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## Senate

The Senate met at 10 a.m. and was called to order by the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut.

### PRAYER

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

Let us pray.

Eternal God, the world and all that is in it belong to You. You built our Earth on the deep waters and laid its foundations in the ocean depths. Great and marvelous are Your works. Give Your Senators this day Your hand of mercy so that they will feel Your peace and be guided by Your wisdom. Remind them that their value comes not only in actions in the work arena but also in reflection and meditation and prayer when they are not on Capitol Hill. Keep them close to You and constantly aware of Your abiding spirit in their lives. As they make time for quiet deliberation and circumspection, may they grow in the assurance of Your power.

We pray in Your sacred Name. Amen.

### PLEDGE OF ALLEGIANCE

The Honorable RICHARD BLUMENTHAL led the Pledge of Allegiance, as follows:

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

### APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

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

The legislative clerk read the following letter:

U.S. SENATE,  
PRESIDENT PRO TEMPORE,  
Washington, DC, July 10, 2012.

To the Senate:

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

appoint the Honorable RICHARD BLUMENTHAL, a Senator from the State of Connecticut, to perform the duties of the Chair.

DANIEL K. INOUE,  
President pro tempore.

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

### RECOGNITION OF THE MAJORITY LEADER

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

### SMALL BUSINESS JOBS AND TAX RELIEF ACT—MOTION TO PROCEED

Mr. REID. Mr. President, I move to proceed to Calendar No. 341, S. 2237.

The ACTING PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

Motion to proceed to Calendar No. 341, S. 2237, a bill to provide a temporary income tax credit for increased payroll and extend bonus depreciation for an additional year, and for other purposes.

### SCHEDULE

Mr. REID. Mr. President, the next hour will be equally divided between Democrats and Republicans. The majority will control the first half and the Republicans will control the final half.

At 11:30 the Senate will proceed to executive session to consider the nomination of John Fowles to be U.S. District Judge for the Western District of Tennessee. At noon there will be a roll-call vote on the confirmation of that nomination.

The Senate will recess from 12:30 until 2:15 p.m. to allow for our weekly caucus meetings.

At approximately 2:25 p.m., there will be a cloture vote on the motion to proceed to S. 2237, which is the Small Business Jobs and Tax Relief Act.

MEASURE PLACED ON CALENDAR—S. 3364

Mr. REID. Mr. President, I understand that S. 3364 is at the desk and is due for a second reading.

The PRESIDING OFFICER. The majority leader is correct.

The clerk will report the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 3364) to provide an incentive for businesses to bring jobs back to America.

Mr. REID. Mr. President, I object to any further proceedings with respect to this bill at this time.

The ACTING PRESIDENT pro tempore. Objection having been heard, the bill will be placed on the calendar.

### SMALL BUSINESS TAX CUTS

Mr. REID. Mr. President, my Republican colleagues talk a good game on taxes, but Democrats' record of cutting taxes for small businesses speaks louder than Republican rhetoric.

Since President Obama took office, taxes have been cut for small businesses 18 times. Today he will advance a plan to cut taxes for small firms for the 19th time in just 3½ years.

The Small Business Jobs and Tax Relief Act would put money back into the coffers of true job creators. Under our plan business owners who hire new workers or give raises to current employees would get a 10-percent tax credit. Our legislation would also cut taxes for firms that invest in new equipment, allowing more than 2 million businesses to grow faster.

These two proposals will create almost 1 million new jobs, and economists from across the political spectrum agree this is the most effective and efficient way to give the economy a badly needed boost. If my Republican colleagues want their record to match their rhetoric, they will end their filibuster of this worthy measure, and they will vote to support the real job creators.

Unfortunately, while Republicans agree we should cut taxes, their approach is completely different from ours. Congressional Republicans want to lavish huge across-the-board tax cuts on billionaire hedge fund managers and mega-rich celebrities such as Donald Trump.

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



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Unlike our proposal, the Republican plan, which passed the House of Representatives, would not do a thing to encourage hiring. More than 99 percent of businesses in America would qualify for this extravagant tax break—even if they didn't create a single new job or raise wages for one solitary employee. In fact, fabulously rich so-called small business owners such as Kim Kardashian and Paris Hilton could qualify for these wasteful giveaways. Even though three-quarters of Americans oppose more tax breaks for the wealthiest few, nearly half of the benefits of this \$46 billion Republican proposal would go to millionaires and billionaires.

Mr. President, we Democrats want to cut taxes for small businesses, but the Republican alternative that passed the House of Representatives is simply the wrong way to do it.

#### RECOGNITION OF THE MINORITY LEADER

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

#### THE ECONOMY

Mr. McCONNELL. Mr. President, last Friday morning the American people woke up to the news that the economy is on life support. The first response of the President of the United States was that we are headed in the right direction.

Let's just think about that for a second. The President's first reaction to the news that more Americans signed up for disability last month than got jobs was to flash a thumbs up and head back to the campaign trail, just like his first reaction to a question about the economy at a recent White House press conference was to say that the private sector is doing just fine.

Well, obviously, answers like that just aren't going to cut it. The President's advisers must be telling him that much. So yesterday the President—the man at the wheel—changed his tune by doing his Washington best to change the subject.

For 3½ years, this White House has shown an utter lack of imagination when it comes to jobs and the economy. If the solution doesn't involve more government, they are not interested. That is all they have. So yesterday the President went back to the same well one more time. After 3½ years of more government, more debt, more spending, more taxes, and more regulations, he demanded even more.

Yesterday the President issued an ultimatum: Raise taxes on about 1 million business owners to fund more government, and I will not raise taxes on the rest of you. That was his considered response to this crisis.

Let's leave aside for a second the complete and total absurdity of raising taxes on job creators in the middle of what some are calling the slowest recovery ever. Leave that aside and ask yourself a more fundamental question: Whose money is it in the first place?

