

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming.

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

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

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

So I thank the Senator very much.

IMPORTANT ISSUES BEFORE THE SENATE

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

dealt with in this entire year, as we should. One, of course, is the budget. I think our success in the budget is holding down spending to something somewhat below what it has been in the past. Because we have had a surplus, the expenditures have gone up really more than you would imagine they would in terms of inflation and those kinds of things.

So this budget was held—I think the President asked for 5 percent—to a little in excess of that, but, nevertheless, a reasonable budget of which we can be proud.

The question now, of course, is staying within the budget. The budget is not an imposition of a limit; it is a pattern and a scheme to try to stay within. But it does not necessarily ensure that. That will be the real challenge.

The second thing we have dealt with, and have not yet completed, of course, is education. For most people in this country, education is the first issue they mention when they talk about issues.

Again, there are some rather basic issues that really ought to be talked about and decided. One issue is, What is the role of the Federal Government in elementary and secondary education? I think most of us would agree—and our experience has been—that State and local governments have the principal responsibilities in education. With that certainly ought to go the opportunity to make the decisions on a local basis.

The schools in Wyoming, obviously, have different needs, and have different uses for the dollars, than in areas of the country such as Pittsburgh or New York. And, therefore, local decision-makers ought to have a chance to be able to use those dollars in the ways they are needed.

Another issue in education, of course, is the basic question of, What is the role, in terms of expenditures, of the Federal Government? I think over the past number of years the Federal Government's contribution financially has been something less than 7 percent. So it is a relatively small contribution but a very important one and has caused us to have some of the programs that, of course, are very essential to our young people and very essential to education.

The tax bill that has been talked about is probably the most important thing we will do for a very long time. Hopefully, we will conclude that this afternoon. We will return a substantial amount of the surplus to those people who have paid it in and, at the same time, retain enough money to do the things that most people believe are a high priority; that is, to pay down the debt—to pay down all of the debt that is available to be paid down—to do something more with Social Security and pharmaceuticals, to ensure that Medicare is strong and continues in the future, and, of course, to have some flexibility so that there will be money there for increased expenditures for the military and for security.

I think all of those areas will be covered in this proposal that is before us.

The next issue that has a much higher profile now than normally is the question of energy. Of course, one of the reasons that it is now on so many people's minds is because prices have gone up substantially. There is the difficulty in California, the shortages that have occurred there. You can talk in many ways about why it has happened and what was the cause, but, nevertheless, it is there. Certainly there are some fairly interesting things that have happened there that have brought about the difficulties in electric energy.

But energy, of course, has been an issue for some time. It is not a brand new idea. It isn't hard to understand that when the market messages tell you that consumption is going up and production is going down that you are going to have a wreck inevitably and you need to do something about it.

It is not hard to tell that we have put ourselves at risk when we find ourselves depending nearly 60 percent on oil imported into this country as opposed to domestic production. That is an increase that has changed substantially over the last several years.

I suppose one might also say that it is not hard to imagine that you have some problems when you really have not had an energy policy for the past number of years, so that whatever has been done has not been part of a coherent plan to provide sufficient energy.

So I am very pleased to applaud the President and Vice President DICK CHENEY for the effort that they have put in—and immediately put in—to the energy issue. The White House energy tax force, chaired by Vice President CHENEY, has produced an energy package that has now been presented to the public and to the Congress with some 105 proposals that need to be considered, some of which can be done by administrative fiat within the Government. Others will have to come to the Congress, of course, to be acted upon.

I have been serving on the Energy Committee for some time and have been very interested in public lands and the interior. It has been very interesting that we focused entirely on the Department of Energy which, in turn, has not focused much on energy but, indeed, has had most of its focus, over the last several years, on one of its other responsibilities, which is nuclear: nuclear waste, nuclear security, Los Alamos. Those kinds of things have been almost the entire attention of the Department of Energy as opposed to energy.

So it is significant to me that in this work group the Vice President has included not only the Secretary and the Department of Energy, as, of course, it should be, but also the Department of Interior, which manages our public lands—which have some of the greatest energy reserves—and also EPA, the Environmental Protection Agency, which has had a great deal to do with the pro-

duction of energy and the regulations that have been promulgated.

