

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 I ask unanimous consent that the order for the quorum call be rescinded.

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

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2007

The PRESIDING OFFICER. The clerk will please report the pending business.

The legislative clerk read as follows:

A bill (S. 2766) to authorize preparations for fiscal year 2007 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

McCain amendment No. 4241, to name the act after John Warner, a Senator from Virginia.

Nelson (FL)/Menendez amendment No. 4265, to express the sense of Congress that the Government of Iraq should not grant amnesty to persons known to have attacked, killed, or wounded members of the Armed Forces of the United States.

McConnell amendment No. 4272, to commend the Iraqi Government for affirming its positions of no amnesty for terrorists who have attacked U.S. forces.

Dorgan amendment No. 4292, to establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

Mr. KENNEDY. Mr. President, I ask unanimous consent to lay aside the pending amendments.

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

AMENDMENT NO. 4322

Mr. KENNEDY. I call up my amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY] proposes an amendment numbered 4322.

Mr. KENNEDY. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend the Fair Labor Standards Act of 1938 to provide for an increase in the Federal minimum wage)

At the appropriate place, insert the following:

SEC. ____ . INCREASE IN THE MINIMUM WAGE.

(a) FEDERAL MINIMUM WAGE.—

(1) IN GENERAL.—Section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) is amended to read as follows:

“(1) except as otherwise provided in this section, not less than—

“(A) \$5.85 an hour, beginning on the 60th day after the date of enactment of the National Defense Authorization Act for Fiscal Year 2007;

“(B) \$6.55 an hour, beginning 12 months after that 60th day; and

“(C) \$7.25 an hour, beginning 24 months after that 60th day;”.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect 60 days after the date of enactment of this Act.

(b) APPLICABILITY OF MINIMUM WAGE TO THE COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS.—

(1) IN GENERAL.—Section 6 of the Fair Labor Standards Act of 1938 (29 U.S.C. 206) shall apply to the Commonwealth of the Northern Mariana Islands.

(2) TRANSITION.—Notwithstanding paragraph (1), the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under section 6(a)(1) of the Fair Labor Standards Act of 1938 (29 U.S.C. 206(a)(1)) shall be—

(A) \$3.55 an hour, beginning on the 60th day after the date of enactment of this Act; and

(B) increased by \$0.50 an hour (or such lesser amount as may be necessary to equal the minimum wage under section 6(a)(1) of such Act), beginning 6 months after the date of enactment of this Act and every 6 months thereafter until the minimum wage applicable to the Commonwealth of the Northern Mariana Islands under this subsection is equal to the minimum wage set forth in such section.

AMENDMENT NO. 4323 TO AMENDMENT NO. 4322

Mr. FRIST. I send a second-degree amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST] proposes an amendment numbered 4323 to amendment No. 4322.

Mr. FRIST. I ask unanimous consent the reading of the amendment be dispensed with.

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

The amendment is as follows:

(Purpose: To amend title 18, United States Code, to prohibit taking minors across State lines in circumvention of laws requiring the involvement of parents in abortion decisions)

At the end of the amendment add the following:

SEC. ____ . TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 117 the following:

“CHAPTER 117A—TRANSPORTATION OF MINORS IN CIRCUMVENTION OF CERTAIN LAWS RELATING TO ABORTION

“Sec.

“2431. Transportation of minors in circumvention of certain laws relating to abortion.

“§ 2431. Transportation of minors in circumvention of certain laws relating to abortion

“(a) OFFENSE.—

“(1) GENERALLY.—Except as provided in subsection (b), whoever knowingly transports a minor across a State line, with the intent that such minor obtain an abortion, and thereby in fact abridges the right of a parent under a law requiring parental involvement in a minor's abortion decision, in force in the State where the minor resides, shall be fined under this title or imprisoned not more than one year, or both.

“(2) DEFINITION.—For the purposes of this subsection, an abridgement of the right of a parent occurs if an abortion is performed on the minor, in a State other than the State where the minor resides, without the paren-

tal consent or notification, or the judicial authorization, that would have been required by that law had the abortion been performed in the State where the minor resides.

