

In fact, the regular order right now is the marriage tax penalty. We have offered a limit on amendments, a limit on time on those 10 amendments. We could take it up and deal with it this week—or could have last week, last month, the month before. Instead, what our Republicans colleagues are doing—and, I might add, all the time calling for our cooperation—is saying: No, we are not going to do that. We are not going to give you relevant amendments on the marriage penalty. We are going to go to the first reconciliation bill so you can't have amendments. We are going to take up the bill that way. But we still want your cooperation.

Now we are told that we will have an opportunity to vote on cloture because we are given the same mandate, the same ultimatum, when it comes to amendments on estate taxes.

So let me end where I started. I really do hope that we can have as productive a time this coming month as we had last month. I thought it was a good month. But I must say, this is a precarious beginning with this Trillion Dollar Week. It is a precarious beginning when, with all of the people's business the majority leader referred to, we are not actually going to deal with the people's business. We are going to deal with 2 percent of the population affected by the estate tax, and we are going to deal with a marriage penalty bill that goes way beyond repealing the marriage penalty, that actually gives a bonus to some taxpayers, all the time denying Democratic Senators the right to offer amendments on other directions that we might take.

So I look forward to talking and working with the majority leader, and I look forward to a good and rigorous debate about all of the issues having to do with the people's business.

Mr. REID. Would the Senator yield for a question before he yields the floor?

Mr. DASCHLE. I would be happy to yield to the assistant Democratic leader.

Mr. REID. I have listened to the Democratic leader outline what we have not been able to do. I fully support, as does the entire Democratic caucus, what the Senator is trying to accomplish. The one thing the Democratic leader did not mention, though, I say to my leader—there has been a tremendous furor from the Republican side about how they want to help the high-tech community, but the one thing that has not been accomplished is a simple little bill to change the Export Administration Act so our high-tech industry can compete with the rest of the world.

As we speak, we are losing our business position in the world in selling computers. We lead the world in building and selling high-tech computers. That is being taken from us as a result of four or five people on the Republican side who are holding up this most important legislation.

I say to my leader, I hope this is something on which we can also move

forward. We would be willing to debate it for 30 minutes, for an hour. There is all this talk about helping the high-tech industry. In my opinion, the most important thing we could do is to get some attention focused on what has not been done regarding the high-tech industry. H-1B visas, of course, that is important.

On the airplane ride back from Las Vegas, I had the good fortune to read a book the Democratic leader has already read and told me how much he has enjoyed called "The New New Thing." That book indicates how important it is that we have the people to do the work of this scientific nature. We need to change the H-1B. We agree there. But we also need to change our ability to have more exports to improve our balance of trade.

I close by saying, 44 Senators are willing to come in early in the morning, to stay late at night, to give up our weekends, to do whatever is necessary these next 3 weeks to move this legislation the Democratic leader has outlined.

Mr. DASCHLE. The assistant Democratic leader has made a very important point. The list I referred to certainly is not all inclusive. He listed one important omission; that is the export administration bill. In fact, I do not know of anyone who has put more time in trying to get that bill scheduled than the assistant Democratic leader. I thank him publicly for his willingness to try to find a way with which to bring this legislation up.

He is absolutely right. As we consider our huge deficit in our balance of payments, it is the only real black eye we have in an otherwise extraordinary economic record. As we consider that, I cannot think of anything more important than ensuring we stay competitive in the international marketplace today. There is no better way to do that than to address export enhancement legislation, as the assistant Democratic leader has noted.

I also say to the assistant Democratic leader, today, again, the president of the U.S. Chamber of Commerce, Tom Donohue, has called upon the Senate to act. He has called upon the Senate to act on PNTR immediately. I am sure he would also call upon the Senate to act on the export administration bill.

But there is a growing crescendo of people out there concerned that this is a Senate which has done little, which has blocked the people's business, not enacted it. Prescription drugs, the Patients' Bill of Rights, the minimum wage, effective gun legislation, China PNTR, and H-1B—all of those ought to be done. All of those ought to be done this month. We will have very little time left when we get back after the August recess. So we have to make every day count. We want to work with the majority to make that happen.

With that, I yield the floor and 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. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

EXECUTIVE SESSION

NOMINATION OF MADELYN R. CREEDON, OF INDIANA, TO BE DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS, NATIONAL NUCLEAR SECURITY ADMINISTRATION

Mr. KYL. Madam President, on behalf of the leader, I ask unanimous consent that the Senate now proceed to executive session for the consideration of Calendar No. 473, the nomination of Madelyn Creedon to be Deputy Administrator for Defense Programs, under the terms of the consent agreement reached June 14.

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

The assistant legislative clerk read the nomination of Madelyn R. Creedon, of Indiana, to be Deputy Administrator for Defense Programs, National Nuclear Security Administration.

