

off once more. Perhaps we would go for several more years without talking about health care reform.

We have had people working to fix health care in this country for years and years, people on both sides of the aisle. On our side of the aisle, we have Senator KENNEDY. No one has championed the cause of fixing health care for as many years as passionately as Senator KENNEDY. Republicans have worked very hard for health care reform, as well.

I hope this question of health care reform is not somehow deferred once again until 2009. There is a broad consensus of what needs to be done. I outlined four or five areas this morning, starting with changing the Federal health care tax rules and making sure there are good private sector choices for Americans, getting everyone covered, and emphasizing prevention and wellness. That alone would be a good basis for Democrats and Republicans to start in. Clearly, a system that was created in the 1940s ought to be modernized in 2007. As I pointed out, the system that came about in the 1940s was a historical accident. There were wage and price controls and there was no way to get health care to working families other than to say, maybe the employers will cover it.

Today our businesses are up against global competitors that have their governments pick up their health care bill. The combination of the disadvantage our businesses face, the huge escalation of costs, the significant increase in chronic illness, and our rapidly aging population means the current system is not sustainable. It is not sustainable and that is why we need to act.

I am so pleased to see the Presiding Officer in the chair, a new Senator from Montana, who has lots of good ideas on health care and has campaigned on them. I know he and many on both sides of the aisle want to fix the system. That is what we got an election certificate to do, to work together on the most important issues, not put it off for another couple of years and have another Presidential campaign. We need to sort it out right now.

The American people know we ought to have a new focus, on prevention rather than sick care. We can work on that now. The American people know a lot of the States have innovative approaches. We can help them build on it. The American people know the tax system in the health care area disproportionately favors the most affluent and does not give a break to the working person and it ought to be changed. These are the reasons why both sides ought to join hands to do that.

The time to fix health care is now. There are a variety of proposals that have been put before the Congress. I have not even mentioned my legislation this morning, the Healthy Americans Act, based on many of the principles I have discussed today. I am not

wedded to every provision or every part of it. It is a piece of legislation that can bring folks together. When I introduced it, Andy Stern, the president of the Service Employees International Union, 1.8 million members, was there, but so was Steve Burd, the CEO of Safeway, with over 200,000 employees. So was Bob Beall, the CEO of a company with 400 people. So was a member of the National Federation of Independent Businesses who was from Oregon. He spoke for himself, not for the group. He employs eight people. All of these employers said that the legislation would work for them.

Now it is up to us in the Senate. It is up to us, with the door open, to get Democrats and Republicans to come together. I certainly have not agreed with all the details of the President's proposal, but he has given some new visibility to the cause. All sides ought to say, let's get going, let's not wait for another campaign for President to go forward. Let us do our job now. There is much to work with that can bring both political parties together to fix American health care.

I will be spending a lot of my waking hours on that in the days ahead. I look forward to working with both Democrats and Republicans in the Senate to get it done.

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

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. CARDIN). Without objection, it is so ordered.

## CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

### FAIR MINIMUM WAGE ACT OF 2007

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of H.R. 2, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (H.R. 2) to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal Minimum Wage.

Pending:

Reid (for Baucus) amendment No. 100, in the nature of a substitute.

McConnell (for Gregg) amendment No. 101 (to amendment No. 100), to provide Congress a second look at wasteful spending by establishing enhanced rescission authority under fast-track procedures.

Kyl amendment No. 115 (to amendment No. 100), to extend through December 31, 2008, the depreciation treatment of leasehold, restaurant, and retail space improvements.

Enzi (for Ensign/Inhofe) amendment No. 152 (to amendment No. 100), to reduce document fraud, prevent identity theft, and preserve the integrity of the Social Security system.

Enzi (for Ensign) amendment No. 153 (to amendment No. 100), to preserve and protect Social Security benefits of American workers, including those making minimum wage, and to help ensure greater Congressional oversight of the Social Security system by requiring that both Houses of Congress approve a totalization agreement before the agreement, giving foreign workers Social Security benefits, can go into effect.

Vitter/Voinovich amendment No. 110 (to amendment No. 100), to amend title 44 of the United States Code, to provide for the suspension of fines under certain circumstances for first-time paperwork violations by small business concerns.

DeMint amendment No. 155 (to amendment No. 100), to amend the Public Health Service Act to provide for cooperative governing of individual health insurance coverage offered in interstate commerce, and to amend the Internal Revenue Code of 1986 regarding the disposition of unused health benefits in cafeteria plans and flexible spending arrangements and the use of health savings accounts for the payment of health insurance premiums for high deductible health plans purchased in the individual market.

DeMint amendment No. 156 (to amendment No. 100), to amend the Internal Revenue Code of 1986 regarding the disposition of unused health benefits in cafeteria plans and flexible spending arrangements.

DeMint amendment No. 157 (to the language proposed to be stricken by amendment No. 100), to increase the Federal minimum wage by an amount that is based on applicable State minimum wages.

DeMint amendment No. 159 (to amendment No. 100), to protect individuals from having their money involuntarily collected and used for lobbying by a labor organization.

DeMint amendment No. 160 (to amendment No. 100), to amend the Internal Revenue Code of 1986 to allow certain small businesses to defer payment of tax.

DeMint amendment No. 161 (to amendment No. 100), to prohibit the use of flexible schedules by Federal employees unless such flexible schedule benefits are made available to private sector employees not later than 1 year after the date of enactment of the Fair Minimum Wage Act of 2007.

DeMint amendment No. 162 (to amendment No. 100), to amend the Fair Labor Standards Act of 1938 regarding the minimum wage.

Kennedy (for Kerry) amendment No. 128 (to amendment No. 100), to direct the Administrator of the Small Business Administration to establish a pilot program to provide regulatory compliance assistance to small business concerns.

Martinez amendment No. 105 (to amendment No. 100), to clarify the house parent exemption to certain wage and hour requirements.

Sanders amendment No. 201 (to amendment No. 100), to express the sense of the Senate concerning poverty.

Gregg amendment No. 203 (to amendment No. 100), to enable employees to use employee option time.

Burr amendment No. 195 (to amendment No. 100), to provide for an exemption to a minimum wage increase for certain employers who contribute to their employees health benefit expenses.

Kennedy (for Feinstein) amendment No. 167 (to amendment No. 118), to improve agricultural job opportunities, benefits, and security for aliens in the United States.

Enzi (for Allard) amendment No. 169 (to amendment No. 100), to prevent identity

theft by allowing the sharing of social security data among government agencies for immigration enforcement purposes.

Enzi (for Cornyn) amendment No. 135 (to amendment No. 100), to amend the Internal Revenue Code of 1986 to repeal the Federal unemployment surtax.

Enzi (for Cornyn) amendment No. 138 (to amendment No. 100), to amend the Internal Revenue Code of 1986 to expand workplace health incentives by equalizing the tax consequences of employee athletic facility use.

Sessions (for Kyl) amendment No. 209 (to amendment No. 100), to extend through December 31, 2012, the increased expensing for small businesses.

Division I of Sessions (for Kyl) amendment No. 210 (to amendment No. 100), to provide for the permanent extension of increasing expensing for small businesses, the depreciation treatment of leasehold, restaurant, and retail space improvements, and the work opportunity tax credit.

Division II of Sessions (for Kyl) amendment No. 210 (to amendment No. 100), to provide for the permanent extension of increasing expensing for small businesses, the depreciation treatment of leasehold, restaurant, and retail space improvements, and the work opportunity tax credit.

Division III of Sessions (for Kyl) amendment No. 210 (to amendment No. 100), to provide for the permanent extension of increasing expensing for small businesses, the depreciation treatment of leasehold, restaurant, and retail space improvements, and the work opportunity tax credit.

Division IV of Sessions (for Kyl) amendment No. 210 (to amendment No. 100), to provide for the permanent extension of increasing expensing for small businesses, the depreciation treatment of leasehold, restaurant, and retail space improvements, and the work opportunity tax credit.

Division V of Sessions (for Kyl) amendment No. 210 (to amendment No. 100), to provide for the permanent extension of increasing expensing for small businesses, the depreciation treatment of leasehold, restaurant, and retail space improvements, and the work opportunity tax credit.

Durbin amendment No. 221 (to amendment No. 157), to change the enactment date.

The PRESIDING OFFICER. The Senator from Arizona.

#### AMENDMENT NO. 209

Mr. KYL. Mr. President, there are at least two—and I believe only two—amendments that will be pending that are germane postcloture to be considered. The first of those is my amendment No. 209. I will speak to that at this point and then will continue the debate after some other business has been conducted.

Amendment No. 209 to the substitute is an amendment to the Baucus Finance Committee amendment which has been agreed to by the Senate. I will describe the background of that amendment and then the justification for it.

Under current law, small businesses can expense \$100,000 of qualified business investments in the first year that the property is placed into service. Because the level is indexed for inflation, the 2007 expensing limit is \$112,000. But after 2009, the expensing limit drops back down to \$25,000 a year, clearly an insufficient amount. Recognizing this, the Baucus Finance Committee amendment would extend the increased ex-

pensing levels through 2010. That is only a 1-year extension. Amendment No. 209 extends it through 2012, which is the same period of time that the work opportunity tax credit has been extended under the Finance Committee amendment. Section 179 of the Tax Code, which allows small businesses to elect to deduct all or part of the cost of certain qualifying property the year that it is placed into service, would work through the year 2012 rather than 2010, as under the Finance bill.

We know that this immediate expensing has been critical to supporting economic growth. We, also, know that small businesses account for about 60 percent of the cost that is imposed as a result of the increase in the minimum wage that is in the underlying bill. As a way to try to help small businesses overcome the costs we are imposing on them, we have talked to them. They are pretty unanimous in the view that the one thing we could do that best helps them be able to afford this is to extend the small business expensing under section 179.

The reason we need to extend it a longer period of time is because of the certainty they need. When they are planning on making improvements to their business and they know they can expense that when they put that improvement in place, in force, then they will proceed to do what is in the economic best interest of their business. But if their plans are restrained by the Tax Code, then we are not enabling them to fulfill their fullest potential in making the business decisions that create jobs. The key of this particular program is that it is a job creator. That is why almost all of us would like to see this extended as far as we can. I don't think there is any real dispute about that. As I said, the Kyl amendment to the Baucus substitute would simply extend this increased small business expensing through the year 2012, the same extension as is given the work opportunity tax credit.

For the sake of illustration, you can see that on this chart, the work opportunity tax credit is extended through the year 2012, and as a result of the Finance Committee bill into 2013. The other expensing provisions or depreciation provisions that were in the Finance Committee bill are only extended through the end of the first quarter of next year, except for section 179, which currently goes through the end of 2009, and the Finance Committee bill takes it through 2010.

What this amendment would do is take it through 2012, the same period as the work opportunity tax credit under the Finance Committee bill.

The chairman of the committee argues that the small business tax relief package should be balanced between the expensing and depreciation provisions and the work opportunity tax credit. As I noted, that is extended for 5 years, while section 179 is extended for only 1 year. Small business expensing has always enjoyed strong bipar-

tisan support. I don't think there is any reason now to treat this issue as a political issue or a partisan issue and to try to put it in competition with the work opportunity tax credit. They can move forward together.

That is especially the case because section 179, unlike the work opportunity tax credit, is targeted at small businesses. Not only is expensing limited to \$112,000, but current law actually reduces that amount for property that costs over \$400,000, which is also indexed. Meaning that section 179 is simply not useful to large businesses that are in the business of purchasing things for far more than \$400,000. But we know, in pure dollar terms, the work opportunity tax credit primarily benefits larger businesses. In fact, testimony before the Finance Committee was that 95 percent of the credits go to either C or S corporations. Since the bulk of the cost of imposing the minimum wage is on small businesses, since section 179 expensing is the primary way we can help small businesses, and since the value of the work opportunity tax credit primarily helps the bigger businesses, it seems to us that the proper balance is to extend both of them through 2012, and section 179, under our amendment, would be brought to that point.

One more word about the investments that small business makes because this is instructive. According to the National Federation of Independent Businesses, 63 percent of small business owners will make capital improvements over any 6-month period, and this could include acquiring new equipment, buying new vehicles, new furniture, expanding existing facilities, maybe even buying a new facility. They need to acquire new equipment and facilities to expand their businesses and create jobs. That is the point of section 179. It enables job creation. That is probably the best antidote to the cost imposed by increasing the minimum wage.

As many experts have pointed out, one of the fallouts from increasing the minimum wage is that some smaller businesses simply hire fewer people. Some even reduce the number of hours their entry-level workers work or even lay people off. The benefit of section 179 that everyone has recognized is it enables the small businesses to grow, to create jobs, and, therefore, the potential downside of increasing the minimum wage is offset, in effect, and never occurs because the jobs are created by virtue of section 179 and other benefits.

