Capital gains tax rates increased between 37 and 114 percent over 4 years, and that is after inflation. By contrast, after a capital gains rate increase took effect in 1987—that was talked about a moment ago—capital gains revenues actually dropped 55 percent over the next 4 years.

So we can debate what the rate ought to be, but the fact is to say that there is going to be a direct correlation between raising that rate and more revenue simply is not borne out by historical experience or by common sense.

Third, unlike other types of income, capital gains are often double taxed. Think about a typical capital investment, someone buying corporate stock—that is the most typical one, holding that stock for over 1 year—you have got to hold it for over 1 year—and then selling it for a profit. That gain has already been subject to a 35-percent rate at the corporate level. It is then followed by the capital gains rate, now at 15 percent, when the shareholder sells, for a combined 45-percent tax on that capital investment.

By the way, with global competitors such as Canada, Japan, the United Kingdom, and others moving to cut their corporate tax rates in order to create jobs, this new tax on capital investment would move the United States farther backward in terms of being competitive in the global economy. Our corporate tax rate is already higher than all of our major foreign competitors. As of April 1, Japan lowered theirs, making us No. 1 in the world in something you don't want to be No. 1 in, which is the highest corporate rate. We don't need new barriers to growth and job creation, and that is what would result.

Instead of an election year gimmick that won't help the economy, it is time to focus on fundamental tax reform to make American businesses and workers more competitive again, as the President's own Simpson-Bowles commission has recommended and as the President's own Jobs Council has recommended.

I agree with what former Clinton Budget Director Alice Rivlin said about the Buffett tax, which is the way to fix the Tax Code is to fix the Tax Code, not to add another complication at the margins. The Buffett tax is an election year distraction from serious reform. Why not focus on the elephant in the room—an outdated and complex Tax Code that is hurting our economy, weighing down our economy, making it harder for us to get out of the kind of doldrums we are in right now with this weak recovery.

I believe there is a consensus among economists and serious thinkers across the political spectrum, Republicans, Democrats, and Independents alike, that with an increasingly competitive global economy, we have to reform our Tax Code to help us get out of this rut we are in, this historically weak recovery that leaves too many people vulnerable, too many parents wondering if the future is going to be brighter for their kids and grandkids, as it was for them.

I believe there is also a growing bipartisan consensus about how to do it, which is that we ought to do it by broadening the base—meaning getting rid of some of these growing credits and deductions and exemptions I talked about earlier, lowering the marginal rates on American families and on our businesses to be able to create jobs. That will ensure that those who can afford to pay more will pay their share—their fair share. And the economy will grow, a rising tide lifting all boats, truly helping families who are worried, for good reason, about their economic future.

The American people don't deserve more gimmicks, as we will see this week in Washington. They deserve real leadership.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, it is interesting that my Republican colleagues tend to refer to this as a tax gimmick. It was referred to as tax gimmick week because we are considering having people earning a quarter of a billion dollars pay a rate equal to what a truckdriver pays. That doesn't sound very gimmicky to me. That sounds like pretty Main Street fairness to me.

But the bottom line is there is a gimmick at stake. It is the gimmick in the Tax Code that allows for that to take place, that allows for a hedge fund billionaire to claim a lower rate than a truckdriver. So if there is a gimmick here, it is the gimmick we are trying to remove. It is not a gimmick that we are trying to pursue.

It has been said this is a tax on investment, a tax on job creation. It isn't. It is a tax on income, when it is declared as income. And if our purpose should be how to add back the jobs lost in the recession, we just passed a highway bill with 75 Senators supporting it, only 22 opposed—which, as we know around here in this partisan environment, is a landslide. It came out of the Environment and Public Works Committee unanimously. It had 40 amendments accepted, and now 3 million jobs are bottled up on the other end of this hallway in the House of Representatives because the Republican Speaker doesn't want to use Democratic votes. If you want to do something about jobs, tell the Republican Speaker to pass the Senate highway bill. It is as simple as that, 3 million jobs, bipartisan. So when we talk about jobs, I have a good recommendation: Pass the big highway jobs bill that is being kept bottled up here.

The other point I wanted to make on the question of whether the tax system is progressive, the IRS and the Federal Reserve point out that the top 1 percent in America in terms of wealth controls 33.8 percent of the Nation's wealth, but the top 1 percent in taxes pays only 28.3 percent of the taxes when all taxes are taken into consideration. The top 5 percent controls 60 percent of the Nation's wealth, but the top 5 percent in taxes only pays 44.7 percent. So if you want to take numbers sort of without context, you can make it look as if it is very progressive, but when you measure against the wealth inequality in this country and the income inequality in this country, it is hard to say we actually are running a progressive tax system. And that is why, as Reuters reported, about 65 percent of taxpayers who earn more than $1 million face a lower tax rate than the median tax rate for moderate-income earners making $100,000 or less a year, according to the Congressional Research Service.

MATT RUTHERFORD'S SOLO SAIL

Mr. HARKIN. Mr. President, before the Easter recess, I came to the floor to talk about a truly remarkable American—a visionary, a dreamer, an adventurer, and, most importantly, a young man who has devoted himself to service to others far above and beyond the call of duty. The young man's name is Matt Rutherford, an Ohioan. He turned 31 about a week ago.

Here is what he has done in almost the last year. On June 13 of last year, this then-30-year-old young man got onboard a 36-year-old, 27-foot-long Albin Vega sailboat, a small sloop-rigged sailboat, and he set out on one of the most audacious adventures ever contemplated by any sailor.

He set out to circumnavigate the Americas, solo and nonstop. Here is what he did. On June 13 of last year, he left Annapolis on this small 27-foot sailboat. He sailed out of the Chesapeake Bay, he sailed up around Nova Scotia, Newfoundland, Labrador, all the way up by Greenland—all by himself—and then sailed the Northwest Passage, all the way through the Northwest Passage here.

If I remember right, he has been certified by the Scott Polar Institute in Cambridge, England; he has been recognized as the first person in recorded history to make it through the fabled Northwest Passage alone and nonstop in such a small sailboat. He came through the Northwest Passage, rounded Alaska, went from Alaska all the way down to Cape Horn.

Again, if you know anything about the treacherous waters of Cape Horn, you know someone in a small 27-foot boat probably doesn't have much chance of making it, but he did it. He went around Cape Horn, all the way up the coast of South America, up through the Caribbean, and today as I stand here and speak, he is just outside of the mouth of the Chesapeake Bay, off the coast of Virginia, the North Carolina-Virginia border, and is going to make landfall this Saturday in Annapolis, 313 days after he started—solo, nonstop, never touched land. This is one of the most historic adventures ever undertaken by a human being, solo, nonstop, around the Americas—313 days in treacherous waters. He has not set foot on dry land for the entire journey. He has not stopped.

I have had the privilege of talking to Matt. I never met the young man—not yet—but I had the privilege of talking with him on his satellite phone just last week, when he said to me it would probably be the last phone call he would make because all of his equipment is now starting to fail. He said: It is like the boat is talking to me, and it knows the journey is almost over. His solar panels have died, his wind generator is gone, his engine doesn't work, and he is out of power. He is only under sail, he has no engine any longer, and he says that when big waves hit, the boat creeks and groans. He is just about to make it into the mouth of the Chesapeake Bay. What a tremendous adventure. Right now he is about 15 miles off of Kitty Hawk, NC. So 313 days after he began, he will make landfall this Saturday at the National Sailing Hall of Fame dock in Annapolis, MD. That will be the first time he will set foot on dry land in 313 days.

I am in awe of Matt's courage, his character, and his audacity to do this. He is in a class with a tiny group of explorers and adventurers, pathbreakers who defied odds to accomplish greatness. I think of Joshua Slocum, the first person to sail singlehandedly around the world. It took him 3 years. He covered 46,000 miles. He made many stops, but he did it between 1895 and 1898—the first known solo circumnavigation of the Earth. I think of Sir Francis Chichester, who sailed from Plymouth, England, in 1966, the first person to achieve a true circumnavigation of the world solo, from west to east, via the great capes. He did so in 226 days with one stop in Australia. I think of Dick Rutan and Jeana Yeager and their Voyager aircraft—now hanging in the Smithsonian—in 1986, the first to fly around the world nonstop without refueling. I think of the extraordinary feats of physical endurance and courage of Robert Peary in 1909, the first person to reach the North Pole; Roald Amundsen in 1911, the first person to reach the South Pole; and Sir Edmund Hillary in 1953, the first person to climb Mount Everest. Matt Rutherford now finds himself in this very exclusive company and club of audacious adventurers.

However, I would say Matt Rutherford has in important ways surpassed the feats of, say, Slocum and Chichester because Slocum and Chichester made stops during their voyages. Matt is accomplishing his voyage solo, nonstop, on a small 36-year-old boat, 27 feet long, best suited for weekend sailors who do not want to venture outside of the Chesapeake Bay. As I said, the Scott Polar Institute in England has already recognized him as the first person in recorded history to make this sail solo through the Northwest Passage in a small sailboat.

Here, again, is where Matt is in a class by himself. Why is he doing it? Yes, he is going to set a very fantastic record. It has never been done before. But he is doing it to raise money for Chesapeake Region Accessible Boating—CRAB for short. It is an Annapolis-based organization that provides sailing opportunities for physically or developmentally disabled persons. You can see now why I am so interested, as the lead sponsor of the Americans With Disabilities Act. I am deeply impressed by the fact that Matt has undertaken this historic voyage in a cause larger than himself to make it possible for more people with disabilities to have the opportunity to experience and enjoy boating and sailing. One of the fundamental goals of the Americans With Disabilities Act is that people with disabilities should be able to participate fully in all aspects of society, and that includes recreational opportunities such as sailing, which can be exhilarating and empowering for children and adults with a wide range of disabilities.

I salute Matt for his courage. He is almost home. He will be here this Saturday. Here is the young man sitting on his boat. I assume that picture was taken when he was up in the Northwest Passage because he looks pretty cold, but he is a young man with extreme courage. What an audacious undertaking. People advised him no, that he could never do it, that the odds of him surviving through all these treacherous waters were very small, but he decided to do it nonetheless. He is setting a tremendous record. I salute him for wanting to share his love of sailing with the disability community, for using his adventure to raise awareness and expand access to sailing to Americans with disabilities.

I say to all, if you want to learn more about Matt and the mission, you can go to his Web site. It is very easy to remember; it is just solotheamericas.org, www.solotheamericas. You can go back and follow him through this entire journey around the Americas—solotheamericas.org.