Why should small businesses be put on the defensive about keeping money

they have worked for and earned? It seems as though every day for the past 3½ years we have woken up to stories about waste and abuse in government—whether it was a bankrupt solar company or the \$800,000 party some government agency threw for itself or this week's report that we overspent on unemployment benefits by about \$14 billion.

As far as I am concerned, there should not even be a debate. The government doesn't need any more money. It is the government that should be answering to us for the tax dollars it has wasted and misdirected. It is the President who should be on the defensive. He is the one who pledged he would cut the deficit in half by the end of his first term but doubled it instead. He is the one who spent the first 3½ years of his administration shattering spending records.

Now he wants us to believe he will direct new tax revenue toward tackling the deficit? Look, yesterday's announcement was many things, but let's be honest. It wasn't a plan for deficit reduction, and it sure wasn't a plan for job creation. First and foremost, it was a distraction. By any standard the President has a nightmarish economic record. By demanding higher taxes on the few, he is trying to direct attention from it.

Second, it is deeply ideological. The President has already admitted that the last thing we need to do in the middle of a recession is raise taxes. He knows that yesterday's proposal would only make the economy worse. He knows that. His goal isn't jobs, it is income redistribution. It is his idea of fairness, which means you earn and he takes. His definition of fairness means you earn and he takes.

Third, it is purely political. The President's top priority for the last year hasn't been creating jobs; it has been saving his own. Let me say that again. The top priority of the President hasn't been creating jobs for anybody else; it has been saving his own job. His advisers seem to think if they create enough scapegoats that he will slip by in November.

That is why he has spent the past year trying to convince the public that somehow his predecessor is more responsible for the economic failures of the past 3½ years than he is; that all the bailouts and the trillions in borrowed money and the government takeover of health care and the onslaught of bureaucratic redtape and regulations are somehow irrelevant to the fact that we are mired in the slowest economic recovery in modern times; that we are just one more stimulus away from an economic boom; that the fact that we have had unemployment above 8 percent for 41 straight months has nothing to do with the policies he put in place in his first 2 years in office; that all these massive pieces of legislation he touted were somehow hugely historic yet, at the same time, completely unrelated to the

joblessness, uncertainty, and decline we have seen almost every day since.

It is this kind of economic thinking that leads to the kind of proposal the President announced yesterday, which says a tax hike is harmful to middle-income earners but somehow meaningless for the 940,000 business owners who will get slammed by this tax hike, as well as all the other tax hikes the President has in store for them at the end of this year.

The sad truth is the President isn't just ignoring the economic problems we face; he is exacerbating them. He is running us headlong to the cliff that is fast approaching in January. Frankly, it is hard to imagine a President deliberately doing all these things he knows will only make things worse, but that is where we are. Now it is incumbent upon the rest of us to outline a better path. And that is what we support—commonsense progrowth policies that liberate the private sector. It starts by repealing a health care law that is stifling businesses, by ending the senseless regulations that are crushing businesses, by ending the threats of tax hikes on businesses that can't afford them, and by putting our faith in free enterprise over the dictates of a centralized government. In the Obama economy, we need policies that are designed to create jobs, not destroy them.

No one should see an income tax hike next year—no one—not families, not small businesses, no one. We should extend all income tax rates while we make progress on fundamental tax reform.

It is time to put the failed policies of the past 3½ years aside and try something else. Washington has done enough damage to the economy already. Let's focus on the kinds of progrowth jobs proposals the Republican-led House has already passed. And above all, let's do no harm. It is time to give the private sector and the innovators and the workers who drive it a fighting chance.

Mr. President, I yield the floor.

#### RESERVATION OF LEADER TIME

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

#### ORDER OF BUSINESS

Under the previous order, the following hour will be equally divided and controlled between the two leaders or their designees, with the majority controlling the first half and the Republicans controlling the final half.

The Senator from Illinois.

#### THE ECONOMY

Mr. DURBIN. Mr. President, it has been 3 years—3 years—since my colleague from Kentucky who just spoke announced to America that his highest priority as a Senate leader was to make sure Barack Obama was a one-term President. That was his highest priority. And since that time, we have seen a record number of Republican filibusters on the floor of the Senate.

They have broken all records in terms of efforts to stop even to allow a vote on the priorities of the Obama administration. For the Republican leader to then come to the floor and bemoan the fact that the President has not done more suggests he believes we are victims of political amnesia. And we are not.

We know the President came with a stimulus bill when we were losing 800,000 jobs a month. That is what we were losing the month the President was sworn in. He came with a stimulus bill to turn the economy around and to give tax breaks to businesses and individuals. And we ended up getting three Republicans who joined us over the objection of their leadership. We needed those three to break the Republican filibuster on the President's effort to get the economy moving forward again.

When it came time for health care reform, Senator BAUCUS, chairman of the Senate Finance Committee, invited the Republicans to sit down and construct a bipartisan bill with us, and they walked away—they walked away and then started a Republican filibuster against any change in health care reform. Does anyone remember the Republican alternative for health care reform? Of course not because there wasn't any. They didn't have a bill. They didn't even have a good idea. They were just here to say no and to use their filibuster to achieve it, and that story has repeated itself over and over again.

In trying to rein in Wall Street greed so we didn't go through another recession like the one we are living through now, not enough Republicans would step up and support that. We faced a Republican filibuster again.

So for the Republican leader to come to the floor and bemoan the fact that certain things have not occurred here is to ignore the reality that he said his highest priority was to make Barack Obama a one-term President, and he has demonstrated that with an endless stream of Republican filibusters.

#### TAX CUTS

Now, let's get down to tax cuts. What President Obama said yesterday was this: To every single American, your first \$250,000 of income—your first \$250,000—will continue to receive a good tax break. There will be no increase in taxes on the first \$250,000 of income. For 98 percent of Americans, that is great because they make less than \$250,000, so they are not going to see any tax increase by the President's proposal. But for the 2 percent who make more than \$250,000, the President's suggestion was to go back to the tax rates, for that money earned over \$250,000, go back to the tax rates of the Clinton years, which was a time of dramatic economic expansion and the last time we in Washington balanced a budget. Now, that is not a radical idea, it is a sensible idea.