So I think it was an excellent idea to have this collaborative effort, to bring several different agencies together. I hope they continue to be a part of dealing with the whole energy issue.

So I certainly support a program that recognizes that we have significant energy demands and one that begins to look for a solution—a solution that also includes conservation and the protection of the environment. I think those are very key elements.

I come from the State of Wyoming. We have a good deal of energy production in our State. Some call it the Btu capital of the world. We have probably the largest reserve of coal in the United States, as well as natural gas and oil. We have uranium, all those kinds of things. We also have some of the most beautiful mountains and flats and prairies of any State in the Union. And we have, for a number of years, produced energy. We intend to continue to do that. We intend to continue to do it in such a way that you can protect the environment at the same time you have multiple uses of those lands. But there will be lands that will not be used for a multiple use. They have been set aside as wilderness. They have been set aside as national parks, and that is as it should be. And so we do have to differentiate.

But in the policy, of course, we talk about energy and fuel diversity, which I think is very important. Certainly we are going to have a number of kinds of fuels that we can use, coal being one.

There is emphasis on clean coal technology so we continue to research ways that coal, which now produces about 52 percent of our electric generation, can be used with less intrusion into the air. We can do that. In this plan there are opportunities for that.

Renewables: We need to take a look at the long-term importance of renewables. Certainly all of us would like to see more power generated from wind and solar. Currently only about 1 percent of our consumption is produced by renewables. It can be greater, and we hope it will be.

Hydro: Of course, we need to take a look at our opportunities for renewables in hydro. Interestingly enough, some of the environmentalists who are critical of the President's plan more recently were asking to tear down dams. It is sort of a paradox.

Nuclear has a role, certainly. We have seen over the last few years that nuclear-generated power is probably the most clean power that is available and can be done in a safe manner. We need to do more there. We need to do something, however, about the waste storage, of course. That has not yet been resolved.

These are some of the things that can be done, and I hope we do them. We have an opportunity to set out a policy and then use a combination of production and conservation to protect our environment. Those are the challenges we can indeed meet.

I yield time to the Senator from Utah.

The PRESIDING OFFICER. The Senator from Utah.

TAXES

Mr. BENNETT. Madam President, we are all waiting for the conferees to come back to us with the tax bill. As we do that, I thought it might be appropriate for me to talk a little bit about some of the rhetoric that has surrounded the issue of taxes in the time we have together.

If I may, I will be a little personal because I have experience with the issue of marginal rates which might be of some value to this debate and which I would like to share.

As many Members of this body know, I was one of the founders of a business that started in what the pundits have come to call the decade of greed; that is, the 1980s. In that period of time, that which has been most commented on and most decried by the pundits is the fact that the top marginal tax rate was 28 percent.

We are talking now about an attempt on the part of President Bush to bring that tax rate down to 33. It is pretty clear from the conversations I have had with the conferees that that is not going to happen. I think it will be somewhere in the neighborhood of 35.

Someone said: Why does Michael Jordan need a tax cut? Why does Ross Perot need a tax cut? Why does Donald Trump need a tax cut? Isn't it proper that they continue to pay the lion's share of the taxes in this country? And they do. The people in the top 1 percent pay most of the taxes. To put it in another statistic: The top 400 taxpayers—this is less than 1,000 tax returns—pay more than 40 million of the taxpayers down below; 400 pay more taxes in dollars received than 4 million people down below.

Why do those 400 need a tax cut? They have plenty of money. That is the argument we hear.

I will concede that I don't think Michael Jordan needs a tax cut; I don't think Donald Trump needs a tax cut; and I don't think Ross Perot needs a tax cut. But under the Constitution, we have equal protection of the laws, which means if you provide a tax cut for someone, for a good and logical reason, someone else who happens to be in the same boat, even if he is rich, gets the same equal protection of the law and gets the same tax cut. So it is the side effect, if you will, that Michael Jordan gets a tax cut.

Here is the experience I had which I think gets ignored over and over and over again in the rhetoric that is thrown out with respect to tax rates. As I say, my associates and I started our business during the decade of greed when everybody was saying it was so terrible that the top marginal tax rate was 28 percent. We used, as most businesses did at that time and many businesses still do now, a provision of the

tax law that is known as section S of the tax law. Those who use it are known as S corporations as a result of their election.

