

I would like to state just a few points. That represents a 59-percent increase from current law. During the fiscal cliff negotiations, some have posited that all that is at stake is a return to the tax rates of the Clinton era. That is not what is happening with the tax rate on capital gains. During the latter part of the Clinton era, a Republican majority in Congress was able to get an agreement on cutting the top rate on capital gains to 20 percent at that time. If the tax rate on capital gains remains at the 2012 rate of 15 percent—coupled with the new 3.8-percent tax on net investment income—capital gains will be taxed at 18.8 percent, very close to the Clinton-era rate.

A 5-percent increase in the tax on capital gains to 20 percent, coupled with the increases imposed by ObamaCare, will result in a rate of 23.8 percent, well above the tax rate on capital gains at the end of the 1990s. We should not go down this road. This is said specifically by the Senator who, along with Senator LIEBERMAN, pushed very hard for these lower capital gains rates. There was a Hatch-Lieberman bill that was instrumental in bringing rates down to the current level.

There are a number of arguments on behalf of preferential tax treatment for capital gains. For example, there is the lock-in effect. Since capital gains are only taken into account when realized by a sale or exchange, investors can avoid paying the capital gains tax by simply holding on to their capital assets. As a result, the capital gains tax has a lock-in effect, which reduces the liquidity of assets and discourages taxpayers from switching from one investment to another. This impedes capital flows to the most highly valued uses and is, therefore, a source of economic inefficiency. The higher the rate, the greater the disincentive to make new investments.

The preferential tax treatment for capital gains also counters the two levels of taxation of corporate income. A large amount of capital gains arises from the sale of corporate stock. When a corporation earns income, it pays taxes on that income. When a shareholder sells stock, part of the gain on the stock might be due to the earnings of the corporation, resulting in a double tax of corporate earnings. A low capital gains tax leads to increases in savings and investment, corrects the income tax law's bias against savings, corrects the lack of indexing capital gains for inflation, and increases the incentives for risk-taking.

The tax rate on capital gains can also be viewed as a compromise between an income tax system and a consumption tax system. In a pure income tax system, capital gains would be taxed the same as any other type of income. In a consumption tax system, capital gains would not be taxed at all. Taxing capital gains at 15 percent can be seen as a reasonable compromise of income tax and consumption tax principles.

An increase in the capital gains tax rate will increase the difference be-

tween what an investment yields and what an individual investor actually receives. This is known as the tax wedge. The higher the tax wedge, the fewer the number of investments that will meet the minimum rate of return required by an investor, known as the hurdle rate. In short, higher rates equal fewer investments.

So far I have only spoken about the coming increases in capital gains taxes. I know people who are hurriedly selling their stock portfolios now to pay the lesser capital gains rate and after the 1st of the year will buy back the same stock, though it will have a higher basis at that point.

The impact of the fiscal cliff on the taxation of dividends is even more severe. Unless Congress acts, dividends will be taxed at a rate as high as 43.4 percent come January 1. This is because, starting in 2013, dividends will be taxed at 39.6 percent under current law, and then the ObamaCare surcharge of 3.8 percent will be tacked onto that.

Many seniors depend on dividend income. To increase their dividend income taxes to around 40 percent, especially at a time when any bonds they hold essentially yield nothing, hollows out the nest eggs of retirees. Unless we address the fiscal cliff, the taxation of dividends will go from 15 percent to 43.4 percent literally overnight. This is a tax increase of 189 percent—excuse me—yes, it is 189 percent. I thought for a minute it was 18.9 but, no, it is 189 percent.

It is hard to believe but nevertheless true that many Democrats, including the President's Treasury Secretary, have expressed a willingness to go over the fiscal cliff, when Americans are facing tax increases of this magnitude.