Mr. KYL. Madam President, it is my intention in a moment to ask unanimous consent to speak on a different subject. Perhaps Senator LEVIN would like to comment briefly. I know he has a more lengthy statement he would like to make at a later time.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. I thank my good friend from Arizona. I can withhold my statement. It is not that long, but I will be here in any event. I am happy to yield to Senator KYL for his statement on this or any other matter.

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

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

THE DEATH TAX ELIMINATION ACT

Mr. KYL. Madam President, tomorrow the Senate is expected to vote on a motion to invoke cloture on the motion to proceed to the consideration of the House-passed Death Tax Elimination Act, H.R. 8. I want to take a few minutes today to explain a key element of that legislation, one that wasn't discussed much during the House debate but which I think is critical to Senators understanding actually how the legislation works.

The bill which passed the House on June 9 by a vote of 279-136—incidentally, 65 House Democrats joined Republicans in very bipartisan support for the bill—ultimately repeals the Federal estate tax. But the change in policy is really more substantial than just that. The details are very important because they offer a way for both

sides of the aisle to bridge past differences with respect to the estate tax, specifically with respect to how transfers at death are taxed.

Although it is true that H.R. 8, the bill that passed the House, would repeal the estate tax at the end of a 10-year phaseout period, the appreciation and inherited assets would not go untaxed. That is a very important point, Madam President. This is a departure from previous estate tax repeal proposals.

Under H.R. 8, a tax would still be imposed, but it would be imposed when the inherited property is sold; that is, after the income is actually realized, rather than at the artificial moment of death. The House bill, therefore, removes death from the calculation of the imposition of the tax. Earnings from an asset would be taxed the same whether the asset were earned or inherited.

The plan broadens the capital gains tax base by using the decedent's basis in the property to calculate the tax. That differs from current law where the basis can be stepped up to the fair market value at the time of death. In exchange for the broader tax base, a lower tax rate would apply. The capital gains tax rate would be the general rate that would apply.

I also note that a limited step-up in basis would be preserved to assure that small estates bear no new tax liability as a result of these changes.

What we have done is to ensure that nobody who would escape paying the estate tax would ever have to pay a capital gains tax on that amount of money, so everybody would be treated the same in terms of avoiding liability from any tax; and only those who choose to sell an asset at a later point in time, after the property is inherited, would pay a tax. They would pay a capital gains tax—a much lower rate than the estate tax—and they would have the benefit of an exemption even more generous from the estate tax today.

Here is how the bill would actually work. The estate tax would essentially be replaced by a capital gains tax. That tax would be imposed on the gain or the increase in value of the inherited property relative to its original basis or cost, plus any cost of improvements. As with the estate tax, as I said, there would be an amount of property exempt from taxation. In the case of the new capital gains tax, the exemption would be \$1.3 million of gain. That is, the decedent's basis would be exempt, whatever that amount of money is, plus \$1.3 million. That exemption would be divided among all of the heirs. Now, \$1.3 million is the amount that can be currently shielded from the estate tax by family-owned businesses or farms. So we have provided a basic exemption here that is the same as the most generous exemption under today's law.

In addition to that, we provide an additional exemption. A surviving spouse will be entitled to \$3 million more, in

addition to the exemption I just mentioned; that means the decedent's basis—his cost of the property—plus \$3 million for the property transferred by the decedent to him or her. For married couples, there is an additional \$1.3 million in exempt gains that can be added for the second spouse, for a total exemption of \$5.6 million above the decedent's basis in the property, \$1.3 million for the first spouse, plus \$1.3 million for the second spouse, plus \$3 million for spousal transfers.

In each case, the exempt amount is added to the basis. It, of course, cannot exceed the fair market value of the property at the time of death. That is the way these exemptions add up. They provide a significant exemption from the payment of any capital gains tax even when the property was inherited and later sold.

Why is this change important? For one thing, it removes death as the trigger for the tax. That is the object that most of us want to achieve—to take death out of the equation. It is an artificial event. People are certainly not making plans based upon death. I don't think anybody can justify death being a taxable event. Ordinarily, we see taxable events as the earning of income, the gain of profit from an investment, the sale of property, and the result of income from that. Those are taxable kinds of events. Death is purely an artificial event which should not be a trigger for any payment of tax. In fact, we all appreciate that it creates a great hardship on families at the very time of death.

For example, frequently the owner of the business—the person who started the business—has to figure out at that very difficult time in their life how to pay the estate tax. Frequently, the only way to do that is actually to sell the business, sell the farm, or sell the assets in order to acquire enough liquid assets to pay the estate tax. It takes death out of the equation.

That is the first object of this. I think it is the most important.

