

States even as they take our energy dollars and maybe use those against us. That is why there is broad support for extending this worthwhile policy.

Legislation in the House of Representatives to extend the production tax credit has 119 cosponsors, including 25 Republicans. In August the Senate Finance Committee, with a bipartisan vote, passed my extension of the wind energy production tax credit amendment I offered at that particular time.

The Governors' Wind Energy Coalition and the Western Governors' Association have called for an extension of the production tax credit. The Western Governors' Association is an independent organization representing Governors of 19 States, and current membership includes 13 Republicans and 6 Democratic Governors. So there is pretty broad bipartisan consensus among Governors that this ought to be extended.

I was pleased to join a press conference a few weeks ago with Senator MARK UDALL and over 40 military veterans representing Operation Free. They were visiting Capitol Hill to meet with Members of Congress, encouraging Congress to extend the wind production tax credit.

The wind energy production tax credit was created to try to level the playing field with coal-fired and nuclear electricity generation. The production tax credit for wind is available only when wind energy is produced. There is no benefit for simply placing the turbine in the ground. It is a tax relief that rewards results, and that is much different than failed taxpayer-funded grants and loans made since 2009 when a lot of that money went to companies that are now bankrupt.

Those who want to do away with the wind energy tax incentive don't seem to mention that other forms of energy have received far more generous tax incentives for many decades longer than the wind energy industry. Oil and gas and nuclear power all received long-standing Federal support. I wish to emphasize, because I believe I read someplace, that one of the opponents of the wind energy tax credit being extended comes from nuclear.

Do my colleagues think we would even have a nuclear industry in the United States since the 1950s or 1960s if it weren't for the Price Anderson Act that supports it as kind of a super—or an insurer of last resort? It would never have developed, and it is still in existence. Isn't it a little bit intellectually dishonest to say that wind should not have the tax incentive when other industries wouldn't even exist if they hadn't had it already?

If we are going to have a discussion of which industries merit Federal support and which industries don't, the discussion needs to be intellectually honest. If we are having that discussion, everything needs to be on the table, not just wind energy. Can you think of 60 extenders that are going to sunset at the end of this year? Only

one—wind—seems to be attacked right now.

This extension deserves a place in our year-end package of tax extenders to help give confidence investors want and employers need to keep and hire workers.

There is no reason to exacerbate the unemployment problem by failing to extend this successful incentive. America's security in the short- and long-term depends on a robust effort to develop domestic energy sources.

Before I leave the floor, this can be done by the extender bill all by itself being passed or it can be, as we hope, that President Obama and Speaker BOEHNER have some sort of framework for us to put meat on that framework so we do not go over the cliff and have this bill be a part of it. When that whole fiscal cliff debate is about jobs, we do not want to forget about these 75,000 jobs that are in wind energy. A lot of these jobs have already led to some layoffs. We could bring those people back to work pretty fast.

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

The PRESIDING OFFICER (Mr. MANCHIN). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

SENATE RULES CHANGES

Mr. JOHANNIS. Mr. President, the Founders of this great country clearly wanted the Senate to serve as a deliberative body anchored with the ability to fully amend and to fully debate issues. Yet there has been a lot of talk lately about Senate rules changes to limit Senators' ability to make their voices heard.

To many, this may sound like inside baseball, limited to the concerns of just a handful of Senators. But let me assure you this issue is so much more than that. The changes that are being contemplated would significantly impact everyday Americans, especially those who live in rural or less-populated States.

Take Nebraska, for example. We do not necessarily consider ourselves small. We have almost 2 million people and several Fortune 500 companies. But we also do not like the idea of getting steamrolled by high-population States; for example, California, New York or Illinois. But that is exactly what these Senate rules changes would allow.

This is not just some wild supposition on my part. The majority leader himself said the filibuster "is a unique privilege that serves to aid small States from being trampled by the desires of larger states." He went on to say it is "one of the most sacred rules of the Senate."

Of course, that was a few years ago, before he proposed to do the very thing

he has criticized. He now appears ready to undermine the most important rule, not by a two-thirds vote, as clearly required by Senate rule XXII, but by a simple majority fiat. This contradicts longstanding practice and disregards the 67-vote threshold President Lyndon Baines Johnson said "preserves, indisputably, the character of the Senate."

This is the same so-called nuclear option Democrats previously decried as breaking the rules to change the rules. For example, the senior Senator from New York previously opposed such a blatant power grab saying:

The checks and balances that Americans prize are at stake. The idea of bipartisanship, where you have to come together and can't just ram everything through because you have a simple majority, is at stake. The very things we treasure and love about this grand republic are at stake.