You can't come to the floor of the Senate day after day, week after week posing for holy pictures about dealing

with the deficit—my goodness, the deficit—and then when we suggest raising taxes on only 2 percent of the American people, say: Oh, that is unacceptable. The only way to reach fiscal stability and deal with the deficit and debt is to put it all on the table, to make sure spending and revenue are on the table. And if we can't touch income over \$250,000 for the top 2 percent of Americans, we will never honestly deal with the deficit crisis.

The Republican leader came to the floor and said: Well, last week's employment numbers were not that encouraging. And I would join him in saying I wish they were better too. I am not going to say this is where I want to be, but I will say this: For 28 straight months—28 straight months—under President Obama, we have seen increases in private sector employment. Jobs are being lost in the public sector. We know that. They are being lost back home as State and local governments and others are reducing their payrolls. That is part of it. It is one of the reasons we haven't seen a more fulsome growth in employment. That is a reality. But private sector job growth has continued for 28 straight months.

So for the Republican leader to suggest that the President took this news and then went out on the campaign trail, he forgot something. Last Friday President Barack Obama signed the bipartisan Transportation bill—a bill that will create and keep more than 2 million Americans working in this country building the infrastructure we need. This is a bill we have been waiting on for 3 years, and the President signed it, and I am glad he did. It helps Illinois, and it helps the Nation.

#### SMALL BUSINESS JOBS AND TAX RELIEF ACT

Let me also say that we can do more things to help get this economy moving forward. The first thing I would like to see is for the Republicans to end their filibuster against the small business bill we will have before us today. What does this bill do? This bill says to small businesses across America: We will give you a tax credit if you will create jobs or if you will expand your payroll—a tax credit—and we will give you a quicker depreciation on those items of equipment—technology and capital—that you purchase now.

This would be a shot in the arm. It is a recipe every Republican has sworn to Grover Norquist they are going to stand by come hell or high water—to cut taxes, cut taxes on small businesses so they will create jobs, give them a break to buy equipment so they can depreciate it more quickly and create more jobs with those who are supplying them. What is wrong with this notion? It is supposed to be the Republican credo: cut taxes, and for small business. Can't we agree on that? No. We are facing a Republican filibuster on that too.

Well, it is an illustration, in my mind, of an example of a bill that can move us forward with 1 million new jobs. Why won't the Republicans join

us? Well, because they have said over and over again that they want this President to be a one-term President. They do not want success. They don't want job creation on his watch. They want as miserable a record as they can help produce to take into the November elections.

In fact, one Republican Senator said 2 weeks ago in the press: I hope the defense contractors start laying people off with the prospect of spending cuts in the future, and the sooner the better. Don't wait until after the elections; do it now.

How can he say that when we have to face these workers and their families? We don't want anyone laid off; we want people to have an opportunity to work good-paying jobs.

I think we understand what we face today. We have to come together as a nation with solutions that aren't part of the Presidential campaign rhetoric.

I served on the Simpson-Bowles Commission. I think it was a responsible way forward. I didn't agree with all of it, but it was a responsible way to move forward on deficit reduction. But we also put everything on the table in terms of deficit reduction. We conceded the fact that we can't start the cutting that is needed until we bring ourselves strongly out of this recession, and we are moving forward on that path. It is time for us to continue that movement forward on a bipartisan basis.

I am asking for somebody to throw open the windows and bring in some fresh air here in the Senate this afternoon. When we vote on the small business tax credits to create more jobs across America, I am asking the Republicans to join us. This is not about President Obama, this is about America, its workers, its families, and our economy. If there was ever a time when we should come together on a bipartisan basis, it is now. We need to knock down the Republican filibuster, bring this bill to the floor, and do our very best to create new jobs and move this country forward.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Colorado.

#### ENERGY TAX CREDIT

Mr. UDALL of Colorado. Mr. President, I rise once again to discuss the production tax credit for wind energy, and I wish to urge all my colleagues to extend it as soon as possible.

I have been coming to the Senate floor on an ongoing basis to highlight the tremendous growth of the wind energy industry from Colorado, to Texas, to Pennsylvania. Today I would like to talk about the future of clean energy jobs in the great State of Rhode Island.

If we look around our country, we find success stories everywhere, and wind energy is a bright spot for communities across America that supports good manufacturing jobs in places such as the United States and Rhode Island, and this is despite the great recession.

Rhode Island has dedicated itself to building a clean energy future, a key

part of which is offshore wind energy. The entire eastern seaboard has massive offshore wind potential, and Rhode Island is one of the first States to begin construction on a project off of its coast. If we look at the chart I have here, we can see the potential for job creation, and we also see that Rhode Island is on track to meet 75 percent of its energy needs through offshore wind development.

Rhode Island has been the beneficiary of a number of companies locating themselves there, but one in particular I wish to call attention to is TPI Composites. It has been manufacturing wind turbine blades at its facilities in Warren, RI, for years. The decision to move to Warren was a good one for TPI because Rhode Island is known for its manufacturing acumen. And good-paying jobs have been the result of TPI's locating itself in Warren, RI.

In fact, I might also mention that President Obama just paid a visit to a TPI facility in Iowa last month. TPI has also opened a facility just across the Rhode Island State line in Fall River, MA. They will also focus on the development and manufacturing of wind blades for offshore wind turbines.

But I want to return to the reason I am coming to the floor of the Senate on a daily basis. With the looming expiration of the production tax credit, orders for new wind blades have dropped and TPI has been forced to cut its Rhode Island workforce by 15 percent. In fact, its new facility in Fall River sits empty and idle as new wind blade development has been put on hold.

This is why I keep coming to the floor—because we need to pass an extension of the wind production tax credit. It equals jobs. We need to pass it as soon as possible. It is a travesty that we have not extended the wind production tax credit, particularly at a time when we still need to create more jobs.