But a tax would be imposed on the beneficiaries of an estate just as it would have been imposed if someone had realized a capital gain during his or her lifetime. The beneficiaries of an estate would not only inherit assets but they would also inherit the decedent's tax basis on that property. The trigger for the tax is, therefore, the sale of the assets and the realization of income. That is the appropriate time to levy a tax—not when someone dies.

Advocates of the death tax often note that it serves as a backstop for the income tax by imposing taxes at death on income that previously escaped taxation. They are referring to capital gains that have never been realized. It is theoretically possible for that to be the case, although it is ordinarily true that you have spent ordinary income to acquire an asset and you have already paid income taxes on that ordinary income. But for someone who may have come into property in some other

way, there could theoretically be unrealized gains that would escape taxation, except for the proposal that we have.

It is true that under current law those gains, but for the estate tax, would go untaxed forever because of the step-up basis. In other words, under current law, you acquire the market value as of the date of death, and that is the value of the property. So if you later dispose of it, there is very little gain if you dispose of it quickly. But of course you have to pay a 55-percent or lower percent death tax on that property.

The House-passed bill addresses this concern of unrealized gains never being taxed head on. It not only eliminates the death tax but also the step-up basis. So unrealized gains will ultimately be taxed if and when the inherited property is sold off. Therefore, nothing escapes taxation.

This concept, I must confess, was one which I heard Senator MOYNIHAN talking about when I first presented the death tax repeal to the Finance Committee. There was some concern. While we all appreciate that it is not good tax policy to impose a tax at the time of death, there has to be some way to recapture a tax on these unrealized gains. This is the proposal that does that. Therefore, it is not only eminently fair but it conforms the tax policy for everyone—people who acquire a decedent's estate or people who simply earn money—and it doesn't contain this bad element of taxing at the time of death. Instead, when you make the economic decision to sell property you have inherited—if you make that decision—you know what the tax consequences are. You know how much income you are going to receive. You can figure out how much tax you are going to pay. If you decide to go ahead and sell at that point, then you pay a capital gains tax using the original basis. But it is your decision based upon your timing and your economic circumstance and not because of a fortuitous event of death.

It is interesting; President Clinton's fiscal year 2001 budget, on page 109 of the analytical perspectives, scores the existing step-up basis in capital gains and death at \$28.2 billion in fiscal year 2001, and a total of \$152.96 billion over 5 years. So elimination of the step-up basis as proposed in H.R. 8 can, therefore, be expected to recoup a portion of the revenue lost from the death tax repeal. That reduces the cost of the death tax repeal substantially.

To say it another way, when you eliminate the death tax altogether, you are eliminating all of that revenue. But if you come back and collect a capital gains tax using the original basis on any of the inherited assets that are later sold, the Federal Government is at least going to recoup some of that revenue. Will it be 40 percent? Will it be 30 percent? I don't know.

But it is interesting that the President's own people score the step-up

basis of capital gains at death at over \$28 billion in fiscal year 2001. That is roughly the amount of the estate tax that is going to be collected.

So if you assume that all of the property would be immediately sold, then the Government theoretically would recoup all of that money.

That won't happen. Obviously, people will wait a while to sell assets. But the point is that it illustrates the Government is not going to have a total loss of revenue as a result of the repeal of the estate tax. There will be revenue coming in from the capital gains tax that replaces it.

I think whatever revenue losses are associated with repeal, of course, also needs to be put in perspective. This is the point that is most important to me.

The President's budget, on page 2, estimates that revenues for 2001 will amount to over \$2 trillion, rising to \$2.92 trillion—almost \$3 trillion—by the year 2010, the year that the death tax repeal would actually be implemented. In other words, by 2010, the Federal Government will collect an additional \$840 billion in just that 1 year. Surely, with an \$840 billion surplus in just that tenth year that the estate tax is repealed, we can afford to eliminate this unfair tax and still satisfy pressing national needs with the additional \$840 billion.

It is pretty clear when you put that in perspective that no one should vote against estate tax repeal on the basis that the Federal Government can't afford it. Clearly, it can afford it.

One final point: I call Senators' attention to a letter that should be reaching their offices from the National Association of Women Business Owners, or NAWBO as it is sometimes called. The organization is writing in very strong support of death tax elimination. They write that women business owners in the country employ one out of every four workers.

By the way, about half of the small businesses in the country are women owned. So this is a very important point to the National Association of Women Business Owners. It is one of the groups that very strongly supported us when we had the White House conference, and repeal of the death tax was No. 4 on the list of legislative items.

In any event, here is what they write with respect to the point that one out of over four workers, or about 27 million workers in the United States, are employed by women business owners:

When a woman-owned business has to be sold to pay the death tax, jobs are lost.

