

debate on jobs. I hope that at some point we will actually have a real debate on a real jobs bill that people really want to pass. I would say that to make that happen, that would actually mean the Republican leader and the Democratic leader would actually have to sit down and craft a piece of legislation on which there is common ground. Of course, that is not what is happening, and we know that. And for all of us who have things we have done in life that are productive, and we have chosen to come serve our country in this way—we have the ability to be productive in other ways—for all of us to come up here and to watch this continual charade taking place in this body is disappointing. It burns up a lot of time, and we accomplish nothing for the American people.

So, candidly, I want to have a debate on jobs. I know that, again, moving to the jobs bill tonight would negate the opportunity for the only thing we could do recently to actually create jobs, which is passing these three free-trade agreements, and what they will do is enhance American manufacturers' ability to make and sell things overseas, enhance farmers across our country and their ability to sell their goods overseas. It is a one-way positive street for us because these countries already have low trade tariff barriers in our own country. So it lowers those barriers for us into their country.

I am going to vote against proceeding to the jobs bill. I am disappointed that we cannot do things—we know we have a Republican House, and we know that to pass something that is good for this country, it requires a negotiation between all of the players. So each time we bring up these bills that are totally crafted in partisan ways, we know all we are doing is wasting time.

I do have one glimmer of hope; that is, this deficit reduction committee. The fact is that this committee was put together with six Republicans and six Democrats, so this committee has the ability to do some things that no one can blame the other side for. I mean we are talking about something that is totally split.

I will say one other thing. This committee was put together and solely conceived by leadership in the Senate and the House. So we had four people, the leaders of the House and Senate, who conceived of this supercommittee, and they are the ones who appointed the members to this supercommittee. They decided who the members of this committee were going to be. They set it up purposefully so that it was equally balanced—six and six. Candidly, the success of this committee is totally in the hands of our leadership. So it appears to me that for the first time in a long time, we actually have within leadership's hands totally the ability to pass something that is great for our country, and anything short of getting to the \$1.5 trillion that is laid out in this legislation is totally a failure.

What I am sure of is that since this was totally set up in a bipartisan way

by leadership on the Republican and Democratic side in both the House and Senate and they choose the members, there is no question in my mind that this is going to be successful or, candidly, be viewed by many as a failure—failure of leadership, candidly. So I am certain we are going to get to \$1.5 trillion, and I am hopeful, as are a number of Republicans and Democrats within the Senate—I think we have a list of over 40—that we are actually going to get to a \$3 trillion reduction in the deficit, that we are going to go big or, as some have said, we end up with something that is qualitatively equal to that. Many of us know that trying to get \$3 trillion in savings over a 10-year period might be difficult. I still hope it happens. I still think it can happen. I think there are numbers of people in this body who have worked to make that happen.

But some people have said: Well, maybe we can get some major reforms to Medicare and other kinds of programs in the second 10, and maybe qualitatively that is equally as good. I am certainly willing to look as one Senator at all of those things. It is a waste of time to be bringing up totally partisan bills in this body, knowing that to become law they have to pass the House of Representatives, which means anybody who brings up something in this body today that is totally partisan knows that in advance. That is discouraging to me, discouraging to waste time talking about something we know is never going to become law for campaigns for House Members, Senate Members, and the President to run on.

But at least I am hopeful that in November and December we are going to have something big happen because, again, this is totally in the hands of bipartisan leadership, who totally appointed the Members, who totally are working with this group.

Again, Mr. President, to me, that is the best stimulus we can possibly create for this country. It is for small businesses and big businesses, for Republicans and Democrats all across this country to see that this body actually has the ability to do something to create some stability in this country and actually tackle the No. 1 issue that can continue to dissipate our country's standard of living, which is our inability to deal with debt.

To me, that is the greatest job stimulus we can deal with. There are all kinds of regulatory issues and American energy issues and others that, to me, we can take up in a true jobs bill. It is my hope we will do that soon. All I had to hear today, in addition to knowing this is a partisan effort which, again, I hate to see ever taking place on this floor—the fact is, for any Senator who wants to see the three free-trade agreements that have been languishing, any Senator on the Democratic side, any Senator on the Republican side who wants to see the three free-trade agreements passed into law tomorrow as has been planned, any-

body who wants to see that happen must vote no on the jobs bill being debated because, as the majority leader stated today, if we begin to debate the jobs bill, that means we cannot, without unanimous consent—which we know will not happen in this body—pivot and go to the trade agreements.

