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Senate

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. THURMOND).

PRAYER

Sovereign Lord, help us to see our work here in government as our divine calling, our mission. Whatever we are called to do today, we want to do our very best for Your glory. Our desire is not just to do different things, but to do the same old things differently: with freedom, joy and excellence. Give us new delight for matters of drudgery, new patience for people who are difficult, new zest for unfinished details. Be our lifeline in the pressures of deadlines, our rejuvenation in routines, and our endurance whenever we feel exhausted. May we spend more time talking to You about issues than we do talking to others about issues. So may our communion with You give us deep convictions and high courage to defend them. Spirit of the living God, fall afresh on us so we may serve with fresh dedication today. In the Lord's Name. Amen.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The able acting majority leader is recognized.

SCHEDULE

Mr. ALLARD. Mr. President, this morning the Senate will resume consideration of H.R. 2676, the IRS reform bill. Under the previous order, Senator ROTH will be immediately recognized to offer his so-called ''pay for'' amendment. It is hoped that after the Roth amendment is offered Senator KERREY will offer his ''pay for'' amendment and a short-time agreement can be worked out with respect to both amendments.

As a reminder, an agreement was reached yesterday limiting the bill to relevant amendments. Therefore, it is hoped that the Senate will make good progress on the IRS bill today in an effort to finish this important legislation by tonight or Thursday.

Senators should expect rollcall votes throughout today's session on amendments to the IRS bill, or any other legislative or executive items cleared for action.

I thank my colleagues for their attention.

UNANIMOUS CONSENT AGREEMENT—H.R. 2676

Mr. ALLARD. Mr. President, I ask unanimous consent that after Senator ROTH offers his amendment regarding offsets, the amendment be temporarily set aside; further, that Senator KERREY then be recognized to offer his amendment regarding offsets and there then be a total of 1 hour equally divided for debate on both amendments.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. KERREY. Mr. President, I wonder if the chairman of the Finance Committee would mind. We don't have the amendment quite prepared. We may need to modify it slightly in order to deal with the difficulty we are having. I wonder if the UC can be modified so we could be allowed to modify our amendment.

Mr. President, I ask unanimous consent that the unanimous consent request be modified so that we be allowed to modify our amendments with a relevant modification.

The PRESIDENT pro tempore. Without objection, it is so ordered.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The PRESIDENT pro tempore. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes.

The Senate resumed consideration of the bill.

Mr. ROTH addressed the Chair.

The PRESIDENT pro tempore. The Senator from Delaware.

Mr. ROTH. Mr. President, I further ask that at the conclusion or yielding back of time the Senate proceed to vote on the Roth amendment followed by a vote on the Kerrey amendment.

The PRESIDING OFFICER (Mr. ALLARD). Without objection, it is so ordered.

Mr. ROTH. Mr. President, before we begin debate today, I would like to offer some comments about the consent agreement that governs the offering of amendments. Basically, amendments that are to be in order must be relevant to the purpose of the IRS reform legislation, which covers three major areas.

First, it reorganizes, restructures, and re-equips the IRS to make it more customer friendly in its tax-collecting mission.

Second, it protects taxpayers from abusive practices and procedures of the IRS.

Third, it deals with the management and conduct of IRS employees.

These are the main purposes of the bill. While there are provisions dealing with electronic filing and congressional oversight, that is basically what this bill does.

Title 6 of the bill is an entirely different matter. That title contains technical amendments that run the breadth of the tax code. In the House of Representatives, this title was reported by the Ways and Means Committee as a separate bill—which, in fact, it is.

Title 6 is unrelated to IRS reform. It contains only technical corrections to previously enacted tax legislation that meet the following criteria:

First, they carry out the original intent of Congress in enacting the provision being amended.

Second, by definition, the technical correction does not score as a revenue gain or loss.

Third, the policy has been approved by the Treasury Department, the Joint Committee on Taxation, and the majority and minority of both the House Ways and Means Committee and the Senate Finance Committee.

As a consequence, amendments which are relevant because of provisions in title 6 must meet a more difficult standard under the consent agreement. They must not only be relevant, but must be cleared but the two managers and the two leaders. And in clearing provisions that relate to title 6, I will apply the same criteria that the provisions of title 6 had to meet to become part of that title.

I hope this explanation provides a clearer understanding of the application of the consent agreement to possible amendments.

AMENDMENT NO. 2339

(Purpose: To ensure compliance with Federal budget requirements)

Mr. ROTH. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware (Mr. ROTH) proposes an amendment numbered 2339.

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

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

The amendment is as follows:

On page 401, strike line 3, and insert: ''beginning after December 31, 1998''.

On page 415, between lines 16 and 17, insert:

SEC. 5007. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

''(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

''(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

''(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses arising in taxable years beginning after the date of the enactment of this Act.

SEC. 5008. MODIFICATION OF AGI LIMIT FOR CONVERSIONS TO ROTH IRAS.

(a) IN GENERAL.—Section 408A(c)(3)(C)(i) (relating to limits based on modified adjusted gross income) is amended to read as follows:

''(i) adjusted gross income shall be determined in the same manner as under section 219(g)(3), except that—

''(I) any amount included in gross income under subsection (d)(3) shall not be taken into account, and

''(II) any amount included in gross income by reason of a required distribution under a provision described in paragraph (5) shall not be taken into account for purposes of subparagraph (B)(i).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5009. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking ''October 1, 2003'' and inserting ''October 1, 2007''.

The PRESIDING OFFICER. Under the previous order, the amendment is now set aside.

Does the Senator from Nebraska wish to offer his amendment?

AMENDMENT NO. 2340

(Purpose: To ensure compliance with Federal budget requirements)

Mr. KERREY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. KERREY) proposes an amendment numbered 2340.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments submitted.'')

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

The Senator from Delaware has 30 minutes under his control.

AMENDMENT NO. 2339

Mr. ROTH. Mr. President, I yield myself 5 minutes.

Mr. President, under the Senate's budget rules, the first year, first five years, and second five years of revenue losses in a tax bill must be offset with either mandatory savings or revenue increases.

When the Finance Committee marked up the underlying bill, the first five years of revenue loss were offset. The second five years of revenue loss were not fully offset. The IRS Restructuring bill was short in excess of $9 billion in the last five years. During the markup, I indicated that I would work with the Budget Committee to attempt to find offsets so that the bill would be fully paid for over the last five years.

Finding offsets was not an easy task. Every major revenue raiser I considered brought forth opposition from different members. After several weeks of reviewing options, I have developed a package, in consultation with the leadership.

Mr. President, this pay-for package contains three new revenue raisers and a change to a revenue raiser in the underlying bill.

The first revenue raiser comes from the Administration's budget. This proposal would tighten the definition of operating losses that are eligible for a special ten year carry back. Congress intended this treatment to be limited to a narrow category of activities. This proposal simply clarifies the types of losses eligible for this special treatment. This proposal is noncontroversial.

The second new revenue raiser relates to the rollover rules for Roth IRAs. Under current law, individuals or married couples with adjusted gross income over $100,000 cannot rollover a traditional IRA into a Roth IRA. For purposes of the $100,000 test, minimum distributions which are required when an IRA beneficiary reaches 70½ are counted as income.

This second new raiser would modify current law by excluding minimum distributions from the $100,000 test. The effect of this proposal is to allow more taxpayers, at age 70½ and above, to rollover from a traditional IRA to a Roth IRA. This proposal will enlarge the group of taxpayers who can enjoy the benefits of the Roth IRA.

The third new raiser would extend the current law user fees charge by the IRS for private letter rulings. This extension would be effective for four years.

Let me note that the IRS restructuring bill uses the balance on the pay-go scorecard of $406 million in the last five years as an offset. We have been informed by the Budget Committee staff that the use of the pay-go balance is appropriate in this instance.

Finally, this amendment modifies an effective date of a revenue raiser in the Finance Committee bill. The proposal modified is the proposal to limit the carry back period of the foreign tax credit. Under this amendment, the effective date of the foreign tax credit raiser has been moved out one year to tax years beginning after 1998.

Now, Mr. President, some on the other side may criticize the most significant new revenue raiser in this package. The target of their criticism is the proposal to allow more older taxpayers to convert to Roth IRAs.

As I see it, those criticizing the rollover provision have the objective of limiting retirement savings choices for taxpayers who reach the end of their working years. For taxpayers who reach 70½, the opponents of the rollover provision are saying those taxpayers should fall under a more restrictive rule than those taxpayers under 70½.

If you are over 70½ and you are a middle income person who has a healthy IRA or pension plan, the opponents of the rollover provision are arguing you should not have the choice of a Roth IRA.

Alan Greenspan says America's most important economic problem is its low savings rate. It is a problem that we must address. The rollover provision in this amendment is a small step toward resolving our number 1 economic problem.

Mr. President, I ask unanimous consent that a technical description of this amendment, and a revised revenue table for the IRS restructuring bill, prepared by the Joint Committee on Taxation, be printed in the RECORD.

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

DESCRIPTION OF ROTH FINANCING AMENDMENT TO THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998 AS REPORTED BY THE SENATE COMMITTEE ON FINANCE

A. FOREIGN TAX CREDIT CARRYBACK AND CARRYOVER PERIODS (SEC. 5002 OF THE BILL)

Under the bill, the provision is effective with respect to credits arising in taxable years ending after the date of enactment. Under the modification, the provision would be effective with respect to credits arising in taxable years beginning after December 31, 1998.

B. RESTRICT SPECIAL NET OPERATING LOSS CARRYBACK RULES FOR SPECIFIED LIABILITY LOSSES

Present law

Under present law, that portion of a net operating loss that qualifies as a ''specified liability loss'' may be carried back 10 years rather than being limited to the general two-year carryback period. A specified liability loss includes amounts allowable as a deduction with respect to product liability, and also certain liabilities that arise under Federal or State law or out of any tort of the taxpayer. In the case of a liability arising out of a Federal or State law, the act (or failure to act) giving rise to the liability must occur at least 3 years before the beginning of the taxable year. In the case of a liability arising out of a tort, the liability must arise out of a series of actions (or failures to act) over an extended period of time a substantial portion of which occurred at least 3 years before the beginning of the taxable year. A specified liability loss cannot exceed the amount of the net operating loss, and is only available to taxpayers that used an accrual method throughout the period that the acts (or failures to act) giving rise to the liability occurred.

Description of proposal

Under the proposal, specified liability losses would be defined and limited to include (in addition to product liability losses) only amounts allowable as a deduction that are attributable to a liability that arises under Federal or State law for reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore oil drilling platform, remediation of environmental contamination, or payments arising under a workers' compensation statute, if the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year. No inference regarding the interpretation of the specified liability loss carryback rules under current law would be intended by this proposal.