I know the two Senators from Rhode Island agree with me. Communities such as Warren, RI, have benefited from the growth in the wind energy industry, but they are still hurting because of the great recession. Our failure to act is making things worse. We face a stark choice: We can let the PTC expire and continue to lose good-paying Rhode Island jobs or we can invest in America's future and take advantage of a manufacturing sector that is poised to expand.

The development of offshore wind is coming to the eastern seaboard, and the opportunities for American manufacturers such as TPI to grow their business and beat our international competitors are right there within our grasp. There is simply so much more economic growth possible if we would just simply extend the PTC.

Our inaction is stunting the growth of this important industry today. That is why I urge my colleagues to join us in extending the wind PTC as soon as possible.

I am pleased my colleagues from Rhode Island—who of course know their home State better than I could ever hope to—have joined me, Senator REED and Senator WHITEHOUSE. They know the difficult economic challenges their State has faced and they know how important the production tax credit is to jobs in their State. They have spent their public service careers fighting for policies that create good-paying, American-based jobs. I am very much interested in hearing what they have to say on this important subject. So as my colleagues have come to expect, I will be back on the floor tomorrow talking about the wind PTC every day, until we pass the extension of it.

I look forward to hearing from my colleagues from the State of Rhode Island.

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

Mr. REED. Mr. President, I commend the Senator from Colorado, Senator UDALL, for his leadership on this very important issue. I also want to commend my colleague Senator WHITEHOUSE, who has been extraordinarily effective as a national leader on energy policy and ocean policy.

As Senator UDALL pointed out, we are at a very critical moment. Nationally, with the support of the wind production tax credit, or the PTC, nearly 500 facilities across 44 States manufacture components for the wind energy industry. These products are critical to our future. The U.S. content of wind turbines installed in the United States has grown from 25 percent prior to 2005 to 60 percent today, according to the American Wind Energy Association. So we are actually seeing a situation in which American components are displacing foreign components in wind turbine installations that are being deployed here in the United States. That is an encouraging sign, because it means more jobs in manufacturing and it means more American content in products that would be purchased by Americans. This is fundamentally premised on the availability of the wind PTC, and so we have to maintain it. If we do not, then we are again at the mercy of world markets in which we suspect that there are countries that are supporting, directly and indirectly, their wind energy sectors very aggressively.

We need comprehensive reform of our Tax Code. That will be discussed, I am sure, in the months ahead. But we can't forget that this production tax credit for wind and credits for other clean energy resources support manufacturing jobs across this country, saves money for middle-class families, and increases our global competitiveness. As we think about tax reform, we also have to think about those programs that produce jobs, and this program is one of those job-producing tax provisions.

We in Rhode Island have taken steps, as Senator UDALL has alluded to, to try

to position ourselves to be at the forefront of clean energy development and wind production, particularly offshore wind production. Due in part to strong State policy—and I will commend my colleagues in the State government—we ranked fifth in the country according to the American Council for an Energy Efficient Economy's annual energy efficiency scorecard. Our main utility, National Grid, and our State leaders are taking very aggressive steps to lower the amount of energy we use, which helps us in terms of our competitiveness across the globe and with other States in the country.

We have also tried to be a leader in offshore wind, for obvious reasons. We are the Ocean State. We are linked to the ocean, inextricably and historically. Offshore wind is something that could be a huge benefit not only for ourselves but for our region.

Quonset Point is a former naval base which was closed in the 1970s. Fortunately, through the work of our predecessors, it became the site of submarine construction. Now it can also be the site of the assembly of turbines because of our access to the coast, because of the investments we made in terms of cranes, because of the investments we have made in shoring up the docks and the bulkheads. We are positioned to be a leader in the assembly of offshore wind turbines.

Part of this is not just the assembly expertise, but part of it is also the fact that we have done the fundamental environmental work necessary to make sure this economic development is environmentally sound as well as economically sound. Our local leaders have created the Ocean Special Area Management Plan, or Ocean SAMP, which essentially helps guide the locations for proper placement of wind turbines in the ocean. Among other considerations, it takes into consideration the geology, the tide, the fishing patterns, and the recreational use of the waters. They have come up with a very sophisticated plan, so we are well positioned to start creating this offshore wind production facility with the jobs onshore.

Also, as my colleague, the Senator from Colorado, pointed out, we have companies in the State that are leaders in the onshore wind industry. TPI Composites is one of them. It started as a boat builder. It used fiberglass to fabricate hulls for boats. It was sophisticated, it was state of the art. But then they shifted several years ago, because they saw the direction of this wind power development worldwide, and they started producing fiberglass blades for wind power. They have a wonderful facility in Warren, RI, and they were on the verge of expanding.

But again, as the Senator from Colorado pointed out, because of the uncertainty of extending the wind production tax credit and because of many other factors, unfortunately they have had to reduce some of their workforce. We want to see them start growing

again. We want TPI to be, as it is, a world leader in the production of this type of technology. It is sophisticated. These are good jobs. They are manufacturing jobs. They are American jobs. They are the kind of work we want to be doing worldwide, so that when you go anyplace in the world and you look up, you will see a blade whose tooling, engineering, and manufacturing processes were made in Warren, RI, not in China or elsewhere.

We have a challenge in Rhode Island with 11 percent unemployment. So these are the kinds of jobs we not only want for the moment, but we want for the future, because they are valuable. They are not just a contribution in the short run for putting people to work, they are a contribution in the long run, to our economy, to better use of energy, to better environmental quality, to a host of values that will turn out to have huge benefits for the people of Rhode Island and the people of this Nation.

I commend the Senator from Colorado for his consistent and persistent efforts to ensure we do not forget the wind production tax credit, and that we are still working hard to ensure we are able to support American manufacturing.

Mr. President, I yield the floor.

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

Mr. WHITEHOUSE. Mr. President, I am delighted to join my senior colleague from Rhode Island, Senator JACK REED, on the Mark Udall national economic tour of the renewable energy production tax credit, and I am delighted that daily tour has touched on Rhode Island today.