Those are pretty powerful and unequivocal words, but it does not stop there.

The senior Senator from Illinois called it "... attacking the very force within the Senate that creates compromise and bipartisanship." So that reflects a trifecta of the Democratic leadership saying it is a bad idea. Yet they keep pushing it like it has somehow magically been transformed into a good idea.

But it does not matter how long we polish the tin cup; it will not magically become the golden chalice. Again, you do not have to believe me. One of the Senate's great historians, Democratic Senator Byrd of West Virginia, was very clear on this issue. He said: "Our Founding Fathers intended the Senate to be a continuing body that allows for open and unlimited debate and the protection of minority rights."

When faced with the idea of limiting these basic underpinnings of the Senate, he concluded: "We must never, ever, tear down the only wall—the necessary fence—this nation has against the excesses of the Executive Branch and the resultant haste and tyranny of the majority."

I had the great privilege of working with Senator Byrd when I first came to the Senate. We offered an amendment together which would have prevented the majority from stretching the Senate rules to enact Draconian cap-and-trade legislation on a simple majority vote—interestingly enough, a situation not so different from today's proposals.

Senator Byrd was very wise in these matters, serving as his party's leader in both times of majority and minority. He had seen both sides of the fence, if you will. He had studied the Framers and had determined that such a blatant power grab could not stand. In fact, the vast majority of our colleagues, on a bipartisan basis, agreed and our amendment passed on a vote of 67 to 31. That is exactly what should happen. If changes are needed, a bipartisan supermajority should approve them, not a simple majority changing the rules to break the rules, not a simple majority steamrolling the Nation.

Senator Byrd left no doubt about his opinion of the so-called nuclear option when he implored us: “. . . jealously guard against efforts to change or reinterpret the Senate rules by a simple majority, circumventing Rule 22 where a two-thirds majority is required.”

He concluded with a statement more eloquent than any original words I might speak. So allow me to once again quote him. I implore my colleagues to listen carefully:

. . . the Senate has been the last fortress of minority rights and freedom of speech in the Republic for more than two centuries. I pray that Senators will pause and reflect before ignoring that history and tradition in favor of the political priority of the moment.

It is often said those who fail to study history are doomed to repeat it. I hope my colleagues will study this history, discover the wisdom of Senator Byrd, and decide to abandon this ill-advised hostile takeover of the Senate, this attempt to put a gag on the minority.

One of my favorite statements on this subject from Senator Byrd is: “. . . before we get all steamed up, demanding radical changes of the Senate rules, let’s read the rules.”

Let’s do that. Senate rule V clearly states that “the rules of the Senate shall continue from one Congress to the next Congress unless they are changed as provided in these rules.”

Rule XXII is very clear. It unquestionably says the necessary affirmative vote shall be two-thirds of the Senators present and voting to change the Senate rules.

Again, very clearly, this is all about breaking the rules to change the rules.

The sad thing for our Senate and our great Nation is that once the bell is rung, it cannot be unringed. Simple majority votes to change our Senate rules, I guarantee you, will become commonplace. Whenever a new party takes control, they will change the rules by a majority vote. Whoever occupies the majority at the moment will then run roughshod over the minority party, the laws they passed when they were in the majority, and their constituents. It is absolutely inevitable.

Today’s assurances that it only applies to motions to proceed will eventually ring hollow when it extends to judges, to bills, and then to conference reports. There will be nothing to stop it.

One day we will awaken with a Senate that basically is the House of Representatives, where majorities rule and only their leadership decides what amendments will be considered and what votes will occur and when they will occur. We will have a legislative branch that does not resemble even faintly what the Framers of our great Constitution envisioned.

But maybe, just as important, we would find entire states of constituents who have no voice in the policies that affect their daily lives. That would be a travesty.

I implore my colleagues one last time to listen to the wisdom of their

leaders of today and throughout our history—people such as our majority leader, who said: “For more than 200 years the rules of the Senate have protected the American people, and rightfully so,” and Senator Byrd, who said: “As long as the Senate retains the power to amend and the power of unlimited debate, the liberties of the people will remain secure.”

But, unfortunately, this great institution has evolved into a constant cycle of bringing flawed legislation to the floor, filling the amendment tree to prohibit all amendments, daring the minority party to vote no to protect the rights of their constituents, and when they do so, claim they are filibustering and obstructionist.

If we could fix this one basic problem, if we could return the Senate to its most basic principle of open debate and opportunity for amendments, maybe we would realize the folly of these proposed rules changes and we would get back in the business of being Senators again and working together again.

This quick fix is not the answer. I hope between now and January cooler heads will prevail, and we will put ourselves back on a path to finding bipartisan solutions to our Nation’s most pressing problems.