Effective date

The proposal would be effective for net operating losses arising in taxable years beginning after the date of enactment.

C. MODIFICATION OF MINIMUM DISTRIBUTION REQUIREMENTS TO DETERMINE AGI FOR ROTH IRA CONVERSIONS

Present law

Under present law, uniform minimum distribution rules generally apply to all types of tax-favored retirement vehicles, including qualified retirement plans and annuities, individual retirement arrangements (''IRAs'') other than Roth IRAs, and tax-sheltered annuities (sec 403(b)).

Under present law, distributions are required to begin no later than the participant's required beginning date (sec. 401(a)(9)). The required beginning date means the April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½, or (2) the calendar year in which the employee retires. In the case of an employee who is a 5-percent owner (as defined in section 416), the required beginning date is April 1 of the calendar year following the calendar year in which the employee attains age 70½. The Internal Revenue Service has issued extensive Regulations for purposes of calculating minimum distributions. In general, minimum distributions are includible in gross income in the year of distribution. An excise tax equal to 50 percent of the required distribution applies to the extent a required distribution is not made.

Under present law, all or any part of amounts held in a deductible or nondeductible IRA may be converted into a Roth IRA. Only taxpayers with adjusted gross income (''AGI'') of $100,000 or less are eligible to convert an IRA into a Roth IRA. In the case of a married taxpayer, AGI is the combined AGI of the couple. Married taxpayers filing a separate return are not eligible to make a conversion.

Description of proposal

The proposal would modify the definition of AGI to exclude required minimum distributions from the taxpayer's AGI solely for purposes of determining eligibility to convert from an IRA to a Roth IRA. As under present law, the required minimum distribution would not be eligible for conversion and would be includible in gross income.

Effective date

The proposal would be effective for taxable years beginning after December 31, 2004.

D. EXTENSION OF IRS USER FEES

Present law

The IRS provides written responses to questions of individuals, corporations, and organizations relating to their tax status or the effects of particular transactions for tax purposes in the form of ruling letters, determination letters, opinion letters, and other similar rulings or determinations. The IRS is directed by statute to establish a user fee program with respect to such rulings and determinations. Pursuant to this statutory authorization, the IRS establishes a schedule of user fees. The statutory authorization for the IRS use fee program is in effect for requests made before October 1, 2003 (P.L. 104–117).

Description of proposal

The proposal would extend the IRS user fee program for requests made before October 1, 2007.

Effective date

The proposal would be effective on the date of enactment.

ESTIMATED REVENUE EFFECTS OF H.R. 2676, THE ''INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998,'' AS REPORTED BY THE SENATE COMMITTEE ON FINANCE AND MODIFIED BY THE ROTH FINANCING AMENDMENT

[Fiscal Years 1998–2007, in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2002	2003–2007
Title I. Executive Branch Governance							*No Revenue Effect*						
Title II. Electronic Filing							*No Revenue Effect*						
Title III. Taxpayer Bill of Rights 3:													
A. Burden of Proof	eca DOE	(1)	−221	−232	−243	−256	−269	−282	−295	−311	−326	−953	−1,483
B. Proceedings by Taxpayers:													
1. Expansion of authority to award costs and certain fees at prevailing rate and CFR rule 68 provision with net worth limitation (includes outlay effects).	180da DOE	.....	−14	−15	−16	−17	−20	−21	−22	−23	−25	−62	−111
2. Civil damages with respect to unauthorized collection actions (includes outlay effects).	DOE	−2	−15	−25	−50	−30	−25	−25	−25	−25	−25	−122	−125
3. Increase in size of cases permitted on small case calendar to $50,000.	pca DOE						*No Revenue Effect*						
4. Expand Tax Court jurisdiction to include responsible person penalties.	pca DOE	−11	−15	−13	−7	−7	−7	−7	−8	−8	−8	−53	−38
5. Actions for refund with respect to certain estates which have elected the installment method of payment.	rfa DOE						*Negligible Revenue Effect*						
6. Provide Tax Court jurisdiction to review adverse IRS determination of a bond issuer's tax-exempt status.	pfa DOE	(1)	−5	−2	−2	−2	−2	−2	−2	−2	−2	−11	−10
C. Relief for Innocent Spouses and Persons with Disabilities:													
1. Innocent spouse relief—innocent spouses would be able to elect to be liable only for tax attributable to their income (assumes no interaction with any other proposal; includes anti-abuse rule; not innocent if have actual knowledge of understatement of tax).	iaa & ulb DOE	−58	−350	−288	−273	−346	−480	−608	−773	−910	−1,071	−1,315	−3,842
2. Reports on collection activity against spouses	bi 1999						*No Revenue Effect*						
3. Suspension of statute of limitations on filing refund claims during periods of disability.	(2)	−10	−70	−35	−15	−16	−17	−18	−19	−20	−21	−146	−95
4. Require the IRS to send separate notification to both spouses by certified mail.	−nma DOE						*No Revenue Effect*						
D. Provisions Relating to Interest and Penalties:													
1. Elimination of interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.	cqba DOE	−(1)	−9	−28	−42	−54	−57	−60	−63	−66	−69	−134	−315
2. Increase refund interest rate to Applicable Federal Rate (''AFR'') + 3 for individual taxpayers (includes outlay effects) [3].	cqba DOE	−5	−51	−54	−56	−59	−62	−65	−69	−72	−76	−225	−344
3. Elimination of penalty on individual's failure to pay during installment agreements (for individuals and timely filed returns only).	iapma DOE	−29	−272	−287	−302	−317	−338	−354	−372	−390	−410	−1,207	−1,864
4. Mitigations of failure to deposit penalty cascading (all taxpayers)	dma 180da DOE	.....	−47	−64	−64	−65	−66	−66	−67	−68	−68	−240	−335

ESTIMATED REVENUE EFFECTS OF H.R. 2676, THE "INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998," AS REPORTED BY THE SENATE COMMITTEE ON FINANCE AND MODIFIED BY THE ROTH FINANCING AMENDMENT—Continued

[Fiscal Years 1998–2007, in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2002	2003–2007
5. Suspend accrual of interest and penalties if IRS fails to contact taxpayer within 12 months after a timely-filed return (except for fraud and criminal penalties).	tyea DOE	.....	.....	−358	−428	−482	−514	−609	−615	−622	−628	−1,268	−2,988
6. Notices of interest and penalties must show computation	na 180da DOE						*No Revenue Effect*						
7. Require management to approve non-computer generated penalties (excluding failure to file, pay, or estimated tax payment).	pa 180da DOE						*Negligible Revenue Effect*						
E. Protections for Taxpayers Subject to Audit or Collection:													
1. Due process for IRS collection actions	caia 6ma DOE	.....	−45	−1	−1	−1	−1	−1	−1	−1	−1	−48	−5
2. Extend the attorney client privilege to accountants and other tax practitioners for tax advice of accountant and other tax practitioners.	DOE	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(4)	(5)	(5)
3. Expand the Taxpayer Advocate's authority to issue taxpayer assistance orders.	DOE	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(4)	(4)
4. Limitation on financial status audit techniques	DOE						*No Revenue Effect*						
5. IRS summons of computer source code	sia DOE & pfsib DOE	.....	−26	−32	−39	−45	−53	−61	−66	−72	−74	−142	−326
6. Prohibition on extension of statute of limitations for collection beyond 10 years with estate tax exception.	(6)	−6	−44	−38	−31	−25	−25	−25	−25	−25	−25	−144	−125
7. Notice of deficiency to specify deadlines for filing Tax Court petition.	nma 12/31/98						*Negligible Revenue Effect*						
8. Refund or credit of overpayments before final determination	DOE						*Negligible Revenue Effect*						
9. Prohibition on improper threat of audit activity for tip reporting	DOE						*No Revenue Effect*						
10. Codify existing IRS procedures relating to appeal of examinations and collections and increase independence of appeals function.	DOE						*No Revenue Effect*						
11. Appeals videoconferencing alternative for rural areas	DOE						*No Revenue Effect*						
12. Require IRS to notify taxpayer before contacting third parties regarding IRS examination or collection activities with respect to the taxpayer (does not apply for criminal cases).	180da DOE	.....	(4)	(4)	(4	(4)	(4)	(4)	(4)	(4)	(4)	(5)	(5)
F. Disclosures to Taxpayers:													
1. Explanation of joint and several liability	180da DOE						*No Revenue Effect*						
2. Explanation of taxpayers' rights in interviews with IRS	180da DOE	.....	−13	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(5)	(4)
3. Disclosure of criteria for examination selection	180da DOE						*No Revenue Effect*						
4. Explanations of appeals and collection process	180da DOE						*No Revenue Effect*						
5. Require IRS to explain reason for denial for refund	180da DOE						*No Revenue Effect*						
6. Statement to taxpayers with installment agreements	180da DOE						*No Revenue Effect*						
G. Low-Income Taxpayer Clinics													
H. Other Taxpayer Rights Provisions:													
1. Cataloging complaints of IRS employee misconduct	DOE						*No Revenue Effect*						
2. Archive of records of IRS	DOE						*No Revenue Effect*						
3. Payment of taxes to the U.S. Treasury[3]	DOE						*No Revenue Effect*						
4. Clarification of authority of Secretary relating to the making of elections.	DOE						*No Revenue Effect*						
I. Studies:													
1. Study of penalty and interest administration and implementation	9ma DOE						*No Revenue Effect*						
2. Study of confidentiality of tax return information	1ya DOE						*No Revenue Effect*						
J. Limits on Seizure Authority:													
1. IRS to implement approval process for liens, levies, or seizures	caca DOE						*No Revenue Effect*						
2. Prohibit the IRS from selling taxpayer's property for less than the minimum bid.	Soa DOE						*No Revenue Effect*						
3. Require the IRS to provide an accounting and receipt to the taxpayer (including the amount credited to the taxpayer's account) for property seized and sold.	soa DOE						*Negligible Revenue Effect*						
4. Require the IRS to study and implement a uniform asset disposal mechanism for sales of seized property to prevent revenue officers from conducting sales.	DOE & 2 years						*No Revenue Effect*						
5. Increase the amount exempt from levy to $10,000 for personal property and $5,000 for books and tools of trade, indexed for inflation.	cata DOE	(1)	−5	−5	−5	−5	−6	−6	−6	−6	−6	−21	−30
6. Require the IRS to immediately release a levy upon agreement that the amount is not collectible.	lia DOE						*Negligible Revenue Effect*						
7. Codify IRS administrative procedures for seizure of taxpayer's property.	DOE						*No Revenue Effect*						
8. Suspend collection by levy during refund suit	tyba 12/31/98						*Negligible Revenue Effect*						
9. Require District Counsel review of jeopardy and termination assessments and jeopardy levies.	taa DOE						*Negligible Revenue Effect*						
10. Codify certain fair debt collection procedures	DOE						*No Revenue Effect*						
11. Ensure availability of installment agreements	DOE						*No Revenue Effect*						
12. Increase superpriority dollar limits	DOE						*Negligible Revenue Effect*						
13. Permit personal delivery of section 6672(b) notices	DOE						*No Revenue Effect*						
14. Allow taxpayers to quash all third-party summonses	ssa DOE						*Negligible Revenue Effect*						
15. Permit service of summonses by mail or in person	ssa DOE						*No Revenue Effect*						
16. Provide new remedy for third parties who claim that the IRS has filed an erroneous lien.	DOE						*Negligible Revenue Effect*						
17. Waive the 10% early withdrawal penalty when IRA or qualified plan is levied.	la DOE	−1	−3	−4	−4	−4	−4	−5	−5	−5	−5	−17	−24
18. Prohibit seizure of residences in small deficiency cases	DOE						*Negligible Revenue Effect*						
19. Require the IRS to exhaust all payment options before seizing a business or principal residence.	aa DOE						*No Revenue Effect*						
K. Offers-in-Compromise:													
1. Rights of taxpayers entering into offers-in-compromise	DOE	(1)	(4)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(1)	(5)	(4)
2. Prohibit IRS rejection of low-income taxpayer's offer-in-compromise based on amount of offer.	osa DOE						*No Revenue Effect*						
3. Prohibit IRS rejection of an offer-in-compromise solely based on a dispute as to liability because the taxpayer's file cannot be located by the IRS.	osa DOE						*No Revenue Effect*						
4. Prohibit the IRS from requiring a financial statement for offer-in-compromise based solely on doubt as to liability.	DOE						*No Revenue Effect*						
5. Suspend collection by levy while offer-in-compromise is pending	tao/a 60da DOE						*Negligible Revenue Effect*						
6. Rejected offers-in-compromise and requests for installment agreements to be reviewed.	oara DOE						*No Revenue Effect*						
7. Appeals review of rejected offers-in-compromise	osa DOE						*No Revenue Effect*						
L. Additional Items:													
1. Prohibit using tax enforcement results to evaluate IRS employees	DOE						*No Revenue Effect*						
2. IRS notices must contain name and telephone number of IRS employee to contact.	60da DOE						*No Revenue Effect*						
3. Require approval of use of pseudonyms by IRS employees	DOE						*No Revenue Effect*						
4. National Office conferences without field personnel	DOE						*No Revenue Effect*						
5. Require the IRS to end the use of the illegal tax protestor label	DOE						*No Revenue Effect*						
6. Modify section 6103 to allow the tax-writing committees to obtain data from IRS employees regarding employee and taxpayer abuse.	DOE						*No Revenue Effect*						
7. Publish telephone numbers for local IRS offices	1/1/99						*No Revenue Effect*						
8. Alternative to Social Security numbers for tax return preparers	DOE						*No Revenue Effect*						
9. Expand Alternative Dispute Resolution; binding arbitration pilot program.	DOE						*No Revenue Effect*						
10. Treasury can not implement 98–11 regulations for 6 months, with no inference about transition rules.	DOE	−8	−36	−10	−6	−3	−3	−2	−1	−1	−1	−63	−8
11. Require IRS to notify all partners of any resignation of the tax matters partner that is required by the IRS, and of the identity of any successor tax matters partner who was appointed to fill the vacancy created by such resignation.	tyba 12/31/98	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	(7)	−1	−1	