Everybody recognizes that allowing first-year expensing is what makes it easier for small businesses to make investments. Business income is overstated because we require businesses to depreciate investments over a period of time instead of deducting the entire cost all at once. But the business must buy an entire machine or building all

at once, which ties up funds that otherwise would be available to earn income. So allowing the immediate expensing of the \$112,000 worth of business investment frees up funds that small business owners can use to grow their businesses, and those owners are likely to reinvest the money back into their business because they are entrepreneurs. This increased business investment benefits the entire economy. It is the job creator.

Small business represents 99.7 percent of all employers. It employs over half the private sector employees. They pay 44.3 percent of the total U.S. private payroll. This is a very big factor in our economy. Small businesses generate 60 to 80 percent of the net new jobs, according to statistics over the last decade, and create more than 50 percent of nonfarm private gross domestic income. Extending the increased limits through 2012 will provide greater stability for these small business owners. The best answer is to actually make the increases permanent, but that is not what this amendment does. It extends it to the same period of time that the work opportunity tax credit is.

Most people would recognize that this is wise, that it is good policy, and that my amendment, therefore, takes us a substantial step in the right direction.

The question before was whether the budget would require that there be a separate so-called pay-for, a permanent tax increase that would offset the cost of this temporary tax extension. There have been various types of pay-go since the statutory pay-go was enacted in 1990. The point of order was enacted in 1993. Statutory pay-go, which expired in 2002, was enforced by OMB, but Congress always enacted legislation to avert it. But contrary to popular belief, the Senate has a pay-go rule in effect right now. It was first created in 2003. The current pay-go rule provides a 60-vote point of order against any new mandatory spending or new tax cuts that exceed specified levels. This is called the pay-go scorecard. Those levels are set in the budget resolution, and the current scorecard set in the 2006 budget resolution, which was the last budget agreed to by the House and Senate and the one applicable here, currently allows no unoffset tax cuts or mandatory spending from 2006 to 2010. But it does allow up to \$268 billion in offset tax cuts or mandatory spending from 2011 to 2015, without triggering a point of order. There is no point of order against this amendment because of the current scorecard and the way this amendment would work.

The problem with any version of pay-go is that the CBO assumes all entitlement programs live forever, regardless of whether a program must be reauthorized. But tax cuts that must be reauthorized are not included in the baseline. Pay-go does not apply to appropriations. So that is why there is no pay-go point of order against this

amendment because the Baucus substitute already extends section 179 small business expensing to 2010. It includes the necessary offsets to cover 2010, and our amendment extends that same expensing through 2011 and 2012, years in which the pay-go scorecard has more than sufficient allocation to cover any revenue that Joint Tax projects will not be collected in those years.

I think all of the ends are tied up here. This is something that most of us would like to see done. It would help the small businesses that will bear the brunt of the expected passage of the minimum wage increase. We have a way to extend the most useful of the tax deductions, this expensing for small business, through 2012. That does not require any new permanent increases in taxes to offset the cost. It seems to me that this is very wise public policy. It doesn't have to be partisan. It would be good policy for us to extend this.

I urge my colleagues, when we have an opportunity to vote on this amendment, to support it, or if there is a motion to table it, to vote against the motion to table.

I yield the floor.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I understand the Senator from Massachusetts seeks recognition. I yield to him whatever time he would like to take.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, I thank my friend and colleague, Senator BAUCUS. As we get to the opening of this debate, I wish to provide a little sense about where we are on the increase in the minimum wage. Most of those who watched the debate yesterday saw that we had an overwhelming majority of Members who voted effectively for cloture. Usually, that means the end of debate is in sight. But because of various procedural situations we are facing, now we know we are going to have another vote required on cloture. This debate probably will roll on into the very end of the week. There is no reason we can't dispose of the amendments rapidly. There are important responses that should be made, and then we can get about the business of finding ways where we can bring the House and Senate bills to accommodation and get the increase in the minimum wage to those who are hard working and are entitled to this increase.

This is our eighth day of debate on this issue. We have had 16 days of debate, outside of these last 8, so we're up to 24 days where we have debated the minimum wage on the floor of the Senate without getting an increase, 24 days we have debated, an issue as simple as going from \$5.15 to \$7.25 an hour should not take all that period of time. We know that here on the Democratic side we are prepared to vote now, today. I am sure we can get the major-

ity leader to request that we vote at noontime or so today and get this process moved ahead. But, no, there are those on the other side who have a series of amendments and they have them now. The good Senator from Montana, Senator BAUCUS, will respond to the issue which is at hand.

I want to reiterate once again that this is not an omnibus tax bill. This legislation is long overdue. It is not an opportunity for Members to present their tax cut wish list. It is Congress' opportunity to finally right the wrong of denying millions of hard-working minimum wage workers a raise for 10 years.

Since the minimum wage was last increased 10 years ago, we passed \$276 billion in corporate tax breaks. In addition, Congress has cut taxes for individuals by more than a trillion dollars, with most of the benefits going to the wealthiest taxpayers. Unfortunately, for some of our Republican colleagues, there are never enough tax breaks, and they have filed more than 25 amendments proposing new or expanded tax cuts to the minimum wage bill. Many of them would cost billions of dollars and most are not paid for.

So we know our friends on the other side are attempting to hold the minimum wage increase hostage for more tax cuts. I believe that is a shameful strategy. As has been pointed out, the Kyl amendment is one of the most expensive of all tax cut proposals. The entire amendment would cost more than \$45 billion over the next 10 years. Not a single dollar is paid for. It is \$45 billion the American people cannot afford, and it should be rejected. I know we will hear from Senator BAUCUS as he addresses this issue.

We have debated over the period of the last few days tax breaks for corporate America. Over the last 10 years, we have seen \$276 billion in tax breaks for corporations and \$36 billion in tax benefits to small businesses. We have increased the minimum wage nine times. There has only been one time we have ever added tax benefits. The House of Representatives, with the vote of 82 Republicans, passed a clean bill. That is what we should be about doing here. That is not where we are.

A final point I will make is that it came to my attention over the evening that many of the spouses of our service men and women in Iraq are working for low wages. In looking over the numbers of spouses of service men and women in Iraq, there are 50,000 who will benefit from an increase in the minimum wage. Imagine that, 50,000 members of the military force and their families will benefit from an increase in the minimum wage. That is not a point to dismiss lightly.

I think we ought to get about the business of doing something for those families and spouses. It is difficult for me to believe we have that number, but that is the figure—50,000 working between \$5.15 and \$7.25 an hour, so they would directly benefit from the raise to

\$7.25. These are spouses of our military forces, and we are debating another \$45 billion in tax cuts. This is supposed to be a debate about an increase in the minimum wage that hasn't been raised for 10 years. All it will do is restore the purchasing power of those on the lower rung of the economic ladder. It seems to me this continued delay is unconscionable.

Some have said it is necessary because our good friends on the other side are not prepared to get started on the debate on Iraq. There have been a lot of excuses and we hear all of them. But what has to be recognized is the increase in the minimum wage to \$7.25 is going to benefit more than 6 million children. More than one million more children have fallen into poverty in the last 5 years. Six million children who live in homes where there will be an increase will benefit, with all of the implications that has in terms of nutrition, education, health care, and also in terms of the joy families can have when they get at least some small relief. These are hard-working people who are trying to provide for themselves and their families and trying to make a difference in the community. They are men and women of great dignity.

We ought to be getting to a final vote on increasing the minimum wage, and we ought to get about it now. If there is going to be additional debate on taxes and other things, let's do it at another time. Let's not hold hostage—which is what's being done here—an increase in the minimum wage for additional tax breaks. Let's not do that. Let's say we have sufficient respect and admiration for these men and women of dignity. They are primarily women in our society—and many of these women who have children. For all these who are working hard at the minimum wage, let's say we have sufficient respect for them so we are not going to hold them hostage to get tax breaks after tax breaks after tax breaks after tax breaks. These men and women are entitled to a Senate decision. We on our side are prepared to vote on it now; the sooner the better.

I am grateful to my colleague and friend from Montana for permitting me to say these words. I thank him very much for the courtesy.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I tip my hat to my good friend from Massachusetts. He is such a fighter and he is so correct in the statements he is making on behalf of the people who need this increase in the minimum wage.

It is unconscionable that the Senate is delaying that increase. The House passed an increase. We have the same goal line, but we have a more circuitous route in getting there. The Senate is taking so much time in our way to get to the same goal line and raise the minimum wage. The Senator from Massachusetts is pricking our conscience to get this done quickly—now. I deeply

compliment my good friend from Massachusetts.

Mr. President, for the information of Senators, we are wondering what in the world is going on here. Let me share some thoughts on the schedule. We are seeking to arrange votes on two amendments by my colleague from Arizona, Senator KYL. We on our side of the aisle are ready to vote. We want to vote. It appears, though, that there are some objections on the other side of the aisle. I hope we can vote in the early afternoon. The objections, I understand, are conflicts that Senators have in the next couple of hours. I hope we can have at least one vote in the early afternoon. Probably after that, we will have another vote in relation to another Kyl amendment, and we are hoping those rollcall votes will be all that are left.

An agreement is not entered into yet—we are working on it—but it is my hope we will have an early vote this afternoon and that then there is one more vote after that, on another Kyl amendment. That should help us to reach a conclusion on this bill, although I suspect a final vote will not be until tomorrow. That is the state of play right now.

A couple words on the substance of the amendment offered by the Senator from Arizona, Senator KYL. This is only one of seven amendments he has offered. Like six of those seven, this one is not offset. We have already voted on one amendment by the Senator from Arizona. The remaining are not offset, and they would explode the budget deficit. The earlier amendment was soundly defeated on previous rollcall vote. It was offset by cutting education benefits for families who work in education institutions. That was defeated.

The amendment offered by the Senator from Arizona now is similar to the one we have defeated. He would like to extend the section 179 expensing provision in the law. We are doing that in the bill. The bill increases the length of time in which the section 179 expense provision would be in law. We would enable that extension to occur until 2010. My Lord, this is 2007. That is not a permanent extension, but it is still, given the constraints we have, a reasonable extension. Everybody likes certainty. We would like a little more certainty in the Senate than we have. But it is still, I think, certainly already in the law and it is not good policy to adopt the amendment of the Senator from Arizona which would extend it for a couple more years but cost about \$2 billion, which would be totally unpaid for. If there is one thing the American people want, it is for us to live within our means and not increase the deficit but to try to reduce the deficit. This amendment increases the deficit. We have voted on a similar amendment and it has been rejected. I hope the same is true here.

At the appropriate time, I will move to table the amendment, and I hope we

can get that accomplished in the early afternoon so we can move on to the next Kyl amendment and debate that and vote on that amendment as quickly as possible. I hope there are no more amendments. We are getting close. We all want to get a minimum wage bill passed, which is so important to so many people in our country. I think we ought to take the responsible action and dispose of these tax amendments that are not paid for and reject them and get on to final passage on minimum wage, which I hope will be tomorrow.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, previous to Senator BAUCUS speaking, we heard my friend from Massachusetts harangue about minimum wage not being considered for the last 10 years and that it is about time we get the job done. I am going to be one of those to vote yes to get the job done, to increase the minimum wage. But I think it is legitimate to ask a couple of questions. One, there was a period of time during that 10 years that Senator KENNEDY's party was in the majority and controlled the Senate. I don't recall them bringing up the minimum wage issue at that particular time. If it was so important that it be done before this period of time has elapsed, I would have thought they would be voicing concern about raising the minimum wage as much and have a responsibility to do it when they were in the majority, as it is now; and we are accused because we want to amend some tax provisions to it, which are very directly related to some of the negative impacts of increasing the minimum wage on small business, and it is a very legitimate point to bring up.

The second point I will bring up to the Senator from Massachusetts is, when he talks about adding tax provisions to the minimum wage, has he forgotten that during the signing ceremony of the last increase in the minimum wage bill by President Clinton Senator KENNEDY was praised for bringing a bill to the President that had tax provisions that were very beneficial to small business and also other provisions that were very beneficial to minimum wage workers by increasing the minimum wage?

I read from President Clinton's statement last week during the debate. I know Senator KENNEDY heard me say that. And yet it seems like it went in one ear and out the other because here he is saying it is wrong now, that when we are increasing the minimum wage, we have a small business tax provision included with the minimum wage increase.

It makes me wonder if there is a double standard: It is okay to have tax bills connected with a minimum wage increase when there is a Democratic President, but when there is a Republican President, it is not okay. I don't think we ought to have those sort of double standards. I think if it is okay

in the case of a Democratic President, it ought to be okay in the case of a Republican President.

Plus, I could raise the issue that if it is legitimate to have tax changes to benefit small business at the same time we are having increases in the minimum wage, this tax package is very meager compared to the one that was in the bill that President Clinton signed. At that time, I believe, there was about \$20 billion worth of small business tax changes to benefit depreciation and other things that can offset the detrimental impact on a minimum wage increase on small business.