This renewable energy production tax credit is a vital part of our energy security strategy. It is pretty simple. It provides a per-kilowatt hour corporate tax credit for energy that is produced by various clean energy systems, such as wind, biomass, hydro, or geothermal. It makes a lot of sense. We need to do it. The problem is that it expires at the end of this year. And given the way that wind, biomass, solar, and other such projects have to be financed in advance and built over time, the market effect of the expiration of this production tax credit at the end of this year is already being felt in projects that are not going forward now or are under a cloud right now because of the uncertainty we are creating.

We know what happens when we allow the production tax credit to fail: The installations of this kind of equipment drop dramatically. The Department of Energy estimates that new wind installations will be virtually nonexistent next year if the production tax credit is allowed to expire. I don't know if there is a State in the Union in which people are not seeking to build wind energy to capture this free and abundant resource. All those projects will become nonexistent if this does not continue. It doesn't make any sense at all.

In Rhode Island, it is particularly important not only because we don't have a lot of domestic energy sources—so this is a good one for us as a domestic energy source—but also because of the jobs these projects support. We are not supporting international shipping tycoons who bring the oil over here, we are not supporting Saudi princes who pump the stuff or other folks from OPEC or around the world. We are supporting engineers in America, manufacturers in America, assemblers in America, factory workers in America, when we go this route.

My home State is still at 11 percent unemployment, so we have no tolerance for knocking down these jobs. This is not an acceptable energy strategy, it is not an acceptable jobs strategy. It is self-defeating for America's interests.

Senator REED mentioned TPI Composites. It is a great company. It is in Warren, RI. In the Warren and Bristol area, there is a real constellation of incredibly talented folks and small companies that are affiliated with the boat building industry. TPI and others do composite work—hulls, spars, masts, products that are light, strong, fast, and that help Rhode Island build the fastest and the best boats in the world. This technology has been transitioned from plain boat building and hull building to building the giant wind vanes that turn on these giant wind turbines.

This is an important industry for us and it is a valuable American industry. The idea that we would burn foreign oil rather than building composite wind vanes in Warren, RI, makes no sense at all. We are in the final stages of getting the Department of Interior's approval to build offshore wind turbines in Rhode Island. Senator REED and I have worked very hard to get TIGER grant funding to Quonset Point, where they have hardened up the pier so that a crane can operate on it. You don't see much on the pier now. It is flat, but it was dug out, steel was put in, and concrete was put down. Had we driven the crane out on the old pier, it would have crumbled down into the water and taken the crane with it. So we had to harden up the pier to put this crane out there, and the crane is now in a position to take these big wind turbines, which are too big to put on a truck and too big to put on a train. You have to build and assemble them shoreside and then barge them out to a location. We can do that now at Quonset Point. The project is expected to create 600 to 800 new jobs, and it could expand beyond that and position this Rhode Island facility as a hub for regional wind energy manufacturing.

This is important to us. We need this production tax credit. It goes along with a long history of government support for emerging industries. When the commercial airline industry was beginning to open, it had immense government support from subsidized airmail, from military contracts, from aeronautics R&D. The reason we took it

from the Wright Brothers at Kitty Hawk to massive Boeing factories—which is still one of the world leaders in aircraft production—is because along the way the government supported American industry because they knew—we knew—this was an industry that had to compete with overseas manufacturers and needed our support.

In the same way, the clean energy industry is in an arena of international competition in which our country and our companies are competing with foreign interests. We are competing with foreign companies and we are competing with the foreign governments that back them. Unfortunately, many in this building don't see that. All they see is the old, dirty, polluting fossil fuel industry and competition for the fossil fuel industry from clean energy. So they want to knock it down. Never mind that the well-established fossil fuel industries get far more in terms of government support than emerging clean energy technologies. The Environmental Law Institute points out that the United States has invested nearly six times more in subsidies for fossil fuel from 2002 to 2008 than we did in renewable energy. So it is not that their hands are clean of government support; they are here sucking up all the government subsidies they can, and they don't want clean energy to compete with them. They want to knock it down. That is a terrible mistake. We cannot allow the heavy hand of the fossil fuel industry lobbyists to stamp out competition in clean energy. It may be good for big oil, but it is not good for America, because we are in international competition to lead the world and be the manufacturers of wind, solar, geothermal, and other technologies. We are going to end up buying it. We want to also have built it. And, if we can, we want to be exporting it as well. We need to support these industries as they continue to develop and continue to grow so we can once again lead the world as we have in the past.

I thank Senator UDALL of Colorado for his leadership. He persistently and patiently comes every day to help make this point, and I am delighted he happened to choose Rhode Island as his point of focus today because Rhode Island truly does wrap it up. It is energy security, energy independence, local jobs and getting ahead and winning the game of international competition for this new technology.

I yield the floor.

The PRESIDING OFFICER (Mr. MANCHIN). The Senator from Iowa.

Mr. GRASSLEY. Mr. President, I didn't come to the floor to speak about the wind energy tax credit, but I wish to say to my colleagues on the other side of the aisle that I agree with them, and they probably know I agree with them because I am the author of the wind energy tax credit of 1992. I often tell people that when we worked so hard on that, I did not have the slightest idea it would turn out to be such a

big thing; that Iowa would be second in wind energy production in the Nation. I think Texas is No. 1. For sure, I did not know we would have manufacturing in our State as a result of it. We have had companies come from Spain, from Germany and then we have had from Colorado and Arizona component manufacturers that have come to Iowa. There are about 4,000 people, maybe 5,000 people, employed in my State in that, so I hope we can get it reauthorized.

Mr. WHITEHOUSE. If the Senator will yield for a question.

Mr. GRASSLEY. Yes.

Mr. WHITEHOUSE. I not only salute what the Senator from Iowa has done on the production tax credit, but I also recognize that one of our great Rhode Island companies that is developing bioprocessed algal fuels has opened its major facility in the Senator's State, and there is a very good Iowa-Rhode Island connection on the development of algal fuels. I appreciate the fact our two States are able to work together so this Rhode Island company can have such a significant facility in Iowa.