ESTIMATED REVENUE EFFECTS OF H.R. 2676, THE "INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998," AS REPORTED BY THE SENATE COMMITTEE ON FINANCE AND MODIFIED BY THE ROTH FINANCING AMENDMENT—Continued

[Fiscal Years 1998–2007, in millions of dollars]

Provision	Effective	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	1998–2002	2003–2007
Subtotal of Taxpayer Protections		−137	−1,251	−1,499	−1,592	−1,742	−1,957	−2,225	−2,442	−2,635	−2,849	−6,223	−12,110
Title IV. Congressional Accountability for the IRS		*No Revenue Effect*											
Title V. Revenue Offsets:													
A. Repeal Schmidt Baking with Respect to Vacation and Severance Pay	tyea DOE	603	1,141	1,160	141	148	156	163	172	180	189	3,193	860
B. Allow Taxpayers to use foreign Tax Credits to Reduce Income for 1 Year Back and Carryforward 7 years.	ftcai tyba 12/31/98	.....	84	546	487	454	424	394	271	267	263	1,571	1,619
C. Clarify and Expand Math Error Procedures	tyea DOE	.....	12	25	26	27	28	29	39	31	32	90	150
D. Freeze Grandfathered Status of Stapled or Paired-Share REITs	tyea 3/26/98	(6)	1	3	6	10	14	19	26	35	45	20	139
E. Make Certain Trade Receivables Ineligible for Mark-to-Market Treatment With Spread.	tyea DOE	33	317	500	333	117	70	73	77	81	85	1,300	386
F. Add Vaccines Against Rotavirus Gastroenteritis to the List of Taxable Vaccines ($0.75 per dose).	vpa DOD	.....	1	2	3	4	5	6	6	6	7	10	30
G. Authorize the Federal Government to Offset a Federal Income Tax Refund to Satisfy a Past Due, Legally Owing State Income Tax Debt.	rda DOE	2	2	3	3	3	3	3	4	4	4	13	18
H. Restrict Special Net Operating Loss Carryback Rules for Specified Liability Losses.	NOLgi tyba DOE	.....	.....	15	32	42	43	41	40	41	42	89	207
I. Disregard Minimum Distributions in Determining AGI for IRA Conversions to a Roth IRA.	tyba 12/31/04	.....	.....	.....	.....	.....	.....	.....	2,362	2,854	2,812	.....	8,028
J. Extend Fee for IRS Letter Rulings	10/1/03	.....	.....	.....	.....	.....	.....	64	67	71	75	.....	277
Subtotal of Revenue Offsets		638	1,558	2,254	1,031	805	743	792	3,055	3,570	3,554	6,286	11,714
Title VI. Tax Technical Corrections		*No Revenue Effect*											
Title VII. Pay-Go Surplus[3]		.....	.....	.....	.....	.....	29	61	93	97	126	.....	406
Net total		501	307	755	−561	−937	−1,185	−1,372	706	1,032	831	63	10

[1] Los of less than $1 million.
[2] Effective for periods of disability before, on or after the date of enactment but would not apply to any claim for refund or credit which (without regard to the proposed provision)
[3] Estimate provided by the congressional Budget Office
[4] Loss of less than $5 million.
[5] Loss of less than $25 million.
[6] Effective for requests to extend the statute of limitations made after the date of enactment and to all extensions of the statute of limitations on collections that are open 180 days after the date of enactment.
[7] Loss of less than $500,000.
[8] Gain of less than $500,000.

Legend for "Effective" column: aa=actions after; bi=beginning in; caca=collection actions commenced after; caia=collection actions initiated after; cata=collection actions taken after; cqba=calendar quarters beginning after; dma=deposits made after; DOE=date of enactment; eca=examinations commencing after; ftcal=foreign tax credits arising in; iapma=installment agreement payments made after; la=levies after; laa=liability arising after; lia=levies imposed after; na=notices after; NOLgi=net operating losses generated in; nma=notices mailed after; oara=offers and requests after; osa=offers-in-compromise submitted after; pa=penalties after; pca=processings commencing after; pfa=petitions filed after; pfsib=protection for summonses issued before; tia=penalties imposed after; rda=refunds due after; rfa=refunds filed after; sia=summonses issued after; soa=seizures occurring after; Soa=sales occurring after; ssa=summonses served after; taa=taxes assessed after; tao/a=faxes assess on or after; tyba=taxable years beginning after; tyea=taxable years ending after; ulb=unpaid liability before; vpa=vaccines purchased after; 1ya=1 year after; 6ma=6 months after; 9ma=9 months after; 60da=60 days after; and 180da=180 days after.

Note.—Details may not add to totals due to rounding.

Source: Joint Committee on Taxation.

AMENDMENT NO. 2340

Mr. ROTH. Mr. President, I would now like to turn to the amendment offered by the Senator from Nebraska, Mr. KERREY.

Senator KERREY is offering an alternative pay-for package. I must oppose Senator KERREY's package.

The Kerrey amendment contains revenue raisers similar to the Roth amendment. There are a few additional items that I had considered in crafting my pay-for amendment.

There, is, however, one very controversial revenue raiser in the Kerrey amendment. I think it is important that my colleagues focus their attention on it.

Rather than modifying the rollover rules for Roth IRAs, which would allow more taxpayers to enjoy the benefits of the Roth IRA, the Kerrey amendment would reinstate the expired Superfund taxes.

It is an undisputable fact that the present Superfund program needs immediate, substantial reform. I am a longstanding supporter of the Superfund program. It is critical that Superfund sites be cleaned up. It is a shame that the program has floundered over the past several years. Every Senator should feel the responsibility to get the Superfund program back up and running at full speed.

The Superfund trust fund received its revenues from excise taxes on domestic crude oil and imported petroleum products, certain chemicals and imported derivative products, and a corporate environmental tax.

These taxes expired a couple of years ago. If the taxes are extended, they will provide the necessary resources for Superfund cleanup activities.

It is important to maintain the ''connection'' between the Superfund taxes and the Superfund program. It is the view of our Senior Republican colleagues on the Environment and Public Works Committee that this connection is important for both the politics and policy of Superfund.

Our distinguished colleagues from the Committee on Environmental and Public Works, in particular, Senator SMITH and Senator CHAFEE, have worked long and hard on Superfund reform legislation.

They produced a bill, passed it out of committee, and have asked me to extend the expired Superfund taxes to cover the authorization period. Senators SMITH and CHAFEE should be commended for moving Superfund forward, not undercut here on the Senate floor.

I intend to support Senators SMITH and CHAFEE's efforts. As they have communicated to me, unless the Superfund taxes are enacted directly in connection with a Superfund reform bill, any hope for the long-needed changes in this environmental program would be dashed.

In deference to Senators SMITH and CHAFEE, the Finance Committee did *not* include an extension of the Superfund taxes in either the IRS Reform bill that passed our committee unanimously or in the Roth amendment. I agree with Senators SMITH and CHAFEE that the appropriate vehicle for extension of the Superfund taxes is their Superfund bill.

