

NOT VOTING—6

Byrd	Graham	McCain
Clinton	Kennedy	Obama

The ACTING PRESIDENT pro tempore. On this vote, the yeas are 51, the nays are 43. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mr. REID. Mr. President, I enter a motion to reconsider the vote by which cloture was not invoked on the motion to proceed to S. 3044.

The ACTING PRESIDENT pro tempore. The motion is pending.

Mr. REID. Mr. President, because the subway was broken, it made it difficult for some Senators to make it here in time. We had to extend the vote for quite a long period of time.

I have spoken to the Republican leader. I think we would be well served by having the vote on the next cloture motion. We will vote only on one of the judges now. We will come back after lunch and do the others. I will work the time out with the Republican leader. Hopefully, the first business we will conduct will be the votes on the other two district court judges. We won't have time to do them this morning. I will work with the Republican leader and we will come up with a time and give everybody ample notice about when the next vote will occur.

I ask unanimous consent that we have the vote on the first judge, the judge from Virginia, now, and that we then have the vote on the two subsequent judges at a time to be determined by the majority leader in consultation with the Republican leader.

The ACTING PRESIDENT pro tempore. Is there objection?

Without objection, it is so ordered.

RENEWABLE ENERGY AND JOB CREATION ACT OF 2008—MOTION TO PROCEED

The ACTING PRESIDENT pro tempore. The Senator from Montana is recognized.

Mr. BAUCUS. Mr. President, I ask unanimous consent to speak for 1 minute to explain the next vote.

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

Mr. BAUCUS. Mr. President, this vote is about jobs, energy, and paying our Nation's bills. There may be times when delay does not have a significant adverse impact. Today is not one of those days.

The bill before us is a good bill. It extends tax cuts that expired last December.

Companies across America are deciding whether to renew research contracts. Energy companies are deciding whether to buy and build wind turbines. These decisions support jobs.

This bill encourages the search for new and clean energy sources. Harnessing power from ocean waves. Capturing carbon emissions.

This bill also extends expiring individual provisions, including the teach-

er expense deduction and the tuition deduction.

And the bill pays for itself with provisions that are not tax increases. With gasoline topping \$4 per gallon, the American people do not want us to delay.

Is the bill perfect? No.

Will the Senate change it? Yes.

Let's get on with making those changes. I urge my colleagues to support the motion to begin debate on this bill.

The ACTING PRESIDENT pro tempore. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, I ask unanimous consent to speak for 1 minute.

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

Mr. GRASSLEY. Mr. President, I ask my colleagues not to give consent to cloture at this time because there are a lot of matters in this bill that ought not be in here. We have matters in here for trial attorneys, and we have matters in here for Davis-Bacon.

We are talking about solving a housing crisis. This is not the way to do it. We ought to give more consideration to it, and not granting cloture is one way of giving greater consideration to what we are going to do.

CLOTURE MOTION

The ACTING PRESIDENT pro tempore. Under the previous order, pursuant to rule XXII, the clerk will report the motion to invoke cloture.

The bill 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, hereby move to bring to a close debate on the motion to proceed to Calendar No. 767, H.R. 6049, the Renewable Energy and Job Creation Act of 2008.

Harry Reid, Barbara Boxer, Sherrod Brown, Robert Menendez, Kent Conrad, Daniel K. Inouye, Byron L. Dorgan, Jon Tester, Richard Durbin, Patty Murray, Max Baucus, John D. Rockefeller, IV, Maria Cantwell, Frank R. Lautenberg, John F. Kerry, Blanche L. Lincoln, E. Benjamin Nelson.

The ACTING PRESIDENT pro tempore. By unanimous consent, the mandatory quorum call is waived.

The question is, Is it the sense of the Senate that debate on the motion to proceed to Calendar No. 767, H.R. 6049, the Renewable Energy and Job Creation Act of 2008, shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mrs. CLINTON), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Illinois (Mr. OBAMA) are necessarily absent.

Mr. KYL. The following Senators are necessarily absent: the Senator from

South Carolina (Mr. GRAHAM) and the Senator from Arizona (Mr. MCCAIN).

The ACTING PRESIDENT pro tempore. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 44, as follows:

[Rollcall Vote No. 147 Leg.]