I applaud Matt Rutherford for his vision and spirit. I wish him safe passage during this final leg of this epic journey. I hope to have the honor of meeting him and thanking him upon his return. Matt Rutherford is one of those remarkable human beings who dream big, driven by big challenges, who refuse to accept the limits and boundaries so-called reasonable people readily acknowledge, who put aside fear in order to accomplish great and good things, not just for themselves but for others. That is Matt Rutherford. I again applaud him for his courage and for sticking with it. It is one of the great feats of ocean sailing that have taken place in the entire history of sailing the great oceans. He will be back this Saturday. As I said, we hope he has fair winds and a following sea for the next 4 or 5 days.

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

Mr. THUNE. Mr. President, very soon the Senate is going to be voting on whether to invoke cloture on the motion to proceed to Paying a Fair Share Act of 2012, to enact the so-called Buffett rule. It is ironic that we would be debating that subject right now because there is so much work we ought to be doing that would actually address the fundamental problems our economy is facing right now.

If you look at the President's focus on this particular issue and you look at what his economic record consists of since he became President, here is what we are looking at. Gas prices are up 111 percent since President Obama took office. There are now 38 months in a row where we have had unemployment that exceeded 8 percent. We have seen college tuition go up by 25 percent. We have seen health care costs go up by 23 percent. The number of people on food stamps in this country is up by 45 percent. The Federal debt we are handing off to our children and grandchildren is up by 47 percent. That is this President's economic record.

It is ironic that we are here today talking about something even the White House admits is a gimmick that would do nothing to reduce the Federal debt, strengthen the economy, or move us toward the fundamental tax reform that is sorely needed for this country.

On April 1, just over 2 weeks ago, America claimed the dubious distinction of having the highest combined corporate tax rates among advanced economies when Japan implemented its corporate rate tax reduction. Yet, rather than debate how best to reform our Tax Code to help American companies compete in a global economy, we are instead spending our time on a politically motivated measure that everybody knows is not going to become law.

Before we consider why the Buffett rule is bad tax policy, let me start by acknowledging just how inconsequential this change in law would be. According to the Joint Committee on Taxation, the bill offered by Senator WHITEHOUSE would raise tax revenue by $47 billion over the next 10 years. This means the legislation, if enacted, would raise each year about half of what the Federal Government spends every single day. Think about that for just a moment. President Obama has been flying around the country touting the importance of a proposal that, if enacted, would raise about half of 1 day's worth of Federal spending. So between now and this time tomorrow we will actually spend more Federal tax dollars than what this would bring in in an entire year. Put another way, the revenue this legislation would raise each year amounts to .03 of 1 percent of the $15.6 trillion national debt—.03 of 1 percent of the Federal debt. This bill would raise less than 1 percent of the $6.4 trillion in deficits projected over the next decade under the Obama administration's budget.

This bill is clearly not about deficit reduction or taking any meaningful action to get our fiscal house in order.

What then is this legislation about? The President and many Democratic Members of Congress stated they believe the Buffett rule is about ''tax fairness.'' Their view is that wealthy Americans are not paying their ''fair share.'' Unfortunately for supporters of this legislation, the facts simply don't support that view.

According to the Organization for Economic Cooperation and Development, the United States already has the most progressive income tax system among its 34 member nations. In fact, in 2009 the top 1 percent of taxpayers by adjusted gross income paid 37 percent of all Federal income taxes even though they only accounted for 17 percent of all income. Let's take the top 5 percent of taxpayers. They paid 60 percent of all income taxes even though they only accounted for 32 percent of all income. In 2009, taxpayers with over $1 million in adjusted gross income accounted for 10 percent of income reported but paid 20 percent of income taxes.

In terms of effective income tax rates, the Congressional Research Service recently reported that the average effective tax rate among millionaires is already 30 percent. It is true that some millionaires such as Warren Buffett pay a lower effective tax rate because they get a large percentage of their income from capital gains and dividends. The lower tax rate on investment income is not a tax loophole; it is the result of a deliberate policy by Congress and past Presidents to encourage new investments in our economy.

In fact, in 1997, Democratic President Bill Clinton signed into law a reduction in the capital gains tax rate from 28 percent to 20 percent. What was the result of that rate reduction? Taxable capital gains nearly doubled over the next 3 years. Unemployment fell below 4 percent, and the increased Federal revenue from capital gains realization held a Federal budget surplus.

But rather than learning the lesson that lower taxes on investment income lead to more investment, the Buffett tax would take us in the opposite direction. The Buffett tax is nothing more than a backdoor tax on the nearly 60 percent of all capital gains and dividend income earned by upper income taxpayers. We can debate about how best to encourage new investments in clean energy and high technology or in other important sectors of our economy, but I hope we can all agree that raising taxes on these investments is not the best way to encourage them.

We should bear in mind that the current U.S. integrated tax rate is 50.8 percent, the fourth highest among OECD nations. It is bad enough that America has the highest combined corporate tax rate. Perhaps some supporters of the Buffett tax would also wish us to have the highest tax on investment income as well. Simply put, the Buffett tax is a solution in search of a problem. Wealthy Americans are already paying a huge share of income taxes. And for that small minority of wealthier Americans such as Warren Buffett who feel compelled to pay higher taxes to the Federal Government, I propose that we make it easier for them to do so.

Last October I introduced the Buffett Rule Act of 2011, which currently has 40 cosponsors here in the Senate. My legislation would create a box on the Federal tax forms that individuals or businesses could check if they wish to donate additional dollars to the Federal Government for debt reduction. We should make it as easy as possible for those who want to pay higher taxes to voluntarily make those payments, but let's not impose a new tax on entrepreneurs and small business owners who believe they can spend their own dollars better than Washington can.

Some have attempted to characterize this bill as a step toward comprehensive tax reform. When I say this bill, I am talking about the bill we are going to be voting on later. Unfortunately, it is exactly the opposite. Comprehensive tax reform is needed for many reasons, but one major reason is because we desperately need to simplify our convoluted tax system. How is a bill that adds a new layer of complexity to the Tax Code a step toward comprehensive tax reform? It is bad enough that we already have an alternative minimum tax that snares millions of American families. The Buffett tax, if it is enacted, would become an alternative alternative minimum tax. It would be a new layer of unnecessary complexity on top of an already existing layer of unnecessary complexity.

We should not forget that the alternative minimum tax was originally put in place back in 1970 to ensure that 155 wealthy Americans paid a higher rate of tax. Yet this year over 4 million Americans are going to be hit by the alternative minimum tax. In fact, if Congress does not act to enact the AMT patch for tax year 2012, the Congressional Budget Office projects that more than 30 million Americans will be subject to higher taxes due to the alternative minimum tax. Clearly Congress's record of targeting tax increases at only the very wealthy is not very good.

The Obama administration has stated that its intent is for the Buffett rule to replace the existing alternative minimum tax. Yet according to an analysis by the Joint Committee on Taxation, replacing the existing AMT with the Buffett tax would add nearly $800 billion to the deficit over the next 10 years. It is time for the gimmicks to stop and the Senate to get serious about the real tax issues that are facing us. The reality is we have a $5 trillion tax increase over the next 10 years—the largest tax increase in our Nation's history—staring us in the face come next year. If we don't act to extend the lower individual tax rates, the lower estate tax rates, the lower rates on capital gains and dividend and other expiring provisions, our economy will face a tax increase of over $400 billion in 2013.

Allowing 2001 and 2003 tax rates to expire would be an enormous tax increase on our economy equal roughly to 2.5 percent of the GDP. According to the Congressional Budget Office, allowing the new tax increase to go into effect would slow GDP from 0.3 percent to 2.9 percent. That would mean a loss of at least 300,000 jobs and could mean the loss of as many as 2.9 million jobs. This massive tax increase could mean the difference between a sustained economic recovery and falling back into recession.

Yet here we are today discussing a bill that would not extend tax relief for hard-working Americans. It would not forestall a massive tax increase on our economy. The bill before us would do one thing and one thing only, and that is target higher taxes on a smaller subset of our population in order to serve a political purpose. It is time to end the class warfare of pitting one group of Americans against another and instead move forward with ensuring that tax relief is there for all Americans. I hope that once the cloture motion fails later today, we can pivot to what most American people want us to do and that is to enact measures that grow the pie, to expand our shared prosperity rather than the politics of envy and wealth redistribution.

The opportunity cost of all of these tax-the-rich proposals offered by our Democratic colleagues—whether the millionaire surtax or Buffett tax—is that they distract us from what should be our focus, and that is fundamental tax reform.

The former Director of the CBO, Doug Holtz-Eakin, recently released a study where he estimated that comprehensive tax reform could raise the rate of GDP growth by at least 0.3 percentage points annually. This faster rate of GDP growth would result in increased Federal revenues in the range of $80 billion to $100 billion each year, much more than the Buffett tax is projected to raise.

So I will say to my Democratic colleagues, if you want tax policies that raise more Federal government revenue, broad-based, comprehensive tax reform is the way to get there. But, of course, tax reform is going to be difficult and it will require Presidential leadership as much as it required Presidential leadership back in 1986. It is easier to promote measures such as the Buffett tax that do nothing to improve our tax or our economy but that make for a good 30-second political ad.

I understand why some of my colleagues want us to have this political debate today, but I hope we can move quickly to real progrowth tax reforms. That would be the best means by which to promote real tax fairness for all Americans. I believe all Americans want to see this Congress working in a way that expands the pie, not redistributes it.

We should be looking at ways we can grow the economy and make and create more jobs for more Americans, raise the standard of living, quality of life Americans enjoy in this country. It is clear the one way not to do that is to raise taxes on the people who invest and create jobs in this country, and that is precisely what this particular tax would do. It is the wrong approach. It is clearly motivated by political purposes, nothing more than to create a good 30-second political ad in an election year. If the American people see through this, they understand what plagues Washington, DC, is not a revenue problem, it is a spending problem.

For those who want to pay more, we have a way of doing that. Let's enact legislation that allows people in this country who have that kind of income to be able to check a box to contribute more in tax revenue toward tax reduction, but let's not impose and require and mandate these types of taxes on the people in this country who are creating the jobs and have an opportunity to help us grow this economy and put more people back to work. After all, that is what the American people want us to be focused on.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Montana.

Mr. BAUCUS. Mr. President, I ask to speak as in morning business.

