

improve bilateral cooperation and to go after the real thugs in the story. I hope we can get past this case quickly. I hope the Foreign Secretary of Mexico and Secretary of State of the United States wake up and smell the coffee.

Mr. President, I ask unanimous consent that the letter from Secretary Albright to Secretary Rubin be printed in the RECORD.

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

THE SECRETARY OF STATE,  
Washington, DC, May 22, 1998.

Hon. ROBERT RUBIN,  
Secretary of the Treasury.

DEAR MR. BOB: I know that both you and Attorney General Reno are aware of the negative reaction in Mexico to the announcement of Operation Casablanca and have had contact with Mexican officials about this. I spoke May 21 with Foreign Secretary Rosario Green who expressed her government's deep resentment for not having been informed of the operation prior to the public announcement. Other Mexican officials have voiced concern that the activities undertaken by U.S. agents in Mexico may have been illegal under Mexican law or contrary to understandings between the United States and Mexico.

Mexico's reaction is a product of many factors, not least of which is great sensitivity within the Zedillo government to preexisting charges from the opposition that it is attempting to bail out a corrupt banking system. However, I am concerned about the negative tone this development introduces into the relationship and that Mexican cooperation on several fronts, particularly counter-narcotics, may be affected.

We might have achieved more favorable results if we had brought Attorney General Madrazo and a few others into our confidence a few days before the public announcement. In this regard, I believe State should have been consulted. We would have been able to offer some advice that could have ameliorated the negative reaction.

I would appreciate being kept personally informed of developing investigations in Mexico and other foreign countries that could have a significant foreign policy fallout. I do not wish to interfere with your law enforcement work, but I do believe we need to do a better job of coordination.

It is essential that in the coming days you find ways in your public statements and private contacts with Mexican officials to indicate that we are actively working to avoid similar difficulties in the future. I hope to discuss this with you soon.

Sincerely,

MADELEINE K. ALBRIGHT.

Mr. GRASSLEY. I yield the floor.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Texas.

#### NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

#### AMENDMENT NO. 2686 TO AMENDMENT NO. 2437

(Purpose: To eliminate the marriage penalty reflected in the standard deduction, to ensure the earned income credit takes into account the elimination of such penalty, and to provide a full deduction for health insurance costs of self-employed individuals)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM], for himself, Mr. DOMENICI, Mr. ROTH, Mr. FAIRCLOTH and Mr. BOND, proposes an amendment numbered 2686 to amendment No. 2437.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the amendment, insert:

#### SEC. \_\_\_\_ ELIMINATION OF MARRIAGE PENALTY.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 222 as section 223 and by inserting after section 221 the following new section:

#### "SEC. 222. DEDUCTION FOR MARRIED COUPLES TO ELIMINATE THE MARRIAGE PENALTY.

"(a) IN GENERAL.—In the case of a joint return under section 6013 for the taxable year, there shall be allowed as a deduction an amount equal to the applicable percentage of the excess (if any) of—

"(1) the sum of the amounts determined under subparagraphs (B) and (C) of section 63(c)(2) for such taxable year (relating to the basic standard deduction for a head of a household and a single individual, respectively), over

"(2) the amount determined under section 63(c)(2)(A) for such taxable year (relating to the basic standard deduction for a joint return).

"(b) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(1) IN GENERAL.—No deduction shall be allowed under subsection (a) if the modified adjusted gross income of the taxpayer for the taxable year exceeds \$50,000.

"(2) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this subsection, the term 'modified adjusted gross income' means adjusted gross income determined—

"(A) after application of sections 86, 219, and 469, and

"(B) without regard to sections 135, 137, and 911 or the deduction allowable under this section.

"(3) COST-OF-LIVING ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 2007, the \$50,000 amount under paragraph (1) shall be increased by an amount equal to such dollar amount multiplied by the cost-of-living adjustment determined under section 1(f)(3) for the calendar year in which the taxable year begins, except that subparagraph (B) thereof shall be applied by substituting 'calendar year 2008' for 'calendar year 1992'. If any amount as adjusted under this paragraph is not a multiple of \$5,000, such amount shall be rounded to the next lowest multiple of \$5,000.

"(c) APPLICABLE PERCENTAGE.—For purposes of this section, the applicable percentage shall be—

"(1) 25 percent in the case of taxable years beginning in 1999,

"(2) 30 percent in the case of taxable years beginning in 2000, 2001, and 2002,

"(3) 40 percent in the case of taxable years beginning in 2003, 2004, and 2005,

"(4) 50 percent in the case of taxable years beginning in 2006,

"(5) 60 percent in the case of taxable years beginning in 2007, and

"(6) 100 percent in the case of taxable years beginning in 2008 and thereafter."

(b) DEDUCTION TO BE ABOVE-THE-LINE.—Section 62(a) of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding after paragraph (17) the following new paragraph:

"(18) DEDUCTION FOR MARRIED COUPLES.—The deduction allowed by section 222."

(c) EARNED INCOME CREDIT PHASEOUT TO REFLECT DEDUCTION.—Section 32(c)(2) of the Internal Revenue Code of 1986 (defining earned income) is amended by adding at the end the following new subparagraph:

"(C) MARRIAGE PENALTY REDUCTION.—Solely for purposes of applying subsection (a)(2)(B), earned income for any taxable year shall be reduced by an amount equal to the amount of the deduction allowed to the taxpayer for such taxable year under section 222."

(d) FULL DEDUCTION FOR HEALTH INSURANCE FOR SELF-EMPLOYEDS.—The table contained in section 162(l)(1)(B) is amended—

(1) by striking "and 1999",

(2) by striking the items relating to years 1998 through 2006, and

(3) by striking "2007 and thereafter" and inserting "1999 and thereafter".

