

AMENDMENT NO. _____ Calendar No. _____

Purpose: To create a point of order against legislation that would eliminate the tip credit under section 3(m) of the Fair Labor Standards Act of 1938 during a federally declared emergency with respect to COVID-19.

IN THE SENATE OF THE UNITED STATES—117th Cong., 1st Sess.

S. Con. Res. _____

Setting forth the congressional budget for the United States Government for fiscal year 2021 and setting forth the appropriate budgetary levels for fiscal years 2022 through 2030.

Referred to the Committee on _____ and
ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. BRAUN

Viz:

1 At the appropriate place in title IV, add the following:

2 **SEC. 4 ____ . POINT OF ORDER AGAINST ELIMINATING THE**

3 **TIP CREDIT UNDER THE FAIR LABOR STAND-**

4 **ARDS ACT OF 1938 DURING A FEDERALLY DE-**

5 **CLARED EMERGENCY WITH RESPECT TO**

6 **COVID-19.**

7 (a) POINT OF ORDER.—It shall not be in order in

8 the Senate to consider any bill, joint resolution, motion,

9 amendment, amendment between the Houses, or con-

10 ference report that eliminates the tip credit under section

1 3(m) of the Fair Labor Standards Act of 1938 (29 U.S.C.
2 203(m)) during a federally declared emergency with re-
3 spect to COVID-19.

4 (b) WAIVER AND APPEAL.—Subsection (a) may be
5 waived or suspended in the Senate only by an affirmative
6 vote of three-fifths of the Members, duly chosen and
7 sworn. An affirmative vote of three-fifths of the Members
8 of the Senate, duly chosen and sworn, shall be required
9 to sustain an appeal of the ruling of the Chair on a point
10 of order raised under subsection (a).

11 (c) DEFINITION OF FEDERALLY DECLARED EMER-
12 GENCY WITH RESPECT TO COVID-19.—In this section,
13 the term “federally declared emergency with respect to
14 COVID-19” means any of the following:

15 (1) The emergency involving Federal primary
16 responsibility determined to exist by the President
17 under section 501(b) of the Robert T. Stafford Dis-
18 aster Relief and Emergency Assistance Act (42
19 U.S.C. 5191(b)) with respect to the Coronavirus
20 Disease 2019 (COVID-19).

21 (2) The national emergency declared by the
22 President under the National Emergencies Act (50
23 U.S.C. 1601 et seq.) with respect to the Coronavirus
24 Disease 2019 (COVID-19).

1 (3) The public health emergency declared by
2 the Secretary of Health and Human Services under
3 section 319 of the Public Health Service Act (42
4 U.S.C. 247d) on January 31, 2020, with respect to
5 COVID-19.