This was written by president Barbara Stanbridge and vice president for public policy, Sheila Brooks.

They say, "on average, 39 jobs per business, or 11,000 jobs, have already been lost due to the planning and payment of the death tax."

It is not only the payments that will suffer, but it is also the planning. The payments that go to the lawyers, es-

tate planners, and insurance also increases expenses and results in job loss.

NAWBO projects on average 103 jobs per business—or a total of 28,000 jobs—will be lost as a result of the tax over the next 5 years.

Ms. Stanbridge and Ms. Brooks note that women businesses are just starting to grow. Many are first-generation businesses, and they have just begun to realize that, due to the death tax, their business will not be passed on to the next generation—at least not without a 55-percent estate tax and perhaps a 55-percent gift tax during life. Most of the businesses can't afford to pay the tax. As I said before, they are sold off frequently to big corporations that are not subject to the death tax.

Let me make this point.

I was asked by a reporter today what the original theory of death tax was. The reporter said it doesn't seem to make any sense. It doesn't make sense. But the original theory was they would prevent the accumulation of wealth. It was put in at a time when it was kind of the progressive or populist time, and there was a feeling that we should prevent the accumulation of wealth.

Let me give you a story of a friend of mine in Phoenix, AZ. He came to Arizona from New York and built a printing business. Eventually, he employed about 200 people. He was a very successful entrepreneur. A lot of people depended on Jerry Wisotsky, a pillar of the community, who contributed huge sums of money to all kinds of causes. He was a very rough and gruff guy on the exterior. On the interior, he had a heart of gold. He could not turn down any request for a charity in town. He was very generous. All of his family were. When he died, the family found that everything had been plowed back into the business—the latest of printing equipment and so on. He had no hard cash to pay the huge estate tax. They had to sell the business.

To whom did they sell it? It was some big conglomerate—a big German company, I think. But it was a big corporation.

So much for the death tax preventing the accumulation of wealth. It took a whole bunch of wealth from one family in Phoenix, AZ, and transferred it to a big international corporation.

It doesn't prevent the accumulation of wealth. It concentrates wealth in the big companies that end up being able to afford to buy the business—frequently at bargain basement prices. It is unfair. It is not good for communities.

I made the point about contributions of this one family. As I said, that family used to contribute to every charity in Arizona. They are still very generous, but they don't have the assets they used to have when Jerry owned the business. This argument that charities are going to suffer if we repeal the estate tax I know to be wrong.

I am waiting for the first executive director of some big charity organization in the community to come back to

me and lobby against the repeal of the estate tax on the grounds that it will hurt contributions to charity. I will immediately call every member of that person's board of directors and say: Do you know what your hired person is lobbying for back here? They are lobbying to pay 55 percent of the estate tax to the U.S. Government because it might be an incentive to contribute more to their charity.

I think these folks will turn tail and go home. The reality is people who are big hearted will make big contributions, as the Wisotsky family, and they can do it if they have an income stream coming, rather than if they have to sell the business to somebody else.

I talked about the women-owned businesses. Minority-owned businesses are in the same position, which is why we have strong support from various minority business organizations. However, the point of repeal of the estate tax is it is in keeping with the American dream. The American dream is to work hard, be successful, and give your children a greater opportunity than you had. That is the American dream. The estate tax works counter to the American dream, the ability to pass on something to your children and grandchildren after you have worked very hard during your lifetime to save that money.

That is another point. The death tax penalizes savers. We talk about tax policy and trying to promote savings and investment. The estate tax is exactly contrary to that. On the one hand, the Federal Government seeks to encourage people to save through IRAs, Roth IRAs, 401(k)'s, education savings accounts, and lower tax rates on capital gains. Yet on the other hand, it penalizes savers upon their death with death tax rates as high as 55 percent.

Consider two couples with similar lifetime earnings. One spends lavishly during their lifetime and leaves only a small estate. That couple is not subject to the death tax. The second couple who foregoes lavish spending and sets money aside for family, for the future, for contingencies in the future—as the Government policy seeks to have them do—gets hit with a substantial tax on death degree. That is not right. It is not good tax policy or good national economic policy.

It is particularly not fair because there is a better way: Tax the gains when they are realized; don't tax at death. That is what the Death Tax Elimination Act is all about. I urge Senators to take a very close look at this when we have this issue of the cloture vote. Think very carefully about not allowing us to proceed. There is some notion that politically some people will want to use the death tax repeal legislation to offer all kinds of nongermane amendments to make whatever other points they may want to make. Everybody around here knows the Senate schedule is very tight. Everybody knows the death tax repeal is

extremely popular around the country. A very high percentage, 70 to 80 percent of the American people, support its repeal. It passed the House of Representatives. If everyone had been there, it would be a veto-proof vote. I believe it will be a veto-proof vote. It is pretty clear the death tax repeal is going to pass. It will be successful if it comes to a vote.