We all know there is no detrimental impact on larger businesses that can pass along the cost. But for smaller businesses that can't, for struggling small businesses, in particular mom and pops, it has to be something we take into consideration not only for the benefit of the smaller business but also for the benefit of the workers who work for that small business that maybe will be more underemployed or unemployed because maybe the small business can't afford to keep the same number of workers as when the minimum wage was lower. So all of these things seem to me to be legitimately tied together.

But in the case of a \$20 billion tax package 10 years ago, compared to an \$8 billion tax package in this bill, and considering inflation over the last 10 years, there isn't a single person listening to this debate who doesn't know that when there are complaints about connecting together a tax bill with a minimum wage increase, compared to the last time this was done in the Clinton administration, this tax package is peanuts compared to what we did for small business then—peanuts. Yet we are having this harangue about it, that somehow this debate is not legitimate.

Well, if it was legitimate in the Clinton administration, why isn't this debate legitimate now, particularly considering the great lengths to which President Clinton went to compliment Senator KENNEDY for delivering a bill to President Clinton that had provisions benefiting small business, as well as benefiting the minimum wage worker?

We are going to get a bill passed. I don't know who is complaining. What is coming up when we get done? Well, of course, the debate, I suppose, on Iraq is going to come up. And it ought to come up. We know what is coming up. We know there is not going to be any more votes on that issue this week. So if we get this bill done today or tomorrow—and I bet it will be done today—then we know that is probably going to be the last vote of the Senate this week. I think the people on the other side of the aisle who are managing this bill know that. They know when we get a couple of votes on a couple of other tax provisions, that it is limited. We know there is finality coming. There hasn't been any effort by anybody on this side of the aisle to hold up this

bill, except to make sure that the impact of the minimum wage increase on small business is going to be considered the same way it was in the previous administration.

I am very happy that yesterday cloture was invoked on the Baucus substitute amendment, and it contains these two very important components about which I have already talked. For summary, in case people are now beginning to pay attention to this debate after 1 week in the Senate, the first component proposed an increase in the minimum wage.

You can make all sorts of arguments why maybe the minimum wage should not be increased. Economists can make that argument about some increase in unemployment. Some people would say you should never have passed the minimum wage in the first place in 1938. But forget those economic arguments. It is a political decision that we have had a minimum wage for the last 70 years, and it has to be a political consideration that it ought to be increased from time to time or you shouldn't have it.

So let's get over that argument, as legitimate as the economic arguments might be. They are going to be put aside because we are not going to eliminate the minimum wage. It is a part of the safety net of American society. It is part of the fabric of our society, just as Medicare, Medicaid, and Social Security. You can all argue about whether seven decades ago some of these decisions should have been made by Congress. But after a period of time, you accept it as a fact of life; they are part of the social fabric of America, and move on. It is a question now of how much.

That decision has even been answered—\$2.10. It is about the same decision that is being answered in several State legislatures around the Nation, including my own State of Iowa, which now has made a decision that it ought to be \$2.10, albeit triggered a little quicker than is going to be done under this bill. So we move ahead and that is taken care of.

The second component is not seven decades old, as I indicated. The Baucus substitute connects these efforts to assist small business with some changes in the tax law to benefit them. It has only been in the recent two decades that that has been an issue. But at least it recognizes something that maybe wasn't recognized before; that small business is the engine of employment in America and it ought to be recognized that, in some instances—and economists can back this up—there is some underemployment or unemployment, particularly among young people, and most particularly among minority young people.

I think it is legitimate to consider that because we make a great deal in this Congress about having programs for the unemployed, such as retraining. We make a big deal about education, vocational education, and preparing

people for the workforce. But do we ever stop to think of something that doesn't cost the taxpayers one penny? And that is that vocational education goes along with a young person getting the first job that they have ever had so that they learn to get up in the morning, go to work, and be part of the workforce.

If you are not in the workforce, you are never going to work your way up the economic ladder. So getting in the workforce, learning the rules of the workforce, treating people right, taking orders, being a productive citizen is very important vocational education. So if we are creating some unemployment, particularly among minority young people, because of a decision we are making, a political decision we are making, we ought to at least take that into consideration. But for two decades now we have considered that there is some negative impact.

There is not going to be a one-for-one correlation between changes we make in depreciation schedules for small business that is going to guarantee Joe Blow or Mary Smith, teenagers working for a mom-and-pop grocery store, that they are going to be able to keep their jobs. But it is some relief across the board that is going to benefit small business, and there may be less unemployment of teenagers, less unemployment of minority teenagers so that they can get in the world of work and work themselves up the economic ladder. So the Baucus substitute is before us and will pass this body.

Despite serious policy concerns about the efforts to raise the minimum wage, we all know that public support for increasing the minimum wage remains strong. And who can argue with that? Ten years? So there is a rationale for raising it. It is pretty hard to convince anybody that as long as Congress is setting a minimum wage, it shouldn't be adjusted from time to time. So it is quite obvious. That is why we are here for that debate. So the political reality is that a majority of Senators support a minimum wage increase, not based upon being trustees of the American people but based on the proposition of being representatives of the American people. And that message is coming very clearly from the grassroots.

As predicted, the cloture vote last week showed there are not 60 votes for this minimum wage bill without the small business tax incentives. And for Senator KENNEDY, who is haranguing about the fact this is not being passed fast enough, the members of his own party voted with us on that, and that seems to show it is bipartisan.

As I said before, tax incentives targeted to small business and other businesses impacted by a minimum wage increase have been linked to minimum wage legislation over the past couple of decades. Democrats have, at times, joined Republicans in supporting that linkage. Once again, Republicans have asked for small business tax relief, if a minimum wage hike is going to happen. Based on an overwhelming cloture

vote yesterday on this Baucus substitute, it looks as if we are going to get there. Democrats, in effect, agree—through that vote—with this linkage.

To different groups of Senators, these topics carry their own benefits or burdens. Many on my side don't like the idea of second-guessing the labor market with a federally mandated minimum wage. In past statements, I pointed out some of the related issues that should give us pause when considering such legislation. Some, mostly Democrats, will call this bill before us nothing but a minimum wage increase bill. Some, mostly on my side of the aisle, will call it a small business tax relief bill. But isn't that how we get things done in the Senate? Doesn't almost everybody have to have a win? And in this aren't we having a win-win situation in a bipartisan way?

I suppose some of our Members are going to have it both ways, it is going to be both a minimum wage increase and a small business tax relief bill. President Bush, similar to President Clinton, whom I have already quoted, will recognize both parts of this package. If my friends on the other side of the aisle would review that statement, as I led them to review it last week, they will note that President Clinton saw merit in the small business tax relief package.

If I were chairman, I might have tilted the package a bit more toward depreciation and less toward, let's say, that portion that we call the worker opportunity tax credit. It is important these incentives coincide with the timing when the minimum wage increase will be taking effect. It has been proven that a minimum wage hike without tax relief for small business will not fly in a body where we have to move ahead in a bipartisan way or nothing gets done. Let's recognize that reality. Let's improve this bill and complete it in a timely manner.

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

The PRESIDING OFFICER (Ms. KLOBUCHAR). Without objection, it is so ordered.

Mr. VITTER. I ask unanimous consent that I be allowed to speak for up to 7 minutes as in morning business, and following that, Senator LANDRIEU be given permission to speak as in morning business for up to 7 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Ms. LANDRIEU. Madam President, I ask unanimous consent that the time be charged postcloture.

The PRESIDING OFFICER. The Senators' time will be charged postcloture.

(The remarks of Mr. VITTER and Ms. LANDRIEU are printed in today's RECORD under "Morning Business.")

Ms. LANDRIEU. I yield back the remainder of the time.

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

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

(The remarks of Mr. DURBIN are printed in today's RECORD under "Morning Business.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Madam President, I ask unanimous consent to speak as in morning business for what time I might consume, and it will not be too long, on two bills I am going to introduce.

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

(The remarks of Mr. GRASSLEY and Mr. DODD pertaining to the introduction of S. 467 and S. 468 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. GRASSLEY. Madam President, since I do not think anybody else is seeking the floor, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. MENENDEZ). Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to continue as in morning business for, I would say, roughly 10 or 12 minutes on an issue unrelated to what is on the Senate floor.

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

#### ALTERNATIVE MINIMUM TAX

Mr. GRASSLEY. Mr. President, next week the President's budget will come to Capitol Hill. In terms of tax issues, no issue is more pressing in the upcoming budget than resolving the alternative minimum tax issue for both the short term as well as the long term.

As many Members know, the so-called patch—the temporary fix we did last year for the alternative minimum tax so no more people would be hit by it than are presently hit by it—ran out at the end of last year. So right now 23

million people in the year 2007 could be hit by the alternative minimum tax, if we do not do something about it. Since we have to offset things such as this, if we patch this up again, it is going to take \$50 billion to offset or, if it isn't offset, that means \$50 billion that would come into the Federal Treasury under existing law would not come in.

Next week I will give a series of speeches in some detail. I am going to look at how we got where we are on the alternative minimum tax. I will examine the history of the alternative minimum tax and the origins of the current problem. In another speech, I am going to discuss the fiscal effects of maintaining, repealing, and replacing the alternative minimum tax. And in the third speech, I will talk about options to remedy the alternative minimum tax problem in the short term and over the long term.

Today, on a preemptive basis, I want to counter a charge that I think is going to be repeated by Democratic-leaning think tanks, maybe by the leadership of the Congress, and, more importantly, by east coast media who tend to be sympathetic to the views of those political organizations. The charge will be that the alternative minimum tax problem we face is a result of the bipartisan tax relief legislation enacted in 2001 and 2003.

I ask unanimous consent to maintain the floor and yield to the majority to make a unanimous-consent request.

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

Ms. KLOBUCHAR. Mr. President, I ask unanimous consent that the time between now and 2:30 p.m. be equally divided between Senators BAUCUS and KYL or their designees; that at 2:30 p.m., the Senate vote in relation to Senator KYL's amendment No. 209; that no other amendment be in order prior to that vote; that following that vote, amendment No. 115 be considered in order for purposes of drafting under rule XXII; and that all other amendments to the bill and to the substitute be withdrawn accept for amendment No. 115; and that no other amendments be in order except the substitute and amendment No. 115.

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

Mr. GRASSLEY. Let me ask the majority, would they like me to yield the floor for that debate?

Ms. KLOBUCHAR. No, Mr. President.

Mr. GRASSLEY. Next week, when the President's budget comes out, there is going to be an awful lot of discussion about the alternative minimum tax. I am trying to preempt—in a sense counter—what I think are old arguments that are going to be repeated about that issue. They are going to be coming from leftwing think tanks, and maybe the Democratic leadership in the Congress will pick up on it. For sure, the east coast media, who tend to be sympathetic to the views of these political organizations, is going to be loudly speaking about it. I don't



find anything wrong with it being discussed, but I am going to make sure it is discussed in an intellectually honest manner.

The charge is going to be made that the alternative minimum tax problem we face now is a direct result of the bipartisan—I emphasize bipartisan—tax relief legislation that was enacted in 2001 and 2003, which, by the way, Chairman Greenspan has said, both before he left the Fed as well as a private citizen, that these tax relief packages we passed back then are the basis for the economy going very smoothly in the last 3 or 4 years, creating 7.2 million jobs. If that is the argument they are going to make—and I will bet you, although I am not a betting man, that that is what we are going to hear—it is a distortion, plain and simple. So I think I am going to try to correct the record in advance. Maybe next week, if I have done it adequately, there won't be any record to correct. I have been around here long enough to know what is going to be said.

To the extent the Democratic leadership and allies suggest, like others who have looked at this issue, that the bipartisan tax relief packages are responsible for the alternative minimum tax problem, I respond in this way: Most who have reached that conclusion have done so by misusing data, data that is provided by the truly nonpartisan Joint Committee on Taxation, an agency of Congress that you might say wears green eyeshades, looks at things as they are, without a Republican or Democratic bias. These figures of the Joint Committee on Taxation will be used to distort the record on the issue of the alternative minimum tax.

The Joint Committee on Taxation analysis suggests an alternative explanation for the alternative minimum tax problem, and that is the failure of Congress to index the alternative minimum tax for inflation when it was first established 35 years ago. The critics are going to charge that the bipartisan tax relief packages are responsible for this alternative minimum tax problem. This conclusion is reached in error because it is based upon faulty logic. Those who have done similar analyses have based their conclusions on the mistaken assumption that a reduction in Federal receipts should be interpreted as a percentage causation of the alternative minimum tax problem. The Joint Committee on Taxation was asked to project Federal alternative minimum tax revenue, if the bipartisan tax relief provisions were extended but current law hold-harmless provisions were not extended. And what do we get, a \$1.1 trillion issue,

and a Federal alternative tax revenue, if neither the Bush tax cuts nor the hold-harmless provisions is extended, a \$400 billion issue compared to the \$1.1 trillion issue.