As chairman, let me be clear—I pledge to work with Senators SMITH and CHAFEE on Superfund with respect to the issues within Finance Committee jurisdiction.

It is my hope that will move forward with a viable Superfund reform proposal. The recent progress made by the Environment and Public Works Committee is encouraging.

If you are for Superfund reform, as I am, you need to support Senators SMITH and CHAFEE. For this reason, I respectfully urge my colleagues to oppose the Kerrey amendment.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who seeks recognition?

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, first of all, the choice that the Senate will be making today really is, the first choice we have to make is do we want to put another $9 billion of spending in this bill. That is what the Finance Committee did. And as a consequence we are now trying to find a pay-for of some kind. I believe it is a perfectly good bill without that $9 billion worth of additional expenditure, but that is the threshold question. Do you want to spend an additional $9 billion? And if you do, the question is, how do you get the money? Where do you get the money to pay for it?

What we have done in our amendment is included two provisions that

were included by the chairman of the Budget Committee. The Chairman of the Budget Committee, Senator DOMENICI, has advocated these two provisions as reasonable provisions, and we have included them as a pay-for. The alternative must be described here in a little more detail.

It is essentially an accounting gimmick that will be used by people over the age of 70½ that will basically enable them to pass to their heirs, tax free, assets that they currently own. That is what it is. Members need to know who will be affected by this.

I ask unanimous consent a letter from the Joint Committee on Taxation be printed in the RECORD.

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

JOINT COMMITTEE ON TAXATION,
Washington, DC, May 5, 1998.

To: Mark Patterson.
From: Lindy L. Paull.
Subject: Estimated revenue effects of proposal included in Roth financing amendment to modify rules relating to Roth IRA conversions.

Included in the proposed Roth Financing Amendment to the IRS Restructuring bill currently pending on the Senate floor is a proposal to modify the definition of adjusted gross income (''AGI'') for purposes of determining the income limitation of conversions of IRA balances to Roth IRAs, effective for taxable years beginning after December 31, 2004. The following describes the analysis of the staff of the Joint Committee on Taxation in preparing estimated revenue effects of this proposal.

DESCRIPTION OF PROPOSAL

Under present law, uniform minimum distribution rules generally apply to all types of tax-favored retirement vehicles, including qualified retirement plans and annuities, IRAs other than Roth IRAs, and tax-sheltered annuities (sec. 403(b)).

Distributions are required to begin no later than the participant's required beginning date (sec. 401(a)(9)). The required beginning date means April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½, or (2) the calendar year in which the employee retires. In the case of an employee who is a 5-percent owner (as defined in section 416), the required beginning date is April 1 of the calendar year following the calendar year the employee attains age 70½. In general, minimum distributions are includible in gross income in the year of distribution.

Under present law, all or any part of amounts in a deductible or nondeductible IRA may be converted into a Roth IRA. Only taxpayers with AGI of $100,000 or less are eligible to convert an IRA into a Roth IRA. In the case of a married taxpayer, AGI is the combined AGI of the couple. Married taxpayers filing a separate return are not eligible to make a conversion.

If a taxpayer is required to take a minimum required distribution from an IRA, the amount of the required distribution is includible in gross income, and cannot be rolled over into a Roth IRA.

The proposal would modify the definition of AGI to exclude the required minimum distribution from the taxpayer's AGI solely for purposes of determining eligibility to convert from an IRA to a Roth IRA. As under present law, the required minimum distribution would not be eligible for conversion and would be includible in gross income.

REVENUE ESTIMATION ASSUMPTIONS

The proposal targets a fairly narrow, well-defined taxpaying population who have attained or will attain age 70½ during the budget period. For purposes of the revenue estimate, it is assumed that the proposal would be utilized by a subset of this population. Two classes of taxpayers who become eligible for the conversion to a Roth IRA as a result of the proposal have been identified.

(1) *Taxpayers who are currently over age 70½, are taking a minimum required distribution, and who have AGI in excess of $100,000.* When the proposal becomes effective, some taxpayers whose AGI would fall below $100,000 if the minimum required distributions were disregarded would convert to a Roth IRA. In addition, some taxpayers whose AGI would not fall below $100,000 under the proposal but who have income that could be shifted easily from one tax year to another would convert to a Roth IRA. It is assumed for estimating purposes that some of these taxpayers would utilize this income shifting technique under present law to take advantage of the conversion to a Roth IRA; however, taxpayers whose minimum required distributions are substantial would be less able to utilize this technique under present law.

(2) *Taxpayers whose AGI exceeds $100,000 and who will attain age 70½ during the budget window.* These taxpayers are currently not eligible to convert to a Roth IRA; some of these taxpayers have income which could be shifted easily from one tax year to another and might be expected to do such income shifting in order to make a conversion to a Roth IRA under present law. Other taxpayers would not be able to shift income easily and would not be able to utilize the conversion to a Roth IRA under present law.

Approximately 500,000 taxpayers would be eligible for the conversion under the proposal during the budget years 2005 through 2007. Of those eligible, we estimate that approximately 170,000 taxpayers would convert to a Roth IRA.

Mr. KERREY. The Joint Committee on Taxation said, as we all know, it only affects Americans with retirement income over $100,000 a year. That is who is affected. So ask yourself how many people in your State have incomes over $100,000 a year, because that is who it is going to affect. The Joint Committee on Taxation is saying 170,000 of those individuals—that is what they are saying, 170,000 of those individuals—will convert to a Roth IRA. What does that mean? That means they are going to pay $50,000 each to convert. In order to get $8 million, you have to have an average of $50,000 of taxes paid by each of these 170,000 people to convert.

You ask yourself, why are they doing it? Love America? Love their country? Get teary-eyed when they watch the flag go by? No, sir. What they are doing is saying they would rather pay that extra $50,000 because they know their heirs will not pay any tax on this asset when it is transferred. That is what happens. It is a substantial reduction in tax revenue in the 10- to 15-year period at the very moment that this Senate and this Congress is going to be facing a tremendous problem of growing entitlements. They are going to force us into a situation where we will have to be reducing the cost of entitlement programs. While we are reducing the cost of entitlement programs, the heirs of very wealthy Americans are going to be receiving income on which they are paying no tax. That is what this is all about. This is not about Americans who are under the gun. Remember, of all of the nearly 40 million Social Security beneficiaries, almost 70 percent of them have 50 percent of their income being Social Security only; that is $745 a month.

This is about people over the age of 70½ with retirement incomes over $100,000 taking an IRA, converting it to a Roth IRA, paying, on an average, $47,000 per person for taxes so their heirs don't have to pay any taxes at the very moment that this Senate is going to be facing cutting back on benefits to the middle-income Americans. That is the choice that this proposal presents to us.

We are saying, first of all, on this side we would prefer that we not add to the cost of the bill. We have. Second, if we are saying we are going to add to the cost of the bill, let's find something that is more appropriate than providing a tax break to people right now who, frankly, not only are they not asking for a tax break, I think it is very difficult to justify that they need one. Our offset includes a provision that was recommended by the chairman of the Budget Committee.

In addition, our proposal, our amendment, includes some requests.

I ask unanimous consent a letter sent to the chairman of the Finance Committee from Commissioner Rossotti be printed in the RECORD.

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

DEPARTMENT OF THE TREASURY,
INTERNAL REVENUE SERVICE,
Washington, DC, March 31, 1998.

Hon. WILLIAM V. ROTH, Jr.,
Chairman, Committee on Finance,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to provide the Senate Finance Committee information about provisions under consideration as part of the IRS restructuring bill which, in order to implement, will require changes in IRS computer information systems.

As is noted in one of the provisions of the restructuring bill, it is essential that the work needed to make the IRS computer systems comply with the Century Date Change be given priority. If these changes are not made and tested successfully, computer systems on which the IRS directly depends for accepting and processing tax returns and tax payments will cease to function after December 31, 1999. In order to accomplish this change, a massive effort is underway now and will continue through January 2000. This project, one of the largest information systems challenges in the country today, is estimated to cost approximately $850 million through FY 1999 and requires updating and testing of about 75,000 computer applications programs, 1400 minicomputers, over 100,000 desktop computers, over 80 mainframe computers and data communications networks comprising more than 50,000 individual product components. In addition, the data entry system that processes most of the tax returns must be replaced.

Most of the work to repair or replace these individual components must be done prior to the tax season that begins in January 1999,

and thus is at its peak during calendar 1998. During this peak period, the IRS must also make the changes necessary to implement the provisions of the Taxpayer Relief Act of 1997 which are effective in tax year 1998. These changes are still being defined in detail but are currently estimated to require about 800 discrete computer systems changes.

The most critical systems to which these changes must be made are systems that were originally developed in the 1960's, 1970's and 1980's, and many are written in old computer languages. A limited number of technical staff have sufficient familiarity with these programs to make changes to them. Furthermore, the IRS suffered attrition of 8% of this staff during FY 97, which attrition has continued at the same or higher rate until recently. In part, this attrition reflected the very tight market for technical professionals as well as a perceived lack of future opportunities at the IRS.

This extraordinary situation has required the IRS to commit every available technical and technical management resource to these critical priorities and to defer most other requests for systems changes at least during calendar year 1998.

For these reasons, it will not be feasible to make any significant additional changes to the IRS systems prior to the 1999 filing season, pushing the start of all additional work to about the second quarter of calendar 1999. Furthermore during 1999, a major amount of additional work will be required to perform the testing to ensure that all the repaired or replaced components work as expected prior to January 1, 2000. Given the magnitude of the changes, it is likely that additional work will be required to repair defects and problems that will be uncovered during the testing in the second half of 1999. Thus, while some capacity to make systems changes is projected to exist in 1999, there is considerable uncertainty about how much capacity will in fact be available even during calendar 1999.

With this context in mind, we have attempted to identify the provisions in the restructuring bill that require significant changes to computer systems and estimate how much staff time would be needed to implement these changes. Based on this very preliminary analysis, we have prepared a list of recommended effective dates if these provisions are adopted. In all cases, we would strive to implement the provisions sooner if possible. In addition, two provisions entail both significant systems and policy issues. For these items, which are discussed first, we suggest an alternative approach.

ALTERNATIVE APPROACH

1. Require that all IRS notices and correspondence contain a name and telephone number of an IRS employee who the taxpayer may call. Also, to the extent practicable and where it is advantageous to the taxpayer, the IRS should assign one employee to handle a matter with respect to a taxpayer until that matter is resolved.

Concern: We agree with the objectives of this proposal, but are concerned because it would entail a total redesign of customer service systems and would actually move the IRS away from the best practices found in the private sector. We do support the proposal that the IRS should assign one employee to handle a matter with respect to the taxpayer where it is both practicable and where it is advantageous to the taxpayer.

