

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER (Mr. ASHCROFT). The Senator from Mississippi.

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 President, I ask unanimous consent that the order for the quorum call be rescinded.

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

#### SELF-EMPLOYED HEALTH INSURANCE ACT—CONFERENCE REPORT

Mr. PACKWOOD. I now ask that the Chair lay before the Senate the conference report to accompany H.R. 831, the self-employed health care deduction.

The PRESIDING OFFICER. Is there objection to proceeding to the report?

Mr. KENNEDY. Reserving the right to object, I am just wondering—and I do not intend to object—I am just wondering. We had been involved in a debate on the rescission bill. Senator DASCHLE had introduced a measure which he had announced that he was going to introduce. And we had another amendment that was in the second degree and debate was taking place. Many of us had planned to talk and debate.

Could the chairman of the Finance Committee indicate to those of us who were involved in that debate and discussion whether those measures now are being withdrawn and whether we will come back and address them at another time, just as a point of information so that we have some understanding what the matters are before the Senate?

Many of us thought we were going to be proceeding with the rescissions bill. We were given that indication again last night by the majority leader. We came over this morning intending to debate it. Then we had an amendment in the second degree. And now we are going on to a different matter.

I do not intend to object to moving to a different matter, although I would want to be able to speak to the conference report. I am just asking as a matter of information so that we have some understanding about where we are on the amendment of the Senator from South Dakota.

Mr. PACKWOOD. It is our intention to simply lay them aside. We will come back to them as soon as we are done with the conference report. We had suggested, although it has not been cleared I think on your side yet, a half an hour time limit on the conference report, 15 minutes equally divided, so that we would be back to it quite soon.

Mr. WELLSTONE addressed the Chair.

Mr. KENNEDY. If I could continue, I understand then that the request is just to move to the conference report?

Mr. PACKWOOD. That is correct.

Mr. KENNEDY. I would indicate just as one Member, I know the importance and the timeliness of the matters which are included in the conference report and the importance of achieving that. But I do want to indicate that there is a matter that has been raised in the conference report that with regard to the special tax provisions for some of the wealthiest individuals in the country. I know the Senator is familiar with this, and I wish to indicate to the leader that I have every intention of submitting a sense-of-the-Senate resolution on this matter before we reach a final decision. I am more than glad to work out the details with the chairman of the Finance Committee or with the majority leader, but I wish to at least indicate at this time my intention of proposing such a sense-of-the-Senate resolution when the matter does come before the Senate and at an appropriate time after the chairman of the Finance Committee or the members of conference committee have had an opportunity to explain the conference report.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I ask for the yeas and nays on the conference report.

Mr. WELLSTONE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. It is not in order to object at this point.

Is there objection to proceeding to the conference report?

Without objection, it is so ordered.

The Senator from Oregon.

Mr. PACKWOOD. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will report the conference report by title.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 831) to amend the Internal Revenue Code of 1986 to permanently extend the deduction for the health insurance costs of self-employed individuals, to repeal the provision permitting nonrecognition of gain on sales and exchanges effectuating policies of the Federal Communications Commission, and for other purposes, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by a majority of the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report is printed in the House proceedings of the RECORD of March 29, 1995.)

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I think the Senate is very familiar with this bill. We have

debated it thoroughly on the Senate floor. We have debated it in committee.

The bill will allow self-employed individuals to deduct 25 percent of the cost of health insurance premiums this year and 30 percent starting next year. This bill makes the deduction permanent. We would like to raise the deduction even more. But this is the first time we have ever made it permanent.

The reason this is so timely is people need to know this to prepare their tax returns. The deadline for filing 1994 tax returns is now only 2 weeks away.

So I hope the Senate would not spend a lot of time on this bill. I think everyone understands the bill, and I would be prepared to vote on the conference report.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I was wondering if the chairman of the committee would be willing to describe exactly the circumstances that took place in the conference committee in relationship to what tax payments would be expected from expatriates. A story was included in today's Washington Post and in other newspapers about the tax break that has allowed billionaires to renounce their U.S. citizenship, leave the country, and escape taxes on their profits.

The story reads:

A Senate proposal to tax such wealthy expatriates was dropped in a tax bill during a House-Senate conference Tuesday night, at least partly because of the pressure from lobbyists . . .

I am wondering if the chairman of the committee could review for the membership exactly what took place in the conference in relationship to that particular measure, and if he could review with us what the considerations were and why a judgment was made in the conference to provide for the elimination of that particular provision which had been accepted and approved in the Senate.

Mr. PACKWOOD. I would be happy to do that, Mr. President.