(e) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 222 and inserting the following new items:

"Sec. 222. Deduction for married couples to eliminate the marriage penalty.

"Sec. 223. Cross reference."

(f) REDUCTION IN TRANSFERS TO NATIONAL TOBACCO TRUST FUND.—

(1) IN GENERAL.—Except as provided in paragraph (2) and notwithstanding any other provision of this Act, the amount credited to the National Tobacco Trust Fund under section 401(b) of this Act for any fiscal year shall be reduced by the amount of the decrease in Federal revenues for such fiscal year which the Secretary of the Treasury estimates will result from the amendments made by this title. The Secretary shall increase or decrease the amount of any reduction under this section to reflect any incorrect estimate for any preceding fiscal year.

(2) LIMITATION ON REDUCTION AFTER FISCAL YEAR 2007.—

(A) IN GENERAL.—Except as provided in subparagraph (B), with respect to any fiscal year after fiscal year 2007, the reduction determined under paragraph (1) shall not exceed 33 percent of the total amount credited to the National Tobacco Trust Fund for such fiscal year.

(B) SPECIAL RULE.—If in any fiscal year the youth smoking reduction goals under section 203 are attained, subparagraph (A) shall be applied by substituting "50 percent" for "33 percent".

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1998.

Mr. GRAMM. Mr. President, I apologize to my colleagues that it took so long to get this amendment together. We were trying to do several things, to bring together several provisions of different Members into one amendment. We also were trying to deal with a concern that the authors of the bill have

about their trust fund and how much money we will take out of the trust fund in each ensuing year as a result of the amendment. We are still looking at some of those provisions.

The net result is that we have the amendment together. What I would like to do in offering it is to outline the problem with the existing bill in terms of the impoverishment of blue-collar workers who dominate the ranks of smokers in the country.

I would like to talk about the need to rebate some of the tax money we are getting, in an effort to raise the price of cigarettes, to the very people who are going to be impoverished by this confiscatory tax. I would like to talk about why the marriage penalty is a good choice for that tax rebate. I would like to then talk about how this marriage penalty repeal works and how the numbers work out in terms of the budget. And that will constitute the relevant information in offering the amendment.

First of all, the problem. We have heard now for weeks and weeks a running debate about tobacco companies and their conspiracy to induce people to smoke. With just cause, those tobacco companies have been denounced on the floor of the Senate over and over again. However, people have become so fixed on these tobacco companies, they have totally lost sight of the fact that a giant bait and switch has occurred. In reality tobacco companies are not paying taxes under this bill, consumers are paying taxes under this bill. In fact, the provisions of this bill make it illegal for a tobacco company to refuse to pass the price through to the consumer. So they are held harmless in terms of the tax, but blue-collar Americans who smoke are devastated economically by this tax.

So the problem with the bill is that, in the name of raising the price of cigarettes to discourage smoking, we are, if this bill goes unamended, imposing one of the most regressive taxes in American history. And "regressive tax" means that poor people pay an increasing share of the tax burden.

Why do I say that? Well, I say it basically because in America smoking is primarily a blue-collar phenomenon. Obviously, people at all income levels smoke, but if you look at who will pay this tax, it really brings home the fact that in our country most of the people who smoke are moderate-income, blue-collar workers.

Of all of the tax collection that will occur under this bill, in an effort to drive up the price of cigarettes, 34 percent of those taxes will be paid by Americans who make less than \$15,000; 47.1 percent of these taxes will be paid not by tobacco companies but by Americans who make \$22,000 a year or less; 59.1 percent of these taxes will be paid for by Americans in families with incomes of \$30,000 a year or less.

So whether it is the intent of the underlying tobacco bill or not, the net result is that this bill imposes no taxes

on tobacco companies whatsoever. It shields tobacco companies by requiring that they pass the tax through to their consumers, and it squarely hits moderate-income, blue-collar workers right in the wallet and in the pocketbook.

Those who favor this bill have said over and over again that their objective in this bill is, not to raise money so they can spend it, but their objective in the bill is to drive up the price of cigarettes to discourage smoking. So recognizing the problem, that while the proponents of the bill vilify the tobacco companies, in reality they are taxing blue-collar workers. While they say they are not imposing the tax to get money to spend, in truth they are spending all the money. I have offered this amendment with Senator DOMENICI, Senator ROTH, and others, to achieve what the bill proponents claim they want to do. My amendment gives a part of the money that is collected in this tax back to the very people who are going to bear the burden of this tax.

Let me give some examples. In my State of Texas, we have 3.1 million Texans who smoke. If this bill drives the price of a pack of cigarettes up by \$2.78, which is the general estimate that is given, a Texan who smokes one pack of cigarettes a day would pay \$1,015 in new Federal taxes and would see their Federal tax burden grow by over 50 percent as a result of this tobacco tax.

Under this bill if a moderate-income family made up of two blue-collar workers, one might be a local delivery person and one might be a waitress, each smoke a pack of cigarettes a day and are earning less than \$30,000 a year, they are going to pay \$2,000 in additional Federal taxes.

So Senator DOMENICI, Senator ROTH, other Senators and I, have offered an amendment that says: Let us target people who make \$50,000 or less because they are going to pay some 75 to 80 percent of these taxes, and let us take a portion of the taxes, roughly a third, and give that money back to the people who will be paying the taxes in the form of repealing the so-called marriage penalty.

Mr. KERRY. Would the Senator yield for a question?

Mr. GRAMM. I would be happy to yield.

