

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. FITZGERALD. I thank the Chair.

(The remarks of Mr. FITZGERALD pertaining to the submission of S. Con. Res. 44 are located in today's RECORD under "Submission of Concurrent and Senate Resolutions.")

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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 Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

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

TAX CONFERENCE

Mr. KYL. Madam President, our Senate colleagues are anxiously awaiting the report from the conference committee that is attempting to iron out the differences between the House-passed tax bill and the Senate-passed tax bill. I thought perhaps some who are waiting for this outcome would be interested in some thoughts with respect to what has gone on so far and what we might expect from the conference. In particular, I will address remarks to the part of the bill in which I was most involved.

I begin by noting that the conferees, who are the people on the Ways and Means and Finance Committees, are busy at work trying to iron out the differences between the two bodies. Part of the success of getting the bill to the conference in the first place is attributable to the bipartisan leadership of the chairman of the Senate Finance Committee, CHUCK GRASSLEY of Iowa, and MAX BAUCUS, the ranking Democrat from Montana. They worked very hard to develop a bill which wasn't all conservative or all liberal, all Republican or Democrat, but which represented views of a substantial part of the membership of the committee on both sides of the aisle. It represents most of what President Bush wanted, but not all, and not quite to the same degree, because by definition it is a compromise.

Because of that compromise, and it had support from both sides of the aisle, over the course of the last week there were 45 different attempts to amend the bill. Every one of them failed. In other words, the Members of this body voted time after time after time to support the work of the Senate Finance Committee, understanding it represents a good compromise.

Of course, there has to be another compromise, and that is with the House of Representatives. The bill the House passed represents a little more closely the views of President Bush. Naturally, those on the Republican side of the aisle are hoping there will be a compromise between the House and Senate versions that truly does reflect a meeting of the minds.

The Senate-passed bill was only a total of 10 years of \$1.35 trillion because that was the compromise amount. That meant we could not grant relief quite as robust as the House had done earlier. All of the Republicans and 12 Democrats voted in favor of that bill.

From my perspective, it was not perfect; it certainly was a very good step toward tax relief, providing, most importantly, marginal tax relief from income tax rates and significant relief from the estate tax and eventual repeal, after 10 years, of the estate tax.

I am hopeful this conference committee will be able to reach a conclusion and enable the Senate to pass this bill sometime tonight or tomorrow, whatever might be the time.

I will discuss primarily the provisions relating to the phaseout and eventual elimination of the death tax in the year 2011. The death tax provisions being negotiated now, it is my understanding, are not as much as either in the House-passed bill or the Senate-passed bill. The reason is because there has been an effort to accommodate more Members with what they wanted to include in the bill. Everything else has to give. The net result is, according to my understanding, that the range they are talking about now, out of a total of \$1.35 trillion, is about \$135 billion, or 10 percent.

For practical purposes, about 10 percent of the tax relief under the bill goes to rate reduction of the death tax and an increase in the exemption and eventual repeal in the 10th year. President Bush, by contrast, allocated \$260 billion for death tax relief. We are trying to get by to do more with less.

Probably the most important thing is there has been an understanding both in the House and in the Senate reflecting the will of the American people that there is something terribly unfair about a provision of the Tax Code that literally taxes people because they die; not because they sold an asset; not because they saved or invested or had some other kind of economic transaction that they fully knew the tax consequences of but, rather, they are taxed because they die.

We have come to conclude, representing the view of the majority of Americans, there is something very unfair about taxing people after they die. Actually, you are not even taxing the person who died. You are taxing that person's heirs—the spouse, the children—at the very worst time of their life following this tragic event. It is not fair. It doesn't represent good tax policy.

There is a good way to substitute the capital gains tax for the estate tax, so that the assets end up being taxed but being taxed the same as any other assets, based upon an economic decision, if and when those assets are sold, and then taxed at the capital gains rates. But a tax is not imposed at the time of death. Fundamentally, death should not be a taxable event and that is a core principle that will come out of this tax bill. It is a core principle embodied in the repeal of the estate tax, sometimes called the death tax.