From that data, some erroneously concluded and publicly represented that the tax cuts of 2001 and 2003 are responsible for 65 percent of the alternative minimum tax problem. In other words, this \$1.1 trillion minus the \$4 billion divided by \$1.1 trillion. And conversely then, that the tax cuts of 2001 and 2003 tripled the size of the alternative minimum tax problem; again, \$1.1 trillion divided by \$400 billion. The logic used to reach that conclusion is flawed. That is what I am about to show.

This is because the many variables affecting the alternative minimum tax have overlapping results, and the order in which one analyzes those overlapping variables will directly impact the outcome of the analysis.

In that way, we can use the same Joint Committee on Taxation data in the analysis above to suggest that the failure to index is actually the dominant cause of the alternative minimum tax problem. If one were to first index—and that wasn't done 35 years ago—the current tax system for inflation by permanently extending an indexed version of the current hold-harmless provisions, Federal alternative minimum tax revenue would be reduced from \$1.1 trillion to \$472 billion over the 10-year period we use to estimate taxes coming into the Federal Treasury. Thus, extending and indexing the current hold-harmless provision for future inflation would reduce the alternative minimum tax revenues by 59 percent over the same period referred to in the Joint Committee on Taxation letter dated October 3, 2005, as “percentage of AMT effect attributable to failure to extend and index hold harmless provision.”

I ask unanimous consent to print a copy of that entire letter in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,  
JOINT COMMITTEE ON TAXATION,  
Washington, DC, October 3, 2005.

To: Mark Prater and Christy Mistr.

From: George Yin.

Subject: AMT Effects.

This memorandum responds to your request of September 29, 2005, for an analysis of the portion of the AMT effect (AMT liability plus credits lost due to the AMT) which can be attributed to the failure to adjust the AMT exemption amount to inflation, assuming alternatively that the EGTRRA and JGTRRA tax cuts (“tax cuts”) are either

permanently extended or repealed. We also explain how this information compares to information previously provided to you on August 31, 2005 and September 16, 2005.

For the purpose of this analysis, we have first assumed that the tax cuts are repealed. The first set of figures in Table 1 compares the AMT effect under this assumption if, alternatively, (1) the AMT exemption amount hold-harmless provision is not extended beyond 2005; (2) such provision is extended permanently; and (3) such provision is extended permanently and indexed after 2005. The second set of figures presents the same comparison under the assumption that the tax cuts are permanently extended. All of the information provided in this table was previously provided to you in our September 16, 2005 memo, except in a different format.

TABLE 1

Item	AMT effect (billions of dollars)
<b>Tax Cuts Repealed:</b>	
(1) Hold-harmless provision not extended .....	399.9
(2) Hold-harmless provision extended permanently .....	212.0
(3) Percentage of AMT effect attributable to failure to extend hold-harmless provision $((1)-(2))/(1)$ .....	47%
(4) Hold-harmless provision extended permanently and indexed .....	169.7
(5) Percentage of AMT effect attributable to failure to extend and index hold-harmless provision $((1)-(4))/(1)$ .....	58%
<b>Tax Cuts Extended Permanently:</b>	
(6) Hold-harmless provision not extended .....	1,139.1
(7) Hold-harmless provision extended permanently .....	628.5
(8) Percentage of AMT effect attributable to failure to extend hold-harmless provision $((6)-(7))/(6)$ .....	45%
(9) Hold-harmless provision extended permanently and indexed .....	472.0
(10) Percentage of AMT effect attributable to failure to extend and index hold-harmless provision $((6)-(9))/(6)$ .....	59%

In the information provided to you on August 31, 2005 and September 16, 2005, we analyzed the portion of the AMT effect attributable to the tax cuts. In the analysis described above, we identify the portion of the AMT effect attributable to failure to adjust the AMT exemption amount to inflation. There is, however, interaction between these two contributing factors to the AMT effect. In order to avoid double counting of interactions, a stacking order is imposed. The apportionment of effects to each contributing factor will vary depending on the stacking order, even though the total effect remains constant.

This phenomenon is illustrated by Tables 2 and 3 below. The first two columns of Table 2 show the portion of the AMT effect attributable to the tax cuts, consistent with the information provided on August 31, 2005 and September 16, 2005. The second two columns of Table 2 show the portion of the AMT effect attributable to the failure to extend and index the hold-harmless provision, consistent with the information provided in Table 1 above. Note that if these two contributing factors were completely independent of one another, the information in Table 2 would suggest that the two factors together contribute to more than 100 percent of the AMT effect. In fact, as shown in Table 3, the two factors together contribute to only 85 percent of the AMT effect. Thus, there is substantial overlap between these two factors.

TABLE 2

Item	AMT effect (billions of dollars)	Item	AMT effect (billions of dollars)
Baseline .....	1,139.1	Baseline .....	1,139.1
Repeal tax cuts .....	399.9	Extend and index AMT hold-harmless provision .....	472.0
Difference .....	739.2	Difference .....	667.1
Percentage of baseline .....	65%	Percentage of baseline .....	59%

TABLE 3

Item	AMT effect (billions of dollars)
Baseline .....	1,139.1
Repeal tax cuts and extend and index AMT hold-harmless provision .....	169.7
Difference .....	969.4
Percentage of baseline .....	85%

Mr. GRASSLEY. Let's go back to the Joint Committee on Taxation analysis. If we then assume that the tax cuts of 2001 and 2003 are repealed, alternative minimum tax revenue falls by an additional \$302 billion, from \$472 billion to \$169 billion. That second drop attributable to the repeal of the Bush tax cuts reduces Federal revenue by only 27 percent. Thus, one should argue that failure to index is a greater cause of the alternative minimum tax problem—in other words, 59 percent versus 27 percent. If we had indexed, we wouldn't have this problem.

Using logic similar to that undertaken above would also cause us to conclude that failure to index is responsible for 59 percent of the alternative minimum tax problem or, alternatively, that failure to index also nearly triples the size of the AMT problem. But simple logic suggests that the bipartisan tax relief cannot be responsible for 65 percent of the alternative minimum tax problem and failure to index responsible for 59 percent of the problem. The anomaly arises because there is overlap between variables being analyzed. Although the analysis fairly demonstrates the amount of alternative minimum tax revenue saved by making a particular change to the Federal tax system, it is inappropriate to represent that such analysis accurately isolates causation of the alternative minimum tax. Because there is overlap in the variables being analyzed in these examples, indexing and the bipartisan tax relief packages, the order of analysis of those variables is crucial to whatever outcome we have.

The Joint Committee on Taxation acknowledges this point to us in a letter dated October 3, from which I will quote:

There is, however, interaction between these two contributing factors to the AMT effect. In order to avoid double counting of interactions, a stacking order is imposed. The apportionment of effects to each contributing factor will vary depending on the stacking order, even though the total effect remains constant.

To this point in time, I have not seen anything that accurately suggests that the 2001 and 2003 tax cuts have worsened the alternative minimum tax problem to date. It is my intention to ensure we continue to honor that commitment.

Proponents of this charge fail to recognize that we addressed the problem for 2001 through 2005 in legislation that most of these organizations opposed. By the way, those hold-harmless alternative minimum tax provisions were the first significant legislative efforts to stem the rise of the alternative minimum tax tide, meaning affecting mil-

lions more people who were never intended to be affected by it.

It was, in fact, the Finance Committee that put its money where its mouth was on the alternative minimum tax. Last year's bipartisan tax relief reconciliation did the same thing for the year 2006—in other words, to make sure that the alternative minimum tax problem is not worsened. Once again, it was the bipartisan leadership of the Finance Committee that ensured millions of families would not face the alternative minimum tax problem in the tax-filing season this year.

I might say that Republicans, last year, when we were controlling, were willing to add millions of people to it because they didn't want to hold harmless completely, just to some extent. But we in the Senate stuck to our guns, and we got the hold harmless kept in place, as it had been since 2001.

I reiterate the importance of the last sentence in my remarks, where I said that the Finance Committee ensured that millions of families would not face the alternative minimum tax in this tax-filing season that we are in right now. Everyone who supported the tax relief reconciliation bill walked the walk on the alternative minimum tax. A lot of the critics I am referring to have talked that walk on the alternative minimum tax, but if you look at their voting records, they have not walked the walk on the alternative minimum tax. Thank goodness, then, 15 million families were put above politics, or you might say a bipartisan solution saw that they were not harmed because, otherwise, 15 million families would be dealing right now, as they file last year's income tax, with the AMT in their tax returns—in other words, paying the alternative minimum tax because we did not hold harmless.

If they had to deal with that, you know how complex they think the tax forms are already and the tax system is already. Well, if you have to go through that alternative minimum tax exercise, it almost doubles the complexity. Every Member who voted against the bipartisan tax relief reconciliation bill ought to think about that bottom-line reality. If that group, led by—because it tended to be very partisan—the Democratic leadership had prevailed, 15 million families concentrated in the so-called blue States would have been dealing with the alternative minimum tax now. It is a fact—because higher income people tend to live in the so-called blue States, according to the results of the last two Presidential elections—they are paying more of this alternative minimum tax. They happen to be represented by people of the other political party who thought that the hold harmless provisions should not have been there. So 15 million people—most of them in those States—would be hit again.

The clock is ticking on the alternative minimum tax problem for this year. In other words, we have to do something before the end of the year or

we are going to have 23 million people hit by it. A year from now then, those 23 million people will be working with the complexities of the AMT and paying the alternative minimum tax. They are people who come from those high-income States, more so than the State I come from, although we have people who are hurt by it—or would be hurt by it—but not to the extent of some of the high-income States. On October 15, a taxpayer's first quarter estimated tax payments will be due, and they will have to take this into consideration. Twenty-three million families will have to start dealing with the AMT yet this year on these quarterly estimates.

Last year, Congress acted a few weeks after April 15. Hopefully, this Congress will act before April 15. Mr. President, next week, Congress will be facing the AMT problem as the budget process moves forward. That is what is going to start this demagoguery about the AMT. To get a grip on that problem, we need to examine its history, assess its fiscal impact, and carefully consider our short-term and long-term options. I look forward to these discussions on these three topics next week. Let's use correct data when we discuss the alternative minimum tax. Let's be intellectually honest. Let's discard the partisan fuzzy math and partisan revisionist history.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the time during the quorum call be equally divided.

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

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### FISA COURT ORDERS

Mr. LEAHY. Mr. President, I received notice this morning that President Bush has agreed to our bipartisan request for key recent orders from the FISA Court. Let me explain this a little bit. I have been very critical now for some time of the warrantless wiretapping of Americans done, apparently, under the President's order. We have, as the distinguished Presiding Officer knows, the Foreign Intelligence Surveillance Act, which sets up a special court where you can go in secret if you suspect a terrorist is phoning into the United States, and you can get an



order to wiretap that call. But according to the press, the administration has not followed that law, has not gone into the court. They have allowed widespread wiretapping of Americans without a court order. This has been troublesome to a lot of people on both sides of the aisle.

So we learned recently—Senator SPECTER and I—that the Foreign Intelligence Surveillance Court had issued orders authorizing NSA's wiretapping program, which meant the President was going back to the court, as he should have, of course, before. We asked the court to make these orders available to the Judiciary Committee. The chief judge of the court approved providing the orders but left the final decision to the executive branch.

I made it clear, when Attorney General Gonzales appeared before us, that we expected to see the orders. After all, we write the law as to how the Foreign Intelligence Surveillance Act is supposed to work, and we have the responsibility to make sure it is followed. The President has made the right decision in changing his previous course of unilaterally authorizing the warrantless surveillance program. He is now going to follow the law in seeking court approval for wiretaps.

Senator SPECTER and I, on behalf of the Judiciary Committee, will have to look at the contours of the wiretapping program. We have to look at the Court's orders to determine whether the administration reached the proper balance to protect Americans, while following the law and the principles of checks and balances. I hope the administration will eventually allow all members of the Judiciary Committee to look at these orders.

We all want to catch terrorists, but we don't want a country where we have warrantless wiretapping of Americans. If we start down that slope, we all lose the right to privacy and the values this Nation has stood for for more than 200 years. So Senator SPECTER and I will review the court orders to make sure the law is being followed. I believe in this case, the President has taken the right first step, and I commend him for it.

With that, I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

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

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### TERRORIST SURVEILLANCE PROGRAM

Mr. SPECTER. Mr. President, I have sought recognition to join Senator LEAHY in the acknowledgment that the Attorney General will be turning over to Senator LEAHY and me, in our capacities as chairman and ranking member of the Judiciary Committee,

the applications which were filed by the Department of Justice for the change in the terrorist surveillance program and the court orders issued by the Foreign Intelligence Surveillance Court establishing a new line of judicial review for that surveillance program.