Mr. KERRY. I agree with the Senator that some people who pay the marriage penalty will also buy cigarettes, but I am sure the Senator has to acknowledge, and would acknowledge, would he not, that some people who will buy cigarettes, who are called sort of the "victims" here, will not get a benefit by this necessarily and some people who do not smoke will get a benefit by this? Is that a fair statement?

Mr. GRAMM. Let me reclaim my time to say it is true that moderate-income Americans who do not smoke will benefit from this tax cut, if they are married. It is true that high-income people who smoke will bear a burden

from the bill, and they will not get a benefit from this tax cut. But it is also true that Americans who pay 80 percent of the tax that will be imposed in the name of discouraging smoking, they are in families who earn less than \$50,000 a year, and they will get a benefit from this bill. There is no way we can target it just to smokers, nor does anybody want to.

The point that we are making is, if we are trying to raise the price of cigarettes to discourage consumption, that is one thing. But many of the critics of the bill have viewed this as a tax and spend bill, and with great justification, in my opinion. Therefore if we are raising the price of cigarettes to fund tens of billions of dollars of new Government spending, then why not give part of it back? There is no perfect tool in giving it back. The best we have found is to repeal the marriage penalty and to make health insurance tax deductible for the self-employed.

Let me explain how the marriage penalty works and how our amendment will work.

Many Americans are surprised when they learn that we have roughly 31 million families in this country who pay higher taxes because they are married than they would have paid had they remained single. In fact, the average tax burden that is incurred by these couples is about \$1,400 a year higher. They pay the Federal Government \$1,400 a year for the privilege of being married rather than continuing to file as single individuals. In fact, during a Finance Committee hearing, we actually had the startling testimony from a young woman who said she was living with her boyfriend and would like to get married but, because of the burden of the marriage penalty, they had delayed that decision.

I think we all understand that the family is the most powerful institution for progress and happiness in history. Strong families, I think we would all agree on a bipartisan basis, represent the solution to everything from drugs and gangs and violence, and for the perpetuation of the basic values that we all treasure as Americans. And so I think anyone would want to get rid of a provision of tax law that discourages people from getting married.

Our amendment does not try to get into a position of discriminating for or against couples based on the decisions they make about whether both parents or just one of them work outside the home. Some people have criticized our amendment, and perhaps will do it today, by saying that this marriage penalty provision will benefit families where only one of the couple works outside the home. But our objective is to have a provision that corrects the marriage penalty but doesn't do so in such a way as to discriminate against stay-home parents. A vast majority of the time, that is stay-home moms. We don't believe the Tax Code should treat people differently based on whether they decide to stay home and raise

their children or whether they decide to work in the marketplace.

My mama worked my whole life because she had to. My wife has chosen to work the whole life of our children because she wanted to. But we believe, those of us who are authors of this amendment, that it is not the business of the Government to try to dictate through the Tax Code that very important personal family decision. We want to be sure that for those who do choose to give up the income by having one parent stay at home and raise the children, that we don't see them discriminated against in the Tax Code.

So here is how our provision works: What our provision will do is give every couple who makes less than \$50,000 a year relief from the marriage penalty. We chose \$50,000 a year because we really are rebating part of the revenue from the cigarette tax back to those people who pay 80 percent of the taxes. It is my goal, in the tax cut that I believe will flow from the budget, to repeal the marriage penalty for every American, no matter what their income. But we have targeted \$50,000 and below here because that is where the smokers in America are, in the middle- and moderate-income range. We are using this to rebate part of the money collected in this bill due to the increase in the price of cigarettes to them.

What we will do for every married couple is, compared to the tax return they filed last year, they will get a \$3,300 deduction above the line, before they calculate what their income is for taxation purposes. This will repeal the marriage penalty. In addition, it will save the average family about \$1,400 a year in taxes. For low-income people who are still working to try to get ahead and trying to become self-sufficient, we will let them deduct this \$3,300 from their income before they calculate their eligibility for the earned-income tax credit. As Senator DOMENICI knows, some of the heaviest tax penalty burden falls on moderate-income people who are getting an earned-income tax credit if they stay single, but if they get married, which is part of the solution to their problem in terms of helping to put together a strong family, they end up losing their earned-income tax credit. So under our amendment we will give a substantial tax cut to the very Americans who are bearing the burden of this increased price of cigarettes.

Finally, we deal with a problem related to the self-employed by immediately making health insurance deductible for the self-employed. If I work for General Motors and they buy my health insurance, it is fully tax deductible. But if I quit working for General Motors and go into business for myself, not only do I have to pay both sides of my payroll tax, but my insurance is not tax deductible and I have to pay it with after tax money. We have started the process of phasing this out over an extended period of time. What

this bill will do is it will immediately give full tax equity to those Americans who are self-employed.

So the net result of our amendment will be to give back \$16 billion in the first 4 years, to give back \$30 billion over the ensuing 5 years, to the very people who pay 80 percent of the cigarette tax under this bill. We will give about a \$1,400 tax break to working couples in that income category by repealing the marriage penalty, and we will make health insurance fully tax deductible for the self-employed.

We have crafted the bill carefully so that we take about a third of the revenues that flow from the tax that is collected on cigarettes. Quite frankly, in the final bill I believe this number should be bigger. This is a number we picked when we introduced the amendment. We have tried to structure it to stay with that through the end of the budget cycle, which will terminate in 2007, and we tried to stay faithful to that agreement in the drafting of the amendment.

I think this is an important amendment. I believe that it does provide some degree of tax relief for the people who are going to pay this confiscatory tobacco tax. I hope my colleagues on both sides of the aisle will support this amendment. I do believe that we have gone to great lengths to try to make the amendment fair. We have listened to the concerns that have been raised by our colleagues who are in support of this bill. I think this is a good amendment. I commend it to my colleagues.