To me, the most interesting thing to come out of this debate is the realization that the American people have a fundamental sense of fairness. When you ask them whether it is fair to tax at the rate of about 25 percent, for example, they say no; we ought to get taxes down.

When you ask them if it is fair that death should be a taxable event, they say no, even if they do not think they are ever going to benefit personally from repeal of the estate tax. Fairness is what this effort to repeal the death tax is all about.

What I mostly wanted to do today is to report the results of a national poll of just this week. So we are not talking about something a long time ago—just this week, a very objective poll. So it has a very low margin of error. It is a poll by the respected McLaughlin & Associates of a thousand likely voters from around this country.

Here is one of the questions they asked. They wanted to ask the question, in effect, in the worst way possible. They said: Do you believe it is fair or unfair for Congress to impose a 40-percent or greater tax on an estate worth \$1 billion?

You could say, Do you think the death tax is unfair? I guarantee at townhall meetings people say: No, the death tax is not fair. That is not really putting the question in the most objective way. But when you ask: Is it fair or unfair for Congress to impose a tax of, be specific, 40 percent or more on estates—you don't use the death tax terminology—on estates of \$1 billion or more, that is the loading of the question. That is the part that biases it, \$1 billion or more, should you tax them at more than 40 percent?

Do you know what the answer is? By 60 percent the American people say: No, it is unfair. Only half that many said it was fair. How many of those people do you think would benefit from a repeal of that estate tax? Out of 1000, I don't know, maybe one but maybe not. There are not many people in this country leaving an estate of \$1 billion. Yet all Americans realize it is fundamentally unfair to impose a tax of more than 40 percent.

Of course, I might add the law currently is that it is about a 60-percent tax rate, but the question was not biased.

I think what that shows is right this week the vast majority, by 2 to 1, of Americans believe that even a tax rate

of 40 percent is unfair. The reason that is significant is in the Senate bill we were not able to reduce the tax rate on estates of even \$5 million, let alone \$1 billion, to that 40 percent level. As a matter of fact, I think we got it down to 45 percent, if I am not in error. Yes, we reduced the rate from 60 percent down to 45 percent. The House got it down into the 30s. I have forgotten whether it is 37 or 39 but something like that. We ought to be working to reduce the rate below 40 percent before the tax is finally eliminated in the 10th year. But we were not able to do that. I hope that is something the conference committee will work to do, to try to bring that rate down just as much as they possibly can.

What is interesting about this survey that shows that American people are fundamentally fair minded is that the results were the same across economic and political classes. For example, just as many voters who earned under \$20,000 as those earning over \$100,000 said the practice was unfair; exactly 61 percent in both cases. It is consistent across the political spectrum, very similar. Among Republicans, 65 percent said it was unfair. Remember the baseline is 61 percent. Slightly more Republicans, 65 percent, said it was unfair. Slightly fewer Democrats, 54 percent, said it was unfair; and Independents, 62 percent, almost right on the button.

The bottom line is, whether Republican or Democrat or independent, a substantial majority believe that even a 40-percent tax on \$1 billion estate is unfair.

The other interesting thing is this survey tracks all the other surveys I have seen over time. I will go back just 1 year because that is a nice frame. But the clear and resounding message is the estate tax is unfair and ought to be stricken from the code. The same McLaughlin & Associates conducted a poll earlier this year, in January. It found then that 89 percent of the people surveyed believed it was not fair for Government to tax a person's earnings while it is being earned and then tax it again after the person dies—which is exactly what the estate tax does.

Mr. President, 79 percent approved the idea of abolishing the estate tax—79 percent. That is very consistent with other surveys as well.

I went back a year ago because there is an interesting Gallup Poll that was done just a year ago—not quite a year ago. It found 60 percent of the people supported the repeal, even though about three-fourths of them believed they would never receive any direct benefit from that repeal.

Again, it goes to the notion of fairness. People believe an unfair tax should be repealed even if it is not going to help them at all. The reality is it probably would help them in terms of its indirect benefits. I noted during the debate on the estate tax the economic benefits to repeal, in terms of new jobs created, the infusion of capital into the economy, the growth of

the economy—all these things would be significantly benefited from a repeal of the estate tax. Of course, that benefits all Americans.

