

to income from derivatives trading even in the case of derivatives held for seconds or minutes. That preferred status is given over the kinds of long-term investments that are more important in helping put capital to work, growing the economy, and creating jobs.

Each of these two loopholes amounts to a subsidy. Working American families who pay their taxes every year end up carrying an extra burden because these provisions allowed Wall Street to pay a lower tax rate and the rate applied to average workers. I cannot see how anybody can explain to working Americans that they must bear a greater tax burden so hedge fund managers get a tax break on pay that often amounts to millions of dollars a year or so that speculative traders can pay a lower tax rate on so-called investments they might hold for just a few seconds.

Let's first talk about the carried interest loophole. Hedge fund managers generally make their money by charging their clients two fees. First, the manager gets a management fee, typically 2 percent of the assets. Second, the manager typically gets 20 percent of the profits from those investments above a certain level. That 20 percent is known as carried interest and, under current law, hedge fund managers can treat that income as a long-term capital gain taxed at a maximum rate of 15 percent and not at the higher ordinary income rates.

What is the blended rate loophole? Since 1981, those who trade in some financial products such as futures contracts and options have enjoyed a specially created tax loophole that allows them to pay a lower rate than, for example, traders who buy and sell stock. No matter how long a speculator holds on to a futures or options contract—again, even if it is a few seconds—their gains and losses are taxed at a lower so-called blended rate; that is, part at the capital gains rate and part as ordinary income. So a dealer who buys a stock and sells it within a year must pay taxes at the ordinary income rate, while that same dealer who buys an option and sells it 30 seconds later gets to pay the lower capital gains rate on most of that income.

These special tax breaks impose an unfair burden on American taxpayers, and they contribute significantly to the budget deficit. Based on estimates from the Joint Committee on Taxation, eliminating the carried interest loophole could reduce the deficit by \$20 billion or more over 10 years. The Joint Committee has made no estimates of the cost to the Treasury of the blended rate loophole, but it is reasonable to assume that ending it would reduce the deficit by billions of dollars.

Beyond their fiscal impact, these proposals would help restore fairness to the Tax Code. These tax subsidies give preference to activities that do not contribute much to economic growth or job creation the way other activities that don't enjoy the same subsidies do.

Instead, they subsidize hedge fund managers and derivative dealers.

Take the carried interest loophole again for a moment. We tax income that investors receive from hedge funds and other investments at the lower capital gains rate because, in theory at least, those investments help put capital to work, creating jobs and growing the economy. But the hedge fund manager isn't putting his own capital at risk; he is just doing his job, the same as his employees or the janitor who cleans his office at night. This tax break doesn't reward risk taking or job creation; it rewards what is already an extremely lucrative profession. According to a survey by a magazine covering the hedge fund industry, the top 10 hedge fund managers last year each made at least \$440 million. Six made more than \$1 billion in 1 year. It is hard to imagine that we need to offer a tax break to encourage people to become hedge fund managers.

Similarly, the derivatives blended-rate loophole doesn't just add to the deficit, it is plainly unfair. It is unfair not only to working Americans who have to pay higher tax rates than these derivative traders, it is also unfair to investors who risk their capital and long-term stock and other investments that are more important to job creation but don't enjoy that same tax break. This loophole gives preferential treatment to short-term, speculative trades over long-term, patient capital, and that is exactly the wrong message to send.

We should end these Wall Street loopholes. I have encouraged the members of the joint select committee to end them. We should end them because they add to the deficit, because they subsidize activity that does not need a subsidy and that does not add much to economic growth, and because they are unfair to the millions of American taxpayers who do not enjoy the same tax breaks and have to pay more in taxes to make up for these unfair subsidies. Eliminating them would be good for our economy. It would enable us to reduce the deficit by billions of dollars a year. It would help us fund important programs that protect seniors and children, programs that make our Nation stronger.

So I hope the joint select committee will look hard at these and other proposals in my plan as they carry out their difficult task. I will be back again in the next few days to discuss three more ideas that can reduce the deficit, protect the middle class, and avoid Draconian cuts in vital programs.

I thank the Acting President pro tempore and yield the floor.

I suggest the absence of a quorum.