In addition to the fact that I know this is not a serious effort—although I would love to debate jobs—and the fact that I know if we get on this bill we cannot pass these free-trade agreements in time, I certainly plan to vote no on proceeding to them and hope at a date when we want to take up a true jobs bill, we will have a vigorous debate in this body and actually have the ability to pass something that will create jobs.

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

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

The legislative clerk proceeded to call the roll.

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

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

UPCOMING VOTES

Mr. LIEBERMAN. Mr. President, I come to the floor to speak about two of the votes we will be casting at approximately 5:30 this afternoon, and to explain how I am going to vote and why. On the first, the legislation regarding China's currency policy, I am going to vote no, and I want to explain why.

Managing our economic, military, and diplomatic relations with China is going to be one of the great challenges of this century. China is obviously a rising power today, though not one without problems, as I will get to in a moment. We have come to a point—China and the United States—where we not only interact and sometimes bump up against each other militarily, diplomatically, and economically, we also, in many ways, have become dependent on one another. What each of us does has an effect on the other, and often a significant effect. That is why I say one of the great challenges of this century will be to manage our relations with China in a way that is certainly beneficial and protective to the United States but, hopefully, to China, from its perspective, as well.

I say this as background to what I want to say about China's currency policy. I am troubled by China's currency policy. China has obviously kept its currency too low. It is undervalued, and that has resulted in products being made in China selling elsewhere at a price that is lower than other manufacturers can compete with, including American manufacturers that are directly in conflict with China. So we are right to be upset about that policy. Our government has been expressing its frustration, its anger, to the Chinese

Government. We have been negotiating, cajoling. I must say, in acknowledgment of reality, that the Chinese have slowly allowed their currency to rise approximately 30 percent in value over the last 6 years, but it should be allowed to rise more.

On the other hand, I do want to say, in fairness, that China's currency policy does have effects that are not all bad for everybody in the United States. The fact its currency is undervalued means some of the products it brings into our country sell at a lower cost, and that is obviously particularly important to middle-income and lower income families who are out buying products that otherwise would cost more. So I understand this legislation to be an expression of anger at the Chinese Government and an attempt to pressure the Chinese Government to more rapidly allow its currency to rise.

I would say, as I understand it, the legislation before us is intended as a warning shot across China's bow, as it were. But China may, from its perspective, see this as an attempt to make a direct attack, a direct hit on its bow, and it may be tempted to retaliate economically. And of course the worst result would be that we would end up in a mutually damaging trade war.

In some sense, it is no surprise we are considering legislation such as this now—though I think at any time we would be concerned about China's currency policy—because throughout history, during times of economic recession, such as the one we are in now—a recession that we are fighting to come out of and another recession we worry we are about to go into—nations have repeatedly become protectionist in their economic and trade policies. But history also shows most of the time that protectionist policy makes the economic problems worse, not better.

Today—and here I get back to what I said about China being a rising power but not one without problems—China's economy, in its way, is also fragile. It is dealing with a bubble in real estate values that is growing. As the papers today indicate, its banks are losing their credibility, inflation is rising, and unemployment is rising. So it would be foolish for China to get into a trade war with us in response to legislation such as this. China, in fact, may be more vulnerable in a trade war than we are. But China's vulnerability economically today carries great risk for the United States and the world. If a trade war sends China's economy into a recession or worse, the resultant economic instability would seriously hamper prospects for the global economic recovery that everybody hopes for, and of course it would greatly dampen our hopes for an American economic recovery and creation of more jobs here at home.

Bottom line: I think the risks this proposal will aggravate the current global and American economic problems which concern us most are greater than the rewards of again trying to

force China to allow its currency to rise more rapidly, and that is why I will vote against the China currency legislation when it comes before us later this afternoon.