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

MONTANA NATIONAL GUARD

Mr. BAUCUS. Mr. President, tomorrow 145 Montana Guardsmen will kiss their husbands and wives, hug their children, say goodbye to their friends, and get on a plane from Billings, MT to Afghanistan. Two weeks from today 95 more Montanans will do the same. Together these 240 Montana Guardsmen are in the long line of thousands of Montanans to deploy since 9/11. More Montanans signed up for service after 9/11 than any other State in the country per capita. Since then, 6,668 Montana Guardsmen were deployed. Montana's Guard has deployed at among the highest rate in the country.

Each and every deployment requires enormous sacrifices from the Guardsmen themselves, their families holding down the fort at home, their employers, and entire communities. They make these sacrifices quietly. They perform their missions with excellence, professionalism, and without bragging. So I want to do a little bragging on their behalf and salute each and every one as they prepare for combat.

The 484th Military Police Company leaving tomorrow is based in Malta, Glasgow, and Billings. Their mission will be to help train the Afghan national police. They will be immersed in the Afghan culture, working hand in hand with the local officers deep in the heart of the city precincts. What an incredibly important and challenging task, and they are ready.

They have been training hard for this job for more than a year. Many of them will bring invaluable experience in civilian law enforcement that will be critical to this mission.

The 260th Engineering Support Company will also leave Montana April 30 for a year-long tour in Afghanistan. The unit is from Miles City, Culbertson, and Sidney. They will perform the dangerous mission of clearing explosives off roads and protecting U.S. convoys from Taliban attacks. The 95 members of this unit have received specialized explosive training and they are ready to go.

This past February 60 members of the Bravo Company 1st of the 189th General Support Aviation Brigade left Helena for a tour in Afghanistan. Their unit flies and maintains six CH–47 Chinook helicopters and has a lifeline of supplies, ammunition, food, and water for air troops. They help get the troops where they need to go to accomplish their missions quickly and safely.

Last March, 12 Montana Guardsmen returned from duty in Iraq and Kuwait. They flew C–12s, getting troops where they needed to go to accomplish top-priority missions.

In 2011, nearly 100 Montana troops deployed again to Iraq. They were Charlie Company 1st of the 189th, and they were among the last of the combat troops on the ground. They provided medevac support for the famous road march that brought our troops out of Iraq from Camp Adder, near Nasiriyah, to the Khabari border crossing into Kuwait.

In 2010, more than 600 Montana Guard troops served in Iraq, and thousands more had deployed there in previous years.

Our Air Guard has been busy. In 2010, 99 members of the Red Horse squadron, an engineer unit, spent a year working in Afghanistan. They built about every kind of structure you can imagine to support the mission on the ground, from fixing airfields, so our troops could land and take off safely, to constructing observation towers vital to intelligence on the ground, to drilling wells to bring water to some of the most dangerous parts of the country.

At the same time, dozens of Montana airmen have deployed to support the Air Sovereignty Alert in the Pacific. They are our first line of defense in the Pacific, on call 24 hours a day, 7 days a week.

On top of all this, 53 Montana Airmen deployed individually to support missions over the course of the last year in Bahrain, Cuba, Djibouti, Kuwait, Kyrgyzstan, and a number of other locations around the world.

The Guard has their mission at home as well. When flooding hit Montana last week, the Montana National Guard troops were some of the first folks to respond with a helping hand. When Highway 12 was washed out, the town of Roundup basically became an island. The Montana Guard was their bridge, carrying supplies back and forth.

It is an understatement to say these guys are busy. They are volunteers, and they are balancing their military service with their civilian careers at home. We can't thank them enough for what they are doing.

It is hard to capture the nature of their service unless one has seen it firsthand. During my visit to Afghanistan, I was so impressed by the service and professionalism of our troops serving there. They were remarkable.

One brief story from a guardsman serving in Iraq in 2011 captures the spirit of who those men and women are. Montana Specialist Chvilicek was serving as a medic in a convoy near Balad. His convoy hit an IED which cut Specialist Chvilicek's arm and ear with shrapnel. Instead of attending to his own wounds, Specialist Chvilicek immediately sprang into action, providing medical care to his fellow soldiers. That is remarkable, but it is not uncommon. That is exactly the kind of spirit these troops have.

Our Nation has been at war now for more than 10 years. These men and women represent the 1 percent of our country serving in the military who are bearing a very heavy load for the rest of us.

Montanans do not take these men and women for granted. Friends, families, neighbors and communities show up to wish them well when they deploy and greet them when they return home. They send care packages overseas and fill in as babysitters here at home. They provide hands to hold and ears to listen.

To every Montanan serving as part of that support system and to every employer of a national guardsmen: thank you for what you do.

Last year I had the honor of attending a deployment ceremony in Helena. A mother told me about what it was like when her husband was deployed.

To sum up what she said: It's not easy for these families. For months, there is one fewer helping hand around the house to help out with the carpools, the homework, the leaky faucets, the lawn mowing, and everything else that goes into raising a family day to day.

Our military families shoulder a heavy load to support the loved ones who deploy. But you will never hear them complain. They are proud of their service.

It is our job to do our part to make sure our troops and our families are taken care of when they come home. A big part of that is making sure they have jobs to come home to. Recent unemployment figures show that 9.1 percent of current or past members of the Reserve or National Guard were unemployed. In Montana that number is as high as 20 percent for our troops returning from Iraq and Afghanistan. We need to work hard to bring that figure down.

I was proud to work on getting a tax credit to help businesses hire our veterans.

And this week I am meeting with representatives from the Military Officers Association of America to discuss more ways we can help.

One important piece is simply getting the word out. With the help of the Iraq and Afghanistan Veterans of America the Employer Support of the Guard and Reserve, the American Legion, and the Veterans of Foreign Wars, we can make sure that both veterans and employers know about it and take full advantage of the credit.

In 1776, Thomas Paine wrote: ''These are the times that try men's souls. The summer soldier and the sunshine patriot will, in this crisis, shrink from the service of their country; but he that stands by it now, deserves the love and thanks of man and woman.''

The Montana Guardsmen leaving this month, their families and entire communities, will face a true trial in Afghanistan. We thank them deeply for their service and sacrifice.

To every Guardsmen deploying tomorrow: Thank you for your service. And good luck. Please know you are on our minds and in our hearts each and every day.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Wyoming.

Mr. BARRASSO. Mr. President, I have risen many times over the past 3 years to talk about the bad policy choices of the Obama administration and the harmful effects of these policies on our economy and on the American people.

In many ways, the President's decisions have made things worse in our country. The bill before us today would impose what is being called the Buffett tax. It is just one more example of a policy that will hurt our economy, not help it. This tax will take money from the pockets of small businesses that they would use to create jobs. More than one-third of all business income reported on individual returns would be hit by this tax increase.

Back in September President Obama said this tax hike on American families would raise enough money not only to pay for his increased spending but it would ''stabilize our debt and deficits for the next decade.'' Back then he said: ''This is not politics; this is math.''

Of course, we now know the Buffett tax is only about one thing: politics. The increased tax revenue would amount to about $5 billion this year, which is about the same amount of money Washington will borrow over the next day and a half. The President would have to collect his so-called Buffett tax for more than 200 years just to cover the Obama deficit from last year alone. That is not just my math; that is the math from the Joint Committee on Taxation.

The Buffett tax will not fix Washington's debt because Washington doesn't have a revenue problem; it has a spending problem. Even one of President Obama's top economic advisers finally admits the Buffett tax will not ''bring the deficit down and the debt under control.'' Based on his record, it is clear the President would not put a single dollar raised by his new tax toward the debt. He will just spend it.

So the President has now changed his story once again. Now he says this is no longer a way to pay down the deficit. Now he says it is just a matter of fairness.

President Obama has been using the word ''fair'' in quite a few of his campaign speeches lately. It is a word of great appeal to most people. Just like ''hope'' and ''change''—the buzz words of the 2008 Presidential campaign—people can interpret it to fit their own meaning. President Obama's idea of fairness doesn't match up with the American people's idea of fairness.

Senator MCCONNELL earlier made reference to an editorial I wrote in Investors Business Daily. President Obama thinks it is fair that our children and grandchildren will be burdened with debt because of Washington's reckless spending, such as borrowing 42 cents of every $1 it spent so far this year. President Obama thinks it was fair to pile another $40,000 of debt onto every household in the United States over the last 3 years.

President Obama thinks it is fair to use college students as props for his campaign-style rallies without explaining how his bad policies will leave them in debt. President Obama thinks it is fair to force hard-working taxpayers to subsidize a wealthy person's purchase of a hybrid luxury car because it fits into his idea for American energy.

President Obama thinks it is fair to hand out hundreds of millions of taxpayer dollars to politically connected solar energy companies that then go bankrupt. President Obama thinks it is fair to tell thousands of workers they will not have jobs because he has blocked the Keystone XL Pipeline. Why? To solidify his support with a few far-left environmentalists.

President Obama thinks it is fair that more than half of his biggest fundraisers won jobs in his administration. That is right, more than half, which has been reported in the Washington Post. President Obama thinks it is fair to give important jobs to people who fail to pay their own taxes, such as his own Treasury Secretary.

Apparently, President Obama thinks it is fair that 3 years of the Obama economy have left us with more people on food stamps, more people in poverty, lower home values, higher gas prices, and higher unemployment.

There are many ways in which the American people's understanding of ''fairness'' differs from the way President Obama has been using the word. To the vast majority of Americans, ''fair'' means an equal opportunity to succeed. To President Obama, ''fair'' requires nothing less than a total equal outcome regardless of effort.

To most Americans, fairness allows for the pursuit of their own dreams. It also recognizes that no man and no government can provide a guarantee of success.

The waves of immigrants who have come to our shores over generations did so for freedom and for a chance to succeed. They did not come to be taken care of and to have every decision made for them by the government. That is what many of them were leaving behind.

When President Obama pushes for equal outcomes instead of equal opportunity, he is trying to pit one American against another. He is telling people it is not fair that someone else has something they don't have. That may be a clever campaign tactic, but it is not true, and it is bad for our country. One person getting more does not mean someone else has to get less. In America, it is possible for all of us to prosper. That is what made America different from the very beginning—the prospect that all of us can do better—not at the expense of our neighbors but by our own effort.

There is something that threatens to keep all of us from success. It is the thing that threatens to keep us all from passing on to our children the hope for their own prosperity. It is the crushing debt, the debt this administration has been forcing onto the backs of American workers. It is the mountain of bureaucracy that stifles American opportunity.

The old maxim says that a rising tide lifts all boats. President Obama seems to think it is better to put holes in all of the boats as long as that means they are all equal in the end. That is what he seemed to be saying in 2008 during one of the Democratic Presidential debates.