As John F. Kennedy said, in a different context, with respect to tax relief, "A rising tide lifts all boats." So if you can help the American economy, it helps everybody in the economy, even if you are at the lower end. So the reality is, repealing the estate tax does help all Americans. But it obviously helps some more than others. It especially helps those in two categories: First of all, those who pay the tax. That is not very many people. It is maybe in the hundreds of thousands—maybe a million, I don't know. But if you take members of families who are directly affected by this, clearly it is a number that is very much in the millions, if at all. Yet Americans fundamentally believe it is unfair to tax them.

The other larger group that is affected by the tax is, of course, all the people, especially the small business people—family-owned farms and family-owned businesses—who have to spend their money to try to plan their estate in such a way as to minimize the estate tax liability. This is difficult and expensive.

The Women-Owned Business Association—by the way, women-owned businesses represent more than half the small business in this country. They surveyed their members and found—just 2 years ago I believe it was—the average small business spent \$60,000 to do this expensive estate planning.

I note there was an op-ed in the Washington Post this morning by a very wealthy American who testified before the Finance Committee. He said it was really a shame we were going to do away with the estate tax. Of course, his point was he didn't think the American people really believed that way; yet I think the survey results show that they are. But people like this individual have the money to do the estate planning. They do not suffer from the tax. It is the small businesses and family-owned businesses and farms that end up having to pay a lot of money to buy insurance, to pay lawyers and accountants and estate planners to try to avoid the tax.

The real cost of the tax is at least as much, and probably more, in the wasted money spent to avoid paying the tax than it is the revenue to the Federal Government in the first place. Mr. President, 2 years ago when the tax collected about \$20 billion, there is a study that showed that almost exactly the same amount of money, by coincidence, about \$23 billion additional, was spent by people to avoid paying the estate tax or minimize their liability. So it is a very inefficient tax, as economists Henry Aaron and Alicia Munnell said in writing a 1992 study. They said death taxes "have failed to achieve their intended purpose. They raise little revenue. They impose large excess burdens. They are unfair."

I think the thing to note at this point in time in this Chamber, at about 2:20 on Friday afternoon, is that the conference committee is working away trying hard to bridge the gap between the House and Senate versions of the estate tax. I think all of us are hopeful that they will conclude their work so we can vote on the bill and provide tax relief to Americans.

This is a bill which provides relief all the way from the refundable tax credits, literally providing money to people who do not pay taxes, all the way up to those few people who, as I said, would receive relief from the estate tax. But most importantly, it would provide marginal rate relief for all Americans.

We have an opportunity now. I hope that we can drive the rates of the estate tax down prior to the repeal but, in any event, we will have struck a blow for fairness in this country by reducing marginal rates; reducing, if not eliminating, the marriage penalty, which is very unfair; and, finally, getting rid of a tax that a majority of Americans believe is very unfair, a tax that literally requires people to pay money to the Government because they died, the estate tax.

Madam President, we have a wonderful opportunity. I hope the conferees come back soon and we will have a chance to vote on this legislation.

Again, I commend the members of the conference and, in particular, the bipartisan leadership in the Senate, Senator GRASSLEY and Senator BAUCUS, for the fine work they have done to get it this far.

I just hope now we can conclude the work and send it down to the President for his signature and the benefit of the American people.

I yield the floor.

THE PRESIDING OFFICER. The Senator from Wyoming.

Mr. THOMAS. Madam President, I yield myself a few minutes to talk about energy this afternoon, if I may, please.

First, I thank my friend from Arizona for a very complete discussion of the tax reduction bill. Certainly, it is one of the most important things we will do during this Congress, and, indeed, over the next number of years.

The whole question, in the broad sense, of how you do taxes is very interesting. One question is, How are they fair? How do you make them fair among all the taxpayers? Another question is certainly the amount. How do you justify taking this money from citizens and it going to the Government? And when you have more than enough, what do you do with the surplus?

So I thank the Senator very much.

IMPORTANT ISSUES BEFORE THE SENATE

Mr. THOMAS. Madam President, we, of course, have been dealing, over the last several weeks, with some of the most important issues that will be