We are in the midst of a sluggish economic recovery. The President and his allies in Congress seem bent on raising taxes, regardless of the impact tax hikes will have on future economic growth or income security of seniors and pension holders. They would have us believe there is no relationship between tax rates and economic growth. If that were true, we wouldn't be seeing major companies scurrying to grant big dividends now, before the year ends and taxes potentially skyrocket—among which is the Washington Post. I read the other day they are going to do their dividends now before the end of the year, before all this taxation occurs after the end of the year.

The coming capital gains tax hike is just one of many tax hikes facing the American people if Congress refuses to act before the end of the year. I think the numbers make a pretty compelling case that raising the capital gains tax rate, particularly when ObamaCare will already raise that rate by nearly 4 percent, will do serious damage to our economy.

I might add, I don't blame anybody for paying their dividends this year—in advance of next year. I don't blame them at all. I certainly don't blame the

Washington Post for doing it. But if you think tax policy doesn't affect how things are done in this country, then you don't know what from what.

Let's just say I urge my colleagues to join me in supporting an extension of the current capital gains and dividends tax rate.

The other day I talked about the estate taxes, or what we call death taxes, and how stupid it is to do what the Democrats want to do with regard to death taxes—make them so high so there is a double taxation on families, and especially ranchers, which will go up 24 times the number of last year's ranches and farms that will be hammered by these higher death taxes.

There is a reason it is good to keep tax rates lower, and I hope none of my colleagues on either side, really, but certainly on the Republican side, will agree to raising tax rates because we know once they are raised, our friends on the other side are just going to spend that money. They will not use it to pay down this \$16.4 trillion national debt we have. We are a few bucks short of \$400 billion in that figure, but we are getting there. It will be \$17 trillion before the end of this year, and then it will go up even faster after that with what the President plans to do to this country.

We have to wake up. We have to quit listening to the political talk, and we have to start looking at the economics. We have to start looking at what works in taxation and what doesn't. Frankly, we have a long history of what works, and we also have a long history of what doesn't. We are about to embark on all kinds of programs that don't. I don't want to see that happen. I hope we will fight against these things. I hope those who really do represent the people will start representing them instead of just asking for more and more money so they can spend more and more and get this country even more and more in debt.

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALEXANDER. Madam President, I ask unanimous consent the order for the quorum call be rescinded.

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

#### WIND ENERGY TAX CREDIT

Mr. ALEXANDER. Madam President, I have two items I would like to briefly mention. The Nation is consumed by the fiscal cliff. From all I can tell, the Presidential limousine is moving very rapidly toward the fiscal cliff with the President's foot on the accelerator. I am still hopeful we will get a budget agreement that will help us get the economy moving again, but at a time like this, of course, what we all need to be doing is thinking about saving every possible penny to fix the debt.

This government in Washington, DC, is borrowing 42 cents out of every dollar we spend. That is why I come to the floor to point out a proposal that has been made to fleece the taxpayers out of an additional \$50 billion over the next 6 years. This is a proposal that is as brazen as a mid-day bank robbery on Main Street. It is a proposal by the wind developers of America to say to the taxpayers: Please give us \$50 billion or so more dollars over the next 6 years to phase out the Federal taxpayer subsidy for wind power.

Why is this a brazen fleecing of the taxpayers? First, this taxpayer subsidy began in 1992, 20 years ago, as a temporary subsidy for a new form of energy. Of course, windmills are not really new. We have had them for hundreds of years. But the idea was to give them a little boost so they could get bigger and perhaps help us supply electricity.

It was intended in 1992 that this would only be a temporary tax credit. But as President Reagan used to say: There is nothing that comes as close to eternal life as a government program. So this temporary taxpayer credit has been renewed time after time after time. It is 20 years old. Now, after billions of dollars and 20 years, wind power is, according to President Obama's Energy Secretary, a mature technology.

The Congress has decided that Federal taxpayer subsidies for wind power should end at the end of this year. Everyone knows that. This is no surprise. It has been out there for a while, so businesses can plan on this. In other words, it is time for wind power, the Congress has said, to take its place in our free market system and compete with natural gas, compete with nuclear power, compete with hydropower, compete with solar power—compete with other forms of power producing electricity. After all, we produce and use about 20 to 25 percent of all the electricity in the world, and we want to make sure we have plenty of it and that it is a reliable supply at a low price.

