? Our amendment would provide permanent estate tax relief for family-owned businesses. In 2001, Congress voted to provide estate tax relief to American families. We decreased the rate and increased the exemption over time, until we had complete repeal for 2010 only. That is what we have today, in 2010. Next year, if we don't act, the law will snap back up to the old 2001 rate. This has resulted in uncertainty and a planning nightmare for families. Our amendment would eliminate that uncertainty. The amendment would make permanent 2009 estate tax law going forward. It would set the top tax rate at 45 percent and the exemption at \$3.5 million per person, which obviously amounts to \$7 million per couple.

The amendment includes an election for estates that arose between January 1 and the law's enactment. The heirs would be able to choose either current law or the new permanent tax rate and exemption.

Our amendment would provide an exemption for family ranches and farms. This provision would ensure that no family farm or ranch ever has to be sold to pay estate taxes.

Our amendment would simplify planning for spouses. Most people believe that a couple automatically receives double the exemption amount. So if an exemption is \$3.5 million, most folks assume that a couple gets \$7 million.

But what many people don't know is that to get the full \$7 million exemption, couples have to plan. Our amendment would simplify planning for spouses by allowing the transfer of any unused exemption between spouses. This would make the law work the way most people think it works already. The resulting estate tax law would provide certainty to taxpayers, and the remaining estate tax would affect only the heirs of the very largest estates. It would ensure that the small number of people who inherit so much money that they never have to work during their life would contribute their fair share.

What about the provision that folks call tax extenders? Our amendment would extend a number of other tax provisions important to individuals, businesses, and State and local governments. These provisions will continue to help create jobs and pay taxes. Our amendment would create jobs by improving our Nation's infrastructure. It would reduce the cost to local governments to build roads, bridges, and water treatment facilities. The amendment would extend multiple incentives that promote energy sustainability and efficiency. The amendment would extend the dollar-per-gallon credit for biodiesel and renewable diesel, and the amendment would extend the manufacturer's credit for the construction of new energy-efficient homes.

The amendment includes a credit for energy-efficient appliances and a credit for alternative-fuel motor vehicles. The amendment includes an extension of the advanced energy investment credit for businesses engaged in the manufacturing of technologies for the production of renewable energy and energy storage, and the amendment provides parity for transit benefits so that employers can provide tax-free benefits to their employees for both transit and parking.

Our amendment would extend a number of tax cuts for individuals, including an extension of the making work pay credit—very stimulative. It helps the economy dramatically, and if it is not in here, it will be destimulative and hurt the economy.

Our amendment would help teachers by extending the expense deduction for teachers who buy school supplies for their classrooms. The amendment would extend the additional standard deduction for State and local real estate taxes as well as the ability of itemizers to deduct sales taxes in lieu of State and local income taxes. Our amendment would extend the qualified tuition deduction to help with college costs.

This amendment would extend much needed relief for communities that have suffered from natural disasters.

Our amendment would extend important business tax provisions to help create jobs and make our companies competitive in a global economy. The amendment would extend the research and development credit to help American businesses keep on the cutting edge.

Our amendment also includes a provision that will help small businesses across our country. The provision would repeal an expansion of information reporting rules that was enacted this past year, otherwise known as 1099. Those rules expanded current information reporting requirements to include payments businesses make to corporations and payments for goods and property, not just services. This provision, known as the 1099 provision, imposes a record-keeping burden on small businesses that would take away from the time business owners need to expand their business and create jobs. This information reporting went too far, especially in this difficult economy. It is important that we repeal this expansion of information reporting.

Now, some will say that we should extend tax cuts for everyone, even the very rich. America is working through tough economic times. At the same time, our country has record deficits. Our amendment would balance these two concerns. Our amendment would extend all the tax cuts affecting middle and lower income Americans that Congress enacted in 2001 and in 2003 that sunset this year. Our amendment would also extend several expiring tax cuts benefiting middle and lower income Americans that Congress enacted in 2009. Our amendment would protect Americans who have been struggling to get by.

Our amendment would also benefit taxpayers with higher incomes. The cuts in our amendment apply to all of the income up to \$200,000 for individuals and \$250,000 for couples even if the taxpayer makes more than that. At the same time, we crafted our amendment with recognition of the mounting deficits our country faces.

Our amendment would not rely on the gimmick of temporarily extending tax cuts in order to mask their size, knowing that future Congresses will be unable to resist the temptation to keep extending these cuts. It is about priorities. Our amendment makes choices.

Our amendment would not make permanent all of the expiring tax cuts that Congress enacted in 2009. It would not make permanent tax cuts that benefit only those Americans who need them the least. Only 3 percent of Americans have incomes greater than \$250,000 for couples or \$200,000 for individuals.

Over the past quarter century, the average after-tax income of the wealthiest 5 percent has grown 150 percent.