Moderator Charles Gibson asked then-Senator Obama why he favored raising taxes on capital gains. Our history clearly showed that when the tax rate has gone up, government revenues actually went down. Senator Obama said he wanted to raise taxes anyway ''for purposes of fairness.''

In the name of achieving what he considers to be fair, the President was willing to hurt millions of hard-working families who already paid taxes on their income—families who invested some of that income and now would have to pay higher taxes again when they decide to sell some of those investments. The President didn't even care if Washington ended up with less money as a result of his efforts to punish success. The only important thing was that he thought it would be more fair.

That is a pretty extreme definition of what ''fair'' means, and it is not one the American people share. In any fair society, doing better should be a consequence of one's efforts. To President Obama, fairness means getting something for nothing.

The American dream is about people using ingenuity, ambition, and hard work. It is about overcoming obstacles. Americans admire the inventor who works long hours in the garage, building and failing and trying again and again until this inventor succeeds. Americans speak with pride about having worked their way through college washing dishes, pouring concrete, flipping hamburgers—whatever it took for them to reach their goals.

Most Americans don't speak with pride about being bailed out by Washington or cashing a government check. The idea of people earning their success has been a vital part of our Nation's character since our founding. It does not come from government. It cannot be redistributed.

The more government tries to redistribute success, the more strings it attaches because a handout from Washington always comes with strings attached.

The President's health care law is a perfect example. It is built on shifting millions of people onto Medicaid, a program designed to take care of low-income Americans. Putting more people on Medicaid is not the same as giving them access to the medical care they need.

Giving people unemployment benefits and funding short-term stimulus jobs is not the same as freeing up employers to hire more workers and providing long-term jobs and actual careers. Handing out benefits from Washington may provide a safety net in the short run, but when the short run turns permanent it robs people of the tools and incentives they need to succeed. It does even greater damage to our economy when President Obama pays for it by piling more debt on the backs of American taxpayers.

We all recognize the value of the social safety net. None of us—I repeat, none of us—wants to eliminate that protection. To be true to this country's greatest traditions, it must be a real safety net to catch people who are falling. It must never become a net to entangle them so they cannot rise nor a comfortable hammock on which they choose to recline.

Somewhere along the way Washington twisted the honorable American impulse to care for the most vulnerable among us. That shift now threatens to produce a culture of dependency that weakens our society and hurts the people it was meant to help.

A half century ago, John F. Kennedy appealed to the great spirit of America when he said:

> "Ask not what your country can do for you, ask what you can do for your country."

Today, the Obama administration is trying to make Washington irreplaceable in the lives of Americans. The great irony, the great tragedy, is that no one is more trapped by this failed redistribution than the poorest—the people the President so often claims to be trying to help. That is part of the downside to the culture of dependency. It is why Washington can never provide for people as well as people could and should provide for themselves.

President Obama is focused on fixing all of the faults he sees in the American people. Republicans are focusing on giving the American people the opportunity to succeed using their talents and their hard work. When Washington tells people: Don't worry; your government will take care of all your needs, it does them no service. It only deprives people of their freedoms to make their own choices, to stand on their own two feet, and to earn their success.

The American people don't want Washington to pick winners and losers. They want a fair chance to win on their own. That is why they are asking for a clear and limited set of rules and the assurance that those rules apply to all of us, even those who donate to President Obama's reelection campaign. They are asking that the rules not change on the whims of some unelected bureaucrat in Washington. They want to know they still have the right to control their own choices.

President Obama says it is fair for Washington to make the decisions so that everyone is equal in the end. He says it is fair to take more money from hard-working families and small businesses through the so-called Buffett tax we are debating today.

Tax increases will not help our fragile economy, and they will not put the brakes on Washington's out-of-control spending. Republicans want to promote economic growth for everyone, not equality of outcome at everyone's expense.

Despite what President Obama may believe, America is not an unfair place. True fairness requires equal opportunity so all may pursue their American dream. That is what America was founded on, and that is the philosophy that must be allowed to lead us to a more prosperous future for all.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Maryland.

Ms. MIKULSKI. Mr. President, I rise to speak on the Buffett rule. How much time is allocated to me?

The ACTING PRESIDENT pro tempore. There is 18 minutes remaining on the Senator's side of the aisle.

Ms. MIKULSKI. Mr. President, I will take no more than 5 minutes.

I support the Buffett Rule because I do believe in fundamental fairness that if people live in the United States of America, if they benefit from the United States of America, both its national security and its public institutions, and the public progress because of that—such as public education, land-grant colleges—they need to pay their fair share. This is what America is all about, fairness. And we are all in it together.

I have heard all afternoon about, oh, this hard-working entrepreneur, and, oh, this hard-working small business person. Nobody gets to be that hard-working entrepreneur without the United States of America. They have gone to public schools. They have enjoyed public transportation. I could go through a variety of public institutions—safety in our dams, now cybersecurity, wars that are fought by our military for which they will not go or will never go. So we need to have a way of paying our bills.

When we hear the great President John F. Kennedy quoted saying: "Ask not what your country can do for you, ask what you can do for your country," it is called pay your share.

Let's talk about what the Buffett rule actually is and what the Senator from Rhode Island is advocating—and I salute him for offering it. This would ensure that high-earning Americans who make more than $1 million a year pay at least 30 percent income tax on their effective rate on their second $1 million.

Let me repeat what this is. People's first $1 million they keep at the same tax rate it is right this afternoon. What we are talking about is changing the tax rate not on their first $1 million but on their second $1 million. I do not think that stifles entrepreneurship. I do not think it breaks the neck of small business.

I know so many small businesses. They like to make that million bucks and then pay that. What the small business needs is not more tax breaks; they need more customers, which is about more jobs.

I think this bill talks about this fairness. It would phase in additional tax liability for taxpayers earning between $1 million and $2 million to avoid a tax cliff, and they are saying: Oh, well, let's keep our money so we can give it to charity. This preserves the incentive for charitable giving.

Quite frankly, from what we are told, the highest earning 400 Americans make about $270 million each. They are the ones who paid an effective tax rate of 18 percent. Just think, they make $270 million. That is not exactly the entrepreneur in a garage. That is not exactly that small businessperson, a florist, or like my grandmother running that Polish bakery or like my father with his little grocery store.

Mr. President, $270 million each—they pay 18 percent. So here it is April 16, they paid 18 percent. That, by the way, is the rule. All we are saying is they can pay that 18 percent on their first $1 million, but on that second $1 million they have to get into the game and start to pay 30 percent.

I think this is a great idea. I want my colleagues, when we vote for cloture, to be able to do this. The Buffett rule supports fairness in the Tax Code so executives do not pay a lower rate than the people who work in the mail room or on the FedEx trucks delivering their products. It does support prosperity and entrepreneurship. As I said, it does not kick in until their second $1 million, and then it is phased in slowly.

A lot of people are saying: We do not want these handouts from the Federal

Government. It wrecks our entrepreneurship, our get-up-and-go.

I do not believe that. I do not believe that at all. If that were true, then why is it who gets the biggest handouts in our country but those who get tax earmarks. We eliminated them in the Appropriations Committee, but we are yet to eliminate the tax earmarks in the Tax Code.

Look how hard it was to get rid of the ethanol subsidy. Oh, my God. When we wanted to get rid of the oil and gas subsidy, one would think we were Darth Vader on the Senate floor.

So every time we want to take away a lavish tax break that only helps a few get more, we are stymied or stifled. Actually if they employed as many people in their businesses as they employ lobbyists in Washington, we would be able to lower the unemployment rate.

So the other party was willing to bring us to the brink of default—remember when we were dealing with the debt ceiling—rather than tax billionaires. We continue now to have that same fight. This legislation we would pass is a modest downpayment on reforming the Tax Code. We do have to make it fairer, but this is a firm way to be able to do it.

Sure, we have to look at the corporate tax code. We have to look at how to bring expatriated money overseas back home. Yes, we have to look at rates. Yes, by the way, we have to reward entrepreneurship and acknowledge the special challenges of being a small- and medium-size business. But that is long range, and under the arcane rules of our Senate we are now so stymied in bringing up that legislation.

We could at least take one giant step forward to make our Tax Code fairer by passing the legislation called the Buffett rule, named after Warren Buffett, one of our great American people, a guy who gives capitalism real meaning in our country. He says: Let me pay, and people like me pay, the same rate of taxes as my administrative assistant in the front office.

I think Buffett had a good idea. Let's codify it. Let's pass it in the Senate today.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, let's ask ourselves a question. What is the purpose of taxes? Do we tax people to punish them for their success or do we do it to raise revenue for the government? Well, the answer is, of course, at least up to now, the purpose of taxes is to raise the revenue the government needs to perform its duties and to do that in the least harmful way possible.

President Obama, however, has a different idea about the purpose of taxes. He thinks the government should take more from some people just because they are rich, even if the tax increases hurt the economy.

So this week the Senate will vote on what is called the Pay A Fair Share Act or, as described by President Obama, the Buffett tax. This legislation would create a new 30-percent alternative minimum tax for filers who make $1 million or more, which would include many successful small businesses. Unfortunately, the legislation would hurt small businesses more than it would raise revenue for the government.

Today I want to talk about why this legislation is fundamentally misguided and why it would be harmful to businesses, workers, and the economy. The Buffett tax may make for good politics for President Obama on the campaign trail, but it is bad policy. It is deeply flawed.

First, let's start with its premise. There is a key misconception about Warren Buffett's tax rate. The notion that Mr. Buffett pays a lower tax rate than his secretary is based on a fundamental misunderstanding of the Tax Code.

Mr. Buffett—and, I would add, many older Americans—obtains most of his income from investments. That income is taxed at the capital gains rate. Mr. Buffett and President Obama would have us believe capital gains income gets preferential treatment in the Tax Code, but that does not tell the real story.

Capital income is actually taxed twice. First, it is taxed at the 35-percent rate that corporations pay on their income—it is taxed; the money is paid to the government—and then it is taxed again when the distribution of capital gains or dividends is made to the investors, when it is passed on to shareholders as dividends or capital gains. That means the tax rate is already far higher than 30 percent. It is actually not exactly 30 plus 15 percent, but it is higher than 30 percent, and it is closer to 45 percent.

President Obama ignores these facts when he says Mr. Buffett pays a lower tax rate than his secretary. We have to count it twice, not just the second time.