Back on December 16, 2005, the New York Times broke a major story disclosing that there had been a secret wiretapping program, electronic surveillance without the customary judicial review. The customary approach is to have a law enforcement official apply for a warrant showing an affidavit of probable cause to justify a search and seizure for a wiretap which is a facet of the search and seizure, and that disclosure back on December 16 was quite a revelation. As a matter of fact, we were in the midst of debating the PATRIOT Act at that time, trying to get that through on reauthorization, and it was a major bone of contention, with some Senators saying they had been disposed to vote for the reauthorization of the PATRIOT Act and wouldn't do so now with the disclosure of that program.

Through a good bit of last year, the Judiciary Committee worked on efforts, through legislation, to have judicial review of that program, and, in fact, at one point an agreement was reached with the White House on a legislative package to move forward. Ultimately, that legislative effort was unsuccessful and the program continued to have these wiretaps without judicial approval. Then, on January 17—earlier this month—the Attorney General announced there had been a change in programming and there would be application made to the Foreign Intelligence Surveillance Board under procedures which the Department of Justice had established with the Foreign Intelligence Surveillance Court.

I received a lengthy briefing on the nature of the program, but it fell short of the necessary disclosure because I did not know what the applications, the affidavits provided, nor did I know what the court had said. And there was an issue as to whether there was a blanket approval for the program or whether there were individualized warrants, and in order to meet the traditional safeguards for establishment of probable cause, there would have to be individual warrants.

Senator LEAHY and I then pressed the Attorney General for access to these documents which would give us a fuller understanding of what was happening. I was pleased to learn earlier today that the Attorney General has consented to make those disclosures to Senator LEAHY and myself, and we will be reviewing those documents. They will not be made public. Until I have had a chance to see them, I wouldn't have any judgment as to whether they ought to be made public. My own view is there ought to be the maximum disclosure to the public consistent with national security procedures. The At-

torney General has represented that there is classified information here which ought not to be made public, and I will reserve judgment until I have had an opportunity to see those documents.

I know Senator LEAHY was on the floor a little earlier today, within the past half hour or so, and I wanted to join him in thanking the President for this action. We have seen an expansion of Executive authority which I have spoken about on this Senate floor in a number of situations with the signing statements, where the President signs legislation but expresses reservations. There is a real question in my mind as to the constitutionality of that. The Constitution provides that Congress passes legislation and the President either signs it or vetoes it. I have introduced legislation to give Congress standing to challenge those signing statements or limitations therein in court and other examples of the expansion of Executive authority.

So I think this is a significant step forward, and I commend the President and the Department of Justice for taking this stand. I am going to reserve judgment on the program itself, obviously, until I have had a chance to review it. But I did want to acquaint my colleagues in the Senate with what is happening and acquaint the American people too because there has been considerable concern about the protection of civil rights, and obviously our war on terrorism has to be fought in a vigorous and tenacious manner, because it is a real threat to our national security and the safety of the American people, but at the same time have the balancing of protecting civil liberties. This is a significant step forward, and I am anxious to see the details to be able to report further on it.

I thank the Chair, and in the absence of any other Senators seeking recognition, 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. THOMAS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mrs. CLINTON). Without objection, it is so ordered.

Mr. THOMAS. Madam President, I ask unanimous consent to speak as in morning business.

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

#### SIMPLIFYING THE TAX CODE

Mr. THOMAS. Madam President, although it is unrelated to what we are doing, I wish to talk a little bit about general tax reform.

The amendments are very important, and we are dealing with the issue, of course, of the minimum wage and offsetting some of those costs to small businesses. I support that idea. But I wanted to say that I hope we soon give more attention to reforming of the

overall tax forms. We are getting into a position where every time there is an issue, every time there is something we want to accomplish, we have some tax relief for this section of the economy and for that section of the economy. It has become so complex and so short-changed in terms of the time, the exchanges that we have. I think we have to have some overall tax reform.

I understand it is not easy because all of these issues are different. On the other hand, we can simplify the Tax Code, if we take the time. I mentioned it this morning in the Finance Committee. I realize we are not going to be able to address it in a short time, but I think we ought to set it as a long-term goal and begin to deal with simplifying the Tax Code. As each of us moves into our own taxes this year, it becomes obvious how detailed these taxes are. If you happen to be involved in a business, even a small business, the Tax Code is so difficult. I don't think we ought to be managing the behavior of this country through taxes. Taxes ought to be set in a general and long-term way so that people can understand, over time, what the tax situation is, and we can make it attractive enough that we don't have to change it for every issue that comes up.

Again, I certainly am supportive of what we are doing now. But in the longer view of things, I urge that we give consideration to reforming the Tax Code, to making it simpler, understandable, longer term, and to avoid setting up the situation where each time there is some issue affecting anyone in this country, we don't, as a secondary action, change the Tax Code to encourage a particular outcome. It should not be the purpose of taxes to regulate behavior.

I yield the floor, suggest the absence of a quorum, and ask unanimous consent that the time be divided equally.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 209

Mr. KYL. Madam President, unless the Senator from Wisconsin wishes to speak, I will proceed. I believe we have about 14 minutes remaining on our side. I would like to use at least some of that time to clear up a couple points that were made earlier in the debate. I am speaking on the amendment No. 209, which is my amendment to extend the period of time that so-called section 179 small business expensing would be effective. Instead of cutting off at 2010, it would be the same period of time that we extended the work opportunity tax credit; namely, 2012. The obvious reason being that businesses would have more time within which to plan these additions or improvements

to their business and would be able to count on what the Tax Code treatment would be and, therefore, would be more likely to make the investment and, therefore, create more jobs and, therefore, be able to absorb the cost of the minimum wage that will be imposed by the legislation before us.

I ask unanimous consent that Senator ALEXANDER be added as a cosponsor to amendment No. 115 and that Senator SPECTER be added as a cosponsor both to this amendment, No. 209, and to No. 115.

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

Mr. KYL. Madam President, the Senator from Massachusetts made a couple of statements I need to correct. One was that this amendment would cost \$45 billion. I do not know how he arrived at that figure. Even if you add up all of the amendments I have proposed at one time or another on this bill, they don't add up to \$45 billion.

The amount that this amendment would, in effect, cost to take section 179 through the year 2012 would be about \$2.1 billion over 10 years. That is more than absorbed by the authority that we have under the budget from last year, which is \$278.6 billion. So there doesn't have to be an additional offset. There doesn't have to be an additional pay-for. The cost for extending section 179—what we are doing with this amendment—is entirely subsumed in the budget we passed last year. That is why it is not subject to a point of order and why a mere majority vote will determine whether it moves forward.

According to the Congressional Budget Office, by the way, the minimum wage increase will impose about \$5 billion worth of new costs on businesses each and every year. Most of that will be on small businesses. The extension of this relief will benefit those very small businesses that are going to have to absorb this additional cost.

When the Senator from Massachusetts said earlier, "We have debated over the period of the last few days tax breaks for corporate America," I want to be very clear, that is not the tax break I am talking about. The tax break for corporate America is the tax break the majority of the Democrats on the Finance Committee have provided in the form of the work opportunity tax credit.

Testimony before our committee confirmed that 95 percent, approximately, of the value of the WOTC, work opportunity tax credit, goes to bigger businesses, S and C corporations, because they have the wherewithal to set up the complicated accounting mechanisms for the work opportunity tax credit legislation to actually work. Very few of the small businesses are benefited by that tax relief. But almost all of the small businesses are benefited by the tax relief that I have proposed. So I respectfully correct my colleague from Massachusetts.

What I am proposing doesn't benefit the big corporations. That is what is already extended under the bill through the year 2012. What we are doing is extending through the year 2012 these benefits for the small businesses—specifically, the section 179 expensing. How does that work? As I explained this morning, by definition, section 179 allows businesses to write off an amount that is right now \$112,000, when they spend that much money on a new piece of equipment or add on their business. If they spend more than \$400,000, they cannot use this particular provision.

The bottom line is that this is for the small business, it is not for big business. So it is simply incorrect to say that the proposal that is before us now, to be voted on shortly, benefits big corporations. They cannot, by definition, take advantage of this particular provision of the Tax Code.

Again, why are we seeking to do this? All of us on the Finance Committee agreed that we needed to provide some tax relief to small businesses because small businesses would bear the brunt of the new expense of the minimum wage. So the committee unanimously extended various provisions of the Tax Code. It extended this section 179 for another year, recognizing its importance. All my amendment does is extend it another 2 years, so that it will conform with the same period of time that the work opportunity tax credit goes to and, thus, provide some balance between the big businesses, which get the work opportunity tax credit relief, and the small businesses, which primarily rely on the section 179 tax relief.

Section 179 is probably the most used of the tax provisions because all small businesses can take advantage of it whenever they add value to their particular business. It is for this reason that several organizations have endorsed this proposal of mine and, in fact, have communicated with us that they intend to key vote this amendment. So when you are voting on my amendment, if you vote to table my amendment, you are going against the recommendations of the following groups: National Federation of Independent Business, NFIB; Food Marketing Institute; Printing Industries of America; International Franchise Association; and Society of American Florists.

You can see that these are the kinds of businesses that can take advantage of this section of the Tax Code. So anybody who votes to table this amendment, as I said, will be going against the recommendation of these particular groups.

I urge my colleagues—this has never been a partisan issue. Section 179 is supported by Democrats and Republicans and Independents. Our committee action was unanimous. There is no reason this has to become a partisan issue. There is no question of pay-for. We already, in the budget from last

year, the scorecard, as they call it, have revenue available to offset the modest increase of \$2 billion that a 2-year extension would entail in this particular amendment. So I see no reason for anybody to vote against it and, most especially, to table this amendment.

I urge my colleagues to vote against the motion to table.

Madam President, might I inquire how much time is now available on both sides of this issue?

The PRESIDING OFFICER. The minority has 6 minutes, and the majority has 3 minutes.

Mr. KYL. All right. It is also my understanding that time not used is to be counted off equally against both parties; is that correct?

The PRESIDING OFFICER. For quorum calls, yes.

Mr. KYL. Oh, I see. As the proponent of the amendment, I hope that I will be able to close the debate. But given the fact that there is 6 minutes remaining on my side, if there is nobody from the majority side to speak to this, then I will continue the conversation, at least until someone arrives.

One of the other arguments is that by extending this through 2008, we have provided enough certainty to small businesses that they could go ahead and make the investment, plan the renovation or buy the piece of equipment, or whatever that might be. The bottom line is that any amount that we extend in these tax provisions enables businesses to plan better. If we extend it 1 year, as the committee did, then at least businesses can look out 1 year. But as we all know, in the business environment, a 1-year horizon is very short. That is why, just as we extended the work opportunity tax credit through 2012, it makes sense to extend the small business expensing through the year 2012 as well. Any additional time that businesses can know what the tax consequences of their purchases or expenses are is an advantage to them and will enable them to create the jobs, as I said, that will offset the costs of the minimum wage.

Madam President, I don't know of anybody who opposes the extension of section 179. The committee itself extended it for 1 year. I don't know why there would be partisan debate about extending it for another 2 years. I think we can all agree that would represent good policy. The relatively modest expense of this \$2.1 billion, in terms of theoretical lost revenue, is more than compensated for by the \$278 billion in offset tax authority from the years 2011 and 2015 under the budget we passed last year. So there is no point of order and there is no reason, on a purely fiscal basis or balanced budget basis, to vote against this.

Everybody knows it is good for small business. Adding 12 years for planning purposes for the business to purchase the equipment or add to the building is simply an improvement over existing law and enhancing of the small

business's ability to create more jobs, expand their business and, frankly, to contribute to the great economic growth that we have right now.

So I don't understand any of the reasons a Member of this body would want to oppose this particular amendment. I am not doing this for any purpose other than to try to support these small businesses. That is why the NFIB and the others are so supportive of my amendment. I would think that in this time when we wanted to start out the year in a bipartisan way, this is a provision that has strong bipartisan support; it always has. I just don't understand why anybody would not want to extend it for 2 years, especially when the costs of doing so are already offset in the budget that we passed last year.

Again, I urge my colleagues to oppose the motion to table this amendment.

Madam President, let me first inquire how much time both sides have remaining.

The PRESIDING OFFICER. The minority has 2 minutes, the majority has 3 minutes.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. ALEXANDER. Madam President, I ask unanimous consent that I may be permitted to speak for 60 seconds.