YEAS—50

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

NAYES—44

Alexander	Crapo	Martinez
Allard	DeMint	McConnell
Barrasso	Dole	Murkowski
Bennett	Domenici	Roberts
Bond	Ensign	Sessions
Brownback	Enzi	Shelby
Bunning	Grassley	Specter
Burr	Gregg	Stevens
Chambliss	Hagel	Sununu
Coburn	Hatch	Thune
Cochran	Hutchison	Vitter
Coleman	Inhofe	Voinovich
Collins	Isakson	Warner
Cornyn	Kyl	Wicker
Craig	Lugar	

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The ACTING PRESIDENT pro tempore. On this vote, the yeas are 50, the nays are 44. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

Mrs. MURRAY. Mr. President, I move to reconsider the vote.

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

The motion to lay on the table was agreed to.

Ms. SNOWE. Mr. President, I rise to urge my colleagues to join me in voting to proceed to the tax extenders legislation on the floor. This legislation represents a fiscally responsible and balanced approach to ensure that necessary tax provisions for hardworking American families and indispensable small businesses do not expire.

At a time when our economy teeters on the brink of recession—when unemployment increased 5.5 percent last month—the biggest monthly jump in 12 years—when gasoline at the pump is more than \$4 a gallon and climbing, when the cost of a dozen eggs has risen 38 percent in the last year alone, when oil costs are set to reach \$140 per barrel and analysts are predicting a rise to \$150 by July 4th, and when foreclosures have hit historic levels—is there any question that the American people expect—even demand, not just action but action leading to results. We must forge together the results that address these central issues facing the U.S.

economy and the millions of Americans who are anxiously awaiting action from leaders. And while Congress will be forced to make difficult choices on some of these issues in the coming months, this issue—whether to extend critical tax incentives right now should be, frankly, a straightforward decision.

And now before us is legislation that would extend critical energy tax credits—including the catalyst that caused a 45-percent growth in wind energy last year and energy efficiency tax credits that creates an incentive to reduce energy demand. And we are really debating this question when we saw oil rise by \$11 per barrel in a single day to \$139? To be blunt, this country must wake up and recognize the ramifications of an energy crisis that we have not addressed for 30 years—and counting. Dr. Cooper of the Consumer Federation of America has estimated that from 2002 to 2008 annual household expenditures on energy increased from about \$2,600 to an astonishing \$5,300. The impact in Maine, where 80 percent of households use heating oil to get through a winter, is even worse. Last year at this time, prices were at a challenging \$2.70 a gallon—for the average Mainer who goes through 1,000 gallons of oil that is \$2,700. The price now is \$4.70 meaning that it will cost a Mainer \$4,700 just to stay warm not even considering gasoline costs. That is the difference between a burden and a crisis.

Indeed, the energy efficiency tax incentives and the renewable production tax credit—critical vehicles for moving our country to self sufficiency—are set to expire at the end of this year and some have already expired at the beginning of this year. This is the antithesis of the energy policy that our nation must be employing to address rising energy costs.

Energy efficiency is singlehandedly the most effective investment that our country can make to address the calamity of our energy policy. It is derelict that we would allow energy efficiency tax credits to expire. In fact, some tax credits have already expired, and as a result, there are currently no incentives to purchase efficient furnaces. At a time when Americans are worried about heating bills in June, we must provide the assistance to allow Americans to invest in energy efficient products that will reduce our collective demand for energy, and save Americans money.

For example, included in this package is a \$300 tax credit to purchase a high efficiency oil furnace, which would save over \$180 in annual savings for an average home—according to calculations based on Department of Energy data and recent home heating prices. In addition, this includes an extension of a tax credit for highly efficient natural gas furnaces that saves an individual \$100 per year. However, this tax credit ended at the beginning of this year—right when oil prices began their historic climb.

For businesses that are competing against countries that subsidize oil the

situation is simply untenable. Two weeks ago, Katahdin Paper Company announced that the cost of oil used to run its boilers has caused the company to consider closing the mill's doors. Now, talks are under way to find alternative solutions to preserve the mill's operations and its accompanying jobs, but make no mistake; we are at the tipping point where our economy could well be in ruins directly as a result of high energy costs.

With jobs being lost because of high energy costs, it is crucial that we invest in renewable energy jobs—that will put our economy back to work and invest in secure energy future. Indeed over one hundred thousand Americans could be put to work in 2008 if clean energy production tax credits were extended. However, because the incentives are set to expire this year, renewable energy companies are already reporting a precipitous decrease in investment due to uncertainty. Projects currently underway may soon be mothballed. Clean energy incentives for energy efficient buildings, appliances and other technologies, as well as additional funding for weatherizing homes, would similarly serve to stimulate 2008 economic consumption, lower residential energy costs, and generate new manufacturing and construction jobs. It is irresponsible to allow a bright spot in our economy, the renewable energy industry and energy efficiency industries, to falter, when the product of these industries are so essential to the future of this country.