That leads me to my second point: the fairness of the current Tax Code. Does it really favor the wealthy at the expense of others, as President Obama argues? Perhaps one could cherry-pick some random statistics to show that one person or another pays more or less, but the actual tax numbers show the real progressivity of the American Internal Revenue Code. Interestingly enough, among all the industrialized countries in the world ours is the most progressive.

In other words, the U.S. income-tax code has the wealthier people paying a far higher percentage of income taxes than any other country in the industrialized world—yes, even more than Sweden and even more than France and even more than the other countries in Europe.

According to Congressional Budget Office data, the average tax rate paid by middle-income Americans is 14.2 percent. In contrast, the average tax rate paid by a high-income American is 31.2 percent, more than twice as much. So the average tax the secretary or somebody else like that might pay is 14.2 percent. The average tax paid by high-income Americans is 31.2 percent.

Incidentally, President Obama's effective tax rate this year is 20.5 percent. Should he be paying more or is that enough? He has a tough job.

Here are some other interesting tax facts. The top 1 percent of taxpayers pays 38 percent of total income taxes—actually, I think these numbers are dated; it is now closer to 40 percent—and that top 1 percent of taxpayers only earns 20 percent of the total income.

So here is the question of fairness: We have the top 1 percent—they are the top 1 percent because they earn the top 20 percent of all income, the top fifth, but they pay almost twice as much in taxes, 38 percent in total income taxes.

How about the top 2 percent of taxpayers? Well, they pay 48.68 percent—nearly 50 percent, in other words—of income taxes, and they earn 27.95 percent of total income. So we have the top 2 percent paying almost half of all income taxes. Is that fair?

The top 5 percent pays 58.7 percent; earns 34.7 percent. The top 10 percent pays 69.9 percent—let's say 70 percent—so we have the top 10 percent of taxpayers paying 70 percent of all the taxes, earning 45 percent of the income.

Well, those are certainly the wealthy, and they are certainly paying a big share.

How about the less wealthy? Well, the bottom 95 percent—in other words, everybody but the top 5 percent—pays 41.3 percent of income taxes; earns 65 percent of the income. Is this fair? Maybe it is not fair that the top 2 percent pays almost half of all the income taxes. How much would be fair? Should they pay 90 percent, 95 percent?

How about the 50 percent of households that pay no taxes and yet receive the same or greater benefits than those who do? Is that fair?

The Joint Committee on Taxation estimates that 51 percent of all households, which includes both filers and nonfilers, had either zero or negative income tax liability in 2009. People who do not share in the sacrifice of paying taxes have little direct incentive to care whether the government is spending and taxing too much. Maybe that is why the President has no problem with even more Americans getting a free ride.

Here are a few more statistics. The highest 1 percent of income earners have not seen the share of the income tax burden decline. In fact, their share of income is essentially the same as it was in 2000, but their share of taxes paid is higher. Collectively, only taxpayers with incomes greater than $100,000 a year pay a share of taxes that is greater than their share of income.

Actually, I think it is hard to argue that our current Tax Code that taxes the wealthy to such a high degree is unfair. While the President says it is not fair, I find it interesting that his own Treasury Secretary seems to agree that the current system is fair.

Let me read a portion of the transcript from a Finance Committee hearing with Secretary Geithner earlier this year. I asked him: Do you think it is fair that the top 1 percent of earners in the United States pays just about 40 percent of the income taxes? Secretary Geithner's response: I do, because I do not see how the alternatives are more fair. Next, I asked him if he thought it was fair that the top 3 percent pays as much as the other 97 percent of taxpayers in income tax. Secretary Geithner responded, ''Again, I do.'' So if we want an income tax system that is fair according to the Obama administration's own standards, we already have it. The argument that top-tier earners are not doing enough just does not hold water.

The third problem with the Buffett tax is that it would harm many small businesses. According to the most recent Treasury Department data, 392,000 tax returns reported income of $1 million or more. Of those, 331,000 reported business income and 311,000 met the Treasury's definition of ''business owner.'' So this is a tax that would disproportionately affect small businesses and other job creators.

Four out of five tax filers that would be affected by the Buffett tax are the very businesses we are counting on to lead us back to an economic recovery. If enacted, these tax increases would have a negative effect on employers trying to create jobs. And this is not just my opinion. Take, for example, the International Franchise Association, which recently said this: Franchise business owners could be significantly challenged to grow and create new jobs as a result of the Buffett rule, a tax increase on individuals and small business owners.

It continues:

> Taxing job creators will seriously impede the ability of franchise businesses to expand their operations and to create new jobs, particularly multi-unit franchise operators and the majority of franchise businesses who file their business income on their own personal tax return.

So these are the very folks the Treasury Department identified as paying taxes as individuals but who are, in fact, business owners.

Under current law, a massive tax increase on income, capital gains, and dividends is already set to occur on January 1 of next year. In addition, under ObamaCare, some Americans will be hit with a 3.8-percent investment surcharge beginning next year. Imagine what all of these taxes will do to small businesses and startup companies.

But that is not enough new taxing for President Obama in his war against investments and success. According to economist Stephen Entin, tax increases on capital are some of the most destructive to the economy. He estimates that tax hikes on capital gains, dividends, and the top two individual tax rates, which are already scheduled to occur in 2013, will shrink the economy by 6 percent, will lower wages by 5 percent, will decrease capital stock by almost 16 percent, and will lose the Federal Government almost $100 billion in tax revenue.

Adding an additional Buffett tax on capital will only decrease wages and economic growth even further. Why is this? Because high taxes on income, particularly investment income, depress capital formation. There are fewer investments, which damages the abilities of businesses to grow, to create jobs, or to pay higher wages.

I challenge my colleagues to ask a roomful of economists this question: Does increasing the cost of capital lead to higher or lower economic growth and job creation? Well, the answer is obvious. As President Kennedy said when he endorsed a capital gains tax cut, ''The tax on capital gains directly affects investment decisions, the mobility and the risk flow of capital, as well as the ease or difficulty experienced by new ventures in obtaining capital and thereby the strength and potential for growth in the economy.''

It is also important to remember that we are not making tax policy in a vacuum. We are competing for capital and investments with every other nation on Earth. The President has conceded that our high corporate tax rate harms our international competitiveness and has expressed tepid support for lowering it. But those benefits would be erased if capital gains taxes are increased dramatically.

As the Wall Street Journal points out, ''Lowering the corporate tax rate makes the U.S. more competitive, but the tax change is self-defeating if it's combined with an even larger rise in the investment income taxes on capital gains and dividends.''

According to a recent Ernst & Young study, the integrated tax rate on capital gains is already over 50 percent—50.8 percent to be exact. That is more than twice the rate in China, for example.

If Congress does nothing, capital gains rates will rise again to 56.7 percent next year. That is the second highest in the world. If the Buffett tax increase is layered on top, taxes will consume almost two-thirds of capital gains, and we will have the highest integrated rate by far of any of our international competitors. We have to remember that in a mobile world economy, capital is highly mobile. Does anyone believe that such a confiscatory capital gains rate imposed by the Buffett tax would not lead to less investment in the United States and more in other countries? As somebody said, this is not just shooting ourselves in the foot, it is shooting ourselves in the head.

Let me address President Obama's suggestions that the Buffett tax somehow constitutes fundamental tax reform and that President Reagan would have supported it. I think I can imagine President Reagan responding: Well, there you go again.

The Washington Post has a Fact Checker op-ed, and here is how they set the record straight on President Obama's claim that he was pushing the same concept—his words—as President Reagan:

> Contrary to Obama's suggestion that President Reagan was specifically arguing for a new tax provision aimed at the super-wealthy, Reagan was barnstorming the country in an effort to reduce taxes for all Americans, mainly by cutting rates, simplifying the tax system, and eliminating tax shelters that allowed some people to avoid paying any taxes at all. In other words, Reagan was pushing for a tax cut for everyone, not just an increase on a few.
>
> Obama and Reagan did use similar anecdotes—and even the phrase ''fair share''—but in service of different goals.

President Reagan's tax reform should never be confused with a harmful political gimmick such as the Buffett tax.

I would like to show how higher capital gains taxes have a negative effect on revenue.

Ever since the bipartisan capital gains cut in 1978, a pattern has repeated itself over and over: Raising the capital gains rate reduces revenues. Lowering it has led to revenue increases. That is partially because capital gains taxes are an elective tax. The tax is only paid when investors sell their assets. And frequently they wait to sell their assets for the rates to go down when it will cost them less to sell those assets.

The Wall Street Journal recently produced a chart to this effect, and I am just going to summarize it.

In 1978 President Carter signed an amendment into law that cut the capital gains rate from 40 to 28 percent. What was the result? Less revenue? No. Revenue from capital gains increased by nearly $3 billion, and yet the rate was reduced.

Congress cut the capital gains rate again to 20 percent in 1981 as part of the Reagan tax cuts. As the Journal notes, revenue did not fall in 1982. By 1983 capital gains revenues soared to $18.7 billion: Lower rate, higher revenue.

In 1986 the capital gains tax rate was returned to 28 percent as part of the tax reform package. Guess what. Revenues soared as investors cashed in their gains before the tax increases hit and then plunged in 1987.

The point is investors get to play. They get to decide. When the rate goes down, they can sell their property with less cost. When the rate goes up, they hang on to their property. They do not sell it because they will have to pay more when they do.

In 1997 President Clinton and congressional Republicans cut the rate back to 20 percent, and revenues from capital gains doubled by the year 2000 to $127.63 billion.

The Journal notes:

> Congress shouldn't be fooled by government forecasters who predict a revenue boost

from a higher capital gains rate. They've blown this call every time.

My last point addresses what the Buffett tax would do for the Federal debt. The answer is next to nothing.

Let's examine the nonpartisan Joint Committee on Taxation's estimate of the revenue that would be raised from the Buffett tax. Bear in mind that these estimates do not include the effect on economic growth, which could dramatically reduce rather than raise Federal revenues, as history has shown. But let's take the score at face value. Even without counting the negative impact on the economy, the Buffett tax would raise a mere pittance in the scope of Federal budgets.

When President Obama first proposed the tax, he declared that ''it could raise enough money to stabilize our debt and deficits for the next decade.'' He said, ''This is not politics, it's math.'' Well, let's look at the math. The Joint Committee on Taxation estimate shows that the Buffett tax would raise only about $1 billion this year. So instead of a deficit this year of $1.079 trillion, we would have a deficit of $1.078 trillion. That does not exactly raise enough money to stabilize our debt and deficits for the next decade, as the President said.