It does not correct the many wrongs in the bill that is before the Senate. It does not eliminate the marriage penalty for all Americans. It is a major step in that direction. This is not the end of the marriage penalty debate. This is the beginning of it.

By the end of this year we will have repealed the marriage penalty for every American family. This will allow us to do it immediately in this bill for those in moderate-income areas who pay the bulk of the cigarette tax. We will do it for the rest of Americans in the budget, in my opinion. I commend this amendment to my colleagues.

I want to thank Senator DOMENICI for his leadership in this area.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I don't intend this afternoon to repeat much of the explanation which was made by the distinguished senior Senator from Texas but I just will emphasize it as I see it.

First of all, it is very important to me that when we articulate an American policy and say we are for this or we are for that, that sooner, rather than later, we look at what our laws are and see if we can make them match the policy that we would like for our country.

No. 1, everybody on the Senate floor, it seems to me, from time to time has been concerned about families in

America. Obviously, the marriage tax penalty works against families, because if a married couple with two or three children are penalized to the extent of \$1,400 a year in taxes that they pay—just because they are married, which they would not pay if they had their exact same earnings and filed separately or were not married—that is clearly an American policy out of step with a profamily position of the United States and certainly of this Senator and most Senators I associate with in the U.S. Senate.

Secondly, maybe it isn't articulated as precisely as the previous one tenet of philosophy, but I say we, as a nation, ought to espouse marriage and we ought to look with favor upon the relationship that is called marriage historically and traditionally.

As my friend from Texas says, of all the institutions around, it seems to be that marriage is the one that has endured. It also seems to be one that when marriage does not endure or work properly it causes a lot of other problems within a family and throughout society. So to put an extra tax on that institution is wrong.

In the United States of America, 24 million married couples have endured and paid through the nose because of this marriage penalty.

I don't think they really thought when they said, "I do," that they were also saying, "and we shall pay." I don't believe that is what they thought they were doing when they took their marriage vows.

The average penalty is about \$1,400. I think everybody knows what an average means. Plenty of couples are paying much more. Obviously, there are plenty paying somewhat less.

In my State of New Mexico, 203,000 New Mexican families will be helped by this change. We are a State with just a little bit over 1,600,000 people. That is a pretty significant benefit we are passing on to people who are married and raising families, and both spouses are working.

By way of an aside, the second portion of our bill has to do with businesses that are self-employed people. Let me just give you that number. In New Mexico, 222,000 businesses are going to find that health insurance is going to be available to them now and be more affordable because under this provision they are going to be able to deduct the entire health cost, as do corporations and as do many others that are not self-employed.

So if anybody is interested in how we got into this mess with the marriage penalty, I will put in some facts about it later.

Obviously, this has come about with each major change we have made in the Tax Code, either to phase something out or to phase something in. There are about 63 provisions in the code, where couples are penalized for being married. The standard deduction and the progressive tax brackets are two of the major contributors to the marriage

penalty. So many of these provisions in the code vary, as I indicated, with marital status. The provision that primarily is responsible for the marriage penalty, the standard deduction for married filing jointly, is not two times the standard deduction for filing if you are single. That is the major reason that we have a problem.

Having said that, I want to relate this proposal to the bill that is before us. Every time we discuss a budget of the United States, or the economy of the United States, somebody talks about—and quite properly—what the level of taxation on the American people is. It is relevant to America's future, in my opinion and in the opinion of most economists looking at our country, that our tax on the American people, the total tax, be at the lowest possible level. Now, this bill before us, whatever its other interests are, is a very large tax imposition on the American people. Although it is not paid by everybody, you add it to the myriad of other taxes, and then you find out America is paying a higher total tax level than it was before this bill was passed.

So, to me, it is very simple. If this is a tax bill—and clearly there are many people who want to spend every penny of it on some kind of program. In spite of a budget that said we would not spend any more, there are scores of programs on which people would like to spend money. It seems to me that the forgotten people would be the taxpayers who would get no benefit unless we reduce taxes and charge the reduction to the tax income coming under this bill.

I think it is very logical and very reasonable—\$16 billion in the first 5 years, \$30 billion in the second 5 years, coming from the taxes raised in this bill from cigarettes. It will ultimately come from consumers. People think the tobacco companies are paying, but actually it will be added to the price of cigarettes and consumers will pay it.

We are saying give \$16 billion back to the taxpayers and \$30 billion back in the form of these two tax reductions over ten years. That is a third of the tax take in the first 5 years and about 37 or 38 percent in the second 5 years. Under the bill, about 40 percent of the program goes to the States. I am not sure I favor that much going to the States, but we are not amending that provision here. That is to be considered at another time if the Senate wants to consider it. But so long as the states are expected to get 40 percent of the overall trust fund, Senator GRAMM and I have agreed we won't offer any more tax cuts. But if indeed that 40 percent is reduced and we attempt to take some of that money back to the Federal Government and spend it, then obviously we reserve the right to offer some additional tax rebates or reductions or reforms at that time.

I am hopeful that the Senate will adopt this amendment. There may be other tax measures, but I think essen-

tially we are going to be separating Senators into two groups—Group One: Those Senators who want to spend all the money and group two who are Senators who want to give some of it back to the people. That is the issue. Do you want to give some of this back to the people, or do you want to spend it all for one program or regime or another that costs money, or a series of programs by which we give money back to the States for them to spend it?