Failing to act on these crucial incentives could choke off promising business investment in 2008 and miss an opportunity to address high energy costs, a critical contributor to sinking consumer confidence and our Nation's long-term economic challenges. Extending these expiring clean energy tax credits will help ensure a stronger, more stable environment for new investments and ensure continued robust growth in a bright spot in an otherwise slowing economy. This bill presents another opportunity to raise the bar for our future domestic energy systems and energy efficiencies, benefitting our economy, our health, our environment, and our national security.

Not only does the legislation address these critical energy tax provisions, but also extends relief for lower and middle-income Americans, as well as small businesses. In particular, there are a number of provisions that I have championed that have been included by the House legislation and Chairman BAUCUS' amendment.

Fed Chairman Bernanke testified before the House Budget Committee earlier this year that, "a fiscal stimulus package should be implemented quickly and structured so that its effects on aggregate spending are felt as much as possible within the next twelve months or so." Without a doubt, one way to affect spending and help working Americans meet the challenges ahead of us and provide for the families is pro-

viding a tax rebate. Another measure that Senator LINCOLN and I have long championed would enable more hard-working, low-income families to receive the refundable child credit by reducing the income threshold for the refundable credit to \$10,000 and deindexing it from inflation just as it originally passed the Senate in 2001.

The consequences of inaction are serious for low-income Americans living paycheck-to-paycheck, and our proposal will ensure that those low-income, hard-working families that benefit from this credit the most receive it. And, I am very pleased that the House included a version of our proposal, one in which, I might add, would already be putting money in people's pockets had it already been enacted into law providing further economic stimulus during these challenging times.

To ensure that much needed capital investment reaches all corners of the country, the extenders package rightly includes an extension of the new markets tax credit. This program has proven extremely successful in encouraging investment and spurring growth in impoverished areas all across the country, both rural and urban. Senator ROCKEFELLER and I have championed extending this vital incentive with the New Markets Tax Credit Extension Act, S. 1239, a bill that enjoys the bipartisan support of 27 cosponsors.

To provide relief and equity to our Nation's 1.5 million retail establishments, most of which have less than five employees, I have introduced with Senators LINCOLN, KERRY, and HUTCHISON. This provision would reduce from 39 to 15 years the depreciable life of improvements that are made to retail stores that are owned by the retailer. If the motion to proceed passes, I believe that we will have an opportunity to address this inequity given the support for this provision expressed by the chairman of the Finance Committee.

In 2004, I fought for the inclusion of incentives to stop the flow of film productions offshore into the FSC-ETI bill. Consequently, I was very pleased to see the House include an extension of this vital incentive for film production companies planning whether and where to film. The House also included a critical modification to the incentive. Specifically, it would remove the \$15 million cap on film productions eligible for the incentive and instead limiting the deduction to the first \$15 million as the provision was originally passed in the Senate before being amended in conference. This is an issue that I have also worked on with my good friend, the senior Senator from Arkansas, and am so pleased with this provisions inclusion.

So as we can see, this bill provides the Senate an opportunity to consider a number of provisions that are vital in helping our economy weather the recent downturn it is experiencing. The provisions that I have just outlined

will unleash renewable energy projects creating jobs, provided targeted tax relief to low-income working families struggling to pay for the high cost of food and fuel, encourage an infusion of capital into rural and urban communities, provide tax incentives for retail businesses looking to grow their business, and help keep the jobs associated with film production within our borders. Not to mention, the tax extenders bill also includes provisions such as the R&D tax credit, the tuition deduction and the teachers classroom expenses deduction that are widely supported on both sides of the aisle.

Clearly, this tax extenders package is critical to Congress's ongoing efforts to reverse the economic slowdown that our Nation is facing. For the fifth month this year, U.S. employers have cut jobs including 49,000 in the month of May alone. The number of Americans filing first-time claims for unemployment benefits is at its highest level since October of 2004 and the increase in the rate was the largest since 1986.

The Senate should move forward on extending expiring tax relief. There are some aspects of the House bill that I believe should be improved upon, such as providing an AMT patch to stop the expansion of this mass tax. Some on the other side of the aisle believe we should at least attempt to pay for tax relief, a position I happen to agree with. Others on my side of the aisle believe that shouldn't continue to be a maintenance Congress, continually passing short-term temporary tax relief, a position that I also happen to agree with.

There are differences of opinion, but what is the Senate afraid of? What are we afraid of? To debate and to vote on various positions? Some of those issues and positions I would disagree with. But does that mean to say the Senate cannot withstand the conflicting views of various Members of the Senate? It is not unheard of, that both sides of the political aisle will have differing views. So, I would urge my colleagues to join me in supporting the motion to proceed. If the motion succeeds, I am hopeful that we can do what the Senate ought to do—that is find some common ground on an amendment process and a way forward to finally dispose of the legislation and enact this legislation sooner rather than later.