Mr. GRASSLEY. For the Senator from Rhode Island, I believe that Rhode Island facility went to an existing ethanol plant in Shenandoah, IA—southwest Iowa.

Mr. WHITEHOUSE. It did.

#### TAXES

Mr. GRASSLEY. Mr. President, I have come to the floor to speak about the issue of taxes—that is now a big issue—not about the issue the majority will set before the Senate to talk about today and tomorrow and however long it takes but the issue we heard about from President Obama yesterday, the talk about the need to raise taxes on those earning more than \$250,000. We heard this from him again just yesterday, as we did last year quite a bit and the year before quite a bit, when he spoke in support of increasing taxes on the so-called wealthy.

In his speech yesterday, he made the following points: that those making under \$250,000 deserve certainty and they deserve it now; another point is that it is OK to increase taxes on small business owners making more than \$250,000 because those tax increases would affect less than 3 percent of the small business owners; another point, that those making more than \$250,000 are not paying their fair share; and another point, that we cannot afford to extend the 2001 and 2003 bipartisan tax relief to these households because of the impact on the deficit; and last, that if Congress sent him a bill to extend the 2001 bipartisan tax relief just for those making under \$250,000, he would sign the bill into law right away.

I come to the floor to highlight what the President is not telling the taxpayers. First, on the issue of certainty, the President fails to mention what his plans are for the dozens of tax provisions that expired at the end of last year and the dozens more that are expiring at the end of this year. These

provisions affect everyone from teachers who dip into their own pockets to purchase school supplies to families and students struggling to pay for higher tuition. They also include key incentives for businesses to invest in new equipment and engage in research needed to produce the products of tomorrow.

The President also failed to mention what he would do about the alternative minimum tax that threatens an ever-increasing number of middle-class Americans each year, the same middle class that the President is telling the world he wants to protect—and nothing wrong with protecting the middle class. Over the past several years, legislation was enacted in regard to the alternative minimum tax to avoid and avert this crisis happening to the middle class, and we did it through a series of patches to increase the exemption amount so these 30 million middle-class taxpayers are not hurt with the alternative minimum tax.

The President also fails to mention whether he continues to support the middle-class tax increases he included in his budget proposal. This is how the President proposes to tax the middle class. Would he reinstate the personal exemption phaseout and the Pease limitation on itemized deductions? Additionally, would he impose a new 28-percent limitation on itemized deductions? Each of these provisions comes with its own income thresholds and phaseout rules that increase complexity and increase taxpayer burden.

Finally, the President fails to mention the tax increases he supported to pay for the health care reform legislation. These provisions include a bigger haircut on the deductions for medical expenses, lower contribution amounts for flexible savings accounts, and taxes on artificial knees and hips that medical device manufacturers have to pass on to the patients.

Given all the looming tax increases the President failed to mention in his speech yesterday, it is difficult to see how extending just the 2001 and 2003 bipartisan tax relief provides certainty to taxpayers, including small business. The President agrees they are job creators and engines of our economy, so the President recognizes a fact of life that middle-class small businesspeople are job creators. Unfortunately, he defends his tax increase this way on small businesses, by claiming the impact will be minimal because only 2 to 3 percent of the small businesses would be subject to this tax increase. What the President fails to mention is that this 2 or 3 percent account for a large amount of economic activity and a large amount of the jobs created. We often talk—people on both sides of the aisle—about small business providing 70 percent of the new jobs being created in America.

I wish to see how the Joint Committee on Taxation, which is a nonpartisan congressional organization—and I wish to emphasize the non-

partisan aspect of this because we often refer to them as authorities in this area. According to this joint committee, 53 percent of the flowthrough business income would be subject to the President's proposed tax increases—so as I said, 70 percent of the new jobs created here—but this 2 or 3 percent also accounts for about 25 percent of all employment in America.

The President claims he wants to give the 97 percent of small businesses a sense of permanence. Yet the tax relief for those in this group is only for another year. How do we get permanence if we only want to provide tax policy for 1 year? It does not add up.

The President continues to claim we cannot afford to extend tax relief for those earning above \$250,000 because of our current deficit situation, but he fails to mention any ideas for reducing the deficit by controlling spending or by enacting tax reform, which is the only real way to provide a sense of permanence and eliminate the uncertainty we all agree keeps small and even larger corporations from hiring.

At the start of his administration, the President established the Simpson-Bowles Commission to come up with a framework to address our current out-of-control spending as well as to reform the Tax Code. The Commission issued a report over 1 year ago that included substantive proposals on how to reform the Tax Code. There are some proposals in the Simpson-Bowles plan I like and some proposals I do not like. I like that it would streamline the Tax Code, reduce tax rates across the board, broaden the tax base, enhance economic opportunity in the process. At the same time, it violates one of my core tenets of tax reform: that it not increase taxes overall. But the Simpson-Bowles plan is at least a serious proposal. I think most everybody recognizes that.

However, the President failed to embrace the Simpson-Bowles plan and offered a token framework for corporate tax reform. While the President agrees our current corporate tax rate is too high, his framework is overly vague and provides little in the way of simplification. Instead, as one commentator put it, his proposal on corporate tax reform simply "rearranges the deck chairs on the Titanic."

That being said, at least the President took a position on lowering the corporate tax rate to 28 percent. This is in stark contrast to his ideas on individual tax reform he put on the table yesterday. Even thinner on details, his overarching principle for individual tax reform seems to be the wealthy should pay their fair share. Yet after years of talking about the wealthy paying their fair share, he never defines what rate or amount of tax constitutes fair share for individual taxpayers. Adopting this rhetoric seems to indicate support for using the Tax Code to reduce income disparity between the highest and lowest taxpayers. However, data from the nonpartisan Congressional Budget Office—again I emphasize nonpartisan—



shows the so-called wealthy already pay the bulk of the taxes and that our Tax Code is highly progressive.