I don't know whether some people plan to play political games and use this vehicle to score political points on totally unrelated matters. I urge those Members to think very carefully about that strategy. If we are not able to get the clean version of the House bill, H.R. 8, to a vote, I will be standing on the floor pointing fingers at those people who have prevented the Senate from doing that. I think that is very fair. It is very appropriate.

The House of Representatives overwhelmingly repealed the death tax. The American people want it repealed. We will have an opportunity to consider it in the Senate. Those Senators who stand in the way of this, playing parliamentary games, using amendment tactics with amendments that are not germane to the estate tax, we are going to be on the floor pointing out the results of their efforts. If they stop this with those tactics, they will have to accept the consequences of their actions. It is fine with me to have people try to amend the bill. I don't think they will be successful. This bill, written by Chairman BILL ARCHER and Representative DUNN and others in the House of Representatives, including members of the minority, is very well put together. It reduces rates for the first 10 years and has a repeal at the end of the 10-year period. By then it is all gone. That should give everybody time to adjust to the fact that it is going to be repealed, however it will be repealed.

I hope my colleagues will not decide to try to derail the opportunity to repeal the death tax through a strategy either of denying cloture—in other words, the ability to bring the bill to a final vote on the floor of the Senate—or alternatively, to require the majority leader to agree to nongermane amendments, which obviously would sink the ship.

It is my understanding from talking to the majority leader today that he does not yet have an agreement to permit bringing the bill to the floor with a limited number of germane amendments, with a clear vote before the end of this week. If that can't be accomplished, we will have to move for cloture and we will have a cloture vote. I believe we will get cloture. When we do, then only germane amendments are allowed. There will be a vote by the end of the week. Members can't say they are for repeal of the death tax and then engage in tactics which prevent the Senate from ever getting to that vote.

Let me make a couple of other points. This is a very bipartisan ap-

proach both in terms of outside groups and the strong support we have had both in the House and in the Senate from Members on both side of the aisle. That is why I do not make a blanket action over who might use dilatory tactics. Many members of the minority are cosponsors of this legislation. When I originally developed this concept, Senator BOB KERREY of Nebraska was very supportive and immediately became a cosponsor of what is now known as the Kyl-Kerrey bill. We have 29 cosponsors. Frankly, we could have more. Nine are members of the minority party. The rest are members of the majority party.

Let me single out these members of the minority party who have been willing to support us. I am sure there will be more, but cosponsors include Senators BOB KERREY, JOHN BREAUX, CHUCK ROBB, BLANCHE LINCOLN, RON WYDEN, MARY LANDRIEU, MAX CLELAND, EVAN BAYH, and PATTY MURRAY. These are all Senators who I think have studied this and realize there is a tax on the unrealized gains incorporated in this bill, so it becomes a very fair bill just taking death out of the equation. I particularly thank those Senators for putting aside any partisanship in recognizing the importance of this repeal.

For those who are not totally familiar with the overall essence of the bill, let me describe the key elements of it.

As amended, H.R. 8 would, first, in the year 2001 convert the unified credit to a true exemption and repeal the so-called 5-percent bubble and expand the availability of qualified conservation easements. It would also repeal rates in excess of 53 percent in that first year.

Between 2002 and 2009 it would phase down the estate tax rates by 1 percent to 2 percent each year.

Third, in 2010 it would implement the Kyl-Kerrey language eliminating the death tax and implementing a carry-over-basis regime, as I discussed earlier.

Over the Fourth of July, I had occasion to attend some ceremonies and hear our Founding Fathers quoted. Of course Benjamin Franklin is always one of the most fun to quote, but he is one who, some 200 years ago, said: Nothing in this world is certain but death and taxes.

It should come as no surprise that after 200 years the Federal Government would find a way to put those two inevitabilities together to create a death tax which is not only confiscatory but also offensive to the American sense of fairness and also harmful to small business and to the economy. It was also harmful to the environment, and this is so because what happens is families find, in order to pay the tax, they have to sell land they would like to keep in the family for its environmental value. But they find they have to sell it to generate income. Inevitably what happens is the property is developed. That development is the reason why there are conservation groups who have also joined us in opposition to the estate tax and in favor of its repeal.

There is another point I want to mention. Opponents of our legislation say this only affects a few people. First of all, it is not true; it affects a lot of people. It is true in the end only a few people have to end up paying. But a lot of people have spent a lot of money preparing various tax shelters to escape the payment of the estate tax.