Yet along came the wind developers who have benefited from this giveaway for 20 years—I say giveaway because, according to the Joint Tax Committee and the United States Treasury, from 2009 through 2013 it has cost the taxpayers \$16 billion to subsidize windmills in America. Put that in a little perspective. The federal government spends only \$6 billion a year on all energy research. We could be spending it there. We could be reducing the debt. Instead, we are continuing to subsidize this mature technology.

But the brazenness of those who have been receiving this giveaway money—it is hard to imagine how it could be exceeded by a so-called phase-out proposal. They announced: Phase us out over the next 6 years, through 2018. In 2013 the credit would be 100 percent. We would have the credit for next year at the same level it is this year. That's estimated to cost about \$12 billion. That

is twice the amount of money we spend each year on energy research in America. Then, in 2014, they want 90 percent of the previous full tax credit, and then 80 and 70 and 60 and nothing after 2018.

I have not had a chance for the Congressional Budget Office to evaluate how much this phase-out would cost, but it is tens of billions of dollars. One estimate is \$50 billion new taxpayer dollars at a time when we are borrowing 42 cents out of every dollar to keep doing something that is already phasing out on its own terms. We cannot afford that. We simply can't afford that. We cannot afford 1 year more of the wind tax credit—that is \$12 billion—on top of the \$16 billion for grants and the production tax credit from 2009 through 2013.

Second, it is interfering with the marketplace. The subsidy to wind developers is so great they are actually paying distributors of electricity, in some cases, to take their wind power, which undercuts other forms of electricity on which we rely. Why is that so important? We cannot rely on wind power, because it only works when the wind blows. It often blows at night when we really do not need it. We have a wind farm in Tennessee. It is the only one in the Southeastern United States. Why? Because the wind doesn't blow much in the Southeastern United States.

In Tennessee, somebody has a big contract with extra subsidies by the government to put these gigantic towers on top of our scenic mountains. And how much electricity does it produce? Not very much. Of course, these turbines only generate electricity about 19 percent of the time, and it produces even less electricity when we actually need it. You can fly over it or drive by these giant windmills at 4 p.m. in the afternoon in the summer when everybody has their air conditioning on and they need electricity, and not a single windmill is turning. You might go at night and it is turning, but they don't need the extra electricity at 7 or 8 or 9 o'clock at night. That is the problem around the country. It is a puny amount of unreliable, expensive electricity.

The idea that the United States of America, using 20 to 25 percent of all the electricity in the world, would produce the largest amount of clean and reliable electricity by windmills is the energy equivalent of going to war in sail boats when nuclear submarines are available.

Let's let wind power, after 20 years, find its place in our market. There are clearly places where it should be fine. But there is no need to subsidize it from the Federal Government; to cause the ratepayers of Tennessee, for example, to pay more to import electricity produced by wind from South Dakota when we should be using those dollars either to lower our rates, to pay for air pollution control equipment, and to build nuclear power plants—of which we have several in the Tennessee Val-

ley. They are clean—they emit no sulfur, no nitrogen, no mercury, and no carbon. That is the cleanest form of reliable energy we have in the United States.

There may be some places where windmills work, but not along the tops of the Tennessee mountains or even in the valleys of Tennessee. The idea of continuing to waste \$50 billion of taxpayer money over the next several years to subsidize a mature technology at a time when the government is going broke is as brazen as a bank robbery in the middle of the day on Main Street. I hope we put a spotlight on this \$50 billion giveaway. I hope it becomes the poster child for what is wrong with spending in Washington, DC. I hope the Congress will come to its senses this month and next month and say no to those who come forward with their hand out for this \$50 billion giveaway.