The proposal would affect the Masterfile, Integrated Data Retrieval System (IDRS), and any system supported by IDRS (including AIMS and ACS). In addition, the proposal is likely to decrease the customer service we are trying to improve through our expansion of access by telephone to 7 days a week, 24 hours a day. The assignment of a particular employee for a taxpayer contact could actually increase the level of taxpayer frustration as the named employee may be on another phone call, working a diffrent shift, or handling some other taxpayer matter when taxpayers call. In addition, consistent with private sector practices, we are currently installing a national call router designed to ensure that when a taxpayer calls with a question, the call can be routed to the next available customer service representative for the fastest response possible.

Proposal: Require that the IRS adopt best practices for customer service with regard to notices and correspondence, as exemplified by the private sector. Require that the IRS report to Congress on an annual basis on these private sector best practices, the comparable state of IRS activities, and the specific steps the IRS is taking to close any gap between its level and quality of service and that of the private sector. Furthermore, the IRS could be required to put employee names on individual correspondence; it could require all employees to provide taxpayers with their names and employee ID numbers; and, finally, it could record, in the computer system, the ID number of the employee who takes any action on a taxpayer account.

2. The proposal would suspend the accrual of penalties and interest after one year, if the IRS has not sent the taxpayer a notice of deficiency within the year following the date which is the later of the original date of the return or the date on which the individual taxpayer timely filed the return.

Concern: We agree with the objective of the proposal to encourage the IRS to proceed expeditiously in any contact with taxpayers, however, our systems are currently unable to accommodate some of the data requirements with the speed necessary to make this proposal workable. In addition, we are concerned that the proposal could have the perverse incentive of encouraging taxpayers to actually drag out their audit proceedings rather than work with the IRS to bring them to a speedy conclusion. Our administrative appeals process, which is designed to resolve cases without the taxpayer and the government incurring the cost and burden of a trial, could also become a vehicle for taxpayers to delay issuance of a deficiency notice.

Proposal: Require the IRS to set as a goal the issuance of a notice of deficiency within one year of a timely filed return. Mandate that the IRS provide a report to the Congress on an annual basis that specifies: progress the IRS has made toward meeting this goal, measures the IRS has implemented to meet this goal, additional measures it proposes toward the same end, and any impediments or problems that hinder the IRS' ability to meet the goal. In addition, the proposal could reemphasize the requirement that the IRS abate interest during periods when there is a lapse in contact with the taxpayer because the IRS employee handling the case is unable to proceed in a timely manner. The IRS could be required to provide information on the number of cases in which there is interest abatement each year in the report.

EFFECTIVE DATES

We propose the following effective dates for specific provisions. These dates are driven by the capacity of our information technology systems, not the impact of the policy. Some of these provisions would be fairly easy to implement, but in total—and in conjunction with all the other demands on our information technology resources—it is simply not feasible to implement them until the dates proposed. If the situation changes, we will strive to implement the provisions sooner.

The effective date for many of these changes is January 31, 2000. Given that all of these changes must be made compatible with the Century Date Change, we believe we will need the month of January 2000 to ensure all the Century Date Changes are successful before implementing the provisions listed below.

Allow the taxpayers to designate deposits for each payroll period rather than using the first-in-first-out (FIFO) method that results in cascading penalties. Effective immediately for taxpayers making the designation at time of deposit. Effective July 31, 2000 for taxpayers making the designation after deposit.

Overhaul the innocent spouse relief requirements and replace with proportionate liability, etc. Effective date: July 31, 2000. The IRS has no way of administering proportionate liability with our current systems. This provision would require significant complex changes to our systems and is likely to be cumbersome and error-prone for both taxpayers and the IRS.

Require each notice of penalty to include a computation of penalty. Effective date: Notices issued more than 180 days after date of enactment.

Develop procedures for alternative to written signature for electronic filing. The IRS is already preparing a pilot project for filing season 1999. Subsequent roll out of alternatives to written signatures for electronic filing will depend on the success of the pilot.

Develop procedures for a return-free tax system for appropriate individuals. This provision should be interpreted as a study of the requirements of a return-free tax system and the target segment of taxpayers. Actual implementation will be based on the findings and conclusions of the study.

Increase the interest rate on overpayments for non-corporate taxpayers from the federal short-term interest +2% to +3%. Effective date: July 31, 1999.

Do not impose the failure to pay penalty while the taxpayer is in an installment agreement. Effective date: January 31, 2000.

Require the IRS to provide notice of the taxpayer's rights (if the IRS requests an extension of the statute of limitations). Require Treasury IG to track. Effective date: January 31, 2000.

Require IRS to provide on each deficiency notice the date the IRS determines is the last day for the taxpayer to file a tax court opinion. A petition filed by the specified date would be deemed timely filed. Effective date: January 31, 2000.

Require the Treasury IG to certify that the IRS notifies taxpayers of amount collected from a former spouse. Effective date: January 31, 2000.

Require the IRS to provide notice to the taxpayer 30 days (90 days in the case of life insurance) before the IRS liens, levies, or seizes a taxpayer's property. Effective date: 30 days after date of enactment for seizures; January 31, 2000 for liens and levies.

Require the IRS to immediately release a levy upon agreement that the amount is ''currently not collectible.'' Effective date: January 31, 2000.

Waive the 10% addition to tax for early withdrawal from an IRA or other qualified plan if the IRS levies. Effective date: January 31, 2000.

The taxpayer would have 30 days to request a hearing with IRS Appeals. No collection activity (other than jeopardy situations) would be allowed until after the hearing. The taxpayer could raise any issue as to why collection should not be continued. Effective date: January 31, 2000.

IRS to implement approval process for liens, levies, and seizures. Effective date: implement procedures manually 60 days after

date of enactment; implement system for IG tracking and reporting January 31, 2000.

The following items were proposed in the Administration's FY 1999 Budget. In conjunction with the other proposals in this bill, they will also require significant systems changes:

Eliminate the interest rate differential on overlapping periods of interest on income tax overpayments and underpayments.

Prohibit the IRS from collecting a tax liability by levy if: (1) an offer-in-compromise is being processed; (2) within 30 days following rejection of an offer; and (3) during appeal of a rejection of an offer.

Suspend collection of a levy during refund suit.

Allow equitable tolling of the statute of limitations on filing a refund claim for the period of time a taxpayer is unable to manage his affairs due to a physical or mental disability that is expected to result in death or last more than 12 months. Tolling would not apply if someone was authorized to act on these taxpayers' behalf on financial affairs.

Ensure availability of installment agreements if the liability is $10,000 or less.

Finally, we would attempt to immediately implement the cataloging of taxpayer complaints of employee misconduct and would stop any further designation of ''illegal tax protesters.'' However, there may be some systems issues with regard to these proposals that could delay certain changes until some time in early 1999.

I look forward to working with you, the Finance Committee, and the Congress as we strive to restructure the Internal Revenue Service.

Sincerely,

CHARLES O. ROSSOTTI.

Mr. KERREY. Our amendment includes something that I urge my colleagues to consider. My hope is Senator MOYNIHAN will offer this as a free-standing amendment later. Mr. Rossotti, quite appropriately, says we have about 600 days before the 31st of December 1999. No one is more eloquent than the Senator from Utah, Senator BENNETT, talking about the problems that the year 2000 is going to create as a consequence of having to rewrite all of our computer codes. The computers will think it is the year 1900 and everything is going to end up getting shut down, a huge problem for the IRS. Mr. Rossotti is very much worried. Right now the IRS is a bit behind. He sent us a letter asking us to delay some of these provisions.

We have not been able to get these scored yet from Joint Tax. I regret that. It takes a little longer out of Joint Tax than we would like. We will get that scored before we are through with this debate and we will be able to reduce some of the offsets in other areas. But I am urging Members have an opportunity to put themselves on the side of honoring the request of Mr. Rossotti, who is saying we are not going to be able to meet that year 2000 problem if a whole series of additional things are imposed upon us that we have to do.

Understand, we pass the law but the IRS has to implement it. We change the law, whether it is a Tax Code or some other area of the tax law, and the IRS is the one that has to organize human beings to get the job done.

We have an offset in here that has been endorsed by the chairman of the Budget Committee. We have an offset that does not have us saying to people with retirement incomes over $100,000 a year here is a way for you to shelter that income for your heirs. And we have a provision in here that enables Senators to say we have taken a step to make certain that at least the IRS is not, in the year 2000, going to cause all kinds of additional hardships to the American taxpayers as a consequence of not having their computer system and their software Y2K compliant.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 5 minutes to the distinguished Senator from New Hampshire.

The PRESIDING OFFICER. The Senator from New Hampshire.

Mr. SMITH of New Hampshire. Mr. President, I thank the distinguished chairman of the Finance Committee, Senator ROTH, No. 1, for recognizing me, but more importantly for supporting the provision that we should not use these environmental income taxes, and oil and chemical excise taxes, for anything but Superfund. I know it was a difficult decision. I support the Senator fully on the IRS reform which he has done such a tremendous job on, and on which he has exerted such great leadership. I commend him for understanding, also, there is another issue here with Superfund.

This, essentially, with the greatest respect to my colleague from Nebraska, will just totally destroy the Superfund reform that we have worked on for some 3½ years. In order to make the things happen that we need to make happen in the Superfund Program, these taxes would have to be reinstituted and used strictly and exclusively for the Superfund Program. So I vehemently oppose the Kerrey amendment.

I am certain the majority of this body, and I think the majority of the American people agree that IRS and Superfund have a similarity. They are both badly broken. They both need to be fixed. But they don't have to go against each other to do that. These are two separate and distinct issues.

I support the IRS reform the distinguished chairman is pursuing and I also support reforming the Superfund Program. It is inappropriate to utilize Superfund taxes to pay for the cost of IRS. Superfund taxes should be used to fix Superfund.

For those who have been anxiously waiting for the reform of the program, help is on the way, I hope, if the Senate will be supportive. Working with the distinguished chairman of the Environment and Public Works Committee who is on the floor, Senator CHAFEE, and through his leadership we were able to pass a bill out of committee. I am hopeful the majority of our colleagues will allow that bill to be brought to the floor and fully debated. Within the next few days the committee's report will be complete. There are differences on the bill. But I think clearly no one should be of the opinion that we should use Superfund taxes; that is, the environmental income tax and the oil and chemical excise tax, for anything other than to reform that program.