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

Mr. ALEXANDER. Madam President, I compliment Senator KYL for his work. I expect a vote for the minimum wage with the small business tax adjustments that are with it. As I said on the floor of the Senate the other day, it is not the most efficient way for the Government to intervene help for the poorest people who are working. I think that would be an increase in the earned-income tax credit. It would be less expensive, more efficient, and all of us would pay the bill for that, not just small businesspeople.

If we are going to raise the minimum wage, we ought to not impose the whole burden on just that small segment of society. I agree that extending these small business depreciation and expensing benefits would help small business men and women who are trying to compete in the world to be able to compete. And it gives all of us who pay taxes a chance to pay for this idea that we have called the minimum wage, which tries to help working people have more.

I support the amendment of the Senator from Arizona, Mr. KYL because it will do more to offset the increased costs imposed on small businesses through raising the minimum wage by making it easier for many small busi-

ness owners to take advantage of the tax relief contained in this bill. In addition, the amendment will help create jobs by encouraging small business owners to grow their businesses and hire new employees.

Under current tax law, small businesses can expense up to \$100,000 of certain new property the year it is put in service. That figure is indexed to inflation, so small businesses will be able to expense up to \$108,000 in 2006. After 2009, this expensing level will drop back down to \$25,000 a year for these small businesses. The tax relief package included in the minimum wage bill would extend the \$100,000 expensing limit—indexed for inflation—through the end of 2010. The Kyl amendment would add 2 years to that extension. In other words, the Kyl amendment would allow small businesses to expense the higher amount through the end of 2012.

Last week, I spoke on the Senate floor about the burden imposed on the small business community by raising the minimum wage. Small businesses will bear the brunt of approximately 60 percent of the costs of a minimum wage increase. I applaud the Finance Committee including Chairman BAUCUS and Ranking Member GRASSLEY for approving a tax relief package to help offset these costs. In particular, I am glad that tax relief package includes the expensing provision that we are talking about on the Senate floor today.

The Kyl amendment would make the expensing provision even stronger by allowing for higher expensing limits through the end of 2012. This is important because continuing the higher expensing limits for an additional 2 years would give small businesses more time to plan and fully use this benefit. If small business owners can take greater advantage of the tax relief in this bill, that means more help in offsetting the added costs imposed on small business owners through a minimum wage increase.

Not only does this particular tax provision help offset the costs of an increased minimum wage, but it will help create grow the economy and create jobs. Allowing small business owners to immediately expense critical investments encourages the purchase of new equipment, which helps to spur economic growth. New equipment for small businesses also usually leads to greater efficiency. And putting more money back into the hands of small business owners allows them to hire new workers.

During this minimum wage debate, a lot of my colleagues have talked about the economic challenges facing working families. I can't think of a better way to help low-income Americans than passing legislation that helps grow the economy and create new jobs, and that's what this amendment would do. I applaud my colleague from Arizona for offering this amendment and urge my colleagues to support it.

Mr. BAUCUS. Madam President, before the Senate votes on the second

amendment by Senator KYL, the amendment is not offset, not paid for. It would add about \$2 billion to our Federal deficit. The Senate rejected a Kyl amendment last week that was similar. I admire the Senator's persistence. He is a firm subscriber to the proverb that if at first you don't succeed, try, try again. I admire that very much.

But there is also another reference, I think, from Ecclesiastes, that essentially there is a time and place for everything. This is not the time and this is not the place to pass this amendment, which adds \$2 billion to the national deficit.

I urge my colleagues to support the motion I am about to make, which is to table the amendment. The underlying amendment not only is not paid for, it is unbalanced. We had it packaged together here, and we voted on similar amendments, and it is time to get on with final passage of the minimum wage bill. That is what Americans are looking for. They want to increase the minimum wage. We should no longer dally here, with no disrespect for my colleague from Arizona. We are working on amendments that we worked on, that we had votes on.

I will make the motion and urge my colleagues to vote to table the underlying amendment.

Mr. KYL. Let me use the last minute of my time, and then I will yield to the leader.

The PRESIDING OFFICER. Actually, the time of the Senator has expired on the minority side.

The Republican leader is recognized.

Mr. MCCONNELL. Madam President, on my leader time, I yield a minute to the Senator from Arizona.

Mr. KYL. Madam President, I simply wanted to respond to the point the chairman of the committee just made, which is that this is not offset. The reason there is no pay-go point of order against this amendment is because the Baucus substitute already extends section 179 small business expensing through 2010 and includes the necessary offsets to cover 2010. This amendment merely extends that through 2012, years in which the pay-go scorecard has more than sufficient allocation to cover any revenue that Joint Tax projects would not be collected in those years. That is why there is no point of order and why we believe this is a fiscally responsible way to assist small business.

The PRESIDING OFFICER. The Republican leader.

Mr. MCCONNELL. Madam President, using some of my leader time, Republicans worked hard this week to make sure we pass a minimum wage bill that gives everybody a lift—the American worker who earns the wage and the American worker who pays it. The Kyl amendment reflects this basic concern for the worker and the wage payer, and I encourage all of our colleagues to give it their full support.

This amendment will let American business men and women deduct the

cost of tools and equipment the same year they buy it. This is clearly good news for employers and for workers. By giving business men and women the freedom to deduct costs right away, fewer will be forced to choose between new equipment and new hires. Republicans like Senator JON KYL are working hard to make sure we have a bipartisan accomplishment with this bill. I urge all of our colleagues on both sides of the aisle to give this amendment their full support.

Mr. BAUCUS. Madam President, I ask 1 minute on leader time on the majority side.

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

Mr. BAUCUS. It is very simple. This amendment is not paid for. It is scored as a \$2 billion additional hit to the deficit. It is not paid for, let's make that clear.

Second, we are talking about extending what is called section 179, which is the small business expensing provisions in the law. The underlying bill already extends 179 through 2010. It already does. This adds 2 more years at the cost of \$2 billion. We have time, maybe this year or next, to extend it when we can pay for it at the appropriate time.

But, again, the underlying bill very clearly takes care of small business expensing needs by extending 179 through 2010. Second, it is not paid for. We should not adopt this amendment.

Madam President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from South Dakota (Mr. JOHNSON) is necessarily absent.

Mr. LOTT. The following Senators are necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Nebraska (Mr. HAGEL).

The result was announced—yeas 49, nays 48, as follows:

[Rollcall Vote No. 37 Leg.]

#### YEAS—49

Akaka	Feinstein	Nelson (FL)
Baucus	Harkin	Obama
Biden	Inouye	Pryor
Bingaman	Kennedy	Reed
Boxer	Kerry	Reid
Brown	Klobuchar	Rockefeller
Byrd	Kohl	Salazar
Cantwell	Landrieu	Sanders
Cardin	Lautenberg	Schumer
Carper	Leahy	Stabenow
Casey	Levin	Tester
Clinton	Lieberman	Voinovich
Conrad	Lincoln	Webb
Dodd	McCaskill	Whitehouse
Dorgan	Menendez	Wyden
Durbin	Mikulski	
Feingold	Murray	

#### NAYS—48

Alexander	Bunning	Coleman
Allard	Burr	Collins
Bayh	Chambliss	Corker
Bennett	Coburn	Cornyn
Bond	Cochran	Craig

Crapo	Inhofe	Sessions
DeMint	Isakson	Shelby
Dole	Kyl	Smith
Domenici	Lott	Snowe
Ensign	Lugar	Specter
Enzi	Martinez	Stevens
Graham	McCain	Sununu
Grassley	McConnell	Thomas
Gregg	Murkowski	Thune
Hatch	Nelson (NE)	Vitter
Hutchison	Roberts	Warner

#### NOT VOTING—3

Brownback	Hagel	Johnson
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The motion was agreed to.

Mr. DURBIN. Madam President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Madam President, what is the pending business before the Senate?

The PRESIDING OFFICER. Under the previous order, the lone remaining amendment is amendment No. 115.

Ms. MIKULSKI. Madam President, I ask unanimous consent to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Ms. MIKULSKI. Madam President, I note the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order. The Senator from Maryland has the floor.

#### CLONED FOOD LABELING ACT

Ms. MIKULSKI. Thank you very much, Madam President. I rise today to talk about a bill I introduced last week. It is called the Cloned Food Labeling Act.

My colleagues would be shocked to realize that the FDA has announced that meat and milk products from cloned animals are safe for human consumption. My bill will require the Government to label any food that comes from a cloned animal or its progeny. My colleagues need to know I am strongly opposed to the FDA approving meat and milk products from cloned animals entering into our food supply, and I am not the only one. Most Americans actively oppose it, and scientists say we should monitor it. But the FDA decided food from cloned animals is safe to eat. And since the FDA decided it is safe, the FDA will not require it to be labeled as coming from a cloned animal or its progeny.

Now, the American people don't want it. They find it repugnant. Gallup polls report over 60 percent of Americans think it is immoral to clone animals, and the Pew Initiative on Food and Biotechnology found a similar percentage say that, despite FDA approval, they won't buy cloned milk. But what troubles me is not only what public opinion says but what the National Academy of Sciences says. They reported that—so far—studies show no problems with food from cloned animals. But they also admit it is a brand-new science. What about the unintended consequences? They caution the

Federal Government and recommend this technology be monitored for potential health effects and urge diligent post-market surveillance. Well, you can't do post-market surveillance if the food is not labeled. How do you know where the cloned food is?

So the FDA tells us once they determine it is safe, they will allow the food to enter the market, unidentified, unlabeled, and unbeknownst to us, and I find it unacceptable. Consumers would not be able to tell which food came from a cloned animal. So, here we have a picture of Dolly—the first cloned animal. Hello, Dolly! We say: Hello, Dolly. You have been approved for our food supply. Hello, Dolly. Welcome to the world of the Dolly burger. Hello, Dolly. Welcome home to Dolly in a glass. Hello, Dolly. Welcome to this plate of special cloned lamb chops when you are celebrating the 25th anniversary for your wife. I say: Goodbye, Dolly, the FDA's approval was baa, baa, baa.

I can't stop this from being approved by FDA, but I want an informed public to know what they have before them. Most Americans do not want this. They should not be required to eat it. I don't think they should be required to eat it without knowing what it is. Therefore, my legislation says any cloned food or its progeny would have to be labeled at the wholesale level, at the retail level, and at the restaurant level. This would ensure informed consent. To help the American public make this informed decision, I introduced a bill to require that all food which comes from a cloned animal or its progeny be labeled. This legislation will require the FDA and the Department of Agriculture to label all food that comes from a cloned animal. The label simply would read, "THIS PRODUCT IS FROM A CLONED ANIMAL OR ITS PROGENY." The public would be able to decide which food they want to buy—and I mean all food, not just packages in a supermarket but also the meals they choose from a menu.

Now, the FDA has responsibility to guarantee the safety of our food. Although many aspects of food safety are beyond their control, this is not. Scientists and the American people have the right to know. Consumers need to know which food is cloned and the scientists need to be able to monitor it. We don't know the long-term effect of cloned animals in our food supply.

What factors influenced the decision to deem food from cloned animals safe? Are they allowing an eager industry to force questionable science on an unknowing public? I am not so sure.

The FDA used to be the gold standard, but we have heard "it is safe" for too long. What if they are wrong? We were told asbestos was safe. Do you want asbestos in your home? We were told DDT was safe. Do you want to be sprayed with DDT? We were told thalidomide was safe. No pregnant woman today would take it. We were told Vioxx was safe. Does anyone with a

heart condition or high cholesterol want to take it? I don't think so. We have been down this road before regarding the safety of products.

When it is so unclear and so uncertain, I am saying let's take our time. If America doesn't keep track of this from the very beginning with clear and dependable labeling, our entire food supply could be contaminated. I worry about what happens to the consumer. I worry about it being eaten by ordinary folks. I worry about it being in our school lunch program. I worry about it because we do not know enough.

In Europe, they call this type of stuff "Frankenfood." I worry, then, that because it will be unlabeled, more of our exports will be banned. My State depends on the export of food—whether it is seafood or chicken or other products. I don't want to hear one more thing coming out of the EU about not wanting to buy our beef or our lamb because they are worried that it is Frankenfood. We need to be able to export our food. If it is labeled, we will be able to do that.

At the end of the day, I want our consumers to have informed consent, scientists to be able to monitor this, and Congress to be able to provide FDA oversight. I reject the notion that FDA or anyone else should allow this to go forward without some type of declaration about what it really is.

Please, when we see this creature, Dolly, in this photograph—I don't know its purpose; I don't know what it accomplishes. We do not have a shortage of food in our country; we don't have a shortage of milk in our country. For those people who want to produce Dolly, we can't stop it, but I do think we should stop the FDA from putting this into our food supply without labeling and without an informed consent.

I say bah, bah, bah to those who want to bring this into our food supply.

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

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

The bill clerk proceeded to call the roll.

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

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

#### AMENDMENT NO. 115

Mr. KYL. Mr. President, my understanding is that the pending business is amendment No. 115.