#### THE FILIBUSTER

Madam President, on Tuesday I spoke about the filibuster. I inadvertently made a mistake I would like to correct. When I was looking at the history of filling the tree, which is the gag rule that the majority leader uses to stop Republicans from offering amendments—we just saw it again today. We had a banking bill. There was a budget point of order that killed the bill. We had a couple of amendments on the Republican side that would fix the budget point of order, and then we could have passed the bill. But the majority leader imposed the gag rule, he filled the tree, and here we are.

I was talking about that, and I said that Senator Robert Dole was the first leader to fill the tree, and I was wrong about that. I was reading some information that the Congressional Research Service had given me, and I did not read it right. When the CRS went back and looked at its information, it would appear that in 1980, Senator Robert Byrd used this filling of the tree on the Tonnage Measurement Simplification Act, H.R. 1197.

That reminds me of a story Senator Baker used to tell me when he was suddenly elected majority leader in 1981, and Senator Byrd became the minority leader unexpectedly. Senator Baker went to Senator Byrd and said: Senator Byrd, I will never know the rules as well as you do. I'll make a deal with you. I won't surprise you if you won't surprise me.

Senator Byrd said to Senator Baker: Let me think about it.

He thought about it overnight and said: It's a deal. And they worked that way for 4 years. Senator Byrd knew the rules.

In 1980, apparently, at least so far as the research shows, he was the first one to use this arcane procedure of filling the tree. Filling the tree sounds very strange, but it is very simple. It means the majority leader can use it to cut off debate over here.

If you bring up a banking bill, and it has a budget problem, and one of us

says we can fix that problem, that we have an amendment, if he has filled the tree, we cannot offer amendments. If some Senator—let's not pick on the majority leader—brings up a bill, and, let's say, it is an appropriations bill and it does not include money to rebuild the Center Hill Dam or the Wolf Creek Dam—which is not safe at the moment—and I want to stand up and say, Madam President, my constituents would like to see some money to make this dam safe because if it fails it will flood Nashville—if the tree is filled, I cannot do my job.

On our side of the aisle we do not like filling the tree. We are in the minority, and we believe the majority has the right to set the agenda and that we in the minority have the right to offer amendments. The good news is a number of us on both sides of the aisle are working, with the knowledge of the majority leader and the Republican leader, to see if we can make some suggestions privately to Senator REID and Senator MCCONNELL that they can consider and, hopefully, agree that they are good suggestions, and as we begin the new year we will be able to move bills to the floor.

I know the majority leader would like to be able to do that more easily, and maybe some of the fault for that is on our side. We on our side, then, would have a right to do what the minority especially wants to be able to do, which is to offer amendments, because this body is established for the purpose of protecting the rights of the minority.

The Congressional Research Service is looking further into the record, but we do have a record of how majority leaders have used this procedure from 1985 to the present. This data supports my larger point which is—what was used rarely is now used too frequently.

According to CRS, these are the numbers. Since 1985, Senator Bob Dole filled the tree, used the gag rule, seven times; Senator Byrd used it three times; Senator Mitchell used it three times; Senator Lott, when he was majority leader, used the gag rule 11 times—that is, cut off amendments—Senator Daschle only one time; Senator Frist 15 times. Those are the majority leaders. So since 1985 all of those majority leaders used it a combined 40 times.

Our current majority leader, Senator REID, has used it, as of yesterday, 69 times since he became leader in 2007. This trend, this gagging the minority, is the primary cause of the Senate's dysfunction.

I wanted to correct the record. I made a mistake, and I am glad to come and correct it. I don't want Senator Dole to get the credit for that when it appears Senator Byrd actually figured it out. I want to conclude with an optimistic point. I think most of us—and I would include the distinguished Senator from New Hampshire in the chair because we have been together in discussions, bipartisan discussions where we have talked about this—most of us

believe we are fortunate to be here. We know we are basically political accidents. Since we are here we want to do our jobs. We would like to advocate the things that people sent us here to do.