What happened was this: We added this provision in the Senate Finance Committee without any hearings.

From time to time, we pass things for which we do not know all the consequences. I do not think we know if this unfairly affects American citizens, or how it affect aliens or nonresidents that are living here.

The House had on the floor a motion to instruct its conferees to not accept the expatriate tax provision. That instruction was accepted. So the House was proceeding as they were instructed.

Chairman ARCHER and I agreed to have the Joint Tax Committee study the expatriate provision and report back to us by June 1. The Joint Tax Committee is instructed to study the

ramifications and implications and who is affected, and does it adversely affect American citizens vis-a-vis aliens or illegal immigrants or legal immigrants. The report is due by June 1. After we review the report, any legislation that we consider will have an effective date of February 6 of this year. This is the same date as the amendment that was offered in the Finance Committee. Everyone is on notice—if and when the expatriate legislation becomes law, it will be effective February 6, 1995.

Mr. KENNEDY. There may be reasons for study of this particular provision by the Joint Tax Committee. But I fail to understand the compelling need for study when we are talking about, as I understand it—perhaps the Senator wants to explain exactly what is at risk here.

As I understand it—and I think all of us were surprised when we read about it this morning—we are talking about the fact that individuals who are able to accumulate very substantial amounts of money, capital resources, would be able to, by renouncing their citizenship, escape what other citizens who did not renounce their citizenship would have to pay.

I am trying to understand exactly what is involved here and who exactly is involved. Could the Senator explain?

Mr. PACKWOOD. The Senator asks a very good question. At this point, we don't know who would be affected by the provision and who would not be. That is precisely the reason why it should not be considered today. The provision applies to citizens who renounce their citizenship. Maybe they have moved to another country for reasons that have nothing to do with tax avoidance purposes. They are subject to the tax. There is a possibility of double taxation. There is also the question of what happens to people who come to this country and never become citizens. They make a fortune here but they never become American citizens and they go back to their country of origin. Do they get a tax preferential treatment that an American citizen does not get?

These are questions that ought to be answered and will be answered. If and when we pass a bill, that bill would be retroactive to February 6. But it would be unwise to act when we do not fully understand the consequences.

Mr. KENNEDY. Well, I say to the Senator, why was the provision accepted initially by the Finance Committee and why was it accepted here on the floor if there were all these questions about it? Evidently it was supported by the members of the Finance Committee. It was not challenged during the floor debate, at least not to my memory. We had a very short debate on the legislation, in any event.

I am just wondering why the Finance Committee felt that this was a sufficient loophole that ought to be addressed and accepted the provision, and then in the conference committee the provision effectively was dropped.

Mr. WELLSTONE. Will the Senator yield?

Mr. KENNEDY. I will be glad to yield to the Senator from Minnesota in a moment.

Mr. WELLSTONE. I wonder if I could ask the Senator to yield, and I wonder if the Senator from New Jersey might want to respond as well.

Mr. KENNEDY. Could the Senator maybe explain to me what was the revenue gain expected from closing the loophole? I understand that the 5-year revenue gain was \$1.359 billion, that in the next 5 years it was \$2.274 billion, and the total in 10 years, \$3.633 billion; is that correct?

Mr. PACKWOOD. The revenue estimates have jumped around. The administration estimated its proposal would raise \$2.2 billion. Joint Tax estimated it would only raise \$1.7 billion. The proposal that was included in the Finance Committee bill was estimated to raise \$1.359 billion. The \$3.6 billion figure is a 10-year estimate of the Finance Committee proposal.

We also asked Treasury how many people would be affected by the administration's proposal. They said, "Well, between a dozen and two dozen." Now, Treasury is not sure about this number.

This is the problem. We do not know who they are. We do not know if they are American citizens. We do not know if they are illegal immigrants or legal immigrants. We do not know if they are leaving for the purpose of marriage or other legitimate reasons or leaving not to pay taxes.

I admit, I think we adopted this in haste, with no hearings, not fully understanding the consequences of the provision. I apologize for us having done it in this way.

Mr. KENNEDY. I appreciate the Senator's response. I understand that tax measures are always complex and they are difficult. But, as I understand it, we are talking about somewhere between, as the Senator has mentioned, \$1.4 and \$3.6 billion. Your own estimate, as I understand it, about the number of expatriates each year is about 12.

What is the estimated net worth of each of the 12 people? Could we get some idea about that?

We had just been debating children's programs, education programs. The total value of the programs that we are trying to restore is less than \$1.4 billion. Now we are talking about a dozen people who have made a great deal of money here in the United States—and no one has anything against them for making it in the United States—but these people are prepared to renounce their citizenship. They are prepared to reject what every working family in America is committed to—having to pay their taxes—by denying their citizenship and going someplace else.