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

The bill clerk proceeded to call the roll.

Mr. JOHANNIS. 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.

ANGELS IN ADOPTION

Mr. JOHANNIS. Mr. President, each year I nominate outstanding Nebraskans as Angels in Adoption, thanking them for their shining example of caring for children in need, children who want nothing more than a family of their own.

This year, I am pleased to share the story of Paul and Mandy Mueting of Kearney, NB. They are true adoption heroes who have opened their hearts and home to three young boys.

After Paul and Mandy had their biological daughter, Lydia, and became parents for the first time, they could not imagine a child not having the blessing of a loving family. Soon after, they learned of a young mother—a ward of the State herself—who was considering making an adoption plan for her then 22-month-old and 4-month-old boys named Steven and Edward.

In August 2007, the boys were placed in the Mueting home and a plan was put in place for an open adoption. However, the birth mother left without relinquishing her parental rights. This was a setback for the Muetings, but they continued to care for and love the boys with the hope that they could still someday adopt them. Several months later, the boys' birth mom returned, asking for another chance to mother Steven and Edward. The Muetings took time to grieve their loss but did not give up hope of adopting children.

In December 2008, the Muetings were informed by Nebraska Children's Home Society that another birth mother selected their family and wished to place her soon-to-be-born son with them. Evan was born in January 2009. The Muetings were overjoyed. They welcomed Evan into their family with joy.

Not long after they settled in with their new son, the Muetings received yet another call. Steven and Edward's birth mom had again made a decision to relinquish her parental rights. Seeing the love the Muetings had for her children, she requested that the boys be placed once again with Paul and Mandy. This was a big decision. It meant instantly doubling the number of children in their family from two to four. They knew that providing love and care to three adopted children is a big responsibility.

Well, you will not be surprised to learn that Paul and Mandy didn't hesitate a moment. With open arms, they welcomed Steven and Edward back into their lives. The adoption was finalized last year. I am told that Lydia has fully adjusted to being outnumbered by three brothers. All four are fortunate to have each other, a wonderful home, and loving parents.

It is with great pleasure and admiration that I nominate Paul and Mandy Mueting as Angels in Adoption. They

are a wonderful example of compassion. My hope is that their story will encourage others to open their hearts to vulnerable children whose only dream is a loving and permanent home.

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

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

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from Arizona.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the roll call be dispensed with.

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

Mr. KYL. I would ask unanimous consent that I may speak for such time as I may consume.

The ACTING PRESIDENT pro tempore.

Without objection, it is so ordered.

GLOBAL FINANCIAL CRISIS

Mr. KYL. This month marks the third anniversary of the Federal seizure of Fannie Mae and Freddie Mac, the collapse of Lehman Brothers, the bailout of AIG, and other events that marked a turning point in the global financial crisis.

At the time, many journalists, pundits, and policymakers were eager to interpret the crisis as a failure of capitalism, as some called it, or a failure of free markets. There was a famous Newsweek cover that said, "We're All Socialists Now."

This interpretation is fundamentally flawed, and I wish to speak a little bit about that. Blaming capitalism and free markets and deregulation for causing the crisis that occurred 3 years ago does not tell the real story. We must remember that misguided government policies played a big role in pumping up the housing bubble, and they have subsequently played a big role in delaying our recovery from this crash. So I wish to briefly discuss the findings of several economists who highlight these points.

Loose monetary policy was one such misguided policy that fueled the crisis. Writing recently in the quarterly journal, *National Affairs*, Stanford economist John Taylor pointed out that U.S. monetary policy became highly discretionary in the years leading up to the 2008 crisis, whereas monetary policy had been more rules-based during the previous two decades. Taylor has determined:

The low interest rates set by the Federal Reserve from 2003 to 2005 added fuel to the housing boom and led to risk-taking and eventually a sharp increase in delinquencies and foreclosures and in the toxic assets held by financial institutions. A more rules-based Federal funds rate—particularly one that held to the general approach that characterized Fed decisions throughout the 1980s and '90s—would have prevented much of the boom and bust that followed.

This, according to economist John Taylor. In other words, with tighter,

more prudent monetary policy, the housing bubble would have been significantly smaller.