I also want to speak about the American Jobs Act, which will come before us for a cloture vote. We are, obviously, hearing of Americans—related to what I have just talked about—going through what I think is the most difficult economic period in our history since the Great Depression of the 1930s. Unemployment hovers at around 9 percent, which translates into millions and millions of people out of work, and millions more who are worried they are going to be next to lose their jobs. Confidence in our future among the American people, among critical decision-makers and businesses, is at a real low. Confidence in our national government is low and falling. Anger at our rising national debt is high and rising. The American people are demanding we do something, particularly to protect the jobs they have and create new jobs if they have already lost them.

It is in that context the President proposed the American Jobs Act—a series of interesting ideas aimed at creating jobs that will cost almost \$½ trillion. So what am I going to do on this one? On this one, I am going to vote against the filibuster of the American Jobs Act, because I believe our country and our constituents need and deserve a debate here in the Senate on what each of us, all of us, think we should do to get our economy moving again. It should be an open debate, without an effective limit on amendments, with many ideas being offered as to what we should do, and hopefully that will lead us to some consensus. So I am going to vote against filibuster in the hope we will bring about such a debate.

But I must say, if cloture is granted and the filibuster is ended, I will seek to amend the American Jobs Act down to a very few of its constituent parts that I think are worth their cost. If a vote were called on the American Jobs Act as it is now—in other words, if the tree were filled and that is what happened—I would vote against the American Jobs Act, and I want to explain why.

The bottom line here is I don't believe the potential in this act for creating jobs justifies adding another \$½ trillion to our almost \$15 trillion national debt. In fact, I think the most important thing we can do to improve our economy, reduce unemployment, and create jobs is to bring our national debt under control. The best way to do that is to adopt a tough, comprehensive, balanced debt reduction plan, such as the one recommended by the bipartisan Simpson-Bowles commission.

The Budget Control Act, which we adopted over the summer to deal with the debt ceiling, created a so-called supercommittee, the Joint Special Committee, and that committee of 12 now gives us another chance to deal

with our debt in a constructive and bipartisan way.

We all know it is not going to be easy, but the American Jobs Act would make the task of the Joint Special Committee even more difficult because it spends almost \$½ trillion we don't have, \$½ trillion the act now proposes to raise with a surtax on people making more than \$1 million a year.

I don't have any objection to a tax increase of that kind. But if we use it for the American Jobs Act, it is not going to be there to be used by the Joint Special Committee as part of an overall bipartisan debt reduction plan. We desperately need to have some sources of revenue, along with spending cuts, to adopt the kinds of reductions in our debt that the country's future urgently needs.

Let me come back to what I said a moment ago and try to explain briefly why I believe these two great problems we have, our limping economy, our persistent level of high unemployment and our national debt, come together and, more explicitly, why I believe that reducing our debt is actually the best thing we can do to create jobs.

The jobs we need are going to come from the private sector. Government in our system economically never has created the jobs itself. It shouldn't. It can't, anymore, because we don't have the money to do so. The jobs always will come where most people have been employed in our country, and that is in the private sector.

If you chart corporate investment on the same graph as job creation, you will see the two lines follow each other almost exactly. This is a chart prepared by the Bureau of Economic Analysis at the Bureau of Labor Statistics of the Federal Government. Over the last 50 years, beginning in 1961 and going to 2011, it charts two things. The gray line is investment in real equipment and software spending, and the purple line is private employment numbers.

When I saw this, I thought it was a stunning chart and very compelling, because you can see that corporate and private business investment is almost exactly along the same line. There is a little bit of a digression here because jobs fell more than investment, but investment was falling and jobs fell at the same time for 50 years.

I think the single most significant predictor of job growth in our country is business investment. So we have to ask ourselves, how could we stimulate that kind of business investment today. Because that is what we need, we need these jobs. I regret to say I don't believe we can do it with the mix that is in the American Jobs Act. It seems to me like a kind of ministimulus. The stimulus of \$800 billion that was adopted a few years ago, which I supported, I think made the economy better than it otherwise would have been, but it didn't give the economy what the President said he hoped and we all hoped it would give,

which was a jolt. This American Jobs Act, which is kind of a ministimulus that will cost \$½ trillion, is less likely, for obvious mathematical reasons, to give the economy the jolt. But it will cost \$½ trillion we won't have and will have to find somewhere to raise.