I commend the Finance Committee for addressing this issue earlier. But I must say that I find it exceedingly difficult to understand why in that con-

ference, the provision closing that loophole was effectively dropped and the loophole failed to be closed.

In particular, I think what this is saying very clearly is, you have one set of rules and regulations for the wealthiest individuals—in this instance the very wealthiest—who are prepared to turn their back on this country, and you have another set of rules for everyone else. We closed that loophole, and now we have opened it up again.

Mr. President, I appreciate the Senator yielding.

I intend, if the Senator would yield for the purposes of sending—I see the Senator seated.

I ask for recognition, Mr. President.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I send to the desk a resolution. It is a resolution on tax avoidance by certain American citizens.

It is the sense of the Senate that—

(1) the Congress of the United States should act as quickly as possible to amend the Internal Revenue Code to end the tax avoidance by United States citizens who relinquish their United States Citizenship; and

(2) the effective date of such amendment to the Internal Revenue Code should be February 6, 1995.

I send that to the desk on behalf of myself and Senator WELLSTONE.

The PRESIDING OFFICER. Is there objection?

Mr. PACKWOOD. Parliamentary inquiry, Mr. President.

On this conference report, is this in order?

Mr. KENNEDY. I cannot hear the Senator.

The PRESIDING OFFICER. It would take unanimous consent to take up the resolution at this point.

Mr. PACKWOOD. I object.

Mr. KENNEDY and Mr. MOYNIHAN addressed the Chair.

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

The PRESIDING OFFICER. Objection was heard.

The clerk will call the roll to ascertain the presence of a quorum.

The legislative clerk proceeded to call the roll.

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

Mrs. BOXER. I object.

The PRESIDING OFFICER. Objection is heard. The clerk will continue to call the roll.

The legislative clerk continued to call the roll.

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

Mr. PACKWOOD. I object.

The PRESIDING OFFICER. Hearing objection, the clerk will continue to call the roll.

The legislative clerk continued to call the roll.

Mr. DOLE. 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. DOLE. Mr. President, we will be filing cloture on the conference report momentarily. There will be a pro forma session tomorrow, a cloture vote on Monday.

I think it is—I do not know how to describe it. So many self-employed States like Minnesota, Massachusetts, Kansas, New York, Oregon, wherever—wait until you file tax returns. April 15 is very close.

We are playing games. We are playing little games here. We have already said it will be effective the 6th of February. So we will do it the hard way. We will file a cloture motion.

Mr. President, there are 3.2 million people waiting for two Senators to let them file their tax returns—3.2 million. They ought to be dealt with fairly.

The only way I can think to do it is to file cloture. There will be no more votes today, and the cloture petition will be filed. Then we will go out.

Mr. KENNEDY. Mr. President, I want to make it very, very clear that I was prepared to move toward a final resolution on this legislation for the reasons that have been outlined by the majority leader.

I think it is a travesty for this body not to express itself in more than general statements and comments, and not to state its position overwhelmingly about the outrageous tax provisions that benefit not a small group of people but just a handful of very wealthy people who have renounced their citizenship here in the United States.

The best estimates of revenue from this provision are \$1.3 billion—that happens to be the same amount that is included in the amendment of the Senator from South Dakota, in terms of funding.

Now, the fact of the matter is the House Republicans had their way with this provision the last time they went to conference. I want to make sure that our conferees, when they go back after the unanimous vote of the Senate—and there is no reason that it should not be unanimous—understand our position. That is why I would urge that the Senate reach a final judgment on the conference report at a time set by the majority leader, but prior to that time that there be an opportunity for this Senate to express itself about this loophole, so that we can, Republican and Democrat alike, speak to that issue, and indicate that we are firmly in support of addressing that loophole in the way that my sense-of-the-Senate resolution suggests.

I do not think that is asking a great deal. This provision that closes the loophole was good enough to be accepted by the Finance Committee and accepted by the U.S. Senate. All we are trying to do is make sure that this provision is going to prevail in the end. We are denied that opportunity because of

the parliamentary situation—that the conferees of the House have adjourned.

If there is any time when the rules ought to be adjusted it is in this kind of egregious situation. All our resolution says is that the Congress should act as quickly as possible to amend the Internal Revenue Code to end tax avoidance by U.S. citizens who relinquish their U.S. citizenship, and that the effective date of such an amendment to the Internal Revenue Code should be February 6, 1995.