Over the first 5 years, the Joint Tax Committee shows that the Buffett tax would collect about $14.7 billion. To put it in perspective, that will amount to less than. 08 percent of the projected national debt in 5 years. And in the year 2014 the proposal is estimated to actually lose over $6 billion in revenue. Why is this? Again, because capital gains taxes are largely voluntary. The investors targeted by the Buffett tax are generally able to decide when to sell an asset. They can manipulate their sale to stay below the triggering threshold of $1 million in the bill. This produces a lock, in effect, on capital as investments stay stagnant. So what is the end result? Little if any revenue is actually raised. Business investments decline. In turn, wages and hiring decline.

Again, if the purpose of taxes is to raise needed revenue rather than punish people, this bill completely flunks the test. So while this proposed tax increase might make some people feel good, it will not solve any of our budget problems. It will likely destroy jobs and growth, and, as history has shown, depressed economic growth from a tax increase will make our budget problems even worse than they are now.

In conclusion, the economy, as we know, is limping along at an anemic growth rate. Gas is $4 a gallon or more, and 20 million Americans are unemployed or underemployed. The economic downturn has taken a huge toll on American families. They want Washington to focus on legislation that will have an impact on jobs and gas prices. Instead, we are debating a show bill that has no chance of passing and would not create a single American job. What happened to jobs, jobs, jobs? Remember that four-letter word, ''jobs''?

The President claims to be focused like a laser on the economy. Instead, it appears that there is only one job that he is focused on with this political proposal. I submit that here in the Senate we should be focused on jobs and energy legislation that can pass, not tax hikes through show votes that are designed to fail.

Mr. ENZI. Mr. President, I rise today to express my disappointment that the administration and my friends on the other side of the aisle continue to avoid making the hard decisions to address our Nation's significant debt and annual deficits. Instead, they are turning the Nation's attention to a talking point, a shell, a sham, a political hoax designed to distract this country from our real financial problems and the real solutions we will need to get us out of this mess.

The Paying a Fair Share Act of 2012, dubbed the Buffett rule, that they describe as restoring tax fairness does nothing to address the fiscal disaster we are facing. The Buffett rule is, by President Obama's own admission, a gimmick. My friends, our country can no longer afford photo-op governance.

The national debt has risen to over $15 trillion, or nearly $48,000 per person in the United States, and this figure keeps rising under an administration that consistently fights spending cuts of any kind. We must make spending cuts if we are going to solve our fiscal problems.

Remember the President's debt commission, the Simpson-Bowles debt commission the President appointed then summarily ignored? Not everyone has ignored it. I continue to work with my colleagues on legislation to get the country back on track financially. I have introduced a bill called the one cent solution. It is also known as the penny plan or the 1-percent solution. My one cent solution bill would cut spending by 1 percent for 7 years and achieve a balanced budget in the eighth year. Every family can imagine taking one penny out of every dollar they spend. The Federal Government should be able to do the same.

In February, President Obama submitted his fiscal year 2013 budget proposal to Congress. I hope it was the last budget proposal he will have the opportunity to submit. Like his budget last year in the Senate, the President's Budget in the House this year failed to get a single vote. Even Democrats shunned it. It failed 414 to 0. The Buffett rule is pulled from the same bag of tricks.

Despite his promises of fiscal discipline and cutting the deficit in half by the end of his first term, President Obama presented the American people with another budget that spends too much, borrows too much, and taxes too much.

It is time for a change. Congress should take the lead by passing a budget that includes strong deficit reduction provisions and sets the country on a path out of our $15 trillion debt. When you are in a hole, you stop digging. When you are broke, you stop spending.

Rather than crafting a bipartisan measure to deal with these issues, the administration instead has turned its attention to the Buffett rule. This bill is symptomatic of a much larger problem plaguing this administration—the unwillingness to address the country's long-term fiscal imbalance and the diversion of the Nation's attention to a provision marketed as enhancing ''tax fairness'' that ultimately could impact very few taxpayers and does little to address the Nation's debt and deficits. The Buffett rule is estimated by the Joint Committee on Taxation to raise approximately $47 billion over 10 years under current law. Even if current tax rates are extended past their current expiration date of December 31, 2012, the bill is estimated to raise approximately $160 billion over 10 years. The Nation's debt level is now over $15 trillion, and yearly deficits are running over $1 trillion under this administration. This bill is not a significant debt and deficit reduction measure; instead, it is simply an attempt to raise taxes on owners of capital and job creators when they can least afford it. And, no, it is not a step in the right direction because it distracts us from real solutions. It is a political stunt.

The administration is ignoring the fact that four out of five people with incomes over $1 million and who would be hit by higher taxes as a result of the Buffett rule or any other millionaire tax are business owners, and these are the people the country needs to create new jobs. A millionaire tax increase like the Buffett rule means that over one-third of all business income reported on individual income tax returns would be taxed more. Particularly for those small businesses with narrow profit margins, these additional taxes would take even more money out of their businesses and make it more difficult to invest, expand, and hire.

Warren Buffett, for whom this bill is named, generated most of his $40 million in taxable income in 2010 from dividends and capital gains, which under current law is taxed at 15 percent. Taking into account his wages of approximately $100,000 that are taxed at up to 35 percent, Mr. Buffett's effective tax rate was approximately 17.4 percent. What if Mr. Buffett and other millionaires who are corporate shareholders were instead taxed like most small business owners who operate flow-through business such as sole proprietorships, partnerships, and S corporations, and are taxed immediately on their business profits at ordinary income tax rates of up to 35 percent? Mr. Buffett's tax rate would have been about 35 percent, double what he is reportedly paying now. Given that his share of the corporate profits in any year could be much greater than the dividends he currently receives, Mr.

Buffett himself could be paying significantly more in taxes to the Federal Government. I wonder if this would cause Mr. Buffett to reconsider his position on tax fairness. My friends, I am concerned that under the guise of tax fairness this administration will continue to raise taxes in order to support its out-of-control spending binge.

This administration either fails or chooses not to recognize that the current-law alternative minimum tax, or AMT, was put in place nearly 30 years ago to do exactly what the Buffett rule is intended to do—ensure that high-income taxpayers pay at least a minimum amount of U.S. tax, regardless of various tax deductions and tax credits that they might be able to claim on their tax return. In that regard, this bill simply layers on yet another complex tax provision on top of the already complex U.S. tax system rather than addressing the underlying problems of the overall Tax Code. The country needs and deserves comprehensive tax reform that makes the system simpler and fairer for all taxpayers. At the very least, the administration should start by focusing on fixing the current Tax Code before adding yet another layer of complexity to it.

Those who named this bill want you to think it is an appropriate method by which to ensure everyone pays their fair share. We need fairness; however, the manner in which that goal is achieved is just as important as the goal itself. In that regard, the Buffett rule misses the mark for each of the reasons I have just mentioned.

This bill is yet another missed opportunity for this administration to address the most pressing issues of the day, including significant tax issues that confront us at the end of 2012. The most notable tax issues include the prevention of a massive tax hike on all taxpayers on January 1, 2013, as a result of the expiration of current income tax rates, the extension of tax provisions that expired at the end of 2011 and that are scheduled to expire at the end of 2012, providing a patch for the AMT for 2012 so that it does not ensnare millions of middle-income taxpayers, and reforming the estate tax to prevent a significant rate hike on January 1, 2013.

Taking all of this into account, is the President flying around the country trumpeting the Buffett rule as the solution to what he perceives is a tax fairness problem really the best use of his and the country's time? We have more to think about than his reelection. There is a better path forward to achieve the desired result of the Buffett rule. That path includes comprehensive tax reform that results in a tax code that is simple, fair, and progrowth. If we combine that with appropriate spending cuts, our country will be able to get out from under the heavy weight of our current and escalating debt burden.

Ms. COLLINS. Mr. President, today I will vote in favor of proceeding to the President's latest tax plan because it is essential we begin the debate on comprehensive tax reform. I do this despite my disappointment that the President has not proposed a serious starting point. Our Nation's tax code needs to be overhauled, from top to bottom. The tax plan offered by the bipartisan Bowles-Simpson Commission—a commission the President himself created—offered a proposal a year and a half ago that should have been the foundation for a serious debate for such an overhaul. But the President failed to show leadership, and allowed that proposal to wallow. Instead, he has asked us to consider a bill today that he himself has called ''a gimmick.''

I believe we should be debating comprehensive tax reform aimed at creating a simpler, fairer, pro-growth tax code. Such reform should lower rates for job creators and middle-income Americans, while increasing the share of taxes paid by the wealthy.

A key to reform is simplification: just last year, according to the IRS, there were 579 changes to a tax code that is already more than 65,000 pages long. No one can keep up such complexity—it hobbles our economy, and exasperates the American taxpayer.

I have said that multimillionaires and billionaires can pay more to help us deal with our deficit, and I have voted for surtaxes on the very wealthy in the past. In fact, I have even introduced legislation calling for such surtaxes. However, I have maintained that any such legislation must include a ''carve out'' to protect small business owners who pay taxes through the individual income tax system. Our nation's small businesses must not be lumped-in with millionaires and billionaires and exposed to the same type of taxes designed for the very wealthy. That is why a ''carve-out'' to shield small businesses owners from tax increases is so important. These small business owner-operators are on the front lines of our economy, and of the communities in which they live. The income that shows up on their tax returns is critical to their ability to finance investment, and grow their businesses. Left in their hands, this income will lead to more jobs, and will buy the tools that help American workers compete.

Comprehensive tax reform and simplification is not only a matter of fairness, but is essential to laying the foundation for our nation's long-term economic growth. There is no contradiction between fairness and growth—both can be advanced together. I urge my colleagues to join me in seeking true reform that advances both of these goals.

The PRESIDING OFFICER (Mr. BLUMENTHAL). The Senator from Vermont.

Mr. SANDERS. Mr. President, I rise in strong support of the Paying a Fair Share Act. I commend Senator WHITEHOUSE for introducing this important legislation.

It is absurd that at a time when our country has a $15 trillion national debt and enormous unmet needs, the wealthiest people in this country have an effective tax rate that is lower than many middle-class workers. It makes no sense that the richest 400 people in our country who earned an average of more than $270 million each in 2008 pay an effective tax rate of just 18 percent, which is less than many small businessmen, nurses, teachers, police officers, et cetera. That is wrong from a moral perspective. It is also very bad economic policy.