I don't want to get into a full debate now on the problems associated with Superfund. I will have that opportunity when we get the bill to the floor. But I just want to say, when Congress established this program in 1980, the consensus was it would take a few billion dollars to clean up what we thought were around 400 sites. In order to fund this program, revenues were collected through these taxes. We reauthorized the program in 1986, extending the taxing authority. What has happened is we spent $20 billion of taxpayers' money and we have only cleaned up about 160 sites; that is 160 sites were removed from the NPL.

These folks who pay the environmental income taxes, who pay the oil and chemical excise taxes, rightfully say this program isn't working. We are paying all this tax money and it is going to lawyers and it is being wasted and we are not cleaning up sites. Our Superfund bill clearly expedites cleanup, gets the money away from lawyers and towards cleanup. To take that money away from this program and provide it for some other use is simply unconscionable. Although maybe well intended, it is a serious mistake in terms of the bipartisan consensus that we have to fix a broken program.

So I am hopeful—I wish the Senator would reconsider his amendment and I hope this will be defeated.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. First of all, as to ''unconscionable,'' we are just following the lead of the chairman of the Budget Committee who apparently is unconscionable as well. He had the same proposal in his budget.

Second, let me say this is not to fund the operation of the IRS. This basically funds a tax cut. That is what we are talking about. We have new innocent spouse provisions in this bill and a burden of proof shift that will result in a reduction of taxes of some American taxpayers. That is what this pay-for is set up to do.

Let me say these taxes are not imposed until the year 2002. This gives the Environment and Public Works Committee nearly 3 additional years. They had 3½ years now already since this bill expired. My presumption is 3 years is plenty. I can find an additional offset, perhaps, and push it back to 2003 if you want an additional year to get this bill authorized.

This takes care of a second 5-year problem. Again, I say to colleagues, we are having to deal with this because the Finance Committee decided to spend $9 billion more, and that $9 billion is being spent to reduce some people's taxes who are going to pay higher

taxes as a result of the innocent spouse provision and the burden-of-proof issue.

We are reducing taxes in one area and we have to find an offset. It seems to me, Mr. President, that Senator DOMENICI's recommendation is correct. By delaying this until 2002, we take away the argument the distinguished Senator from New Hampshire had about destroying the Superfund Program. This gives the Environment and Public Works Committee 3½ years to finish their job.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. Mr. President, I yield 10 minutes to the distinguished Senator from Rhode Island.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I thank the distinguished chairman of our Finance Committee for yielding me some time on this matter.

I rise to oppose the amendment offered by the Senator from Nebraska. This amendment offers the Senate an alternative to the Finance Committee's plan to pay for the tax relief provided in the IRS reform bill, but the reality is that the Kerrey amendment would prevent meaningful Superfund reform. The amendment, I believe strongly, should be rejected.

I oppose this amendment, obviously, but let me tell you what I do support. I support reimposition of the Superfund taxes. I also support reasonable Superfund reform. We will need to reimpose the three Superfund taxes—namely, the corporate environmental income tax, the excise taxes on crude oil and the excise tax on chemical feedstock—to provide the revenue to pay for a fairer Superfund Program.

Why do I keep talking about Superfund? Mr. President, the Committee on Environment and Public Works reported a Superfund bill to the floor 6 weeks ago. Just yesterday, the committee received CBO's estimate on the bill. As we expected, we will need to reimpose the Superfund taxes in order to pay for the Superfund reforms and the Superfund reauthorization. In other words, if we gobble up this money now in connection with the IRS reforms, the money won't be there for the Superfund bill which we are moving along now and which has used in the past these very funds; in other words, these are Superfund taxes.

The Kerrey amendment, if adopted, would prevent meaningful reform of the Superfund Program. I could discuss at length the numerous problems that plague Superfund. There is no question it has a lot of difficulties. I am prepared to explain the solutions we propose in our comprehensive Superfund bill that is on the floor now, but it is not necessary to do that today.

While the Environment and Public Works Committee reported our Superfund bill on an 11-to-7 vote—there are 18 members of our committee, 10 Republicans and 8 Democrats—the bill was reported out in really a nearly partisan vote by 11 to 7 with only one Democratic Senator in support. However, there is bipartisan consensus that the Superfund has to be reformed.

There wasn't, obviously, agreement with the way the Republicans on the committee wanted to proceed, but, nonetheless, there is agreement that the Superfund legislation needs to be reformed. Indeed, I see the ranking member of the committee now, and he devoted many hours of his time to this effort for reform.

He also knows it will be necessary to offset the spending in any Superfund reform by reimposing these Superfund taxes. This was the case when Senator BAUCUS chaired the committee and reported a Superfund bill in 1994, and it still remains the case today. If we are going to have Superfund reform, we are going to need these moneys that now are apparently being seized or attempting to be seized by Senator KERREY to use for this other purpose; namely, the IRS changes.

The Kerrey amendment would preclude any meaningful reform of the Superfund Program. In other words, how are we going to pay for the thing? We wouldn't be able to if this Kerrey amendment is adopted.

The real issue before us is whether the Senate wants to abandon Superfund reform. If we do, then go ahead and vote for the Kerrey amendment. If you don't, if you want Superfund to take place and do something about the brownfields redevelopment, for example, we have to have these moneys. There aren't other revenues around that we can use. The Kerrey amendment would preempt reform. The amendment would frustrate any Superfund reform efforts. I believe it is bad public policy to take these taxes and use them to pay for tax relief in the absence of Superfund reform.

Mr. President, I strongly hope this amendment will be rejected and that we can all agree we are saving these Superfund taxes. They will have to be reimposed at sometime when we get a reauthorization of the Superfund legislation, but let's save them for that purpose, the purpose they have been used for in the past and the purpose I believe they should be used for in the future.

I thank the Chair, and I urge my colleagues to support the ROTH amendment and to reject the Kerrey amendment.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER (Mr. ENZI). Who yields time?

Mr. KERREY. I yield such time as necessary to the Senator from Montana.

The PRESIDING OFFICER. The Chair recognizes the Senator from Montana.

Mr. BAUCUS. Mr. President, I thank my friend from Nebraska.

I strongly support the Kerrey amendment for several reasons. First, the funding mechanism provided for in the manager's amendment to the underlying bill, while creative and it meets the technical requirements of the budget rules, it is also very misleading. The rollover provisions in the managers' amendment do raise $8 billion in the first 5 years that the provision will be in effect, but that same provision loses $7 billion in the second 5 years—a clear revenue loss.

Here we are in the underlying amendment saying, ''OK, early on, we'll raise the revenue,'' but we don't tell the rest of the world, particularly the Congress and Senators who are voting on this, that we are going to lose $7 billion in the next 5 years.

Part of our efforts in the Congress, I hope, have been truth in budgeting not just in the first 5 years, but also beyond, in the next 5 years. Too often, this Congress has, unfortunately, hoodwinked people—the President has been part of it, both administrations, in the last 10 to 15 years—by saying, ''OK, we will meet the budget requirements in the first 5 years, but we won't tell everybody what we are doing in the next 5 years,'' and often in the next 5 years, if not disastrous, it is inimical to the American people because it tends to increase deficits rather than decrease. That is a fact. To the credit of this administration, it has tried to be truthful not only in the first 5 years, but also the next 5 years, and so has the Congress.

Here we are with an underlying amendment which goes totally against that effort on the part of good, solid statesmanlike Senators to be truthful not only in the first 5 years, but the next 5 years.

This amendment increases the deficit because it costs $7 billion more in the next 5 years. That is not right. We shouldn't be doing that. That is what this amendment does. This is a gimmick. It is purely and simply a gimmick, and that is why it is a bad idea.

The Kerrey amendment, on the other hand, raises revenue in several ways. One is by postponing some of the effective dates of the provisions. Why is that important? Not only because it raises revenue, that is only of minor importance, but the major reason is because we all know, Mr. President, this country faces a massive problem in the next year or two with the fancy term Y2K. It is computer conversion to the next millennium.

We know that most computers in our country, whether it is in the IRS, whether it is in the companies, have a system where they have two digits for the date, two digits for the month, and two digits for the year. What is today? Today is May 6, 1998. So it would be 05–06–98.

That is how the computers record today's date. All computers do that. So we get to December 1999—12–30–99, 12–31–99, and next is 01–01–00. Now, we like to think that is January 1, 2000, but most computers today will record that as January 1, 1900, because two zeros are treated as 1900, not 2000. Massive problems.

It is going to cost the IRS, to convert these computers just to meet this conversion problem, $1 billion—$1 billion just to convert. That is to say nothing of all the other costs to comply with new changes in the law.

So the Kerrey amendment is very, very logical. It is safe. Maybe a little on the conservative side. It says, let us delay the effective dates of some of these new provisions. Why? Because we do not want to further complicate the conversion problem.

This IRS restructuring bill is going to further complicate the conversion problem—further complicate it—not lessen, but further complicate it. So Senator KERREY says, well, let us not do the gimmick, let us delay the effective date a little bit, and let us also delay the effective date to take care of the Y2K problem, the conversion problem.

The underlying amendment, the manager's amendment—I have the highest regard for my friend from Delaware, the chairman of the committee—does not delay, therefore, further causes a problem for the IRS to convert and is much more expensive. It also comes up with a way to get revenue, which is a gimmick.

Some on the floor have said that extending the Superfund tax will prevent the enactment of Superfund. That is not true, just basically is not true. What is the advantage of using the extension of the Superfund tax? I will give you several.

One, it is not a gimmick. It is straight. It is right there. People know what it is. It is not a gimmick. Second, it is a tax that everybody knows about, is comfortable with. Sure, it expired a couple years ago, but everybody knows who pays the tax, what the tax is; and it would be extended I think to the year 2000, which means that the revenue is there.

Let us say Congress does enact Superfund. And I sure hope it does. I say, Mr. President, we have been working on Superfund for a long time. Let us say we enact Superfund. I hope we do. That does not mean it cannot be enacted because previously we extended the Superfund tax. Not at all. The Superfund tax we talk about here is not offset against the Superfund. It is not offset against—it is there. It is revenue and held in a pot to pay for the bill.

We can still enact Superfund. And, frankly, the underlying tax bill still pays part of Superfund. The Superfund bill will still go to the Finance Committee. The Finance Committee is pretty creative in figuring out ways to find the additional revenue, which will not be very much, basically to pay for the orphan share, the effect of the later date. There is no rocket science in the choice of the standards we have before us.

On the one hand it is the underlying amendment, which is a gimmick, which is deceiving the taxpayers, which will require this body to come up with $7 billion more revenue than otherwise is the case because we are widening the budget deficit, not decreasing it in the second 5 years.

Also, on that amendment—let me say it again. First is the underlying amendment. It further complicates the conversion problem. It is a gimmick. That is one choice. The other choice is to enact a revenue measure which is not a gimmick and which will not further complicate the conversion problem. That is the case.