Let us have a unanimous vote on that, and let us have the vote on the conference report. That is what this is about. And we are prepared to do that at whatever time is convenient—on Monday next, at a time designated by the majority leader.

That is not an unreasonable request, and I hope that will be the way we proceed because this issue is not going to go away.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, I do not wish to speak at length but I want to make two points.

The first is that the Finance Committee fully intends to close this loophole, if that is the way it is to be described, to collect these taxes that are being avoided. But we would wish to do so and we will do so as of the date the Treasury, in the budget, the executive branch, proposed doing so as part of the President's budget: February 6. But I would like to say something that may not be wholly welcome here. And the Senator from Oregon will recognize it.

When we held hearings on this matter, professors of law and professors of international law came to us and they said: Have a little care in what you are doing. Prof. Robert F. Turner, who is the Charles H. Stockton Professor of International Law at the U.S. Naval War College, gave us a paper called, "International Law and the Exit Tax. Does section 203 of the Tax Compliance Act of 1995 violate the right to immigrate, recognized in the U.N. Covenant on Civil and Political Rights and other U.S. and international instruments?"

You may recall, Mr. President, that the U.S. Assistant Secretary Shattuck and the Assistant Attorney General have been in the United Nations just this week talking about our compliance with this law.

The Senator from Oregon will recall the observation that human rights and legal rights are most to be attended to when the group involved is despised. That is the test. Nobody much likes a billionaire who renounces his or her citizenship for money. But if there are rights involved they are rights, and we ought to be careful how we proceed. That is the test, not whether these people are popular or whether they are not popular.

We are going to proceed in that way. We are going to have a report. I offered this on behalf of the Democratic Mem-

bers as a part of a general package, this provision. When it failed, as things do, in a committee divided, the Senator from New Jersey offered it as a freestanding provision, just to raise money for deficit reduction.

It passed. It will pass again. I just wanted to say that, sir.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, my good friend from New York, I think he has yielded the floor, but I would like to congratulate him on what he said.

And then recall—it is funny how time revolves—20 years ago on this Senate floor we were excoriating the Soviet Union for taxing their citizens who wanted to leave as a violation of the most fundamental human liberty. And they were practically confiscating the income of their people, mainly Jews, who wanted to leave because of repression. And we said that was terrible.

We already have on the books now—it is existing law—a provision that says if an American citizen renounces his or her citizenship and leaves the country to avoid taxes, we can tax them for 10 years. That is the law now.

What we did not know, I apologize to the Senate, when we acted in haste—I have made these mistakes before and I will probably make them again—when we acted in haste we probably did not understand the full consequences, or maybe just two or three. If a person comes to this country from Italy, from Poland, from Germany, from Hong Kong, and becomes a legal immigrant, works and is prosperous, and reaches a certain age and the tug of the old home country is strong and that person goes back home, since he or she has never become a U.S. citizen this bill does not touch that person. Those people are free to leave with all their millions or billions or whatever they have because they have never become U.S. citizens.

Now you take exactly the same type of person who leaves Poland or Germany, comes here, becomes a citizen, and the tug of the old home country when they reach close to retirement is such that they leave—they are taxed. We did not grasp that when we passed this. We did not know it. We did not know there was a statute on the books, when we passed this, that you are taxed for 10 years if you leave for tax reasons.

What do you do about the thousands of Cubans, Cuba Libres who came here in the exodus of the 1960's to become American citizens, good citizens, in many cases prosperous citizens? And one day I think many of them would hope to return to a free Cuba. It is an understandable tug. They are now American citizens. They are not leaving to avoid taxes, they are leaving to go home. This bill would tax them. I do not think we intended that. We did not realize it.

So all we are asking—I find it amazing this bill is being attacked and this provision is being attacked by the very

people who were attacking the Soviet Union for doing the same thing 20 years ago. We made a mistake. There is no harm in admitting that. Unfortunately, God has not endowed any of us with perfection, despite what some of us may think. And we need to review it and look at it and see where the errors are. I say again, for those people who now leave the country to avoid taxes, we can tax them for 10 years.

So I am disappointed that the self-employed this weekend, when they are now meeting with their accountants—let us face it, most people do their taxes a week or two prior to April 15. I see one of my young staffers nodding who used to be a practicing tax lawyer. He said yes, this is the 2 weeks. They are not going to know what we are going to do. That is unfortunate, because now we will not get to vote cloture on this until Monday. I hope we would pass this Monday night—but I guess there is nothing else we can do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I would like to ask unanimous consent that a full statement I have prepared be printed in the RECORD, and a draft of a proposed amendment be printed immediately after my remarks for the purposes of public notice.