Who benefits, of course, are the lawyers and the estate tax planners and the insurance companies. I have nothing against any of those folks, but I don't think we need to create tax policy just to create jobs for lawyers. I am a lawyer. I know I always had plenty to do without having to get into this. So I don't think any of those folks would have real grounds for suggesting that in order to keep them in business we have to keep the estate tax. So it is not just the people who pay, it is also the people who have to try to avoid paying.

There is another thing. The Chair is well aware of this because she and I share the same concern about this problem, as a result of which I understand either tomorrow or Wednesday there is going to be a hearing before the Aging Committee, talking about senior citizens who end up getting bilked or scammed because of people who come to them and say to avoid the death tax they have to give them a bunch of money to set up some kind of trust to save their assets. Most of these people are people who would not have to pay the tax; their estates are just not big enough to be taxed. They fall within the exemption. But they are afraid. They have heard about this death tax and they are susceptible to these scams which take large amounts of money from them under the guise of estate planning which is not necessary for them.

So you not only have the people who have to pay the tax, you not only have the people who have to pay not to pay the tax, but you also have people who get scammed into paying some of these unscrupulous folks, setting up trusts they do not need because they would never be subject to the tax.

You also find—again I go back to the example I cited before—when businesses are sold, frequently jobs are lost, and those jobs are also affected, as I pointed out, by the reduced income from the businesses that have to prepare not to pay the tax. So it is just not true the tax only affects a limited number of people. In fact, I believe it was 3 years ago that we had the latest statistics for the amount of money spent to avoid paying the estate tax. It was almost exactly the same as the amount of tax paid in that particular year. In effect, it is a double taxation and a very inefficient tax when you have to pay that much money to avoid paying the tax.

Edward McCaffrey—I don't think he would mind me putting this label on him—who is a liberal, a professor of law at the University of Southern California, put it this way.

Polls and practices show that we like sin taxes, such as on alcohol and cigarettes. . . . The estate tax is an anti-sin, or virtue tax. It is a tax on work and savings without consumption, on thrift, on long-term savings.

He is exactly right. We may all be for sin taxes. But one of the reasons why the bulk of Americans, whether they will ever have to pay the tax or not, oppose the estate tax is they realize it is contrary to everything we believe in America. It is not a tax on sin; it is a tax on virtue—saving something for your kids when you die.

Let me also cite economists Henry Aaron and Alicia Munnell, making the very same point. Writing in a 1992 study, they said that death taxes:

[H]ave failed to achieve their intended purposes. They raise little revenue. They impose large excess burdens. They are unfair.

As I noted, opinion polls constantly show between 70 percent and 80 percent of Americans favor repeal of the death tax. When Californians had the chance to weigh in with a ballot proposition, they voted 2 to 1 to repeal their State's death tax. I think that is a very important point because that vote was very recent.

The legislatures of six other States have enacted legislation since 1997 that would either eliminate or significantly reduce the burden of their States' death taxes. In fact, the minority leader was here a moment ago. I note on the ballot in the home State of the distinguished minority leader, South Dakota, there will be a proposition this fall for the elimination of the death tax.

If you talk to the men and women who run small businesses around the country, if you talk to people who join in meetings, gatherings that I talk to all the time, you will find very strong support for repeal of the tax. Remember, it is a tax that is imposed on a family business when it is least able to afford the payment, on the death of the person with the greatest practical and institutional knowledge of that business' operations. That is the reason why so many businesses cannot make it to the second generation or the third.

I mentioned before the women- and minority-owned businesses. Instead of passing hard-earned and successful businesses on to the next generation, many of these families have had to sell their companies in order to pay the death tax. That certainly stops the upward mobility that is so important to some of these groups. It is why death tax repeal is supported by groups such as the National Association of Women Business Owners, the U.S. Hispanic Chamber of Commerce, the National Black Chamber of Commerce, the National Indian Business Association, and the National Association of Neighborhoods.

This is a very wide spectrum of organizations representing a very broad spectrum of the American community. I cannot think of a policy that has

come to the Senate in recent times that has a more broad appeal to it than the repeal of this very unfortunate and unfair tax.

I mentioned before the argument about concentration of wealth. I just want to go back to that for a moment. There is a February 2000 study by the National Association of Women Business Owners, the Independent Women's Forum and the Center for the Study of Taxation combined. It found the death tax costs female entrepreneurs nearly \$60,000 on death tax planning, obviously money they could use to put back into their businesses. They report that 39 jobs were lost per business due to the costs of death tax planning during the last 5 years. Think about that. Women business owners report that the cost of death tax planning will create 103 new jobs per business in the next 5 years.

Think about that statistic. Most of the businesses we think about are much smaller than that to begin with, but we know small businesses can grow to 200 or 300 employees if they are successful. These numbers are staggering when you stop to think about the amount of job loss that results, just from the costs of planning to avoid the estate tax. It is an incredible statistic.