Mr. President, I think the choice is pretty simple. I think it is pretty straightforward. I think, accordingly, we should put politics aside. I know the majority party is going to vote for the amendment because that is what they are told to do. That is the drill. You vote for that one. But if you step back and think a little bit about what is really going on here, I hope both parties can find a way to come together, find a way not to further complicate the conversion problem and to pass a revenue-raising measure that is not a gimmick.

Believe me, Mr. President, the Kerrey amendment is certainly the beginnings of that. Maybe with further modifications we can come together to finally get this thing passed.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Nebraska.

Mr. KERREY. I thank you, Mr. President.

First, I want to make it clear again what we are doing here. We are trying to come up with an offset for $9 billion worth of additional cost that the Senate bill has that the House bill does not. It is $9 billion worth of additional loss of revenue, $9 billion of loss of revenue that occurs as a consequence of changes that we are making in the tax law. Somebody will pay less taxes. That is essentially what this amounts to.

Mr. President, we tried to ascertain who was going to benefit from these changes. I think it is very important as we look at our tax law that we ask ourselves—since the vast majority of our taxes come from middle-income Americans and there is a significant concern on their part as to whether or not they are paying their fair share, we tried to get some distributional analysis on this thing to find out who is going to benefit from the innocent spouse provisions, the burden of proof shifts, and the Tax Court. Not many Americans go to Tax Court. There is a provision in here as well that has to do with interest being accumulated.

Unfortunately, Joint Tax was not able to give us a distributional analysis. So we are flying a little bit blind and not able to describe who is going to benefit from these provisions. The underlying issue for us, though, is we now have to find $9 billion.

We have a proposal. Chairman ROTH has a proposal. I alert colleagues, by the way, what I think will likely happen. My guess is the majority will all vote for the Roth amendment and that will pass. And if it does pass, I will not insist on a rollcall vote on the alternative amendment. There are other alternatives that we can come up with.

The baseline question is going to be for us, after the Roth amendment is accepted: How comfortable do you feel with the provisions in it? So, you will have rejected the alternative amendment, fine. Let us reject the alternative amendment. But remember this: This law now is going to contain a provision in there that is going to do something for certain taxpayers. Approximately 170,000 taxpayers will be affected by this provision in the law.

How will they be affected? That is the question we have to ask ourselves. The answer is, they are going to be entitled to pay more taxes early on, approximately—the estimate is $47,000 per taxpayer. They will pay about $8 billion total. And then they will not pay any taxes in the outyears. When they convert, they will not pay any taxes. We are trying to ascertain what the outyear costs are going to be for this program, Mr. President.

I ask unanimous consent that a response from Joint Tax to this question be printed in the RECORD.

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

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, May 5, 1998.

To: Mark Patterson.
From: Lindy L. Paull.
Subject: Revenue Request.

This is in response to your telephone request of May 5, 1998, for a revenue estimate of a proposal which would expand the eligibility for conversions to Roth individual retirement arrangements (''IRAs'')

Under present law, uniform minimum distribution rules generally apply to all types of tax-favored retirement vehicles, including qualified retirement plans and annuities, IRAs other than Roth IRAs, and tax-sheltered annuities (sec 403(b)).

Distributions are required to begin no later than the participant's required beginning date (sec. 401(a)(9)). The required beginning date means April 1 of the calendar year following the later of (1) the calendar year in which the employee attains age 70½, or (2) the calendar year in which the employee retires. In the case of an employee who is a 5-percent owner (as defined in section 416), the required beginning date is April 1 of the calendar year following the calendar year the employee attains age 70½. the Internal Revenue Service has issued extensive regulations for purposes of calculating minimum distributions. In general, minimum distributions are includible in gross income in the year of distribution.

Under present law, all or any part of amounts in a deductible or nondeductible IRA may be coverted into a Roth IRA. Only taxpayers with adjusted gross income (''AGI'') of $100,000 or less are eligible to convert an IRA into a Roth IRA. In the case of a married taxpayer, AGI is the combined AGI of the couple. Married taxpayers filing a separate return are not eligible to make a conversion.

If a taxpayer is required to take a minimum required distribution from an IRA for a year, the amount of the required distribution

is includible in gross income, and cannot be rolled over into a Roth IRA.

The proposal would modify the definition of AGI to exclude the required minimum distribution from the taxpayer's AGI for the year of the conversion for purposes of determining eligibility to convert from an IRA to a Roth IRA. The required minimum distribution would not be eligible for conversion.

The proposal would be effective for years beginning after December 31, 1997. We estimate that the proposal would change Federal fiscal year budget receipts as follows:

Fiscal Years:

	Billions
1998	(*)
1999	$2.6
2000	3.1
2001	3.1
2002	−0.9
2003	−1.0
2004	−1.2
2005	−1.4
2006	−1.5
2007	−1.7
1998–2002	7.8
1998–2007	1.1

(*) Gain of less than $50 million.

Note: Details do not add to totals due to rounding.

CONGRESS OF THE UNITED STATES,
JOINT COMMITTEE ON TAXATION,
Washington, DC, May 5, 1998.

To: Nick Giordano and Maury Passman.
From: Lindy L. Paull.
Subject: Request for Distributional Effects.

This is in response to your request dated April 23, 1998, for the distributional effects of provisions contained in H.R. 2676, the ''Internal Revenue Service Restructuring and Reform Act of 1998'' relating to: (1) the burden of proof; (2) innocent spouse relief; and (3) the suspension of accrual of interest and penalties if the Internal Revenue Service (''IRS'') fails to contact the taxpayer within 12 months after a timely filed return.

We can not provide analyses of the distributional effects of these types of proposals. In general, the information used to prepare estimates for these types of proposals does not come from statistical samples of taxpayer return information, but from various operational data bases within the IRS collectively referred to as administrative data. Administrative data does not contain the type of taxpayer income information necessary to prepare a distributional analysis. Moreover, often the data are in an aggregate form so that individual taxpayers can not be identified. As a result, there would be an enormous amount of uncertainty involved in characterizing the income distribution of taxpayers contained in this type of data. Should you wish to discuss this request any further, please feel free to contact me.

Mr. KERREY. Mr. President, what happens is that in the first 5 years that this provision is in effect, Joint Tax is estimating there will be $2.6 billion of additional revenue coming in year 1; $3.1 billion in year 2; $3.1 billion in year 3. Americans with incomes over $100,000, who are 70.5 years of age or older, $100,000 of retirement income or more, they will be converting existing accounts into Roth IRA accounts, and paying, on average, $47,000 for the privilege of doing that. In the year 2002, we will lose $1 billion; in 2003, we will lose $1 billion; in 2004, it goes to $1.2 billion we lose; in 2005, we lose $1.4 billion; in 2006, we lose $1.5 billion; and in 2007, we lose $1.7 billion. The trend line is up.

I remind my colleagues, in the year 2010, we will see the beginnings of the retirement of 77 million Americans called baby boomers. If you look at the cost, the outyear cost of our mandatory programs, you can see clearly what is going to happen.

In order to fund a tax cut for Americans who have $100,000 a year of retirement income and up, because their heirs or whoever is converting and not going to pay any taxes on this income, in order to fund a growing tax cut for these individuals, we are going to be cutting programs for middle-income Americans. It is an inescapable thing that we will be facing.

So, again, I want my colleagues to understand, issue No. 1 is, do you want to spend another $9 billion to reduce the taxes of Americans who have been affected by innocent spouses who go to Tax Court or who have other problems that are identified in this bill? If the answer is yes, then you have to find an offset. And what we have is the chairman's proposal to reduce the taxes of upper-income Americans, or more likely their heirs, at some point out in the future, and that point is the very point when our mandatory programs are going to be squeezing all of our discretionary programs even worse than they are today.

My expectation is the majority will come down and vote for the amendment that the Senator from Delaware has offered, the chairman of the Finance Committee. As I said, I will not insist on a rollcall vote on ours.

Colleagues, I hope both Republican and Democrats will look at this pay-for. It will not be too late for us to change it. We can still change it on this floor. We can change it in conference. I don't think when you examine the details of this pay-for that you will be very comfortable going home to Nebraska or other States, first of all, finding somebody who has over $100,000 worth of retirement income and saying, ''Congratulations, your heirs won't pay any taxes on whatever asset you convert to a Roth IRA.''

Mr. DORGAN. Will the Senator yield?

Mr. KERREY. I am happy to yield to the Senator.

Mr. DORGAN. I venture to say most Members of the Senate are not very familiar with this issue because the bill was brought to the floor and a mechanism to pay-for—it is brought to the floor this morning; I guess it was disclosed yesterday.

As I looked at it, it seems to me it is exactly as the Senator from Nebraska described. But even more than that, it is a device by which you bring some money here and say this is really paid for but. In fact, the cost in the outyears is very substantial.

It is just a timing issue, kind of a clever timing issue, but in my judgment not a very thoughtful way to do this bill.

Mr. KERREY. The Senator from North Dakota is exactly right.

I hope colleagues will look at this letter from the Joint Tax Committee. This is the tip of the iceberg. The tax only scores 10 years out. They are saying, yes, Americans with over $100,000 in retirement income converting to a Roth IRA pay $47,000 in taxes each, and that will add to $2.6 billion by year 1, 2, 3, but after that it starts to cost more and more money as the individuals convert and don't pay any tax on their income. That is basically what will happen—and it grows.

I say to the Senator from North Dakota, not only are you exactly right, but in the fourth year it costs $900 million and in the 10th year it is $1.7 billion. It is going up. This is less taxes that upper-income Americans will pay on these retirement accounts. As I said, it is apt to be the heirs.

Who will pick up the slack? We know who will pick up the slack. If this amendment is accepted, which I suspect it will, I hope colleagues will look at the details of it. If you want to spend another $9 million in the second 5 years to pay for all the things that we added in the Senate Finance Committee, most of which are good and reasonable, if you want to add those provisions, the question is how will you pay for it. My hope is that we will find an alternative to this.

Mr. DORGAN. If the Senator will yield, I think I understood the Senator to say you were not able to get any burden tables or distribution tables to determine who gets the benefit of this proposal. That is troublesome because when ideas are brought to the floor as late as this, you are unable to get information about who this is going to benefit and how.

Mr. KERREY. The Senator is right.

Title 3 of the bill is called the taxpayer rights provision. I worked very hard on those provisions. We extended lots of new taxpayer rights. In the bill that Senator GRASSLEY and I introduced in the Finance Committee—and I voted for it—we added some additional rights.