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

Mr. GRAHAM. Mr. President, I would like to just make two points. I agree with the point that has just been made by the Senator from Oregon, that the matter as it was passed out of the Finance Committee and by the full Senate was deficient in that it did not reach those persons who have been permanent residents of the United States and who then leave the United States and are able to avoid the tax on the substantial increase in their wealth which they achieved while they were in the United States. It was my intention to offer an amendment to do that on the floor when this matter was presented several days ago. However there was a unanimous-consent request, based on the urgency of passage, that precluded any amendments to the legislation at that time and so, in deference to the urgency of passage, I deferred.

I am filing in the RECORD the amendment that I would have offered so there can be public notice and comment on what I intend to propose at the appropriate time to close the loophole by extending this to permanent residents as well as citizens.

The second point that I would like to make relates to a concern about how this matter was suggested to be handled within the conference report. That was that any additional income that would have been derived from this loophole would have been used to increase a deduction in the underlying bill.

We have had on several occasions, including within the last 36 hours, state-

ments by which the Senate has committed itself to the proposition that, if we reduce spending, the benefits of that reduced spending shall be used for deficit reduction. It is my feeling that we ought to adopt the same principle as it relates to closing tax loopholes. After closing the tax loophole, the primary purpose of those funds ought to be for deficit reduction, not to be added for another tax reduction on a bill that just happens to be coincident with the consideration of the closing of the tax loophole.

So in some ways we have been saved from what I think would have been an inappropriate policy, whatever the merits of the specific proposal, inappropriate policy that funds saved from closing a tax loophole would be shifted to other purposes within the same matter before the conference committee. It is my hope that we will, as a further indication of the seriousness of our intention to reduce the Federal deficit, adopt the same principle for tax loophole closing as we have already done for spending reduction; that is, our priority is to reduce the deficit.

#### I. ENACT EXPATRIATION TAX

I must express disappointment that Congress has chosen to exclude from this bill a provision that would have imposed a tax on individuals who renounce their citizenship. Bolstering the Treasury's ability to exact Federal income tax from millionaires and billionaires who leave the country is long overdue.

The proposed legislation would have brought the taxation of individuals who renounce their citizenship more in line with the way the Federal Government taxes Americans who remain in the United States. Americans who are fortunate enough to experience significant appreciation in the value of their property usually are taxed twice: A 28-percent capital gains tax when the asset is sold and an estate tax of up to 55 percent upon death.

Even if the Congress had enacted this expatriate tax, individuals leaving the country would be subject to only one tax—at a maximum rate of 39 percent.

In short, the tax burden on departing millionaires would still be less than we currently impose on loyal American taxpayers.

#### II. NONCITIZEN RESIDENTS

In fact, the provision passed by the Senate did not go far enough. The tax that the Senate passed applied to citizens, but failed to include long-term residents who depart from the United States. Excluding long-term residents would result in the United States treating noncitizen residents more favorably than we treat American citizens. Such inequity cannot be justified.

Therefore, Mr. President, I submit for the RECORD an amendment to the version of the expatriate tax passed by the Senate and dropped by the conference committee. The amendment would extend the tax to departing individuals who are lawful permanent residents and have been taxed as residents for at least 8 of the past 15 years.

Equity dictates that such an individual be taxed on the appreciation of his or her assets. I submit the text of this amendment for the RECORD and invite my colleagues to review and analyze the proposal.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

On page 13, strike lines 7 through 18, and insert:

“(a) GENERAL RULES.—For purposes of this subtitle—

“(1) MARK TO MARKET. IF—

“(A) any United States citizen relinquishes his citizenship during a taxable year, or

“(B) any long-term resident of the United States—

“(i) ceases to be a lawful permanent resident of the United States for any portion of any taxable year, or

“(ii) ceases to be subject to tax as a resident of the United States for any portion of any taxable year by asserting the resident's right to be a resident of a foreign country under the provisions of a treaty between the United States and the foreign country,

then, except as provided in subsection (f)(2), all property held by such citizen or resident at the time immediately before the relinquishment or cessation, whichever is applicable, shall be treated as sold at such time for its fair market value.

“(2) RECOGNITION OF GAIN OR LOSS.—Notwithstanding any other provision of this title, any gain or loss arising from the sale under paragraph (1) shall be taken into account for the taxable year. This paragraph shall not apply to amounts excluded from gross income under part III of subchapter B.

On page 14, line 3, insert “domiciled in the United States” after “die”.

On page 14, line 17, insert “or on the date of the cessation described in clause (i) or (ii) of subsection (a)(1)(B)” after “citizenship”.