I yield the floor.

Mr. UDALL of New Mexico. Mr. President, I ask through the Chair if the Senator from Nebraska will yield for a question.

The PRESIDING OFFICER. The Senator from New Mexico asks the Senator from Nebraska to yield.

Mr. JOHANNNS. Yes, I will.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. UDALL of New Mexico. The Senator from Nebraska has talked about the rules not being able to be changed because internally in the Senate rules there is a provision that says you need a supermajority, two-thirds of the Senate, to change the rules. This is the proposition we are hearing argued by many Senators, that we are breaking the rules to change the rules. We have heard that repeated several times over and over on the Senate floor.

The other side of the argument, as the Senator I think well knows, as he worked up here and was around and saw Senator Byrd, is that the Constitution is superior to the Senate rules. And the Constitution specifically says, in article 1, section 5, that each House may determine the rules of its proceedings. Statutory construction applied to that means a simple majority determines the rules of its proceedings. This is a standard interpretation construction.

We know supermajorities are only indicated at several places in the Constitution, and every place else it is implied that it is by a majority. Here you have a supermajority in the Senate rules and you have the Constitution saying at the beginning of a Congress you can change the rules by majority

vote. So the question to the Senator is: Does not he agree the Constitution is superior to the Senate rules?

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. JOHANNNS. Mr. President, the Constitution would always trump, but that is a misinterpretation of what we are doing here. Let me play this out, because I am pretty confident I know how this is going to work if this is pursued. What would happen in January is there would be a request for a ruling by the Parliamentarian, and the Parliamentarian would correctly rule that in order to change the rules you need two-thirds of the Senate. Then they would use the procedure of overruling our Parliamentarian with a majority vote. That will then stand as the ruling for the Senate. Very clearly what you are doing is you are skirting both the Constitution and the rules of the Senate.

Let me, if I might, take the Senator’s question and show the shocking result we are going to end up with. Do you realize there was a day in this body where judges were not filibustered? We can look at Supreme Court judges who might be controversial to one side or the other who were approved by a majority vote.

So what happened? My friends on the other side of the aisle sat down, they brought in some constitutional scholar. He said: Well, why are you not filibustering judges? And now it is very routine and very common—and both sides do it. So here is what is going to happen. Every time you have a majority that comes to power—and we all know the pendulum swings. In our lifetime we will see Republicans returned to the majority. That is how elections go—once this is cracked open, then they as the majority party can come in to change the rules and basically say: It is open season. We will get a ruling from the Parliamentarian just as the Democrats did. We will overrule that ruling of the Parliamentarian by a 51-vote majority or 50, if you have the Vice President in the chair, and then Katy-bar-the-door. All laws passed by that majority are now subject to being repealed by a majority vote.

If you can do it on the motion to proceed, there is not any reason you cannot use this very flawed procedure to do it on every other piece and step along the way. That is what Senator Byrd was warning us about. He was basically saying: Members of the Senate, once you crack this door open, there is no turning back. And there will not be any turning back.

So what happens to our country? Well, No. 1, the minority becomes powerless in the Senate. As a Member of the minority, I could come down here, I could offer an amendment. I could join forces with Senator Byrd on using reconciliation on climate change, and we could get 67 votes. But all of a sudden what is going to happen here is your minority is going to be basically

without a voice in the Senate because the majority rules. That was never intended. That has not been part of our history.

So I think to directly answer the question, you are misinterpreting what this is all about. The net effect of where we are going to end up, if we go in this direction, I guarantee you, in our lifetime we will look back at that moment in history and we will say that changed the operation of the Senate forever.

As I said in my comments, once the bell is rung, it is impossible to unring the bell. We will not have stability in our laws and we will not have stability in our Senate and we will have a minority that is absolutely powerless. I do not believe that is what was intended.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

FOOD STAMPS

Mr. SESSIONS. Mr. President, that was very good debate. I would share the concern of Senator JOHANNIS. I remember we backed off this dangerous trend of changing the rules when we fixed the filibuster politically in this political institution. We need to figure out a way to solve this problem. I would say, without any doubt in my own mind, the real reason we have had to filibuster is because the majority leader, to a degree unprecedented in history, is controlling and blocking the ability of the minority party to even have amendments on bills. That goes against the great heritage of the Senate and cannot be accepted. That is why we are having this problem.

I wanted to share a few thoughts this morning about the food stamp program and some of the developments that have been going on. America is a generous and compassionate Nation. We do not want and will not have people hungry in our country. We want to be able to be supportive to people in need.