All that means simply is that the profits of the corporation are not taxed at the corporate level. They flow through, as the Tax Code provides, to the individual tax returns of the shareholders.

We had five principal shareholders. That meant that as the corporation earned money, that money flowed through to our tax returns. If I can be fairly dramatic, in terms of the impact on me, I was earning my salary as the CEO of that company, which I and my wife thought was a relatively modest salary, but I filed a tax return showing that I had earned more than \$1 million. Why? Because my share of the profits of the corporation showed up on my tax return.

Now it made absolutely no difference whatsoever to my take-home pay, which was tied to my salary, because the corporation did not give me any money beyond the money necessary to pay my share of the taxes. Why would we do that?

There are two reasons we made the S corporation. The first and primary reason is that we wanted to avoid double taxation. If the corporation earned \$1 and paid corporate taxes on it—and let's take the corporate rate at the time, which I believe was 38 percent—if the corporation earned \$1 and paid 38 cents of that dollar to the Federal taxes and then gave the resulting money to the shareholder, the shareholder would then have to pay taxes a second time on the money that came as a dividend. If you make an S corporation, you only pay taxes once instead of twice. That is the primary reason people make the S choice.

The second reason was that if we did the S choice, we only paid 28 percent on that \$1 earned instead of 38 percent on that \$1 earned. Naturally, we wanted to save the extra 10 percent, 10 cents on the dollar.

Many people have the idea that when you earn money, you buy yachts and you take vacations and you waste the money overseas in what the Scriptures would call "riotous living." In fact, of course, when you are growing a business, you need every penny. It goes into inventory. It goes into accounts receivable. It goes into capital investments. If the business is growing—and our business was doubling every year; it did that for about 6 years running—you are always behind.

Indeed, I say to the students in business school, when I am asked to talk to them about this, the most terrifying thing you can do in a start-up business is make a profit, because then you owe taxes. Uncle Sam shows up and wants his tax money in cash.

You don't have it in cash because, as I say, your profits are all tied up in inventory, all tied up financing your growth. You end up, in most instances, borrowing cash from the bank in order to pay your taxes.

We paid a marginal rate of 28 cents out of every dollar we earned, and we plowed every one of the remaining 72 cents back into that business to make it grow. Our salaries did not increase. My take-home pay actually went down when that extra \$1 million showed up on my tax return, because then I was being treated, as far as the Federal Government was concerned, as if I were a basketball star earning that \$1 million, and that wiped out all of my deductions. That may not matter much to some people, but we had six children at the time, and that constituted a fairly significant amount of deductions that all of a sudden we couldn't take because we were "rich."

My take-home pay on my W-2 pay hadn't changed. The amount of money I was being paid by the corporation had not changed.

All that had changed was the bookkeeping entry on my tax return. Well, I am not complaining because the business was successful—so successful that we could look back on it now and realize that that business started literally in somebody's basement, with 2 employees, a husband and a wife, that then doubled to 4 employees, and that is how many they had when I joined them; I made No. 5. That business is now employing about 4,000 people. They are paying literally millions of dollars in Federal taxes, both the corporation taxes, the income taxes of the payrolls that have been generated with those 4,000 folks, plus the suppliers, plus all the rest of it. It is a fairly typical American success story.

The point of all this is not to bother you with details of my experience, but to point out that the difference between the top marginal rate of 28 percent that we pay and the current effective rate of 42 percent is 50 percent of the original amount; 14 points out of the 28 percent have been added on to the 28 percent. I suggest to you that if we were trying to start that business today, we would not have been able to finance it.

Many of the people who looked at this business said to us: How are you doing this? This growth is phenomenal. How are you creating these jobs?

We said we did it with internally generated cash. We didn't sell stock; we didn't go to the bank, although we had a credit line at the bank, of course. But we did it because we were able to save enough of the profit dollars we earned to pay for the growth of that business and create those jobs.

You can never say anything with certainty with respect to hypotheticals, but it is my conviction that if we were starting that business today, facing an effective tax rate of 42 percent, we would not succeed. We could not afford to do it. Therefore, we would not have created the 4,000 jobs that exist now.

The point I want to make with respect to the top marginal rate is that it does not just apply to the Michael Jordans and Donald Trumps of this world. That marginal rate applies to