On page 15, strike lines 12 through 14, and insert:

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

“(1) RELINQUISHMENT OF CITIZENSHIP.—A citizen shall be treated as relinquishing his United States citizenship on the earliest of—

On page 15, line 15, strike “(1)” and insert “(A)”.

On page 15, line 20, strike “(2)” and insert “(B)”.

On page 16, line 3, strike “(3)” and insert “(C)”.

On page 16, line 6, strike “(4)” and insert “(D)”.

On page 16, line 8, strike “Paragraph (1) or (2)” and insert “Subparagraph (A) or (B)”.

On page 16, between lines 12 and 13, insert:

“(2) LONG-TERM RESIDENT.—

“(A) IN GENERAL.—The term ‘long-term resident’ means any individual (other than a citizen of the United States) who is a lawful permanent resident of the United States and, as a result of such status, has been subject to tax as a resident in at least 8 taxable years during the period of 15 taxable years ending with the taxable year during which the sale under subsection (a)(1) is treated as occurring.

“(B) SPECIAL RULE.—For purposes of subparagraph (A), there shall not be taken into account—

“(i) any taxable year during which any prior sale is treated under subsection (a)(1) as occurring, or

“(ii) any taxable year prior to the taxable year referred to in clause (i).

On page 19, line 20, insert "or the date of the cessation described in clause (i) or (ii) of subsection (a)(1)(B)" after "citizenship".

On page 20, line 4, insert "or the date of the cessation described in clause (i) or (ii) of subsection (a)(1)(B)" after "citizenship".

On page 20, between lines 13 and 14, insert: "(i) ELECTION BY EXPATRIATING NATURALIZED CITIZENS AND LONG-TERM RESIDENTS.—Solely for purposes of determining gain under this section—

"(1) IN GENERAL.—At the election of an individual who was a naturalized citizen of the United States or a resident not a citizen of the United States, property—

"(A) which was held—

"(i) in the case of a naturalized citizen, on the earlier of the date the individual first became a naturalized citizen of the United States or the date the individual first became subject to tax as a resident of the United States, or

"(ii) in the case of a resident who is not a citizen of the United States, on the date the individual first became a resident of the United States during the period of long-term residency to which the treatment under subsection (a) relates, and

"(B) which is treated as sold under subsection (a), shall be treated as having a basis on such date of not less than the fair market value of such property on such date.

"(2) ELECTION.—Such an election shall apply only to the property described in the election, and, once made, shall be irrevocable.

On page 20, line 14, strike "(i)" and insert "(j)".

On page 21, line 5, insert "(1)" after "(e)".

On page 21, strike lines 6 through 8, and insert:

(c) CONFORMING AMENDMENTS.—

(1) Section 877 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

On page 21, line 11, insert "(1)" after "(e)".

(2) Section 6851 of such Code is amended by striking subsection (d) and by redesignating subsection (e) as subsection (d).

### III. EQUITY

Mr. GRAHAM. I would remind my colleagues that we are not debating a tax on immigrants who come to the United States with little or no assets and who, through hard work, find a way to provide for their families.

Neither are we talking about taxing each and every resident alien who succeeds in establishing a business or making profitable investments while here in the United States and later decides to return to his or her native country.

This tax would apply only if the value of the individual's business or investments had increased by over \$600,000. In other words, the first \$600,000 in appreciation is fully exempted from the tax.

The expatriate tax would apply only to the rich of the rich who made their fortune as a result of access to the enormous resources of this country.

It is at least ironic, if not deplorable, that Congress is moving to protect millionaires who are fleeing the country while attacking programs benefiting America's poor children.

I understand that the chairmen of the Finance and Ways and Means Committees have charged the Joint Tax Committee with reviewing the taxation

of individuals leaving the country, with a report due by June 1.

I will respect that directive, but will urge reconsideration of this proposal at the earliest possible opportunity.

### IV. DEFICIT REDUCTION

The exclusion of the expatriate tax from the final version of the legislation dodges another serious issue that we must address.

That issue is whether we are committed to reducing the Federal deficit, or whether we are just committed to talking about deficit reduction.

The revenues generated from the tax were dedicated to deficit reduction.

I will fight to see that the \$1.4 billion this tax would raise will ultimately go to deficit reduction.

In fact, I urge my fellow Senators today to make a commitment—that we will dedicate the revenues derived from closing tax loopholes—like the gaping one available to those rejecting the benefits and obligations of American citizenship—to deficit reduction.

Mr. President, with those remarks, I look forward to voting for the legislation at the earliest possible moment.

Mr. MOYNIHAN addressed the Chair. The PRESIDING OFFICER (Mr. INHOFE). The Senator from New York.