To me, what we have got to do is restore confidence in people in the business sector to invest. That is what is missing today in our economy. They don't have confidence in our economic future. They don't have confidence in our government—us. They don't have confidence that we will work together to reduce our debt, to create some predictability for them in the years ahead.

That is why I say the best thing we can do to restore the confidence of the business community necessary for them to begin investing again—they have got the money; they are just not spending it because they are nervous about the future—is for us to come together, hopefully led by the Joint Special Committee, in a bipartisan debt reduction program. It is not this American Jobs Act. I know it has been put forward with good intentions, but I don't think it does the job we need it to do for America, and I know it will cost another \$½ trillion we desperately need to reduce our debt which will do the job we need it to do to create new jobs for our fellow Americans.

I thank the Chair, and I yield the floor.

The PRESIDING OFFICER (Mr. FRANKEN). The Senator from Virginia.

Mr. WEBB. Mr. President, first, let me say there is a great deal the Senator from Connecticut just said that we are in nearly full agreement on. I find it ironic that we are probably going to cancel ourselves out on these two votes later in the day, for essentially the same reasons that the Senator just gave. I thank the Senator for his comments, and particularly on this second piece of legislation which I have been struggling with and in exactly the same way the Senator from Connecticut has.

I wish to begin my comments today by expressing my strong support for the majority leader in terms of how he handled a very difficult discussion on Thursday night.

I think we can all agree that the Senate at times has become quite dysfunctional over the past couple of years. I was very interested to hear Senator CORKER's comments. He and I arrived at the Senate at the same time, and I empathize with a lot of the comments he was making, although I guess looking for accountability depends on which end of the telescope you are looking through.

For me, looking at the situation we faced on Thursday night, we have to start with the reality that these were not serious amendments that were being offered at the end of the debate of this piece of legislation. They in many ways epitomize the paralysis of serious debate here in this body and how it affects all of our ability to get

serious things done. Only one of those nine proposals was germane, and that was the proposal from my good friend Senator HATCH. They were not relevant. This is what the majority leader is being faced with time and again. We are talking about one amendment on the bill with respect to China currency that wanted to talk about the regulation of nuisance dust. We had another one that wanted to talk about the use of pesticides in navigable waters, and another one that wanted to talk about EPA regulation on cement manufacturing. There may be a time and a place for that kind of discussion; but if you look at the impact of this type of—and I have to agree with the majority leader's characterization—this type of dilatory conduct, it prevents responsible, germane legislation from moving forward.

I will give you one example from my own attempt to amend this bill, and that was the amendment I offered last week that would have prohibited American companies from transferring intellectual property and technologies that were developed with the assistance of the American taxpayer to such countries as China that require technology transfer as a matter of doing business there. That amendment is not going to get a vote. I believe that amendment is something that most people in this body and most Americans would want to see passed. But because we have been in this state of paralysis, these types of issues have been deflected off the screen, off the debate on the Senate floor, and now we are moving forward with a bill that doesn't have these sorts of issues in it. I am going to vote for this bill, by the way.

With respect to the jobs bill, I wish to make a couple of comments here, first associating with some of the comments that Senator LIEBERMAN made. But also, there is an issue here with respect to economic fairness and the disparity in this country between top and bottom that I don't think is being properly debated in the context of this bill.

In the end, as Senator LIEBERMAN pointed out, I strongly believe the way to bring good jobs back is to improve our economy in the private sector, and that means more capital investment.

Winston Churchill once said something to the effect that, You can't tax your way out of an economic downturn any more than you can pick up a bucket if you are standing in it.

There is a lot of money out there. The Senator from Connecticut mentioned that. We can't control whether that money is going to be invested, but we can work to incentivize conduct that might encourage investment. I think people on both sides need to set aside the partisan debate that is going on looking into next year's election and work toward that end.