There is a June 1999 survey of the impact of the death tax on family business employment levels in upstate New York which found that the average spending for death tax planning was as much as \$125,000 per company. Think of that. For the 365 businesses surveyed, the total number of jobs lost already as a result of the cost of death tax planning was over 5,100 jobs.

The average estimated number of jobs these businesses would lose over the next 5 years if they actually had to pay the death tax exceeds 80 per business, with the numbers of jobs at risk at a minimum of 15,000 jobs. This is just among something like 300 companies in upstate New York. These are staggering statistics. If you expand that to the rest of the country, it is impossible to argue that the estate tax is not my problem, that it is just for a few rich folks. It affects everybody in this country.

What it suggests to me is that although it is paid by only a small number of individual taxpayers, it has a disproportionately large negative impact on the economy. As someone said, it is the tax with the longest shadow of any on the books.

The adverse consequences are compounded over time, too. A December 1998 report by the Joint Economic Committee concluded that the existence of a death tax in this century has reduced the stock of capital in the economy by nearly half a trillion dollars.

Think about what a half of a trillion dollars of capital stock infused into the economy in the future could mean. These surpluses that are projected now would be expanded even more significantly because the growth in capital

would obviously provide a lot more return on investment.

It is really staggering when one stops to think about the impact of this one tax and how pernicious it is, all the way from the individual minority-owned business to the economy of the United States losing half a trillion dollars in capital stock. Just think, by repealing the death tax and putting those resources to better use, the joint committee estimates that as many as 240,000 jobs could be created just over a period of 7 years. Americans would have an additional \$24.4 billion in disposable personal income over that period of time. If we said to the American people: We have a great deal for you; how would you like another \$25 billion in the next 7 years and all we have to do is repeal this tax that does not bring in revenues to the United States proportionate to the cost that it imposes on the economy, I think they would say that is a very good deal.

It seems to me almost all of the arguments for those who used to favor the tax have been pretty well laid to the side, and the only question now is how we are going to get this to a vote in the Senate and how we are then going to be able to send it to the President.

I mentioned the cost to the environment a moment ago. Maybe those who have in mind offering amendments would like to consider this for just a moment: An increasing number of families who own environmentally sensitive lands, as I said before, have had to sell property for development to raise the money to pay the death tax, which destroys natural habitats as a result. With that in mind, Michael Bean of The Nature Conservancy observed that the death tax is highly regressive in the sense that it encourages the destruction of ecologically important land. So maybe folks who were planning to speak in opposition to this would like to take that into consideration.

Because it tends to encourage development and sprawl, a lot of environmental organizations have endorsed its repeal. Among those organizations: The Izaak Walton League, the Wildlife Society, Quail Unlimited, the Wildlife Management Institute, and the International Association of Fish and Wildlife Agencies.

Incidentally, pending repeal in 2010, as I noted before, H.R. 8 expands the availability of qualified conservation easements, which is something I am sure all of these conservation organizations support.

For all of these reasons, it is going to be very hard to explain why we would not support repeal of this tax. It overwhelmingly passed in the House of Representatives.

The repeal portion of the death tax recaptures taxes on unrealized gains, something that had been a problem for some Members of the other side of the aisle. I understand why, and I was happy to include that compromise in this legislation, and Representative ARCHER did the same.

In the meantime, it enhances conservation easements, reduces rates. I really cannot think of a good argument against this. And yet constituents may ask: Why can't you get it to a vote? Why do you need to worry about this?

The reason is, frankly, because of the rules of the Senate, any Senator has the ability to raise nongermane matters until we have had a cloture motion voted on and approved. There are those who would like to take advantage of this opportunity to raise their favorite issue in that way. If enough people do that with these nongermane riders which we have all heard so much about, it can sink the ship that otherwise would carry the legislative business to the President for his signature.

I hope that will not happen. I hope very much we can reach an agreement to quickly take up and consider any amendments and then vote for the repeal of the estate tax, vote for the House-passed bill, H.R. 8. I hope we can do that tomorrow at the very latest. If we cannot, then obviously we are going to have to file cloture and have that vote on Thursday.

I encourage all of my colleagues to look at this legislation very carefully because there is some misinformation about it. I know I talked for some time today, but hopefully I have been able to answer some of the questions that have been raised in my remarks. I stand ready to work with Senators who want to understand better exactly what we are trying to do here, what the effect of it will be, and what the many organizations are that support this legislation because they are significant. I certainly hope they will make their feelings known during the course of the next few days, too, because it is important for our colleagues to understand the depth and breadth of support for repeal of the estate tax.

I conclude by thanking Senator LEVIN, again, for allowing me to take this time and to urge my colleagues to support H.R. 8, to agree to a time agreement that will enable us to take it up in a timely fashion, to get it disposed of with germane amendments as quickly as possible so we can have a vote on repeal sometime this week.