Mr. MOYNIHAN. Mr. President, I would like to thank my friend from Florida for making a very explicit point, which the chairman made, which is that, if inadvertently you omitted consideration of a whole possible class of potential taxpayers which we did not deal with, we ought to—in shorthand I think we refer to it as green card issue. The review that is going to come up and which will, whatever we do, be retroactive to February 6, whatever the budget may produce, may produce more revenue than we otherwise would have done in the bill before us. And I think the committee was unanimous that it should indeed go for deficit reduction, in the final vote on the amendment by the distinguished Senator from New Jersey—which stood alone—just not to deal with other matters but simply to reduce deficits.

I yield the floor. I thank the Chair.

Mr. BRADLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, if I could, I would like to take a few minutes to talk about this proposal, since it was the amendment that I offered in the Finance Committee that was adopted, passed the U.S. Senate, and went to the conference committee.

I think this provision, or something very close to it, will pass the U.S. Congress this year. And it will pass the Congress this year because I think that the arguments against it will not stand. The point has been made that this is an exit tax. It is not an exit tax. It is a tax on the accrued gains while someone was a U.S. citizen. When someone opts to leave to escape the estate tax that he or she would otherwise pay, we are saying, no; when you begin the process of renouncing your U.S.

citizenship, you will be taxed. This is not a tax on little people. As every Senator who has spoken indicated, this is a tax on the very wealthy.

The amendment that I offered specifically excluded any pensions, any real estate owned by the individual, and \$600,000 in gain, which means that the person would have to have assets of about \$5 million before they could even reach the threshold of being taxed.

So, I believe that citizenship comes with certain responsibilities. Those responsibilities are to pay one's fair share of tax; that is, both income tax and, upon death, it includes estate tax.

I regret that this was dropped in conference. But I do not have any doubt of the commitment of the distinguished Senator from Oregon to see that this is going to be passed this year. I certainly do, and I say the distinguished Senator from Oregon does as well. I believe that we will see this passed this year. We had a hearing. There was nothing in the hearing that made me believe that we would not pass this in some form. There might be a change here or there. It will be effective February 6.

So the message is out to all those around Washington who might be looking for nice arrangements that there will be no change in this date. If you have begun your renunciation of citizenship on February 20, do not expect the date to slip. It is February 6.

So, Mr. President, I simply want to reassert my belief that this amendment will pass. I will offer it again. We will have a process to look at this. The distinguished Senator from New York, and I believe the Senator from Oregon, will also support this measure and it will pass and become law this year.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. DOLE. Mr. President, I would be happy to yield to the Senator from North Dakota very briefly, about 2 minutes, and then I will reclaim the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I very much appreciate the courtesy of the majority leader.

I support the sense-of-the-Senate resolution offered by Senator KENNEDY. I agree with the Senator from New Jersey that I believe that by the end of this year this will be law.

I also want to say, however, that I hope this afternoon a method is developed by which we can pass the conference report on this matter. We have small business men and women, sole proprietorships, farmers all across this country who are now about 15 months past due and about 70 percent short, even with this bill, of achieving what they ought to have; and, that is, 100 percent deductibility for health insurance. I think time is of the essence.

While I support the sense-of-the-Senate resolution, I hope very much that it will not delay passage this afternoon of this piece of legislation. This piece

of legislation is essential for millions of small business people, and it is very, very time sensitive. I believe that we ought to move it. I hope that a method is found by which we can do that this afternoon.

Let me say one more time that tax deductibility for health insurance for sole proprietors in this country is essential, and it is not just essential in this bill at 30 percent. We need to do more. The next step is to go to 100 percent.

Mr. President, I appreciate the courtesy of the Senator from Kansas.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Is it possible now to pass the conference report by a voice vote?

The PRESIDING OFFICER. Is there further debate on the conference report?

Mr. DOLE. I ask that the yeas and nays be vitiated.

The PRESIDING OFFICER. Is there objection?

Mr. KENNEDY. Mr. President, I understand the request is to vitiate the yeas and nays. Am I correct?

The PRESIDING OFFICER. That is correct.

Is there objection?

Without objection, it is so ordered.

Mr. DOLE. The question is on the conference report?

The PRESIDING OFFICER. The question is on the conference report.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, as I have stated earlier, I for one welcome the opportunity to set a time definite for the passage of the conference report so that everyone in this country will know as of now, this afternoon, that this conference report is going through and will be achieved.

I mean, it is interesting in that we have been debating the rescissions. I was here last night. When the majority leader was talking about urging action on the rescissions, I did not hear that, well, we are going to take up the conference report, that there was such a compelling sense of urgency about it. But obviously there is a sense of urgency, and I am more than glad to enter into an agreement that we pass it at a time certain.