I think the American people are going to judge us very, very precisely on this and I don't think the judgment is going to be a difficult one. They are pretty astute. When we have just crowed about a balanced budget with caps on expenditures and we come and say now we found a new source of revenue, all those ideas about keeping Government under control can go out the window. We will spend all of this on new programs. I think they will understand very easily. They will focus quickly that those who vote no on this amendment will be saying they want to spend all the money; those who vote yes on this amendment are saying we ought to give some of it back to the American taxpayer—in this case, to that huge number of Americans who are married, with both couples working, wherein they are being penalized by the adverse effect of our tax laws, and that they must pay a penalty for being married and for earning a living and filing jointly.

I am rather confident this is the right approach. Why do we stop at \$50,000 worth of wage earnings? I will agree that is just an arbitrary number. But we can't fix everything in one bill. If there is a tax bill this year—and there probably will be one—I would think high on the list would be to repair the marital tax problem so the higher brackets of earners are entitled to receive that benefit also. I thank Senator GRAMM for his untiring efforts on behalf of this. It is a privilege to work with him. I believe we will have a victory today.

I yield the floor.

Mr. KERRY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, let me begin with some comments about where we find ourselves, and then I will come back a little bit later and go into greater detail about it.

At the outset of the presentation of the amendment as originally filed by the Senator from Texas to repeal the marriage penalty, I and Senator MCCAIN and others said at that time that we were prepared, because we are supportive in principle of the notion of reducing the marriage penalty—we said we are prepared to embrace in this bill a component of marriage penalty reduction, provided that it doesn't strip away so much money that we are unable to accomplish the other purposes of the bill. And we have gone through a long week now—maybe a little bit more than a week—and the Senate has

essentially been in a stalemate position as we have negotiated around the concept of how much is appropriate and how do you arrive at how much is appropriate.

During the course of that week, the Gramm amendment as originally filed has undergone several changes. We are very pleased with that. I think there has been a bona fide effort here to try to arrive at some kind of sensible approach to the marriage penalty issue. The original Gramm amendment presented us with an estimated cost of \$113 billion over 10 years. That would have represented over that 10-year period 80 percent of the costs of all of the tobacco revenues. In other words, all of the tobacco revenues that would have come in, 80 percent of them under Gramm I, as we should call it, would have gone out to the marriage penalty rebate as he had designed it at that time.

Last week, at the end of the week, Senator GRAMM revised his proposal to what we would call Gramm II. Gramm II made mostly some sort of cosmetic changes that took the full measure of the cost, the \$113 billion I have just described, the 80 percent of the revenues, and rather than have them all show up within the first 10 years, it took those revenues and pushed a significant portion of them outside of the 10-year budget window. In other words, we look at the budget of the country in these 5-year periods, and we are looking at a 10-year budget window within which we have an ability to measure what we are doing. Beyond that, it becomes relatively more speculative.

Under Gramm II, the Senator from Texas would have still spent nearly 80 percent of the tobacco revenues in years 11 through 25 of the bill. So there would have been a reduction for the years 1 through 10 within the budget process, and outside of that, knowing that we are looking at a 25-year revenue stream as we measure the tobacco bill, that would have then taken the better part of the 80 percent. So you would have taken funds that were intended for public health, research, farmers, and the States, and that would have been significantly reduced. That clearly was also unacceptable. So we stayed locked in sort of a status of essentially negotiating with not a lot happening.

We then responded. We responded with an alternative that would have reduced the marriage penalty for most families. But it would have been done at a fraction of the cost of both Gramm I and Gramm II, which brings us now to Gramm III. Gramm III is what we were presented with just a few moments ago as we began this debate when the Senator filed this particular amendment. Under Gramm III, there is now an expenditure of approximately one-third of the funds under the tobacco funding. So it has been significantly reduced in the road that we have traveled as to tobacco funding.

In other words, from the revenues raised, if and when this bill passes, no

more than a third of that can be taken for the purposes of reducing the marriage penalty. But that is only half the story, because what the Senator from Texas does is maintain a level of benefits. In other words, he has geared his marriage penalty reduction in a way that there are still significant resources necessary in order to fund the benefits that he wishes to give, and he chooses not to take them all as part of our negotiating process from the tobacco bill.

But the question then has to be asked, Where does the Senator from Texas take them from? I respectfully submit that as a result of the fact that he has left in the breadth of generosity of benefits that he seeks to return in the form of the marriage penalty, while not taking it from the tobacco bill, he nevertheless seeks to fund it and take it from the other available funds of the Federal Government. That means that he will have to tap a new source of revenue; i.e., the general budget surplus of the country.

That means that the Senator from Texas will now look to Social Security, which is where we had originally designated that those funds would go. We have said as a matter of budget policy that we are going to preserve the budget surplus to take care of Social Security. But since the Senator is agreeing that only one-third of this revenue will come from the tobacco bill, the rest of it can only come from the surplus, unless, of course, the Senator has a bunch of offsets he is willing to offer up to suggest where that funding is going to come from.

A vote for the Gramm amendment in its current form, Mr. President, is a vote to take \$90 billion to \$125 billion of surpluses away from Social Security. This is \$90 billion to \$125 billion that will not be available for the long-term reform of Social Security, because once this tax cut of the Senator becomes law, assuming it does, it is law outside of the budget process. The Tax Code is not part of the budget process. That is then a right that has been created, an expectation as to what people will pay. And it has to be funded. The only place you can turn to fund it is to the general revenues and, therefore, to the surplus.

That is one side of what is being offered here. But I want to speak about another side.