I put a chart up. This chart will show that if all Federal taxes are considered, the top 5 percent of households pay an average effective rate of about 28 percent and account for nearly 45 percent of all Federal receipts. In contrast, the bottom 20 percent, as we can see, pay average effective tax rate of about 4 percent and account for less than 1 percent of all Federal receipts. All Federal taxes include individual income taxes, corporate tax, excise, and payroll tax.

The disparity is even greater when we only consider individual income taxes. This is actually a better measure, since the President proposes to increase just income taxes on the so-called wealthy.

If we look at the chart that is before us, we will see that the bottom 40 percent of households have an average effective tax rate below zero. In contrast, the top 5 percent have an average effective tax rate of nearly 18 percent and account for 61 percent of income tax receipts.

I have highlighted the top 5 percent in these charts because these are the households generally earning more than \$250,000—in other words, these are the wealthy households, according to the President.

When we look at these numbers, it is fair to ask the President, once again, to define what he means by “fair share.” How high is the President willing to raise taxes to meet this objective? In other words, if this 5 percent is paying 61 percent of all the income tax receipts, how much more do they have to pay to satisfy the President in order to pay their fair share? In other words, define “fair share.”

I have always stated that taxpayers should pay what they owe, not one penny more and not one penny less. Anyone who looks at my record will see I have fought long and hard to shut down loopholes and to ensure taxpayers of all income levels pay what they legally owe. However, I hold a fundamentally different view from the President on how the economy works and what the government's role should be and the rate of taxation in contributing to the government's role in enhancing the economy.

I believe the money one earns is that individual's money, not a pittance that a taxpayer can keep based upon the good graces of the government. I generally believe individuals have the right to enjoy the fruit of their success. I believe the best way to increase the wealth and livelihood of all Americans is through progrowth policies that increase the size of the economic pie, not by redistributing the pie based upon some unspecified definition of fairness.

I believe 18 percent of the gross domestic product of this country is good enough for the government to collect and spend, and for the most part it has been that way over a 50-year average of

taxes. That benchmark of 18 percent is what the government has collected consistently regardless of the statutory tax rates. Whether tax rates have been high or low, they generally bring in about the same amount of money. In other words, just because they raise tax rates on the so-called wealthy people does not necessarily mean that we get the influx of revenue that some believe we will get. This is obviously something the President has not considered.

As I have done so often in recent years, I have come to the Senate floor to say we still end up with the same amount of money regardless of what the effective tax rate is because higher income individuals have the ability to choose the form of income they will receive. They also have a greater ability to decide when they will recognize this income, such as through the sale of stock, as a way to limit their taxable income in a given year. They also have accountants and attorneys to help them legally shield income from the view of the IRS. As taxes go up, so does the incentive to reduce one's income through legal and nonlegal means.

I have a chart that shows annual revenues as a percentage of gross national product in relationship to top marginal tax rates. This is in a period of time since World War II. So getting back to what I previously said, over a long period of time the revenue coming into the Federal Treasury tends to be about the same amount. I think this averages out to about 18.2 percent of GDP.

We can see during the Eisenhower years the marginal tax rate was 90 percent. Starting with Kennedy, it became 70 percent. Starting with Reagan, it became 50 percent. Once again, starting with Reagan, it came down to 30 percent. When Bush, the father, didn't keep his promise of, “Read my lips; no new taxes,” he gave in on that, it went back to 40 percent. Now under the 2001–2003 tax bills, it is at 35 percent. The President says we need to raise the tax rate back to this level.

As this chart shows, we can have high marginal tax rates or low marginal tax rates, but the people of this country have decided they are going to send just so much money to us bums in Congress to spend. So they decide how much we are going to get, and we can raise marginal tax rates, we can do what the first President Bush did, but we are still going to get about the same amount of revenue. So I hope the President takes that into consideration and also considers the negative aspect when marginal tax rates are reduced.

This means we are not going to be able to tax our way to surpluses. We are going to have to make substantial adjustments on the spending side to bring it in line with revenues. In other words, the bottom line of what I would like to tell the President is that the American people of this country have not come to the conclusion that they are undertaxed. They have come to the conclusion that Congress spends too

much, and the problem isn't on the tax side; the problem is on the expenditure side.

History also shows that tax increases just lead to spending increases. Often on the floor of the Senate I quote Professor Vedder of Ohio State University who has studied tax increases and spending for more than two decades. Some of his research goes back to World War II. His most recent work on this subject was with Steven Moore and published in the Wall Street Journal:

Over the entire post World War II era through 2009, each dollar of new tax revenue has been associated with \$1.17 in new spending.

So we raise a dollar here, and we spend \$1.17 over there. It is pretty obvious that bringing in more revenue isn't going to reduce the deficit.

Another study by the National Bureau of Economic Research states that when it comes to fiscal adjustments:

Those based upon spending cuts and no tax increases are more likely to reduce deficits and debt over Gross Domestic Product ratios than those based upon tax increases. In addition, adjustments on the spending side rather than on the tax side are less likely to create recessions.

So we know increasing taxes, including on targeted groups, is not going to reduce the deficit. American workers and businesses deserve tax reform and tax certainty. There is bipartisan agreement that we need comprehensive tax reform. What we need to get that done is real leadership, to be sure.

Lack of leadership is not because of lack of interest. The Senate Finance Committee, on which I serve, has held more than a dozen tax reform hearings during this Congress. The Senate Budget Committee has also held tax reform hearings. What has been lacking is what is so important in this town, Presidential leadership.

The President's speech yesterday was just that, a speech. As I outlined, he spoke only about extending certain tax relief measures for those earning under \$250,000. However, he failed to address other looming tax increases and failed to discuss how his other tax increase proposals provide the certainty that he claims he wants to provide.

It is easy for the President to engage in election year antics and goad Congress to send him a bill. Unfortunately, that is not leadership, and such speeches do nothing to help individuals and small businesses.

If the President really was concerned about preventing tax increases on the middle class and small businesses, he would at least be working with leaders in his own party to make sure they all agreed on who the wealthy in this country really are and who ought to have their taxes increased.