At the same time, there are two difficulties I have with this legislation. The first is the timing. Senator LIEBERMAN was very eloquent in his con-

cerns about the timing of this bill, with the supercommittee working on these issues in a larger context, getting ready to report out within the next month or so. Senator CORKER made a very valid point that I hadn't thought about, and that is that we have worked—and I have been one of those who has worked—to bring these free-trade agreements to fruition. We have a very short window with the President of South Korea arriving this week and hopefully having a free-trade agreement passed by the time he makes his presentation to a joint session of the Congress.

But there is another issue, and that is the pay-for. We are talking about this millionaire surcharge, this 5.6 percent that would be put on top of these other tax increases for the "millionaires." But in many cases, this isn't even a tax on the wealthiest Americans it is designed to reach.

Let me preface what I am going to point out here by saying I believe I have been one of the loudest and most consistent voices on the issue of economic fairness and executive compensation in this body. I raised it in every speech during my Senate campaign. I put it on the table nationally when I responded to President Bush's State of the Union Address in 2007. I put the issue of the disparity in executive compensation from when I graduated from college when a CEO was making 20 times what the average worker makes, to today, when it is about 400 times. I introduced a windfall profits tax after it became clear that the money we put into TARP was going to be used to unjustly reward executives from the companies that had been bailed out by our taxpayers. This was a very narrowly focused bill that said, If your company got \$5 billion or more, you could get your compensation, you could get a \$400,000 bonus, and anything after that you had to share with the people who bailed you out because they were bailing out the economy. I couldn't get a vote.

Let's be fair. I couldn't get a vote because neither side wanted a vote. People don't want to take a vote on something that is that directly related to how they finance their campaigns. That is the honest truth. I didn't get a vote on it, but I think my record on this issue is absolutely clear.

One thing I have stated from the first moment I ran for office is that I do not believe we should raise taxes on ordinary earned income. When this proposal was first put in front of the American people, there was a part of it in the pay-for that was called the Warren Buffett rule. But what I just said is the Warren Buffett rule—and it has been misrepresented in this debate. Warren Buffett has the same position.

My understanding of his position, and I have read it very carefully, is that we should not tax ordinary earned income. In fact, he made a clarification about a week ago. This is Warren Buffett on the Warren Buffett rule:

My program would be on the very high incomes that are taxed very low. Not just high incomes. Somebody making \$50 million a year playing baseball, his taxes won't change. If they make a lot of money and they pay a very low tax rate, like me, it would be changed by a minimum tax.

How do we do that, and does it matter? It matters a whole lot because we are not talking about this distinction when we are addressing issues of fairness in society, the true nature of what has happened at the very top in this country.

The proposal of the President looks good at first glance; it sounds good on a TV bite. But in all respect to the people who put it forward, I do not believe it is smart policy, and it does not go where the real economic division lies in our country. This is what Warren Buffett is talking about.

If we look at the top .1 percent of our taxpayers, the very top, two-thirds of the money they take in is from capital gains and dividends. Only one-third is from wages.

What does that mean with respect to this surcharge we are going to put down? This is what the surcharge on earned income for millionaires will do: It will bring the tax on ordinary earned income from 35 percent—first, under the assumption of 39 percent, which is the failure to renew the Bush tax cuts—and then to 45.2 percent, someone making wages.

Who is in this category? Very few people. Let's say someone is an athlete, as Warren Buffett mentioned, and they have 3 or 4 years in their career where they can make the money. They are going to get their income, because it is ordinary earned income, taxed at 45 percent of everything they make, just for the Federal taxation, at the same time that capital gains tax, which is where two-thirds of the top .1 percent of our earners make their money, is going to stay at 15 percent. That is what Warren Buffett is talking about.

He is sitting here saying: I make my money off of stock sales, basic transactions where I get capital gains, and I am at 15 percent. My secretary is paying double what I am. The people who have ordinary earned income are going to pay three times the rate of what somebody is making on capital gains, and that is two-thirds of what the people at the very top make.

If we went after capital gains—let's just say, notionally, let's say we allow the Bush tax cuts to expire on capital gains but keep them on ordinary earned income. This margin would be 35 percent of ordinary income versus 20 percent. What would that do? According to the Joint Committee on Taxation, over 5 years they could recoup \$402 billion. That is almost as much as this other surcharge could make over 10 years in order to pay for this legislation.