“(b) EXCEPTIONS.—

“(1) The prohibition of subsection (a) does not apply if the abortion was necessary to save the life of the minor because her life was endangered by a physical disorder, physical injury, or physical illness, including a life endangering physical condition caused by or arising from the pregnancy itself.

“(2) A minor transported in violation of this section, and any parent of that minor, may not be prosecuted or sued for a violation of this section, a conspiracy to violate this section, or an offense under section 2 or 3 based on a violation of this section.

“(c) AFFIRMATIVE DEFENSE.—It is an affirmative defense to a prosecution for an offense, or to a civil action, based on a violation of this section that the defendant reasonably believed, based on information the defendant obtained directly from a parent of the minor or other compelling facts, that before the minor obtained the abortion, the parental consent or notification, or judicial authorization took place that would have been required by the law requiring parental involvement in a minor's abortion decision, had the abortion been performed in the State where the minor resides.

“(d) CIVIL ACTION.—Any parent who suffers harm from a violation of subsection (a) may obtain appropriate relief in a civil action.

“(e) DEFINITIONS.—For the purposes of this section—

“(1) a ‘law requiring parental involvement in a minor's abortion decision’ means a law—

“(A) requiring, before an abortion is performed on a minor, either—

“(i) the notification to, or consent of, a parent of that minor; or

“(ii) proceedings in a State court; and

“(B) that does not provide as an alternative to the requirements described in subparagraph (A) notification to or consent of any person or entity who is not described in that subparagraph;

“(2) the term ‘parent’ means—

“(A) a parent or guardian;

“(B) a legal custodian; or

“(C) a person standing in loco parentis who has care and control of the minor, and with whom the minor regularly resides, who is designated by the law requiring parental involvement in the minor's abortion decision as a person to whom notification, or from whom consent, is required;

“(3) the term ‘minor’ means an individual who is not older than the maximum age requiring parental notification or consent, or proceedings in a State court, under the law requiring parental involvement in a minor's abortion decision; and

“(4) the term ‘State’ includes the District of Columbia and any commonwealth, possession, or other territory of the United States.”.

(b) CLERICAL AMENDMENT.—The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 117 the following new item:

“117A. Transportation of minors in circumvention of certain laws relating to abortion 2431”.

Mr. FRIST. Mr. President, a lot of discussion has been going on in the Senate with regard to a shift that we are making that I don't entirely agree with. That is a shift off of the underlying bill—not literally off the bill but in terms of substance—addressing the issue of minimum wage that my colleague from Massachusetts has addressed.

Personally, as I have explained to my colleagues, I don't believe this is the appropriate bill on which to be addressing the minimum wage. We should be debating the war on terror and the progress that has been achieved in Iraq and the way we can further that success in the future.

We have agreed to set aside amendments so that the Senator from Massachusetts can offer an amendment on the minimum wage, and I second-degreed that amendment with a child custody protection amendment.

Our discussions have led to the understanding that after we figure out how we are going to address both the minimum wage and child custody protection over the course of this afternoon or tonight or tomorrow, we will get around to having a vote on the minimum wage issue.

There has been some discussion whether we had to file cloture on the minimum wage or on child custody protection, but we agree that, after further discussion, we will figure out the most appropriate manner to bring to the floor and address these issues over the next—I am not sure how long it will take, but figure out exactly how long that is. I do encourage our Members to come to the floor and to continue debating the underlying bill as well, the Department of Defense authorization bill.

Again, I wish that neither one of these issues that we just offered were going to be debated on this particular bill, but I understand it is the right of each Senator to come forward and offer those two bills.

Again, I will turn to my colleague from Massachusetts to make a statement as to whether that is the general understanding of where we are.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the leader for his cooperation. As I understand what he is basically saying is that he will work out, I imagine with the Democratic leader, an appropriate time so at least the Senate will have an opportunity, before final passage of this legislation, that we will get a vote on my amendment or action on it related thereto. Am I right?

Mr. FRIST. That is correct.