I would like to ask my colleagues whether or not it is possible to take away the label "Democrat and Republican," take away the contentiousness of this bill, and just look at these two alternatives as a matter of good public policy and of common sense in terms of the budgeting of the country. The alternative that Senator DASCHLE and others of us on our side are offering, and we would hope with good common sense apply to the analysis that a number of colleagues on the Republican side of the aisle would say is really better policy—and I will say why I believe it is better policy—the fact is that the

alternative we will offer provides a greater marriage penalty relief than the Senator from Texas, but it does so with less cost to the Federal Treasury and to the tobacco bill. I want to repeat that. The alternative that we offer will give more marriage penalty relief than the Senator from Texas, but it will do so with less damage to the capacity of the tobacco legislation to be able to provide for public health for research for the States, and so forth.

The question is obviously, How do you do that? How do you avoid—is that some kind of a shell game and flimflam artistry, or is it real? I will tell you why it is real. The Senator from Texas, by his own admission, has agreed that he will reward those people who do not smoke. Or let's talk about the targeting. He says it is impossible to target this to accomplish a goal where you would actually wind up targeting non-smokers versus smokers. I would agree with that. He is absolutely correct. That is pretty hard to do. But you can easily target this marriage penalty reward so that it is actually dealing with the marriage penalty. If the purpose of this is to fix the marriage penalty, then it is possible to target this benefit in a way that it goes to the people who pay a penalty, not paid to the people who get a bonus.

The Congressional Budget Office will tell you that 51 percent of American married taxpayers get a bonus. And there is absolutely nothing in the approach of the Senator from Texas that limits them from getting rewarded above the bonus. There is no practical policy here given the difficulties we face of taking from the Social Security surplus, or taking from the tobacco bill, which we have now agreed we don't want to take more than a third from—there is no rationale for coming in and rewarding those people who already get a bonus. So what we have done is guarantee that we are going to give the tax relief to the people who are actually penalized. Senator GRAMM's amendment costs 50 percent more than the Democrat alternative, and it gives less marriage penalty relief.

The reason is that we have focused on giving about 90 percent of our tax cut to those families that are actually penalized, whereas Senator GRAMM is only 40 percent—90 percent versus 40 percent. Sixty percent of the people who are going to get a reward under Senator GRAMM's approach don't even pay a marriage penalty. It is not even fixing the marriage penalty. It seems to me as a matter of public policy what we ought to do is guarantee that we reach the maximum number of people who pay the penalty with the maximum amount of dollars back to those people.

Our alternative would provide a 20-percent deduction against the income of the lesser-earning spouse. The way the marriage penalty works, as I think most people know by now, is that either on a standard deduction or on the

earned-income tax credit or on the marginal rate you pay more or less according to what the income of both members of the household, both married partners pay. But it depends. The vagaries of the Tax Code are such that you could be a married couple with one person working, earning a big salary, one person not working at all, and you won't be affected the same way; you would actually have a bonus versus the two married partners who are both working, both earning sort of a similar amount of money. So if you have two income earners each earning about \$25,000, they wind up paying a penalty versus the high-income earner, single earner within the family and the other partner who is not, and there are other aberrations like that as you go through the various levels of income earning.

It makes no sense to jeopardize this legislation and to place pressure on the surplus, which we have now decided we ought to reserve to save Social Security in order to reward people who are already rewarded. There is simply no matter of public policy of common sense in doing that, and that is why there is a very significant difference between the two approaches here.

Let me give as an example a couple making \$35,000. Let us split the \$35,000, \$20,000 to the husband or vice versa, \$15,000 between the two spouses—you have 20 to one and 15 to the other, making \$35,000. Under the GRAMM approach, that couple would receive an average additional deduction of about \$1—\$1. By comparison, under the 20-percent, second-earner deduction alternative that we propose, the couple would receive an additional deduction of \$3,000—\$3,000 deduction versus \$1 under Senator GRAMM, 20 percent of the \$15,000. That represents about twice as large a tax deduction, and it would provide twice as much actual tax relief without any of the negative downside that is carried with the proposal of the Senator from Texas.

Let me give you another example. For a couple making \$50,000, let's split it evenly between both spouses—\$25,000 husband, \$25,000 wife. And that is a very realistic, very realistic division in the kind of two-person income of the families that we are trying to reach. Again, under GRAMM, the couple would receive an average additional deduction of \$1.

By contrast, under the 20-percent, second-earner deduction alternative that we propose, the couple would receive an extra \$5,000 deduction representing more than three times as much tax relief.

So that is the choice here, Mr. President. You can have a reward to people who are already getting a benefit by getting married, which is not a marriage penalty fix at all; you can structure it so that you wind up having to take the money from the general revenues, from the surplus; or you can come in with much greater tax relief that goes to the people who really need it, and you can do so without the negative impact on Social Security and

without the negative impact on the tobacco bill itself.

I think the choice is very clear. The difficulties presented to the overall budget situation by Senator GRAMM's current approach are very significant. It was the understanding, we thought, that we were not going to take more than one-third of the revenues in total, in whatever form they were going to come, that the Senator was going to structure his benefits so that no more than a third was represented in them.

What is happening here is the Senator is giving the guarantee that no more than a third comes out of the tobacco bill, but he goes elsewhere to look for the rest of the larger sum of money that he is going to give back by not structuring the benefits downwards. So, in other words, it is essentially outside of the notion that you have an agreement that is going to restrict the total benefits of the marriage penalty to one-third of the level of the tax bill.

Now, he can come back and argue: Wait a minute; we are just taking one-third of the tax bill.

Well, that is true, except that in total for the marriage penalty they are looking to one-third, significantly more than one-third from these other sources, which is a very different consideration from that with which I think most of us thought we were going to be presented.

The bottom line is that the amendment proposed by the Senator from Texas costs 50 percent more in the first 10 years than the Democrat alternative—that is \$46 billion total in the first 10 years—versus about \$31 billion. But it delivers far less in marriage penalty tax relief.