Most important, we are going into issues of fairness that we have been trying to bring to the table; that is, to truly focus on those at the very top who have benefitted the most from

what has happened in what is frequently becoming a fractured economic society.

I am going to vote the exact opposite way the Senator from Connecticut is going to vote, but I think he and I share many of the same concerns. It is just how we get there. If people are ready to discuss capital gains, moving it back up to what it was, from 15 to 20 percent—if we are willing to discuss capital gains, I will know we are serious. If we are not willing to discuss capital gains, I think we have seen this movie before.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Ms. AYOTTE. I ask unanimous consent to engage in a colloquy with Senator JOHN MCCAIN.

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

DEFENSE AUTHORIZATION

Ms. AYOTTE. Mr. President, I rise today to talk about the state of affairs and where we are in the Senate, particularly with regard to the Defense authorization bill. Right now in the Senate—I am a freshman Member of this body—it has been over 2 years since we passed a budget. We have only passed one appropriations bill. Last week, the Democrats changed the rules in the Senate because they did not want to vote on amendments.

For the first time in my lifetime, the Defense authorization bill is not being brought to the floor by the majority leader. This is at a time when we are engaged in two wars and the threats to us and our allies from the Islamist terrorists remain. In fact, today authorities broke up an alleged plot to bomb the Israeli and Saudi Arabian Embassies in Washington and to assassinate the Saudi Arabian Ambassador to the United States. At a time such as this, when there is nothing more important we can do in the Senate than to ensure the national security of the American people, the majority leader is refusing to bring forward the Defense authorization bill to this floor because he objects to one provision in it addressing detainees.

I am concerned that this is no longer the most deliberative body in the world. I am new here, and I am often asked what has surprised me most as a new Senator, and I have to say, honestly, how few votes I have taken since I have been in the Senate. In fact, the number of votes I have taken in the Senate since I have been here is far below what we took last year and what we took the year before.

What could be more important than voting on the Defense authorization

bill when our country faces issues such as these in terms of our national security?

I would ask my distinguished colleague from Arizona, who is a senior Member of this body, whether he has seen the Senate like this. Is this how the Senate is supposed to operate?

Mr. MCCAIN. I would like to respond to my colleague—by the way, I noticed she said it would be the first time in her lifetime that we had not passed a Defense authorization bill. It would not be the first time in my lifetime since it has been 41 years.

I would say to my friend and colleague, who has played a very important and essential role on many issues before the Armed Services Committee, not only because of the military background of her family, including a husband who is a distinguished A-10 pilot, but also as a former attorney general of her State, you are very familiar with many of the detainee issues.

I would like to say to my colleague that it was her amendments that were passed in the committee concerning detainee treatment that became part of the legislation. I believe the legislation in that section was passed by a vote of 25 to 1 in the committee. It is not as if there were sharp divisions between both sides of the aisle on the issue of detainee treatment. Yet apparently that seems to be the objection of the administration not only to the bill but even to taking up the bill for consideration before the full Senate, as the Senator from New Hampshire has pointed out, for the first time in 41 years.

I would like to explore with her for a second this whole issue of detainee treatment. Just in the last week or so, we were able to kill one of the leading al-Qaida operatives. I think that action was supported by the majority of opinion in America, thanks to passage of legislation after 9/11 including the fact that the President had a finding that this individual was a terrorist. Yet somehow the President's counterterrorism expert seems to say that under our legislation, we would never be able to turn the page on Guantanamo—and I quote from his speech at Harvard—and he went on to say:

Our counterterrorism professionals would be compelled to hold all captured terrorists in military custody.

First of all, I would ask my colleague, isn't there a national security waiver the President could exercise if he wanted to in the legislation? Second of all, is it not true that you would have to be a designated member of al-Qaida before you would be required to be held in military custody?

So my question is, Is Mr. Brennan misinformed or simply contradicting what is actually the case in the legislation we passed by a unanimous vote through the Senate Armed Services Committee?

Ms. AYOTTE. Senator MCCAIN, first of all, is absolutely right. This was an