The issue we are debating speaks to a much larger crisis that is taking place in America; that is, that in many important ways the United States is departing from its democratic tradition, which has always included a strong and growing middle class, and is moving rapidly into an oligarchic form of government in which almost all wealth and power resides in the hands of the very richest people in our society—the top 1 percent. That is not what America is supposed to be about.

Let me mention a recent study that shows not only why we should pass this Buffett rule but why we should go, in fact, much further. An economist at the University of California, Professor Emmanuel Saez, studying tax returns, found that in 2010, 93 percent of all new income generated during that year went to the top 1 percent. Let me repeat that. Between 2009 and 2010—the last year we have statistics on this issue—93 percent of all new income went to the top 1 percent, while the rest of the people—the bottom 99 percent—were able to receive 7 percent. Even more incredible is the fact that 37 percent of that new income went to the top one-hundredth of 1 percent. In other words, of the $309 billion in new income gained in 2010, $288 billion went to the top 1 percent. Only $21 billion in new income went to the bottom 99 percent.

Today the top 1 percent earns over 20 percent of all income in this country, which is more than the bottom 50 percent. In terms of the distribution of wealth, accumulated income, as hard as it may be for us to believe, as a country that believes in mobility, a country that believes in equality, today we have a situation where the 400 wealthiest people in America now own more wealth than the bottom half of America—150 million people. Four hundred people here own more wealth than the bottom 150 million Americans, and that gap between the very rich and everybody else is now wider than it has been in this country since the late 1920s. We have, by far, the most unequal distribution of income and wealth of any major country on Earth.

That is where we are as a nation, and it is not a good place to be. The richest people and the largest corporations are doing phenomenally well, while the middle class is collapsing and poverty increases. This is not what democracy looks like; this is what oligarchy and plutocracy look like.

To compound this extremely unfair situation, when millionaires and billionaires are paying nearly the lowest effective tax rate for the rich in decades, our deficit problems only grow worse. In other words, not only are the real and effective tax rates for the rich lower than for many middle-class workers, their low effective tax rates are having a very negative impact on our deficit. In fact, as a result of the tax breaks given to the wealthy and large corporations, revenue as a percentage of GDP is at 14.8 percent, the lowest in more than 50 years.

Let us pass the Buffett rule today, but let us do much more in the future. Instead of cutting Social Security, Medicare, Medicaid, education, and other programs of vital importance to middle-class and working families in this country, as many of my Republican colleagues would like to do, let us develop both personal and corporate tax policies that are fair and will protect the best interests of our country.

Nobody should be talking about maintaining huge tax breaks for millionaires and billionaires and in the same breath talk about cutting Social Security, Medicare, Medicaid—the needs of our children and the needs of the most vulnerable people in our country. That is wrong and that is not what America is about.

With that, I yield the floor.

Mr. INOUYE. Mr. President, I come from humble beginnings. We did not have a lot growing up but we always had what we needed. My mother and father worked very hard to provide for our family and you can be sure they paid their fair share of taxes on their living wage. In the nearly 50 years that I have served in the Senate, I have watched the very rich and their supporters in the Congress whittle away at the Tax Code to the extent that today the average tax rate paid by the highest earning Americans has fallen to the point that one in four taxpayers with an annual income greater than $1 million pays less than millions of working middle-class families. How is that fair? We are making critical decisions about how we cut and spend government funds and it will go a long way to reestablishing fiscal fairness in this country if the very wealthy pay their fair share to support government services and initiatives.

Mr. LEVIN. Mr. President, one of the unfortunate characteristics of the American economy for the last few decades has been the rising gap between upper and middle-income Americans. Increasingly, those in the upper echelons of income and wealth have seen their fortunes rise, while the vast majority of Americans have coped with stagnant income and increasing insecurity. In recent decades, most families have had to cope with a reduced ability to afford the things middle-class Americans once took for granted a comfortable home, college educations for the kids, and a secure retirement. At the same time, incomes have risen remarkably for those at the very top of the income scale. Today, by some measures, income inequality is greater in our country than at any time since just before the Great Depression.

This should worry us all. It should worry us because a way of life has become endangered. That way of life—one in which, if you work hard, play by the rules and plan for the future, you and your family will prosper came to be known as the ''American way.'' But increasingly, the American way has been replaced by one in which the very wealthy do well while everyone else struggles. Instead of all boats rising together, it is the yachts that have risen—good economy or bad—while all the other boats have been stuck in place and taking on water.

Today we have a chance to begin the work of closing that income gap between the wealthiest Americans and the middle class. We can, by adopting this motion to proceed, begin the debate on how best to address the worrisome and growing gap. But that debate cannot begin unless our colleagues on the Republican side agree to allow it to begin. I, for one, am eager to have this debate—I believe the American people want and deserve this debate. Our Republican colleagues have very different ideas about this problem, and may even deny there is a problem. But the people we represent believe this is a problem, and we should respond to their concerns.

There are some who question whether income inequality is rising. These denials melt away in the face of enormous evidence to the contrary. To deny rising income inequality is to deny plain facts. Here are a few of those facts.

As of 2008, the richest 1 percent of Americans took home almost 24 percent of total income. This is up from 10 percent in 1980. Half of all income in the United States went to the top 10 percent of Americans. And, the vast majority of Americans, the bottom 80 percent, received less than a quarter of total income in the United States.

The nonpartisan Congressional Budget Office issued a report last year on changes in income distribution since 1979. CBO's researchers found that over that period, after-tax income ''for households at the higher end of the income scale rose much more rapidly than income for households in the middle and at the lower end of the income scale.'' CBO found that for the wealthiest one percent of Americans, real after-tax income grew by 275 percent. Those in the next 19 percent—that is, the top 20 percent minus the one percent at the very top—saw after-tax income growth of 65 percent. And for the 60 percent of Americans in the middle of the income scale, between the top and bottom 20 percent, after-tax income grew by just 40 percent. So, income for the top 1 percent of Americans grew at a rate nearly seven times greater than growth in middle-class incomes.

There are two striking things about CBO's findings. The first is that the biggest driver of growing inequality is the growing gap between those at the very top of the scale and everyone else. Even those in the top 20 percent of incomes—those doing very well by anyone's standards—have fallen behind the top 1 percent.

The second striking finding is what CBO found about the effects of federal tax and transfer policy. In fact, CBO reported that while the rise in inequality stems from a number of factors, one significant contributor is federal policies—including the decisions we all make here in this Congress. For instance, CBO said that the rise in after-tax income for the top 1 percent may come in part from tax changes we made in 1986. Those changes lowered the top personal income tax rate below the top corporate tax rate, encouraging many wealthy Americans to reclassify corporate income as personal income to qualify for the lower rate.

More worrisome is the fact that CBO found that federal tax policy has actually made inequality worse. Inequality of after-tax income is higher than inequality of pre-tax income. In part, that is because our tax system has shifted away from income taxes—which are progressive, asking the wealthier to pay a higher rate—to payroll taxes, a burden that falls on all income-earners regardless of how wealthy. These are the kinds of changes that have led to billionaire investors and hedge-fund managers paying a lower tax rate than their secretaries.

One way that government could fight this rising gap is with transfer payments—benefits paid by government to the less wealthy to try to counteract difference in income. Some, including some of our Republican colleagues, have made the case that transfer payments are growing larger, or that government policy is making people increasingly dependent on government handouts. The CBO report answers this argument. CBO found: ''The amount of government transfer payments—including federal, state, and local transfers—relative to household market income was relatively constant from 1979 through 2007, ranging between 10 percent and 12 percent with no discernible trend.'' So, while there has been a rising gap in pre-tax income since 1979, and government tax policy has widened that gap, federal transfer payments have done nothing to balance it.

These facts are telling. But we should not forget that behind all these numbers, all these facts and figures, are real people—and most of those people are struggling to get by. They should be uppermost in our minds.

The rise in inequality is not the result of a single factor, and it did not happen overnight. So we will not reverse it overnight. It will take sustained effort. That effort starts with acknowledging that there is a problem, and I hope our Republican colleagues will avoid the denialism that is all too prevalent on this issue. But if we can first acknowledge the problem, we then can do something about it, beginning with this vote today.

The proposal before us simply says that those at the very top of the income ladder, those making more than $1 million a year, will, at a minimum, pay a federal income tax rate of 30 percent on their income above $1 million. Most Americans consider that simple common sense. The fact that wealthy corporate executives pay a lower tax rate than construction workers or waitresses or teachers or police officers is fundamentally unfair. And at a time when budgets are extraordinarily tight, and getting tighter, it makes no sense for government to subsidize, through tax policy, the growing income gap between the top few and ordinary Americans.

This bill will not solve all our problems. Even if it passes, there will be much more work to do—especially because this problem is, through tax policy in particular, a problem Congress has helped to create. But that work must start somewhere. The debate must begin—and it will begin, if we vote to let it begin. I hope we will begin that debate today.

Mrs. BOXER. Mr. President, I support the Paying a Fair Share Act because it will help bring fairness to our Tax Code. In large part because of the irresponsible policies of President George W. Bush, the very wealthiest taxpayers have seen their tax rates drop by half over the last 50 years, even as their incomes have skyrocketed. The Tax Code has become so out-of-balance that one in four millionaires pays a lower tax rate than do millions of middle-class families, and in 2011 an estimated 7,000 millionaires paid no Federal income tax at all.

Responsible millionaires understand that a fair tax system is in our country's best interest. One Californian, Andy Rappaport, told my staff that over the past 8 years, his average Federal tax rate has been only 16 percent after charitable contributions. Meanwhile, working families making $60,000 to $100,000 per year pay average Federal tax rates of 17 or 18 percent.

Mr. Rappaport said: ''Those of us who are doing unprecedentedly well have built our success on a foundation of widespread well being and opportunity, not to mention adequate investments in education, research, and infrastructure. . . . It's not fair to ask those who make less than us to do without or to shoulder more than their share of our national investment burden.'' California entrepreneur Garrett Gruener wrote in the Los Angeles Times: ''For nearly the last decade, I've paid income taxes at the lowest rates of my professional career. . . . For the good of the country, we need to tax people like me more.''

In addition to opposing this commonsense proposal, our Republican colleagues want to cut valuable social programs to pay for another tax cut for the rich. The House-passed Ryan Budget would give high-income taxpayers an additional tax cut of at least $150,000 per year—a tax cut equal to three times the median household income, and more than ten times the average annual Social Security benefit—while cutting programs like food stamps and Pell Grants which provide security and opportunity to millions of lower-income Americans. Our Republican colleagues seem devoted to the interests of the wealthiest 1 percent above all else.