I also believe that we should have the opportunity to put the Senate on record, hopefully unanimously, Republicans and Democrats alike, to say with regard to the provision—which passed the Senate—the provision that provides for tax payment from those wealthy individuals who decide to renounce their citizenship—\$3.6 billion worth—that we are going on record to insist that this provision is going to become the law.

Now, I have great respect for my colleagues and their desire to make sure that this provision becomes the law, and I know that they can be very persuasive in those conferences. But the

fact is, we had the provision in this bill, the bill went to conference, and the Republicans in the House of Representatives had their way and the provision was dropped.

The best way to indicate to the House conferees in the future that we are serious about this is to have a unanimous vote in the Senate. Therefore, I believe that that ought to be the procedure that is followed, that we should have an opportunity—hopefully it would be a unanimous vote—to say that the Senate is going on record in strong support of the provision that would have resulted in \$3.6 billion in revenue, according to the Finance Committee—\$3.6 billion.

That provision has been dropped. I believe it was a mistake to drop it, and the Senate of the United States ought to go on record with a broad, overwhelming majority to say that we want it reinstated as outlined here, and that 100 Senators believe this to be so.

And I just finally would say I think it is entirely appropriate to go on record at this particular time when we are debating rescissions. As soon as this issue is resolved, we will be talking in this Chamber about the amendment of the Senator from South Dakota which relates to education of children and to child care. The cost of the Senator's amendment is a third of this \$3.6 billion cost, a third of this cost. I think it is entirely appropriate that we go on record at this time, Mr. President.

There is no desire to delay. I was glad to stay here and am prepared to go ahead and see votes on the rescissions. I plan to be here. I am here this afternoon. I waited here yesterday to speak for the amendment of the Senator from South Dakota. I waited from 2 o'clock until 10 o'clock last night, to be able to speak for it.

We spoke very briefly on the Senator's amendment. Then we had an amendment that was put right on top of it which precluded us from having any further debate and discussion. Then this measure came right in. I was going to exit the floor at 3 minutes of 12 and then was told that this measure was going to come on in here and was going to be passed in a few moments, and I had to object to it, without having the opportunity to talk to the Democratic Members and others on that conference committee.

That is not how you treat the institution, Mr. President. I am glad to cooperate, and I urge that we set a time definite for the vote and the final disposition of the conference report, and that prior to that time we have an opportunity to express the sense of the Senate—which I hope will be unanimous—in order to reaffirm the Senate's position on the provision that has been reported out favorably—virtually unanimously, Republican and Democrat alike—from the Finance Committee and accepted virtually unanimously by the Members of this body. If we can get that process set up, then I

think that would be the best way to proceed.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. I know the Senator from Massachusetts said he does not have any confidence in anybody on the Finance Committee, either party, so we are going to hold hostage all weekend millions of people out there who want to do their tax returns because we do not trust each other. There are 3.1 million filers and they live in all of our States. We have got them down now to 2 weeks. We are going to squeeze them now, take 3 days away from them. They are going to have to file amended returns, which is going to cost them a lot of money, but it is going to make somebody feel good in the Senate.

That is why the American people are so frustrated when they look at Congress. No wonder it is only a 31-percent approval rating. After today, it will probably drop to 10. Every time we bring up a bill this session we have this turkey shoot. Everybody over on the other side figures out some little political amendment they can offer. And I have served notice on the White House today we are not bringing up any more bills the White House wants until we have some understanding on the legislation that we thought would go through here in a normal way. If the President does not care, that is good enough for me. If he does not want this legislation, we are not going to take it up, but neither will we take up legislation that he wants.

#### CLOTURE MOTION

Mr. DOLE. I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

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, do hereby move to bring to a close debate on the conference report to accompany H.R. 831, the Self-Employed Health Insurance Act:

Robert Dole, Bob Packwood, John Ashcroft, Orrin Hatch, Richard Lugar, Lauch Faircloth, Larry Pressler, Thad Cochran, Trent Lott, Pete Domenici, Rick Santorum, Larry Craig, Alfonse D'Amato, Hank Brown, James Inhofe, and Slade Gorton.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. It is my intent to either have a pro forma session tomorrow or, unless we can agree to count a day and it will not be necessary to have a pro forma session, come in at 11 o'clock on Monday, and the cloture vote will occur at 12 o'clock.

Now, if those who feel so strongly about this little sense-of-the-Senate resolution want to deny us cloture, why, that is fine. We will explain to the