At the same time in the past quarter century, the average after-tax income of middle-class Americans has grown by only 28 percent. So 150 percent for the top 5 percent—the wealthiest—and only 28 percent for middle-income Americans. Today, the bottom 80 percent of households receive less than half of all after-tax income. The benefits of recent economic growth have not been widely shared, so the middle

class should not be asked to tighten their belts as much as the high-income folks who have benefited the most.

As we come out of the great recession, we need to recognize the growing Federal budget deficit. In 2010, the deficit was \$1.3 trillion. That is the second highest level relative to the size of the economy since 1945. This was exceeded only by 2009's \$1.4 trillion deficit—\$100 billion more—and the Congressional Budget Office projects that deficits will remain high for the rest of the decade. That means the Federal debt will keep growing.

When we passed the 2001 tax cuts, the Federal Government was running a surplus. When we passed the 2001 tax cuts, economists projected big surpluses as far as the eye could see. Times have changed. We need to consider our current fiscal condition. With 15 million Americans still out of work, it is important that we keep our economy on the path to recovery by extending tax cuts for families who need them the most and who will spend it.

Our amendment strikes the right balance. It is a question of priorities. Our amendment says that we should not devote scarce resources to a larger tax cut for those at the very top. Our amendment says that we would be better off devoting those scarce resources to new tax incentives that promote investment and create new jobs or we would be better off devoting those scarce resources to reducing the Federal budget deficit and debt. Those are the choices we have to make.

Our amendment says: Let's make the middle-class tax cuts permanent. Our amendment says: Let's not allow tax cuts for middle-class Americans to be held hostage for tax cuts for those who make the very most. There is not an endless supply of money. We have to make choices.

I submit that these are the choices we need to make. I encourage my colleagues to support our amendment.

I suggest the absence of a quorum.

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

Mr. BAUCUS. Mr. President, I suspend my request.

The ACTING PRESIDENT pro tempore. The Senator from Ohio.

UNEMPLOYMENT INSURANCE

Mr. BROWN of Ohio. Mr. President, I thank the senior Senator from Montana, who laid out exactly why his efforts to extend the Bush tax cuts to the middle class up to \$250,000 and to not extend them beyond that is the exact right public policy. It is good fiscal policy. It is good economic policy. It is good for our country. It is exactly the right thing to do. I thank him for his explanation of including the earned-income tax credit, which is the best tax incentive to help people who are working hard, playing by the rules, making \$20,000 to \$30,000 a year, get a much fairer tax—really encouraging work the way the IETC does.

I also thank the chairman of the Finance Committee, the senior Senator from Montana, for including the unemployment insurance in this because 85,000 Ohioans have lost their unemployment insurance. These are people—or many of them are, as I have read letters on the Senate floor and will read a couple today—who have worked for 20, 30, 40 years and simply can't find a job.

There are five people applying for every one job opening in my State and in this country. It is so important that these people continue to get some assistance. In spite of what some of my Republican colleagues suggest, unemployment insurance is insurance, not welfare. Their employer, on their behalf, pays into the unemployment insurance fund in their States. When they lose their jobs, because it is insurance, they should get assistance. It is like fire or health insurance. You don't want to use it, but you want it to be there if you need it. That is why it is so important. I appreciate Senator BAUCUS's discussion of why this is the right policy.

Before I read some letters from people about unemployment benefits, I want to talk about why that is the right policy. The Bush tax cuts primarily went to the wealthy in 2001 and 2003. As Senator McCASKILL said, it was an experiment. For 10 years, we tried to see if this worked. I didn't support that when it passed in the House many years ago because I thought they were tilted toward upper income people and not focused on the middle class. So it was an experiment in many ways where major tax breaks were given to the rich, and according to the so-called trickle-down economic theory, they would hire people and much would trickle down and they would provide jobs and strengthen the middle class.

What we saw during the Bush 8 years as the main thrust of the economic policy was the tax break for the rich. That was the stated policy; that if we cut taxes enough on the wealthiest Americans, it would drive the economy forward. But we know that in those 8 years of the Bush administration there was a 1 million net job increase, not enough to provide jobs to keep up with the growing population or not enough to provide jobs for the kids coming out of high school or those leaving the Army or those coming out of college.

So it is clear the experiment failed. They cut taxes for the rich and there was only a 1 million increase in jobs. It didn't work.

Look at the 8 years before that, the Clinton years—and these are facts, not opinions—where President Clinton did a mix of tax cuts, tax increases on the wealthy and spending cuts, and he balanced the budget. We ended up with a 22 million job increase with that economic policy, which we want to follow today, versus a 1 million job increase, which was not even enough to keep up with the growing population with the Bush economic policy.

It is clear what this means—not to mention what Senator BAUCUS pointed