The Paying a Fair Share Act would only affect the top one-tenth of 1 percent of taxpayers, those with adjusted gross income over $1 million per year. It preserves the incentive for charitable giving, which is so important for our religious organizations, nonprofits, and universities.

And these millionaires and billionaires are not the ''job creators'' the Republicans say they are, because the vast majority of job creators are small business owners who earn far less than $1 million per year. In 2009, only 1.3 percent of taxpayers with business income made more than $1 million per year. The bill is supported by small business groups including the Main Street Alliance, American Sustainable Business Council, and the California Association for Micro Enterprise Opportunity. It also has the support of AFCSME, AFL–CIO, the International Brotherhood of Teamsters, United Auto Workers, the National Education Association, and many others. I urge my colleagues to support this important legislation, which will bring much-needed fairness to our Tax Code.

Mr. REED. Mr. President, I rise today to join my fellow Senator from Rhode Island's effort to restore a basic level of fairness to our Tax Code. Senator WHITEHOUSE has done an extraordinary job in fighting to return some sense of balance to a broken system.

Most Americans agree Senator WHITEHOUSE's legislation is fundamentally fair and they want to see it become law because as we all know, the Tax Code is riddled with loopholes that benefit the wealthiest Americans. It is past time we take this first step towards fixing a system that allows millionaires and billionaires to pay a lower tax rate than middle-class Americans. This is a defining vote—it is about who you stand for and with, working men and women or multimillionaires and billionaires. This legislation signals to middle-class Americans that the government should be focused on helping them, by ensuring that everyone pays their fair share to support essential government programs that invest in education, infrastructure and our nation's future.

The Tax Code stacks the deck for the wealthy at the expense of the middle-class. The middle-class has already been squeezed enough by stagnant wages and a complex tax system that does not work for them. The revenue raised through this measure is deficit reduction that is not taken out on the backs of seniors or working American families. This legislation will only impact 0.2 percent of Rhode Islanders that earn more than $1 million in income per year.

Senator WHITEHOUSE's Paying a Fair Share Act would prevent millionaires and billionaires from using tax loopholes that allow them to pay a lower effective tax rate than a school teacher in Rhode Island.

Of millionaires in 2009, a full 22,000 households making more than $1 million annually paid less than a 15 percent income tax rate. Our Tax Code, riddled with loopholes and special giveaways, leads to lopsided and inequitable results. It is past time we correct these glaring loopholes and restore some fairness to our Tax Code.

The 400 highest-income households in 2008, who made on average $271 million—paid just an 18.1 percent rate. This is nearly half the 29.9 percent rate those households paid on average in 1995 under President Clinton.

According to the Center on Budget Policy Priorities analysis, the top 1 percent have seen their after tax income grow by 277% since 1979. The middle 60 percent of Americans have only seen a 38 percent increase and the bottom 20 percent have only seen an 18 percent increase. This is a result of a broken Tax Code that over the past several decades has been tilted to benefit the wealthiest Americans and not the middle-class.

The tax benefits for the wealthiest Americans have contributed to staggering deficits. These deficits have increased pressure on our budget and motivated Republicans to slash services that benefit middle-class Americans in the name of deficit reduction.

This is exactly why I opposed the reckless Bush tax cuts that skewed so heavily towards the wealthy, the segment of our society that needed the least help. In fact, it is estimated that the House Republican budget would give millionaires an additional $265,000 in tax cuts each year; unsurprisingly, Republicans want to double down on the misguided Bush tax cuts that disproportionately benefited the wealthy.

We need comprehensive tax reform, but not reform that skews the Tax Code even more towards the wealthy while asking for more sacrifice from the middle-class. The Paying a Fair Share Act is a first step in reversing this trend and reforming the Tax Code by restoring fairness.

Making sure that millionaires and billionaires don't pay a lower tax rate than middle-class Americans will help make our Tax Code fairer while addressing our budget deficit. This is common sense and I hope Republicans will join us in taking the first step towards restoring fairness to our tax laws.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. WHITEHOUSE. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Rhode Island has 3 minutes. The Republicans have 4 minutes.

Mr. WHITEHOUSE. It is my understanding there are no further speakers on the Republican side. If somebody comes, I will, of course, yield the 4 minutes.

The latest report is that there are no further speakers until we move on to the judicial nomination.

I wished to use the time remaining to respond to two of the points that have been made. Before I do that, let me just say that as I have kept track during the debate, the minority party has discussed debt, bureaucracy, Presidential appointments, punishment of success, ObamaCare, jobs, fuel prices, picking winners and losers, campaign contributions, out-of-control spending, equal opportunity, and massive new tax increases.

The subject at hand is actually much smaller than this; that is, the indisputable fact that at the very high end of the American income spectrum, people are paying lower tax rates than regular American families—whether it is Warren Buffett's self-proclaimed example of paying only 11 percent in total taxes or the average of all the 400 highest income earners in the country being only 18.2 percent. These are people earning—in the case of the 400—over one-quarter of a billion dollars each in 1 year and paying the rate equivalent to what a single Rhode Island truckdriver pays. That is the issue.

We should have a progressive Tax Code. One of the speakers said we do have a progressive Tax Code and that the income tax generates 31.2 percent of the total income tax revenue from high-income folks versus 14.2 percent from the middle as their rate. But it is worth focusing on the fact that when my Republican colleagues talk about taxes and they focus on income taxes, they leave out the payroll taxes, which virtually every American pays or a great number of Americans—more pay payroll taxes than income tax, I believe.

If we look at all those taxes and put them together, we find that the top 1 percent of Americans do indeed pay 28.3 percent of the taxes. One percent pays 28.3 percent of the taxes. That sounds pretty progressive, until we realize the top 1 percent in America controls more than one-third of the Nation's wealth; the top 1 percent holds more than one-third of the Nation's wealth but pays only 28 percent of the taxes. That is not progressive, if we are measuring in what we are usually taxing, which is income and wealth, not just the existence of a human being on the planet.

If we go to 5 percent, then the top 5 percent pays 44.7 percent of all our taxes, which again is a lot. It is progressive but not when we consider that 5 percent owns or controls more than 60 percent of the Nation's wealth. We are a country in which more than half the wealth of the country—more than 60 percent of it is concentrated in the hands of one-twentieth of the population, the top 5 percent. So for them to pay a higher rate makes a lot of logical sense. What we find is that they actually pay a lower rate all too often.

The other point I wish to address is the argument that this will take money from the pockets of small businesses. If we look at the Office of Taxation and Treasury's definition of a small business and look at how many would be affected by this bill, it would be 3.3 percent; nearly 97 percent of small businesses would have zero effect from this bill. Of the 3.3 percent that would be affected, it is hard to know how many of those are high-income individuals who incorporated themselves for tax purposes but don't fit the ordinary definition of a small business.

When we look at the fact that Americans across the country have spent the last week sitting down going through their receipts, filing their tax returns, sitting at the kitchen table trying to make sense of it all and get it filed on time, for a great number of those folks, what they know from Warren Buffett and others is that the people making one-quarter of a billion dollars a year are paying lower rates than they are, and it is not right. It is not just me saying that is not right; it is Ronald Reagan saying that is not right. He said it was ''crazy''—his word—that a millionaire should pay a lower tax rate than a busdriver pays.

The PRESIDING OFFICER. The Senator from Rhode Island has exhausted his time. The Senator from Tennessee is here to speak.

Mr. WHITEHOUSE. I yield the floor.

The PRESIDING OFFICER. The Senator from Tennessee has 1 minute.

Mr. CORKER. Mr. President, this last March, 64 Senators—32 on each side—wrote a letter to the President asking for real tax reform and real entitlement reform.

I think most of us know today's exercise is a political exercise. It is not intended to deal with deficits. It is intended to divide.

Last week, I heard the President speaking at a college in Florida about the Buffett tax. In that speech, he was talking about spending all that money on things they were interested in. In other words, this money is not being used, per the President's speech, in any way to reduce deficits.

I encourage all those on both sides of the aisle—32 Senators on each side—who have spoken earnestly and sincerely about progrowth tax reform and entitlement reform to not follow this folly of division but to hold together, as we need to do something that is great for our country.

It is my hope that by later this year—possibly in a lameduck, although I hope something happens sooner than that—all of us who truly care about solving problems, not about scoring political points, which this bill is about, will come together and do something great for our country.

I yield the floor.

EXECUTIVE SESSION

NOMINATION OF STEPHANIE DAWN THACKER TO BE UNITED STATES CIRCUIT JUDGE FOR THE FOURTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination which the clerk will report.

The legislative clerk read the nomination of Stephanie Dawn Thacker, of West Virginia, to be United States Circuit Judge for the Fourth Circuit.

The PRESIDING OFFICER. Under the previous order, there will be 60 minutes of debate equally divided and controlled in the usual form.

The Senator from Vermont.

Mr. LEAHY. Mr. President, let me make sure I understand. The time is now divided for an hour until the vote?

The PRESIDING OFFICER. That is correct.

Mr. LEAHY. I thank the distinguished Presiding Officer, and I welcome him back after the break and all Senators on both sides of the aisle.

The Senate is going to consider the nomination of Stephanie Dawn Thacker, of West Virginia, to fill a judicial vacancy of the Fourth Circuit Court of Appeals, and I know the distinguished Senator from West Virginia, Senator MANCHIN, will be coming to speak in a few moments.

I would note this is a judicial vacancy on which the Senate Judiciary Committee voted unanimously more than 5 months ago, as the distinguished Presiding Officer will recall, in favor of this nomination. After thorough debate and background, we voted for her unanimously. That was 5 months ago. She should not have had to wait this long.

She should have been confirmed last year. With nearly 1 in 10 judgeships across the Nation vacant and the judicial vacancy rate remaining nearly twice what it was at this point in the first term of President George W. Bush, the Senate needs to do more to reduce judicial vacancies so that all Americans can have the quality of justice that they deserve.

The Federal Judiciary has been forced to operate with the heavy burden of 80 or more judicial vacancies for more than 3 years now. There is nothing to justify this extended period with years of vacancies numbering more than 80 around the country. Congress has not created scores of new judgeships, as we did in a bipartisan fashion during the Republican administration of Ronald Reagan and George Herbert Walker Bush. Indeed, when the Senate was confirming 205 circuit and district court nominees during the first term of President George W. Bush, we lowered vacancy rates more than twice as quickly.

I will include for the RECORD at the conclusion of my remarks a copy of the Internet article entitled, ''1000 days,''