The PRESIDING OFFICER. That is the pending question.

Mr. KYL. Mr. President, I will briefly describe this amendment. It extends for an additional period of time three provisions of the Tax Code that relate to smaller businesses that the Committee on Finance agreed should have this tax relief and provides for a more balanced bill in terms of the extension of the tax provisions. It deals with leaseholds and restaurant renovations, new restaurant construction and owner-occupied retail. It is identical to

an amendment the Senate tabled last week except that it drops the revenue offset since Senator BAUCUS had identified that offset as the primary problem he had with the amendment.

Specifically, it would extend three provisions of the Small Business and Work Opportunity Act of 2007 through the end of 2008. The three provisions are the 15-year recovery period for leasehold improvements in restaurant renovations, as current law provides they run through the year 2007; 15-year recovery for new restaurant construction, which is a new provision; and another new provision, 15-year recovery period for retail improvements.

My chart shows what we have done in the Committee on Finance and what I am proposing here. These are the three provisions covered by the amendment before the Senate at this time. We have added the two new provisions in green for new restaurants and retail, and we have extended the leasehold and restaurant provision by 3 months. All three of these would expire at the end of March of next year. What we do in this amendment is extend them through the end of the year. The reason should be obvious: For businesses to plan ahead, they need a little bit of lead time. To provide only a 3-month extension, for example, is not very much tax relief.

We all acknowledge that the point of this relief in the first place, which the committee unanimously agreed to, was to help small business be able to offset the cost of the minimum wage increase. If we are going to do that, it should be meaningful. This amendment simply extends from a 3-month period to the end of the year and extends the two new provisions as well through the end of 2009.

Let me describe each of these three provisions.

The leaseholds and restaurant renovation provision under current law are depreciated over a 15-year period, but this treatment only applies to property placed in service by the end of 2007. The amendment that came out of the Committee on Finance, the Baucus Committee on Finance substitute, would extend this 15-year recovery period by 3 months for property placed in service by March 31, 2008.

Under the two new provisions, new restaurant construction, there is currently no law provision allowing for accelerated depreciation of new restaurant construction, and the Baucus Committee on Finance substitute provides to correct this problem with a 15-year recovery period for such new restaurants. It is an important and necessary change, but it only, under the Committee on Finance bill, provides the treatment from the date of enactment through March 31, 2008.

And the same thing for owner-occupied retail. There is currently no provision allowing for accelerated depreciation of improvements made to owner-occupied retail space. The Baucus Committee on Finance provides a 15-year

recovery period for improvements made to such spaces, thus putting these establishments on the same footing as leasehold. The bill provides this treatment from the date of enactment through March 31, 2008.

The committee had recognized the importance of these depreciation periods for owner-occupied retail, new restaurant construction, and leaseholds and restaurant renovations. There is no dispute about that, no debate about that. The only question is how far the relief should be extended.

While obviously everyone appreciates in this case the 3-month extension, it is hardly enough to be able to say to these small businesses: We solved your problem; we put a big burden of paying for the minimum wage increase on you, but we have enabled you to offset that by depreciating your property more quickly and being able to plan for your future construction needs. Clearly, that provision does not do the trick. Even these two new provisions, as welcome as they are, only extend the relief through March of next year. Again, what my amendment does is extend it through the end of the year. That is all it does.

Let me illustrate the importance of the tax provisions that the Finance Committee passed and which we are seeking to extend by this amendment.

If you stop and think about it, the policy justification for a 39-year depreciation recovery period for new construction of a restaurant, for example, makes no sense at all. How many of you know of any restaurant that has not done a thing to the restaurant for 39 years? If you are in the restaurant business, you have to constantly upgrade your facilities. Certainly, your kitchen facilities have to be upgraded. And new construction and renovation should obviously be treated the same way.

Under this bill, they are given a 15-year depreciation schedule. Now, that is the same depreciation schedule as for convenience stores, of course—a direct competitor of quick-service restaurants. They can use the 15-year depreciation schedule for all construction, new or renovation. Under their provision of the Tax Code, it is permanent law, so we do not have to extend it each year.

So what the Finance Committee has done is to try to bring some sense of balance and fairness into the code to treat like properties in a like way. If you are a fast-food restaurant, it does not matter whether you are a convenience store or regular restaurant, whether you build the place new or you simply spend the money to renovate, the expense of what you have done should be depreciated over the same period of time.

Fifteen years is probably too long, but that is the period that has been selected. It should be the same for all. By allowing restaurateurs to deduct the cost of renovations and new construction on this shorter schedule, many

more restaurant owners will be in a position to grow their business and to continue to create more jobs. That is the key to offsetting the expenses of the minimum wage.

By definition, encouraging more new restaurants to be built means more new restaurant jobs. That is a tautology. This is important because the restaurant industry is uniquely impacted by a minimum wage increase. Of the nearly 2 million workers earning the minimum wage, 60 percent work in the food service industry. Furthermore, the last time Congress increased the minimum wage, 146,000 jobs were cut from restaurant industry payrolls, according to information from the industry. That is why this provision I am offering today is so important. The very people who are going to bear the impact—namely, the workers in restaurants, who could see their jobs evaporate as a result of passage of the minimum wage increase—will find that their job is going to be OK when their restaurant can expand or build a new restaurant, thus creating more new jobs.

Instead of having to lay people off in order to pay the increased minimum wage, the businesses will be able to create more jobs and, therefore, everyone would be able to be employed by them. This is the theory. The Finance Committee agrees with the theory by adopting these two new provisions and extending the existing provision for 3 months. But as I said before, it did not do the job well enough.

This is very modest relief and hardly gives a restaurant, for example, the confidence it can continue to make improvements and receive the favorable tax treatment, the 15-year writeoff provision we are providing in the law. That is why it is important to continue to extend it. It would be nice if it were permanent, as it is for convenience stores. That is what it should be. It would be nice, as under the work opportunity tax credit, if it went out through the year 2012 or 2013. That would be nice. We are simply taking it to the end of the year 2009. That is not too much to ask to help these small businesses.

Let me just note a couple of the objections that came from the chairman. The first had to do with so-called balancing of the work opportunity tax credit and the tax relief for small businesses. Now, the work opportunity tax credit, as you can see with this red line on the chart, the committee bill went to the end of 2012. And these others only go through March of 2009. That is hardly balanced. Moreover, all of these provisions have always attracted bipartisan support.

It is not like the work opportunity tax credit is a Democratic provision and the retail improvements are a Republican provision. We have all supported both provisions. Both make sense. We understand that. So it is not like somehow there has to be a partisan reason to support this but not

support this, or this or this, as shown on the chart. We do not need partisan politics injected into this debate. So there is no reason now to politicize these issues, characterizing them as Republican or Democrat.

It is obvious the bill is not balanced. Even if you assume there should be some balance, the work opportunity tax credit, as I noted, is extended for 5 years, while the accelerated depreciation for leasehold and restaurant improvements is extended for a 3-month period.

As I noted before, the primary objection of the chairman before was over the offset. I understand that. It was a somewhat controversial offset. Of course, in the committee, when I offered this amendment, the chairman said unless I had an offset, it would be declared out of order. So we looked for and thought we had an offset that would be approved. But it turned out the chairman did not like that offset. That was his primary objection to this provision. So we will simply remove that offset and provide that we will extend the provisions for another 9 months through the end of 2009, without an offset of any tax increase.

But let me just make this point. We are talking about a very temporary extension of an important tax provision. This leasehold and restaurant provision has been in existence now for some time. We are extending it all of 3 months. Yet under the theory of those who say it has to be offset by a new tax increase, we would have to permanently find a source of revenue that would pay for this 3-month extension. That is a perversion of the pay-go concept. It is inappropriate, especially for provisions that generate jobs.

We should not have to pass a permanent tax increase in order to be able to fund a temporary provision of the Tax Code that helps to create new jobs. As I said before, when you build a new restaurant, you are creating new jobs. That is obvious. And when you create new jobs, you can better afford to hire the people who would be at the minimum wage, 60 percent of whom are in the restaurant business, and there is a job there for them.

So it makes sense to extend these provisions. The work opportunity tax credit, as beneficial as it might be, does not create new jobs. So if anything, you would want to balance with more emphasis on these three provisions than you would under the work opportunity tax credit.

So I guess the bottom line of this is that the reason for objecting to this provision, based on the lack of an offset, does not make sense in terms of practical economics, given the fact that the provisions that we would extend in 2008 are job creators and would create the very jobs that people earning the minimum wage could then move into.

Without the creation of these new jobs, some businesses are going to have to lay people off, and there will not be



jobs for them. This would provide for those jobs.

Mr. President, I guess the bottom line is this: We have seen, unfortunately, the debate over these amendments break down along primarily party lines. I think that is very unfortunate because a small business owner can be a Republican, a Democrat, or anybody else. They create the bulk of jobs in our society. They pay a huge amount of the taxes. They will be the ones most hard hit by the increase in the minimum wage.

If we pass a minimum wage increase with bipartisan support, it seems to me we should follow the leadership of the Finance Committee in extending these tax provisions in a bipartisan way. And when we only extend a provision for 3 months, to me, it is not a good-faith recognition of the problem we have placed on that small business by the imposition of the minimum wage mandate. We need to keep faith with those businesses by providing a longer extension of the tax provisions that benefit them in a way that enables them to pay for this minimum wage increase. That is how we would be keeping faith with these small businesses.

So I hope we can eschew the partisanship that has characterized the previous votes, we can appreciate the importance of extending these provisions which, after all, were created in a totally bipartisan way in the Finance Committee, and we can recognize it is possible to both raise the minimum wage for low-income workers and help create new jobs for them with these tax provisions.

I hope when it comes time to consider a motion to table this particular provision that my colleagues will vote against a motion to table or support the provisions if we have the opportunity for an up-or-down vote.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, on behalf of the majority leader, I ask unanimous consent that the time until 4 p.m. be equally divided and controlled between Senators BAUCUS and KYL, or their designees, for debate with respect to the Kyl amendment No. 115, as modified; that at 4 p.m. the Senate proceed to vote in relation to the amendment; that upon disposition of the Kyl amendment, without further intervening action or debate, all time be considered yielded back and the Senate proceed to vote on the Baucus-Reid substitute amendment No. 100, as amended; that upon disposition of the substitute amendment, there be 4 minutes of debate equally divided and controlled between the majority and minority leaders or their designees, and the Senate then proceed to vote on the motion to invoke cloture on H.R. 2, as amended.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

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

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

Mr. KYL. Mr. President, I ask unanimous consent that all time under the previous quorum call and this quorum call and any future quorum call be equally divided between the two sides.

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

The Senator from Montana.

#### TRADE PROMOTION AUTHORITY

Mr. BAUCUS. Mr. President, earlier today President Bush called for renewal of fast-track trade negotiating authority, otherwise known as trade promotion authority, otherwise known as TPA. Fast-track authority expires 6 months from today. Many view this date with fear and trepidation. I do not. I view it as an opportunity to take a hard look at the direction of America's trade policy. It is an opportunity to air differences and an opportunity to find common ground.

Trade policy is a bargain, a bargain struck between the American Government and the American people. Americans trust their Government to use trade policy to expand export opportunities, create jobs, to fuel our economy. In exchange for that trust, Americans expect their Government to make sure that trade works for them, and they expect their Government to take action when it does not. That is the fundamental debate in which we, as a nation, must engage. Does trade work for the American farmer, rancher? Does trade work for American factory workers? Does trade work for the American economy?

I believe it does. I believe trade creates opportunities. I believe trade generates American jobs. I believe trade bolsters our global competitiveness. I believe trade allows us to project America's values to the world. And I believe the alternative, erecting barriers to trade, is self-defeating and will not make anyone better off. That is why, during my years in Congress, I have long supported granting the President fast-track authority. The success of America's ranches and farms, the success of businesses big and small, requires that the President have this authority.

Twelve million American jobs depend on exports. Exports account for a tenth of our country's gross domestic product. Montana exports 60 percent of the wheat grown there.

But there are other voices. Many have deep and legitimate concerns about the effect of trade and globalization. Many equate trade with ballooning deficits, stagnating wages, and job layoffs. Many view the growth of China and India as threats rather than as opportunities. Many point to abhorrent labor and environmental

conditions in some of our trading partners. And many no longer trust the Government to do its part to take care of the Americans whom trade leaves behind.

These concerns are real. They are deeply felt. And we cannot ignore them. True leadership requires that we address these concerns head on. The expiration of trade promotion authority allows us to have this debate. It reminds us we cannot consider renewal of this authority in a vacuum. It underscores the paramount importance of restoring America's faith and confidence in our trade policy, a huge opportunity. In the process, we will examine a series of critical issues. These are issues we must address as we consider whether to reauthorize trade promotion authority.