Democratic leaders in the House and Senate have signaled that they support extension of lower income tax rates for those making up to \$1 million. In fact, a year ago this week, we in the Senate were debating the majority party's “millionaire tax resolution.”

So if the President really wanted Congress to send him a bill that provided certainty to the taxpayers, he would make it a priority to get it done. Unfortunately, he is busy traipsing around the country raising money for his reelection. That is not leadership, and it is certainly not going to provide timely tax relief to the millions of taxpayers who need it.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Vermont.

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

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

#### EXECUTIVE SESSION

#### NOMINATION OF JOHN THOMAS FOWLKES, JR., TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF TENNESSEE

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 assistant legislative clerk read the nomination of John Thomas Fowlkes, Jr., of Tennessee, to be United States District Judge for the Western District of Tennessee.

The PRESIDING OFFICER. Under the previous order, there will be 30 minutes of debate equally divided in the usual form.

Mr. LEAHY. Mr. President, I see the distinguished senior Senator from Tennessee on the floor, and I will make sure he has plenty of time to speak. If not, I will ask unanimous consent for extra time for him.

Today we will vote on only 1 of the 16 judicial nominations reported favorably by the Judiciary Committee that have been stalled for no reason from receiving a Senate vote. Regrettably, Senate Republicans are following through on their partisan opposition to the President by seeking to slam the door on qualified, consensus judicial nominees who have bipartisan support. In doing so, they seek to take advantage of the delaying tactics that they have been employing for the last 3½ years. This is all to the detriment of the American people.

I am disappointed that Senate Republicans are choosing politics over the needs of the American people and seek to justify their actions with a warped sense of payback. This is not the time for settling imaginary scores. Their self-interested approach is what contributes to the low opinion the American people have of Congress. What the American people and the overburdened

Federal courts need are qualified judges to administer justice. They are not helped by these partisan games. Following the most extended period of historically high vacancy rates in the history of our district courts, nearly 1 in every 11 Federal judgeships remains vacant. This is more than twice the vacancy rate by this date during the first term of President Bush.

This chart, available at <http://www.leahy.senate.gov/imo/media/doc/BushObama%20-%20Judicial%20-%202010-12%20-%20Area%20-%20201st%20term.pdf>, should help people understand how far behind we remain in filling the judicial vacancies to provide the Federal judges that the American people need to get justice in our Federal courts. This compares judicial vacancies during the first terms of President Bush and President Obama. It shows the stark contrast to the way in which we moved to reduce judicial vacancies during the last Republican Presidency.

This chart shows that the Senate can do better because it has done better. During President Bush's first term we reduced the number of judicial vacancies by almost 75 percent. When I became chairman in the summer of 2001, there were 110 vacancies. As chairman, I worked with the administration and Senators from both sides of the aisle to confirm 100 judicial nominees of a conservative Republican President in 17 months.

We continued when in the minority to work with Senate Republicans and confirm President Bush's consensus judicial nominations well into 2004, a Presidential election year. At the end of that Presidential term, the Senate had acted to confirm 205 circuit and district court nominees. By July 2004 we had reduced judicial vacancies to 29.

By comparison, vacancies have long remained near or above 80, while little comparative progress has been made during the 4 years of President Obama's first term. There are still 77 vacancies as of July 2012—that is more than 2½ times the number of vacancies at this point in President Bush's first term.

Each day that Senate Republicans refuse because of their political agenda to confirm these qualified judicial nominees who have been reviewed and voted on by the Judiciary Committee is another day that a judge could have been working to administer justice. Every week lost is another in which injured plaintiffs are having to wait to recover the costs of medical expenses, lost wages, or other damages from wrongdoing. Every month is another drag on the economy as small business owners have to wait to have their contract disputes resolved. Hard-working and hard-pressed Americans should not have to wait years to have their cases decided. Just as it is with the economy and with jobs, the American people do not want to hear excuses about why Republicans in Congress will not help them. More importantly, they do not want to hear that the supposed jus-

tification is partisan. This is precisely the reason why Congress's approval rating among the American people is so low.

The nonpartisan American Bar Association has been sounding the alarm for some time that we need to do better with respect to the judicial vacancy crisis. The president of the ABA wrote the Senate leaders again on June 20 urging them to work together to schedule votes for three consensus, qualified circuit court nominees awaiting Senate confirmation so that they may serve the American people. The response was more excuses from the Republican leadership rather than any positive action. In the past, the Senate has worked together to confirm consensus circuit court nominees, especially during times of high vacancies. For example, Senate Democrats confirmed 11 circuit court nominees of President George H.W. Bush in 1992. The only exception to the practice of confirming consensus circuit court nominees in Presidential elections years with high vacancies was when Senate Republicans shut down the process of a Democratic President in 1996. The Republican leadership is apparently planning to stick with its shutdown of confirmations just as it did in 1996 when they prevented the confirmation of circuit court nominees for an entire year-long session of the Senate. It was wrong then and it is wrong now.

Since May 31, Senate Republicans have consented to consideration of only five judicial nominees. That is a far cry from the 30 confirmed in the last months of 2004 at the end of President Bush's first term that brought his total of circuit and district court confirmations to 205. It is also a far cry from the 22 confirmed in the last months of 2008 at the end of President Bush's second term. They are continuing the obstruction that has unnecessarily delayed confirmation of consensus circuit and district court nominees for months and resulted in our being more than 40 confirmations behind the pace we set in President Bush's first term.

Like so many matters on which they have flip-flopped since the American people elected President Obama—everything from the individual mandate for private health insurance that they originated and used to favor to the deficit reduction commission—they now contend that they are invoking the Thurmond rule even though they denied its existence when President Bush was in office. Just 4 years ago the current Republican leader said that “there is no Thurmond rule” and the current ranking Republican on the Judiciary Committee called it “plain bunk.” The Senate Republican caucus held a forum to demonstrate that no such practice or rule existed and that judicial confirmations should continue in the last several months of a Presidential term. With President Obama, they have chosen to flip-flop and use the so-called