Finally, at this point—I would reserve some time later—but at this point in time, if you have \$30 billion taken out of this bill in the first 10 years—9 years, 10 years—added to the 40 percent that goes to the States, and add to that the component of the drug plan that came through yesterday, which takes 50 percent of the public health money, and we all know this bill is not leaving the floor of the Senate unless there is some kind of fix for the farmers, and we are going to look at somewhere between \$9 and \$18 billion—that is what you have, \$9 billion; \$18 billion, Senator LUGAR, I believe; \$9 billion, the Senator from Kentucky.

All of a sudden the question has to be asked: Where is the money to stop kids from smoking? Where is the fundamental notion that this is a bill directed at children in order to stop those kids from smoking? And everyone has come to understand that you need counteradvertising, cessation, professional training, and other kinds of things in order to do that. So it is simply unacceptable that suddenly all of the fundamental purpose of the legislation could be stripped away in a manner that would be unacceptable.

Now, obviously, if this were to pass, I think everyone knows it is not going to

be able to stay that way. There is no way. So the choice before the Senate is very clear: Do we want to make good policy about the marriage penalty, which I support fixing, but I have said all along it has to be done within the confines of reasonableness as to how much is available in this overall package so that we can still accomplish the fundamental purposes of the legislation. We are going to have to clearly visit that a little more over the course of the afternoon.

I yield the floor.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, the pending amendment begins to address tax relief in two important areas. The first is the marriage penalty that exists in the code. The second is health care costs. This amendment begins to give back to the people some of the money that is raised through the tobacco tax in the bill. And for these reasons I intend to support the pending amendment.

Personally, I think the spending is still too high in the tobacco bill. More of the revenue should be returned to the taxpayer.

In addition, there are many measures that the Finance Committee recommended which are not adequately included in the final bill. For example, the tobacco bill is inconsistent with the work of the Finance Committee, which has jurisdiction over the Medicaid program. The tobacco bill also reopens the Balanced Budget Act by increasing spending beyond the \$24 billion we have already provided for the State Children's Health Insurance Program. Another aspect of the overall bill which concerns me is the way that the international trade provisions are drafted.

Mr. President, there have been media reports that the tobacco bill is in trouble because the managers have to accommodate so many factions within the Senate and that today they have to accommodate the tax-cutters to make progress on the bill. I take exception with the suggestion that tax relief is just another nuisance to be accommodated. My perspective on this bill is quite different.

It is repeatedly asserted that this bill's purpose is to reduce teen smoking. That is a very desirable goal. I support that goal. However, in the bill I find only two policies that bear on that goal.

The first one—the tax increase—is said to bring in \$65 billion over 5 years. The second one—under \$1 billion in the President's budget—is a cessation program for teenagers.

In my opinion, we have accomplished the goal with \$64 billion left on the table. That money should be returned to the people, not be used as a slush fund to make government bigger. Making government bigger is not the goal of this legislation. But it seems to be the effect.

In my opinion, the debate on this bill should center on how we rebate excess

revenues to the people not on how we can fund government spending increases that cannot survive the traditional discipline of the budget and appropriations process. I support this amendment because it is philosophically the only legitimate course, in my opinion, for the Senate to take.

The pending amendment provides tax relief in two specific ways. First, it partially reduces the inequity of the marriage tax penalty.

As my colleagues know, this penalty places an unfair burden on two-earner married couples.

According to a recent Congressional Budget Office study, a married couple filing a joint tax return in 1996 could face a tax bill more than \$20,000 higher than they would pay if they were not married and could file individual tax returns. The same study estimated that according to one measure of the marriage penalty more than 21 million married couples paid an average of nearly \$1,400 in additional taxes in 1996 because they filed jointly. Marriage tax penalties totaled \$29 billion in 1996.

Let me take a few minutes to describe the history of the penalty—which has been around for almost 30 years. Before 1948, all taxpayers filed as single individuals. In that year, Congress gave taxpayers the ability to file jointly—meaning that a couple had the benefit on income splitting. The tax bracket for married couples was double the bracket for single individuals. Because of complaints that singles were being unfairly penalized, in 1969, Congress devised a special rate schedule and standard deduction amounts for singles. This new rate schedule created a marriage penalty for some taxpayers.

Because of changing demographics and the prevalence of two-earner couples in America, the marriage tax penalty has become an even greater concern. Moreover, after being reduced during the 1980s, the tax increases and creation of additional tax brackets in 1990 and 1993 have made it much worse today.

In the current tax code, there are over 65 examples of provisions causing the marriage tax penalty. The most obvious and dramatic one is the rate structure itself.

But there are numerous others, all of which can have a significant effect on the pocketbook of a married couple. The penalty provisions are built into deductions, exemptions, credits, and other facets of the code.

What the pending amendment does is take a step toward providing some relief for this inequitable condition. It provides a deduction, up to an amount of roughly \$3,400, for married couples. This deduction is phased in over 10 years. It will partially alleviate the burden, and toward doing this, I am a strong advocate. However, I regret that this relief does not go far enough.

The phased-in deduction is only available to couples with an adjusted gross income of less than \$50,000. In other words, Mr. President, someone

who works in the Chrysler or GM plant in Delaware and whose spouse is a school teacher would have too high an income to qualify for marriage penalty relief. That doesn't seem fair. I would have liked to see us give relief from the marriage penalty to many more Americans. Frankly, I would like to see us get rid of the marriage penalty altogether.