First, we must make trade adjustment assistance, otherwise known as TAA, more reflective of today's innovative economy. TAA is America's commitment to provide wage and health benefits while trade-displaced workers retool, retrain, and find better jobs. A renewed TAA must do what today's program does not. It must be made available to the 8 out of 10 American workers who make their money in service professions. It must apply to all workers displaced by trade, not just those affected by free-trade agreements. The time has come to consider other ways to help workers displaced not just by trade but by other aspects of globalization, including the advance of technology.

Second, we have to address concerns that our trade agreements encourage companies to move jobs to countries where substandard labor and environmental policies occur. We need to find common cause with those who abhor child and sweatshop labor anywhere. We need to acknowledge the justifiable ends of those who want to employ trade to help stop despoliation of the planet. We project our values as Americans when we use our trade agreements to create a race to the top. As our trade agreements require our partners to step up their protection of investments and intellectual property, so our agreements should lead to improvements in our partners' labor and environmental protections.

Third, we cannot conclude more trade agreements without giving Americans the confidence that we vigorously enforce those agreements already on the books. Too many of our partners cheat and maintain bogus barriers against American exports. For example, look at Korea's unscientific ban on beef; look at the illegal subsidies China grants to its manufacturers. But the trade-enforcement tools that Congress created in the 1970s and 1980s, such as section 301, are outdated. They no longer function as intended. It is time to take a hard look at these tools. We should redraft them so they better address the trade barriers that American exporters face in today's global economy.

Fourth, we cannot expect Americans to support trade when they see ever-ballooning trade deficits. Our trade deficit with China this year will approach \$300 billion. That is unsustainable. We need to get our balance sheet back in line. That requires us to boost U.S. exports through better enforcement and better export promotion. That requires us to call out countries such as China, possibly even Japan, that use the value of their currency to gain a trade advantage. And it means action at home to improve public and private savings.

Fifth, a successful trade policy means that America must be the most competitive nation in the world. American workers need to know they can compete and they can win on a global playing field. And we need to take a good, hard look at how health care costs, our education system, and tax policies affect America's global competitiveness. As I did in the last Congress, I will push competitiveness at every opportunity. I will work for passage of legislation that will guarantee America's economic preeminence for years to come.

With trade promotion authority about to expire, the locus of trade policy shifts back to Congress. We have both the opportunity and responsibility to create the next trade policy that will guide us and guide this country forward. We need to work together, clearly, obviously, on trade to find answers to the hard questions. We need to work together on trade to shore up our international leadership, sorely needed. And most of all, we need to work together on trade to restore our bargain with the American people.

I suggest the absence of a quorum and ask unanimous consent that the time be charged equally against both sides.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Before the Senate today is the exact same amendment offered by my colleague from Arizona, Senator KYL, that the Senate rejected last Thursday. The only difference is that Senator KYL has modified the amendment to make it even more pernicious; that is, by removing the offset. Thus, the pending amendment would add nearly another \$3 billion to the deficit in the next 10 years.

The Senate rejected the Kyl amendment last week, but we are here yet again today considering these same issues. This time around, my colleague does not attempt to offset those cuts. Rather, his amendments would put another \$3 billion hole in our budget. The amendment would pile onto a deficit that we are desperately trying to erase.

Many of us support the policy behind these provisions. We would not have included them in our bill if we did not. As I told the Senator from Arizona at our committee markup, if we could have made these provisions permanent, I certainly would have done so. But the underlying substitute amendment is the product of a Finance Committee hearing, deliberation, and markup. It is balanced. It is revenue neutral. And all Members supported it—it passed unanimously—including the Senator from Arizona.

Senators made compromises to get this bill to the floor, and we have done so. I must say, though, I admire the persistence of my good friend from Arizona. He is the original "energy bunny" of tax cut amendments. I commend him for that. But he was not successful in committee, and he was not successful on the floor last week. I hope and trust that that was because the Senate would like to provide a balanced package of tax incentives. I hope and trust that the Senate wants a package that does not worsen our deficit. Therefore, I oppose adding another \$3 billion in tax provisions to this already \$8 billion bill. The \$8 billion is paid for. The amendment by the Senator would add another \$3 billion and that would not be paid for.

At the appropriate time, I intend to raise a budget point of order against the amendment. I strongly urge my colleagues to vote against the motion to waive that point of order, which I assume will occur in not too many minutes from now.

I suggest the absence of a quorum and ask unanimous consent that the time be equally divided.

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

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. BAUCUS. Mr. President, I raise a point of order that the pending amendment violates section 505(a) of H. Con. Res. 95, the concurrent resolution on the budget for fiscal year 2004. On behalf of Senator KYL, I move to waive the applicable provisions for the consideration of the amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senators were necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Nebraska (Mr. HAGEL).

The PRESIDING OFFICER (Mr. SALAZAR). Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 46, nays 50, as follows:

[Rollcall Vote No. 38 Leg.]

#### YEAS—46

Alexander	Dole	McConnell
Allard	Domenici	Murkowski
Bayh	Ensign	Nelson (NE)
Bennett	Enzi	Roberts
Bond	Graham	Sessions
Bunning	Grassley	Shelby
Burr	Gregg	Smith
Chambliss	Hatch	Specter
Coburn	Hutchison	Stevens
Cochran	Inhofe	Sununu
Coleman	Isakson	Thomas
Collins	Kyl	Thune
Cornyn	Lott	Vitter
Craig	Lugar	Warner
Crapo	Martinez	
DeMint	McCain	

#### NAYS—50

Akaka	Feinstein	Nelson (FL)
Baucus	Harkin	Obama
Bingaman	Inouye	Pryor
Boxer	Kennedy	Reed
Brown	Kerry	Reid
Byrd	Klobuchar	Rockefeller
Cantwell	Kohl	Salazar
Cardin	Landrieu	Sanders
Carper	Lautenberg	Schumer
Casey	Leahy	Snowe
Clinton	Levin	Stabenow
Conrad	Lieberman	Tester
Corker	Lincoln	Voinovich
Dodd	McCaskill	Webb
Dorgan	Menendez	Whitehouse
Durbin	Mikulski	Wyden
Feingold	Murray	

#### NOT VOTING—4

Biden	Hagel
Browback	Johnson

The PRESIDING OFFICER. On this vote, the yeas are 46, the nays are 50. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. DURBIN. I move to reconsider the vote.

Mr. CARPER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The point of order is sustained and the amendment fails.

Mr. KENNEDY. Mr. President, as I understand it, there is 4 minutes equally divided?

#### AMENDMENT NO. 100, AS AMENDED

The PRESIDING OFFICER. The Senator will withhold.

Under the previous order, the question now is on agreeing to the substitute amendment, as amended.

The amendment (No. 100), as amended, was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote.

Mr. ENZI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

#### CLOTURE MOTION

The PRESIDING OFFICER. There will now be 4 minutes of debate equally divided before the cloture vote on the bill.

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I rise today to speak in support of cloture on the

underlying bill. I appreciate the wise direction that this body has decided upon with regard to the minimum wage. We have correctly concluded that raising the minimum wage without providing relief for the small businesses that must pay for that increase is simply not an option. I hope this is an approach that our colleagues in the House will not derail. This approach recognizes that small businesses have been the steady engine of our growing economy and they have been the source of new job creation. It, also, recognizes that small businesses in every sense of the phrase are middle class families too.

I am proud the body has chosen a path which attempts to preserve this segment of the economy which employs so many working men and women and trains them. The Senate has recognized the simple fact that a raise in the minimum wage is of no benefit to a worker without a job or a job seeker without a prospect.

As this Congress moves forward, we will need to confront a range of issues facing working families. Lessons in this debate should not be forgotten as we approach complex issues. Yesterday, we were referencing the so-called war on the middle class. That is partisan rhetoric which was never accurate and is now simply divisive. Who is more middle class than America's small business men and women? Tax relief to the middle-class small business owners who must pay the cost of this wage increase mandate is no attack on the middle class. An attack would be passing the bill without such tax relief.

I urge my colleagues to support cloture, and I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KENNEDY. Mr. President, it has been 8 days—8 days since we started this debate on the minimum wage. Every Member of this body has made \$4,500, and yet we haven't been able to get an increase in the minimum wage from \$5.15 to \$7.25. Forty-five hundred dollars, everyone has made in this body, but minimum wage workers have still been denied. Eight days.

How long does it take? How long does it take for this body to be able to say: Yes, we are going to increase the minimum wage. How many more amendments are over there on the Republican side? We have none. We are prepared to vote on final passage right now. But oh, no, we can't do that. There should be no doubt in the minds of working families, of the middle class, who is standing for those who are earning the minimum wage.

Since we started this debate, there have been thousands of meals that have been served in nursing homes. There have been thousands of beds that have been made in hotels around this country. There are 6 million children who will benefit from this increase in the minimum wage, who can't afford books to read, who can't afford to buy

a present to go to a birthday party, and who can't spend enough time with their parents, because their parents are working 2 or 3 jobs. Today there are 50,000 wives or husbands of soldiers serving in our armed forces who are earning the minimum wage. We can do a favor for those individuals and treat them with respect and dignity by voting for the increase in the minimum wage. We ought to do that right now.

Mr. President, I ask unanimous consent that we vote on final passage right now.

The PRESIDING OFFICER. Is there objection?

Mr. ENZI. Mr. President, we have a process that is set up and a vote that is called for, and I think we ought to follow that process. I think we have made a lot of progress, and as long as we continue to have progress in a bipartisan way, this will make it through the process. It has been something everybody pledged themselves to early, and I hope we haven't broken that pledge. I object.

The PRESIDING OFFICER. Objection is heard.

The majority leader is recognized.

Mr. REID. Mr. President, before the vote is called, I wish to alert everyone here that the distinguished Republican leader and I are negotiating, trying to work something out on Iraq, which is the next issue we will go to when we finish this bill, which will be tomorrow sometime. It is very possible we are going to have a vote Monday at noon on the Iraq issue—everyone should understand that—Monday at noon. We hope that be can avoided, but we may not be able to avoid it. The Republican leader and I are doing our best to work something out. We have had a number of meetings, and we will continue to do that throughout the day.

#### CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order and pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The legislative clerk read as follows:

#### CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close the debate on Calendar No. 5, H.R. 2, as amended, providing for an increase in the Federal minimum wage.

Ted Kennedy, Barbara A. Mikulski, Daniel K. Inouye, Byron L. Dorgan, Jeff Bingaman, Frank R. Lautenberg, Jack Reed, Barbara Boxer, Daniel K. Akaka, Max Baucus, Patty Murray, Maria Cantwell, Tom Harkin, Robert Menendez, Tom Carper, Harry Reid, Charles E. Schumer, Richard Durbin.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on H.R. 2, as amended, an act to amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Delaware (Mr. BIDEN) and the Senator from South Dakota (Mr. JOHNSON) are necessarily absent.

Mr. LOTT. The following Senators were necessarily absent: the Senator from Kansas (Mr. BROWNBACK) and the Senator from Nebraska (Mr. HAGEL).

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 88, nays 8, as follows:

[Rollcall Vote No. 39 Leg.]

#### YEAS—88

Akaka	Enzi	Murray
Alexander	Feingold	Nelson (FL)
Allard	Feinstein	Nelson (NE)
Baucus	Graham	Obama
Bayh	Grassley	Pryor
Bennett	Gregg	Reed
Bingaman	Harkin	Reid
Bond	Hatch	Roberts
Boxer	Hutchison	Rockefeller
Brown	Inhofe	Salazar
Bunning	Inouye	Sanders
Burr	Isakson	Schumer
Byrd	Kennedy	Sessions
Cantwell	Kerry	Shelby
Cardin	Klobuchar	Smith
Carper	Kohl	Snowe
Casey	Landrieu	Specter
Chambliss	Lautenberg	Stabenow
Clinton	Leahy	Stevens
Cochran	Levin	Sununu
Coleman	Lieberman	Tester
Collins	Lincoln	Thomas
Conrad	Lott	Thune
Corker	Lugar	Voinovich
Cornyn	McCain	Warner
Dodd	McCaskill	Webb
Dole	McConnell	Whitehouse
Domenici	Menendez	Wyden
Dorgan	Mikulski	
Durbin	Murkowski	

#### NAYS—8

Coburn	DeMint	Martinez
Craig	Ensign	Vitter
Crapo	Kyl	

#### NOT VOTING—4

Biden	Hagel
Brownback	Johnson

The PRESIDING OFFICER. On this question, the yeas are 88, the nays are 8. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative, the motion is agreed to.

Mr. SCHUMER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

#### MORNING BUSINESS

Mr. DURBIN. Mr. President, I ask unanimous consent that the Senate proceed to a period of morning business with each Senator allowed to speak for no more than 10 minutes and that the time shall run against postcloture time.