So if we have a bill, and we are in the majority, we would like to get the bill on the floor. If we have something to say, an amendment, if we are in the minority, we would like to have a chance to offer that amendment. So what a number of us are doing, we have been talking about how we can do two simple things: How can we make it easier for the majority leader to get bills to the floor? And how can we make it easier for the minority especially to be able to offer amendments?

If we can do those two things at the beginning of the year, I think the Senate will begin to function much more effectively. It will be a better place to work. We will get our job done in a better way. There will be less finger-pointing, and there will be more results. There will be a change in behavior, which is what we need instead of a change in rules, and it will inspire the confidence of the people of the United States about the kind of job we are doing.

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

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

The legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Washington.

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

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

#### COAST GUARD REAUTHORIZATION

Ms. CANTWELL. Mr. President, I rise to say what an important day it is for the U.S. Coast Guard. Our communities benefit from the services provided by the men and women who have answered the call to serve. The reason I say that is because we have passed a bill that gives 43,000 Active-Duty Coast Guard members the support they need.

It is a worthy tribute to a force of men and women who in 2011 alone saved 3,800 lives across the United States, confiscated 166,000 pounds of cocaine, and secured over 472,000 vessels before they arrived at our ports. This will give the Coast Guard the funds it needs to upgrade equipment and purchase the right vessels for carrying out every mission.

This kind of work exemplifies the heroes such as CPO Terrell Horne of California. Officer Horne died in the line of duty last week while chasing down drug smugglers off the coast of California. Our thoughts are with his family, friends and the Coast Guard.

His actions and service remind us of the dangerous tasks the men and women of the Coast Guard do on a daily basis, and that is why it was so important that we passed this reauthorization bill.

We could not have done this reauthorization without the many hours Senator BEGICH put in to help get it across the finish line. He knows how important the Coast Guard is to the men and women in the Pacific Northwest and to my State, Washington.

The Coast Guard is part of our maritime culture in the Pacific Northwest, and this bill helps the Coast Guard watch over our people, our businesses, and protect our coastline.

I would like to expound on three provisions that were particularly helpful for us in the Northwest. One, this legislation helps to protect the Polar Sea, an icebreaker based in Seattle; two, it helps us clean up tsunami debris that is already hitting the west coast; and three, it analyzes the potential risk of tar sands supertankers, tankers and barges in our waters off Washington State.

In October of this year, I visited Vigor Shipyards in Seattle where our heavy-duty icebreaker fleet is currently serviced. These ships are a testament to American shipbuilding prowess and ingenuity, and, inspecting them up close, we can see they are the most critical tool for the United States in our economic security and national security in the Arctic. We see that building icebreakers means jobs to Washington State, and that is why in this final package, the importance of these ships—the Polar Sea in particular was prioritized. The Polar Sea was in danger of being scrapped before we passed this bill.

There is no denying that we need to build a new icebreaker fleet for our Arctic economic future, and for the Coast Guard and Navy Arctic missions. But, these specialized vessels will take up to 10 years to build. In the meantime, we want to make sure U.S. companies can continue to develop business in the Arctic and keep U.S. Arctic operations running. It is very fitting that the icebreakers that work fine now are not dismantled.

This legislation prevents the Polar Sea from being scrapped and helps us protect the resources we need to serve interests in the Arctic. This bill stipulates that we won't scrap our current icebreakers if it is more cost-effective to keep them, and it will make sure our icebreakers are seaworthy so the crews don't go out on faulty equipment. These ships won't go away unless it can be proven that it makes financial sense to replace them.

Last January, the world watched as the Healy icebreaker successfully cut through a path in the Arctic Sea to deliver fuel to Nome, AK. The Healy is primarily a research vessel but was forced to do the job because our two heavy-duty icebreakers were not currently in active status; they were being repaired.

This bill also ensures that the Polar icebreaking fleet will continue to be based in Seattle. Refurbishing a large icebreaker, such as the Polar Sea, can take roughly 5 years and employ 300