That is something the American people would feel very proud we accomplished. Everyone can go back to their constituencies and brag about it. It is not partisan; it is bipartisan. Republicans cannot brag they did it all alone because many Democrats in the House made it possible with a veto-proof margin. Without the support of our Democratic colleagues in the Senate, I know we would not have gotten this far today.

I am very hopeful people on both sides of the aisle will see not just the fairness of it but the political benefit in responding to our constituents, which is, after all, what we are supposed to be doing around here. We know they would like to see repeal, and I think it is time for us to show them we can get something done here; we

can do this and not hide behind all of the usual parliamentary maneuvers that are so common in the Senate.

I am very hopeful we will be able to finish this bill by the end of this week, send it on to the President, and go back to our constituents and say we did something very important for them: We repealed the death tax.

I thank the Chair, and 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. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

NOMINATION OF MADELYN R. CREEDON, OF INDIANA, TO BE DEPUTY ADMINISTRATOR FOR DEFENSE PROGRAMS, NATIONAL NUCLEAR SECURITY ADMINISTRATION—Continued

Mr. LEVIN. Madam President, what is the pending business?

The PRESIDING OFFICER. The pending business is the nomination of Madelyn Creedon to be Deputy Administrator for Defense Programs, National Nuclear Security Administration.

Mr. LEVIN. Madam President, I am pleased to come to the floor today and support the nomination of a very talented and a highly qualified member of the Armed Services Committee staff to be the Deputy Administrator for Defense Programs of the newly created National Nuclear Security Administration.

Madelyn Creedon has served her country for her entire professional life in a variety of important national security positions. She has served as Associate Deputy Secretary of Energy, working closely and directly with Deputy Secretary Charles Curtis. She was the general counsel for the Defense Base Closure and Realignment Commission, and she has served as minority counsel to the Committee on Armed Services and counsel under my predecessor, Senator Sam Nunn. She spent 10 years as a trial attorney in the Department of Energy.

Madelyn Creedon's nomination for this important position was unanimously reported to the full Senate by the Armed Services Committee on April 13. After working with her for more than 8 years on the Armed Services Committee, I know firsthand of her extraordinary understanding of the national security programs of the Department of Energy and of her passionate commitment to the success of these programs and to the national security of the United States.

There are few people who have Madelyn Creedon's depth of experience and her knowledge in the nuclear weapons programs of the Department of Energy.

Last month the Senate confirmed the nomination of Gen. John Gordon to be the Under Secretary of the Department of Energy and the head of the new National Nuclear Security Administration. All of us are aware of the significant challenges General Gordon is facing in this position. The Administrator of the new National Nuclear Security Administration is responsible for maintaining the safety, security and reliability of our Nation's nuclear warheads; for managing the Department of Energy laboratories; for cleaning up some of the worst environmental problems in the country; and for addressing security problems that continue to undermine public confidence in the Department of Energy. As one of the senior deputies in the National Nuclear Security Administration, Madelyn Creedon's knowledge and experience in all of these areas will be of great assistance in helping General Gordon address the challenges he is facing.

I had a discussion with General Gordon last week. He told me that he wants Madelyn Creedon to be his deputy Administrator for Defense Programs, and he is anxious for Madelyn Creedon to get to work as his Deputy Administrator.

Madelyn Creedon is well known and respected by Senators on both sides of the aisle. Prior to her confirmation hearing in the Armed Services Committee, Senator WARNER and I received a letter from Senator LUGAR. I would like to quote just a few sentences from Senator LUGAR's letter:

As you know, Mr. Chairman, I am a strong supporter of U.S. nonproliferation efforts in the former Soviet Union. These programs have continually garnered bipartisan support because of the outstanding efforts of dedicated Members of Congress and staff on both sides of the aisle. Madelyn's efforts in this area have made tremendous contributions to the successful implementation of these important programs. Her oversight and legislative analyses of these programs have improved our country's national security. I am confident that she will provide the same level of expertise and dedication if confirmed as Deputy Administrator for Defense Programs at the Department of Energy.

It is with great enthusiasm that I offer my strong support for Madelyn's nomination, and I am hopeful that members of the Armed Services Committee and the full Senate will concur.

Madam President, I ask unanimous consent that the full text of Senator LUGAR's letter be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. LEVIN. If confirmed today, I understand that Madelyn Creedon will be the first woman to be placed in charge of the safety and reliability of America's nuclear deterrent. I cannot imagine any individual who would be better qualified to handle this awesome responsibility. We will miss Madelyn Creedon on the Armed Services Committee, but I think we all know that the committee's and the Senate's loss will be the country's gain.