I came to this discussion to work on this issue, to debate, which is consistent with the traditions and principles of this institution, which has been its hallmark. That is why it has been considered the greatest deliberative body in the world. Unfortunately, it is not living up to that expectation or characterization, regrettably.

Let's have an open and unfettered debate, which is consistent with this institution that is predicated on our Founding Fathers' vision of an institution based on accommodation and consensus. You have to get 60 votes. So let's work it out. Let's clear this first

hurdle and proceed to the bill. My side of the aisle will still have another 60 vote threshold to ensure that their concerns are heard.

The Senate is based on consensus. It is based on compromise. It is based on conciliation. It is based on the fact that you have to develop cooperation in order to get anything done. It is not unusual. If historically we took the position: You missed your chance because there are disparate views, so that there would be no opportunity to further discuss or negotiate—we missed our chance? Are we talking about scoring political points? Are we talking about what is the best tax policy for this country?

I am concerned we are taking a political U-turn away from the message in the last election. I was in that last election. I heard loudly and clearly. I don't blame the people of Maine or across this country for their deep-seated frustration. They are right. There was too much partisanship and too much polarization.

What's required now is leadership. We need leadership for this country. They are thirsting for a strong leadership, an honorable leadership that leads us to a common goal. No one expected unanimity in the Senate but we would give integrity to this process to allow it to work and not cynically say who is winning and who is losing today politically. We are not shedding the political past. We have made a political U-turn. We are returning to it.

This isn't about party labels. This isn't whether it is good for Republicans or good for Democrats. It is what is good for America. It is not about red States and blue States. It is about the red, white, and blue. Fact is that with every day that we delay, there are millions of taxpayers in all 50 States who literally will pay the price for our inaction.

I hope we can find a way. What could be of higher priority than to be able to debate and to vote on our respective positions, to give a vote on AMT relief and expiring tax provisions that is so important that a majority of Senators support? Is there anyone in this Chamber who does not think we should extend expiring tax relief?? I know we can build the threshold for the 60. It is imperative we do it. It is inexcusable, frankly, that on the process of debating, we cannot reach an agreement. We are failing the American people on a colossal scale. We are held up by arcane procedural measures that could be worked out, if only we reached across the political aisle.

If my remarks sound familiar, then well they should because regrettably I said much the same thing in February of last year at the start of this Congress on another pressing issue of our time. Sadly as we now approach the end of the first session of the 110th Congress, things seemed to have not changed very much. I would hope when we finally adjourn after hopefully extending this critical tax relief that

each and every one of us will return to our homes and when the clock strikes midnight on December 31, that we all make a New Years resolution to make the next Congress a more productive session with Members reaching across the aisle looking for consensus. If we do not, there is one thing that is for certain; the American public is watching.

EXECUTIVE SESSION

NOMINATION OF MARK STEVEN DAVIS TO BE UNITED STATES DISTRICT JUDGE FOR THE EASTERN DISTRICT OF VIRGINIA

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The legislative clerk read the nomination of Mark Steven Davis, of Virginia, to be United States district judge for the Eastern District of Virginia.

The ACTING PRESIDENT pro tempore. We now have 10 minutes of debate equally divided between the chairman and the ranking member. Who yields time?

If no one yields time, time will be charged equally to both sides.

The Senator from Missouri.

Mr. BOND. Mr. President, may I ask for 1 minute from the ranking member.

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

Mr. BOND. Mr. President, my thanks to the committee leaders for bringing forward the nominations to the Senate of Judge Greg Kays and Stephen Limbaugh to be Federal district court judges for the Western and Eastern District Courts of Missouri. Both Judge Kays and Judge Limbaugh are outstanding nominees for the Federal bench. They share bipartisan support, have fine legal minds, long records of public service, and represent the values and character of my Missouri constituents.

Both men's modesty matches the modest size of their Midwestern hometowns. But as we have seen so many times in our history, great men, men of learning, men of intellect and excellence, come from modest places.

One should not doubt this to be the case. Values of fairness, service, kindness, community, learning, self-reliance, and personal responsibility are those that we value in our constituents, in our small-town communities, and we should value in our judges. I think this confirmation process has succeeded in producing two such men.

I thank the Chair, I thank my ranking member, and I yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. REID. Mr. President, I have spoken to the chairman of the Judiciary Committee and to the Republican leader. We will enter a formal unanimous