But every program must meet basic standards of efficiency and productivity and wisdom and management. This program is resisting that. It is the fastest growing major program in the government. In the year 2000 we spent \$20 billion on food stamps nationwide. Last year it was \$80 billion. It has gone up fourfold in 10 years. That is a dramatic increase. It is increasing every year and virtually every month. The most recent report in September had one of the largest increases in the program's history—another 600,000 added to the rolls, totaling now 47.7 million. One out of every six Americans is receiving food stamps. Oddly, when we attempted to confront our debt and our spending, we had huge reductions for the Defense Department. Some other departments took big cuts. The food stamp program was set aside. President Obama and the Democratic leaders said: We will not even talk about it. No less money, no savings, no review of

food stamps. It cannot be changed. It should be left alone.

Well, that is not a good plan. As the ranking member on the Budget Committee, I have begun to look at the program to see how it is we have had such great increases. The agriculture establishment says every single dollar that is spent is needed for hungry people. I offered an amendment that would have reduced spending over 10 years from \$800 billion total to \$789 billion, reducing spending by \$11 billion based on closing a loophole, a categorical eligibility gimmick that should not be there, allowing people to receive benefits who did not qualify for them.

It was said: Oh, you want people to be hungry. It was voted down. I thought it was a very modest, reasonable change. By the way, agriculture spending in our government is different than a lot of people—Mr. President, what is the status of our time?

The PRESIDING OFFICER. The time for morning business has expired.

Mr. SESSIONS. Mr. President, I ask unanimous consent that I have another 6 minutes.

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

Mr. SESSIONS. That is where we are, I think, in terms of spending on the program and the need to examine it and see how it works. The establishment says every dollar is needed, not a dime can be reduced. I certainly agree that no one should be hungry in America. But we must know that the SNAP program, the food stamp program as it is commonly known, is not the only benefit that people have.

Indeed, an average family without income in America today would receive as much as \$25,000 in total benefits per year from the government if they did not have an income. They get things such as Temporary Assistance for Needy Families, they get SSI, housing allowance, free health care through Medicaid. They get food stamps and other benefits totaling at least \$25,000.

By the way, if you took all of the means-tested welfare-type programs that are in existence in America today, there are over 80. If you divide it up by the number of households who fall below the poverty line in America, it would be \$60,000 per household—\$30 per hour, on average, for a 40-hour work week. That is how much it would amount to.

The median income in America is less than that. The median income—and they pay taxes on that—is maybe \$25 an hour. This would be over \$30 an hour based on if we were just to divide up our welfare programs. So to say we should not examine those programs and ask ourselves can we do better is a mistake. The question I would ask is, can we improve it? Can we help more people move from dependence to independence? Is the program functioning as we would like it to function?

I have been asking questions of the Secretary of Agriculture Tom Vilsack. He provided some information that was

very troubling to me. I have submitted additional information to him. Now we are not getting any more answers. They have just shut the door. The Secretary basically said: Well, you are a Member of the Senate. You are asking too many questions. I am not giving you any more information. You raise concerns when I give you information. You point out problems. I do not like that. You are not getting any more.

I would note in some of our first inquiries in the examination of their program, we found they are on a determined effort to expand the number of people who get on welfare or food stamps even if they do not want to be on food stamps. One of the things that is interesting is they gave a person in western North Carolina, one of the agricultural people, an award for overcoming "mountain pride." Basically what they said was this lady should be given an award because when people in the mountains who are independent and believe they can take care of themselves, thank you—without the Federal Government—she overcame that. They have a brochure telling people what to say when people say, I do not need food stamps, to get them to sign up for food stamps.

I have to say, and I am not happy about it. So now the Secretary has failed to comply with oversight requests from the Senate Budget Committee. Secretary Vilsack has missed the October deadline that we asked him to meet by nearly 2 months. My staff has been provided no update despite repeated requests, and apparently no letter is being drafted from the Department in response to our request. Just stiff you guys.

Well, last I heard he worked for the American people. So do I. And one of my jobs is to make sure the American people's money is well spent. I am asking him about how he is spending our money, and he does not want to respond.

My letter asked questions about two main issues: First, the USDA's acknowledged relationship with Mexico to place foreign nationals almost immediately on food stamps. One of the questions I asked was simply how the U.S. Department of Agriculture interprets the Federal law.

Well, we make Federal law, we pass laws. I would like to know how they are enforcing them and what standards they are using. Federal law says those likely to be reliant on welfare cannot be admitted to the United States. If they want to come to the United States, and they meet the qualifications, they get to come. But they have to show they are not going to be dependent on the government for their food, aid, and health and everything when they come.

We have lots of people who want to come to America. Most of those people probably can come and sustain themselves. Why would we be admitting