The second major component of tax relief in this amendment is in the area of health care. The amendment provides self-employed individuals next year with a 100 percent deduction for their health insurance. This is long over-due. It will help farmers, small business people, and others who buy their own health insurance. Because of this amendment, 3 million taxpayers and their families will have more affordable health care, and you cannot overstate how important this is.

This is a good first step. But I want to be clear that I do not consider it to be everything we must do. There are 18 million other Americans who lack health insurance, some are unemployed, others are elderly, and many have jobs. Simply put, I would like to see these individuals receive an above-the-line deduction for the cost of their health care. This is something I have worked on for some time.

When the Finance Committee marked up the tobacco legislation I placed before the committee a two-part proposal in the area of health care.

The first part was an immediate increase to 100 percent deductibility for health insurance for the self-employed. The second part provided the same benefit to the other 18 million Americans who need health insurance. This attempt was a natural follow-on to my successful efforts in 1995 to raise the deductible percentage from 25 to 30 percent and to make it permanent. Unfortunately, this time my tax cut proposal was not approved by the Finance Committee.

I intended to offer the same tax cut amendment on the floor, and I was pleased that several members—Republicans and Democrats—agreed to support it.

This proposal was also supported by farmers and small business, and I am pleased that it is reflected in the amendment before us now. Though, again, I want to go further. This is a good start, but I hope that in the future we revisit this with a mind to making health insurance more affordable for millions more of American workers.

It is the same with the marriage penalty. It is egregious that married couples are penalized by our tax code. I believe this sends the wrong message in more ways than one, and it must be addressed. We have attempted to do this in the past. For example, in 1995, in the Balanced Budget Act, Congress approved a proposal to phase out the marriage penalty in the standard deduction. Our legislation was vetoed by President Clinton.

I realize that at this point we are constrained by financial limitations and other priorities, and I compliment my colleagues for moving as far as they have with this bill. But I want all of my colleagues to agree with me that this should be seen as only the beginning. There is no justification for a married couple to be penalized just because they are married.

Mr. President, though it is not perfect, and while it does not go as far as I would like, I intend to support this amendment. It sends the right message.

It does provide partial relief. And it is a step in the right direction. I encourage my colleagues to support this effort.

Mr. MURKOWSKI addressed the Chair.

The PRESIDING OFFICER (Ms. COLLINS). The Senator from Alaska is recognized.

#### VISIT TO THE SENATE BY ANSON CHAN, CHIEF SECRETARY OF THE HONG KONG SPECIAL ADMINISTRATIVE REGION

Mr. MURKOWSKI. Madam President, it gives me a great deal of pleasure to introduce to this body, the U.S. Senate, Mrs. Anson Chan. Anson Chan is the Chief Secretary of the Hong Kong Special Administrative Region, known to many Senators in this body.

Anson Chan is the head of Hong Kong's 190,000-strong Civil Service. She was appointed to the position back in 1993 by then-Governor Chris Patten and has continued to serve in this capacity under C.H. Tung, the Chief Executive of the Hong Kong Special Administrative Region.

#### RECESS

Mr. MURKOWSKI. Madam President, I ask unanimous consent the Senate stand in recess for 5 minutes, so colleagues may greet Anson Chan, our dear friend.

There being no objection, the Senate, at 3:10 p.m., recessed until 3:14 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Ms. COLLINS).

Mr. MURKOWSKI. I thank the Chair for recognizing Anson Chan. I thank my colleagues who visited with her, as well as the pages.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

#### NATIONAL TOBACCO POLICY AND YOUTH SMOKING REDUCTION ACT

The Senate continued with the consideration of the bill.

Mr. GRAMM. Madam President, I think somewhere I heard the old saying, "No good deed goes unpunished." In trying to see if we might find some consensus on this issue, I tried to write our marriage penalty repeal amendment in such a way as to limit the amount of resources that it took from the underlying bill.

I did it recognizing that the underlying bill is as full of fat as any bill could possibly be. It is a bill that provides funding for a Native American antismoking campaign that will spend \$18,615.55 per Native American who will be served. It is a bill that pays trial lawyers \$92,000 an hour. It is a bill that pays tobacco farmers \$23,000 an acre, and they can keep the land and go on farming tobacco.

With all of these gross expenditures, our colleagues say that if we take more than a third of the money we are raising in taxes—which they say they are not increasing the tax to raise money—but if we take any more than a third of it and give it back, then somehow the bill is going to collapse.

Then I try to adjust the amendment to keep it within those constraints, and our dear colleague from Massachusetts accuses me of taking money from Social Security. And it goes on and on and on. "No good deed goes unpunished."

I have the ability to modify my amendment. I want my colleagues to understand that if we don't work out something on this amendment pretty soon, I am going to modify my amendment, and I am going to take every penny of this money out of this larded bill. So I can solve all of these problems. I tried to help somebody. I tried to work out a consensus, and now we are not able to do it. But I can fix that problem. I can fix the problem by taking the money out of this bill, and I am prepared to do that. I am not going to do it right now. I am going to wait and see if we can work something out. But I am prepared to do it. I have a modification. I have a right to modify my amendment, and I will modify my amendment at some point if we don't work something out.

Madam President, I want to address a number of issues that our colleague from Massachusetts raised.

Our colleague from Massachusetts says, "Well, I have a marriage penalty correction device, but mine doesn't cost as much and gives more relief."

So the question is, How is that possible? Well, the answer is that it gives no relief to one particular kind of family. That is a family where one of the parents decides to stay at home and work within the home—one of the hardest and most difficult jobs in America and one of the most important jobs in America.

We have not seen their amendment, but the way our Democrat colleagues could give a marriage penalty for so much less money is that it is a marriage penalty correction that you get only if both parents work outside the