Another major cause of the bubble was Federal housing policy, especially the reckless mortgage activities of government-sponsored enterprises Fannie Mae and Freddie Mac. These two institutions, operating under an implicit government guarantee, played a central role in the housing bubble. The government's guarantee permitted them to operate without adequate capital, to assume more risk than competing financial institutions, and to borrow at a below-market rate of interest. Between 2004 and 2007, Fannie and Freddie became the largest buyers of so-called subprime and Alt-A mortgages.

As Columbia Business School economist Charles Calomiris has observed:

Logic and historical experience suggest that even in the presence of loose monetary policy and global imbalances, if the U.S. government had not been playing the role of risky-mortgage purchaser in the years leading up to the crisis, mortgage-related losses would have been cut by more than half.

To be sure, government entities were not the only institutions promoting the growth of nontraditional mortgages. But government policy was the critical factor that made the bubble so dangerously large. Housing-finance expert Peter Wallison of the American Enterprise Institute argues that:

Without the huge number of defaults that arose out of the U.S. housing policy, defaults among the mortgages in the private market would not have caused a financial crisis.

So with better, more responsible Federal housing policies, the crisis might have been avoided or have been less severe.

Government failures have also, in the words of Nobel Prize-winning economist Gary Becker, "prolonged the crisis." Indeed, the economy has not responded well to the prodigious spending, trillions in debt, and countless new regulations imposed during the Obama administration. The economic policies of the last few years seem to have hampered the confidence of job creators, while creating widespread uncertainty and undermining confidence.

Michael Boskin of Stanford, in a piece entitled "The Obama Presidency by Numbers," said this:

President Obama's debt explosion will be a drag on the economy for years to come. . . . The share of Americans paying income taxes is the lowest in the modern era, while dependency on government is the highest in U.S. history.

These are dreary findings.

In January 2009, the U.S. unemployment rate stood at 7.6 percent. By October 2009, it had surged above 10 percent despite the passage of the \$1.2 trillion stimulus bill. Unemployment has been above 9 percent for 26 of the 30 months since the passage of the stimulus. In fact, Boskin has found that even by the administration's inflated estimates of jobs "created or saved" by the stimulus, each job has cost \$280,000—each job, \$280,000. That is five

times the average American's annual pay. Remember, that is borrowed money that will eventually have to be taken out of the private sector to pay it back.

In addition to the failed stimulus package, the last Congress also enacted a pair of 2,000-page bills that were supposedly designed to repair the health care and financial systems. In the view of Becker, "These laws and the continuing calls for additional regulations and taxes have broadened the uncertainty about the economic environment facing businesses and consumers. This uncertainty decreased the incentives to invest in long-lived producer and consumer goods. Particularly discouraged was the creation of small businesses, which are a major source of new hires."

My point is not to needlessly pile on President Obama but to underline the need for a new approach. His policies have made things worse, and the uncertainty surrounding his new proposals has crippled America's economic recovery. As Carnegie Mellon economist Allan Meltzer has written, "High uncertainty is the enemy of investment and growth."

America's job creators are eager to know whether their taxes will be raised at the end of 2012, whether the new health care law will force them to lay off a substantial number of workers, whether the Dodd-Frank bill will impose unforeseen new costs, and whether the administration will impose even more regulatory hurdles. Notably, despite the administration's recent rhetoric about regulatory review, the massive new regulations in its two signature bills—health care and financial regulatory reform—will not be reconsidered.

In conclusion, the 2008 financial crisis was not simply a failure of capitalism or a result of free market economic policies. We can reasonably say the crisis would not have been nearly as severe or may even have been avoided entirely without misguided government policies.

All of us here would like to see a strong economic recovery, but reckless spending, debt, more regulation, and government intervention have not boosted the economy so far. It is time for another approach, one that eschews the top-down Washington management and focuses on creating incentives and long-term certainty in the private sector.

Mr. President, I suggest the absence of a quorum.

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

The assistant legislative clerk proceeded to call the roll.

The ACTING PRESIDENT pro tempore. The Senator from West Virginia.

Mr. ROCKEFELLER. 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.