Mr. KENNEDY. I thank the leader. Earlier in the day, I listened to the concerns of the leader about the appropriateness of my amendment on this legislation. I pointed out earlier, when I addressed the Senate, that I believe that our fighting men and women in Iraq, Afghanistan, and around the world are fighting for American values, and part of American values is economic fairness and economic justice, and part of economic fairness and economic justice is making sure we are going to treat American workers decently and fairly.

So I want to indicate both to the leader and, most particularly, to the chairman of the Armed Services Committee, we will work with him in every

possible way to work out the appropriate timing on it so that other serious work of the committee can move ahead in a timely way.

I thank both leaders.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. The challenge with the Department of Defense authorization bill is really just this, what is playing out; that is, for us to address what is the issue, I believe, that is most important to the United States today. That is supporting our men and women who are fighting so bravely and gallantly for us right now in this war on terror.

Thus, I believe that a minimum wage amendment should not be debated on this particular bill, but it looks like it will be debated on this particular bill. In the colloquy that was just entertained, it is clear we will be debating it on the bill.

It was clear last week the other side did not really want to stay on this issue of debating Iraq, surrounding Iraq. And by offering this amendment, they made it clear they do want to shift debate off to an entirely different issue, an issue that does have a time and a place that is more appropriate for it to be addressed. At that time, we should be debating the overall economy and the impact that it would have on small business and on jobs in this country.

We need to also have that debate on how to maintain, to continue the strong economic growth that we are seeing in this country today because of President Bush's strong progrowth economic policies which have created 5.3 million jobs in the last 3 years. We have unemployment that is down to 4.7 percent, which is lower than the average of the 1990s and 1980s and 1970s.

In order to keep the economy growing, we need to continue to debate how to open new markets, how to reduce the burden on our economy of taxation and regulation, how we make education more affordable, how we tackle health care costs—all of which are very important issues.

Again, I prefer not to debate all those issues on this important bill, the Department of Defense authorization bill. We need to look, at some point, at the issues surrounding our overall economy, a progrowth package, and look at the issues surrounding the minimum wage, but to do it in isolation on a totally unrelated bill I don't think is the way to go.

On this bill, I do believe America can do better.

Mr. President, I yield the floor.

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

The PRESIDING OFFICER. The clerk will please call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. 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. REID. Mr. President, what is the matter before the Senate at this time?

The PRESIDING OFFICER. The second-degree amendment of the Senator from Tennessee, Mr. FRIST, to the amendment from the Senator from Massachusetts.

Mr. REID. We are on the Defense bill, then?

The PRESIDING OFFICER. That is correct, until 4 o'clock.

Mr. REID. Mr. President, at an appropriate time I will lay down an amendment. Right now I will just speak on it for a few minutes.

(The remarks of Mr. REID pertaining to the introduction of S. 3536 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. President, the hour of 4 o'clock will be here in a couple minutes, and I have a few more minutes to speak. I ask unanimous consent that I be allowed to finish my statement using leader time, and that the 4 o'clock time for consideration of the judicial nomination be extended for probably less than 5 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. WARNER. No objection.

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

Mr. REID. Mr. President, I extend my appreciation to the distinguished Senator from Virginia, Mr. WARNER.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I had stepped off the floor for a minute. You are going to introduce your legislation as an amendment to the authorization bill.

Mr. REID. Yes, but I will do it at a subsequent time.

Mr. WARNER. I appreciate that cooperation.

Mr. REID. I want to talk to Senator LEVIN and the chairman before offering it.

Mr. WARNER. I thank my colleague. I believe we should proceed under the standing order.

EXECUTIVE SESSION

NOMINATION OF SANDRA SEGAL IKUTA TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the hour of 4 p.m. having arrived, the Senate will proceed to executive session for consideration of Executive Calendar No. 699, which the clerk will report.

The legislative clerk read the nomination of Sandra Segal Ikuta, of California, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. Under the previous order, the time until 5 p.m. shall be equally divided between the Senator from Pennsylvania, Mr. SPECTER, and the Senator from