The problem is we don't know who will benefit from those tax reductions. We know three principal provisions cost us money. One is the shifting of burden of proof in Tax Court. For citizens, they need to ask themselves, do they go to Tax Court? If they don't go to Tax Court and don't have the experience on a regular basis in Tax Court, they will not bill.

The second provision is called innocent spouse relief. They have to ask, will that affect me? Seventy percent of Nebraskans do not itemize their deductions. They will not be impacted by the second one.

The third one, the suspension of the accrual of interest and penalties if the IRS fails to contact the taxpayer within 12 months after a timely filed return. Again, ask yourself who will be affected by this? We were unable, I regret, to get from the Joint Tax Committee an answer to that. We don't know who will benefit from those three additional provisions, but that is what is costing us the money. That is why we have to find some kind of an offset.

As I said, I understand the die is likely to be cast and we will probably have 55 votes for the Roth amendment and 45 votes against. I will not ask for a rollcall vote on our alternative, but I appeal both to Republicans and Democrats on the floor to examine what it is we are about to do and ask ourselves, do we want to open up a hole in revenue in the outyears as a consequence of these conversions that will benefit a relatively small number of Americans who have retirement income in excess of $100,000 a year.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

AMENDMENT NO. 2339

Mr. ROTH. Mr. President, as I mentioned earlier, Alan Greenspan says that America's most important economic problem is its low savings rate. With that, I agree. As a practical matter, I have done my very best the last several years to try to build the kind of incentives into the tax picture that would promote savings on the part of the American people. The rollover provision in this amendment is a small step toward resolving our No. 1 economic problem.

Just let me point out what we are saying. What we are proposing is letting older people keep the money that they have saved. We are not asking them to do anything that others are not able to do. As a practical matter, the way the system now works, it discriminates against the older people. The problem is that if you are under the age of 70½, there is no requirement that you make withdrawals from your IRA. It is only when you reach 70½ that you are required to do so under the deductible IRA. So there is a built-in discrimination against the senior citizens. I think that is wrong.

Again, let me emphasize what we are talking about. What we are proposing is to treat these older Americans, those that are over 70½, to have the same kind of treatment as those that are younger than 70½. As I said, if you are under 70½ there is no requirement of withdrawals, and of course the basic problem is that if you have income in excess of $100,000 you are not entitled to this benefit.

Let me correct one further point that has been made. My distinguished friend and colleague, Senator KERREY, has said that the purpose of the IRA rollover provision is to allow heirs to escape payment of estate taxes. That is just not the case. If the IRA is part of the estate, then the individual who passes on is subject to the estate tax. If he or she tries to give it during the lifetime to someone else, and it is a permanent irrevocable gift, then it is subject to the gift tax. So there is no escaping of estate taxes by this provision.

Let me just say, as we all know, the Roth IRA has become a very popular savings vehicle. A taxpayer, as I said, who has a regular IRA may convert their regular IRA into a Roth IRA as long as the taxpayer and the taxpayer's spouse have adjusted income of $100,000 or less. Again, let me repeat, older Americans are now required to receive minimum distribution from their regular IRA on an annual basis beginning in the year following the year they attain the age of 70½. Those required distributions must be counted, under current law, as part of the older taxpayer-adjusted gross income, which in some instances will cause these older Americans to become ineligible to roll over their IRAs.

My amendment gives these older taxpayers the opportunity to roll over their IRAs into Roth IRAs by not counting these required minimum distributions toward $100,000 adjusted growth income.

It is only fair, in my judgment, that these older taxpayers are given the same ability to roll over their IRAs and not be penalized because they must take distribution from their regular IRA solely because of their age.

Let's be clear here, the revenue cost by this provision comes from taxpayers who will pay tax on their regular IRA when they convert to the Roth IRA. These conversions are entirely voluntary on the part of the taxpayers.

Mr. President, I ask the Members of this distinguished body to support the Roth amendment because I think it brings equity into the picture and only treats the senior citizens the same as the younger.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, as I said, the die is cast on this thing. This amendment is going to be accepted. The question is, Will we have any reexamination moment? We will reexamine what we are about to do?

Again, this affects people with incomes over $100,000 in retirement income. To get $100,000 in retirement income, I am probably going to have to have a million or more dollars in liquid assets that are earning this income. I would probably have tax-exempt bonds that I own as well. This is a very select group of people. We are not penalizing them; we are treating them like everybody else. I am capable of feeling sympathy for low- and moderate-income seniors who are struggling to pay for health care bills, and about making certain that Americans have the opportunity to save. But we are not helping Americans who are struggling to save with this. These are Americans who have accumulated a substantial amount of wealth.

If we want to help struggling Americans, we ought to cut the payroll tax, as Senator MOYNIHAN is proposing, giving Americans an $800 billion cut in taxes; that would go immediately into savings. That is exciting to me. And 98.5 percent of Americans die with estates under $600,000. We are talking about 1.5 percent of the American people who have estates over $600,000. You have to have an estate over a million dollars in order to generate $100,000 worth of income.

Please don't tell me that tax lawyers and tax advisers can't figure out a way to transfer this to your heirs. If that assertion is made by a colleague, let's bring a tax adviser in before one of our committees and ask them. It darn sure can, and they darn sure will.

This provides a benefit for a very small amount of Americans, and, frankly, it is very difficult to make the case that they need a benefit. They are not treating them in a fashion that is equal; they are treating them unequally with other Americans who are in the workforce and might be looking to retirement accounts as well.

Mr. President, this pay-for ought to be rejected by this body; it is going to be accepted nonetheless. I hope we have some ''morning after'' doubts about this, after examining whom it is going to benefit and the dilemma it will pose to us down the road. I don't know how many in this body expect to be here 6, 7, 8 years from now, but if you are here, one of the questions you are going to have to answer is: Why did you give away $2 billion a year back in 1998 to less than 1 percent of the American public, who are not struggling, who are not foraging in the alley for food, and they are not trying to figure out how to make ends meet? They will use this change in the law to transfer an asset to heirs, and their heirs won't pay any taxes as a consequence.

Mr. President, as I say, I know when it is time, if not to accept defeat, to acknowledge it. I expect 55 Republican votes for this amendment. I do not intend to ask for a rollcall vote on the substitute, but I hope my colleagues, as they begin to examine what this amendment does, will ask that we come back and revisit the pay-for for the second 5 years.

I yield back whatever time I have.

AMENDMENT NO. 2340, AS MODIFIED

Mr. KERREY. Mr. President, as I indicated earlier, I have to ask for one modification. It is a date on page 2, line 2. In the earlier unanimous consent request, I indicated that I might need to modify our amendment.

I send the modified amendment to the desk, as described.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 2340), as modified, is as follows:

Beginning on page 277, line 4, strike all through page 279, line 25.

On page 280, line 1, strike ''**3105**'' and insert ''**3104**''.

On page 282, line 11, strike ''**3106**'' and insert ''**3105**''.

On page 286, line 1, strike ''**3107**'' and insert ''**3106**''.

On page 309, lines 7 and 8, strike ''the date of the enactment of this Act'' and insert ''September 1, 1998''.

On page 399, line 24, strike ''the date of the enactment of this Act'' and insert ''December 31, 2001''.

On page 400, lines 4 and 5, strike ''the date of the enactment of this Act'' and insert ''December 31, 2001''.

On page 415, between lines 16 and 17, insert:

SEC. 5007. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

''(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

''(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

''(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses arising in taxable years beginning after the date of the enactment of this Act.

SEC. 5008. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a) (relating to assumption of liability) is amended by striking '', or acquires from the taxpayer property subject to a liability'' in paragraph (2).

(2) SECTION 358.—Section 358(d)(1) (relating to assumption of liability) is amended by striking ''or acquired from the taxpayer property subject to a liability''.

(3) SECTION 368.—

(A) Section 368(a)(1)(C) is amended by striking '', or the fact that property acquired is subject to a liability,''.

(B) The last sentence of section 368(a)(2)(B) is amended by striking '', and the amount of any liability to which any property acquired from the acquiring corporation is subject,''.

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—Section 357(c) is amended by adding at the end the following new paragraph:

''(4) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—For purposes of this section, section 358(d), section 368(a)(1)(C), and section 368(a)(2)(B)—

''(A) a liability shall be treated as having been assumed to the extent, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement), and

''(B) in the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee shall be treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability.''

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) is amended—

(A) by striking '', and the fact that any property transferred by the common trust fund is subject to a liability,'' in subparagraph (A),

(B) by striking clause (ii) of subparagraph (B) and inserting:

''(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

''(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(c)(4) shall apply.''

(2) SECTION 1031.—The last sentence of section 1031(d) is amended—

(A) by striking ''assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability'' and inserting ''assumed (as determined under section 357(c)(4)) a liability of the taxpayer'', and

(B) by striking ''or acquisition (in the amount of the liability)''.

(d) CONFORMING AMENDMENTS.—

(1) Section 351(h)(1) is amended by striking '', or acquires property subject to a liability,''.

(2) Section 357 is amended by striking ''or acquisition'' each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) is amended by striking ''or acquired''.

(4) Section 357(c)(1) is amended by striking '', plus the amount of the liabilities to which the property is subject,''.

(5) Section 357(c)(3) is amended by striking ''or to which the property transferred is subject''.

(6) Section 358(d)(1) is amended by striking ''or acquisition (in the amount of the liability)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 5009. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking ''October 1, 2003'' and inserting ''October 1, 2007''.

SEC. 5010. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2001, and before January 1, 2008.''

(2) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 2001, and before October 1, 2008.''

(b) EFFECTIVE DATES.—

(1) INCOME TAX.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 2001.

(2) EXCISE TAX.—The amendment made by subsection (a)(2) shall take effect on January 1, 2002.

SEC. 5011. MODIFICATION OF DEPRECIATION METHOD FOR TAX-EXEMPT USE PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 168(g)(3) (relating to tax-exempt use property subject to lease) is amended to read as follows:

''(A) TAX-EXEMPT USE PROPERTY.—In the case of any tax-exempt use property, the recovery period used for purposes of paragraph (2) shall be equal to 150 percent of the class life of the property determined without regard to this subparagraph.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property—

(1) placed in service after December 31, 1998, and

(2) placed in service on or before such date which—

(A) becomes tax-exempt use property after such date, or

(B) becomes subject to a lease after such date which was not in effect on such date.

In the case of property to which paragraph (2) applies, the amendment shall only apply with respect to periods on and after the date the property becomes tax-exempt use property or subject to such a lease.

SEC. 5012. EXTENSION OF REPORTING FOR CERTAIN VETERANS PAYMENTS.

The last sentence of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking ''September 30, 2003'' and inserting ''September 30, 2008''.

On page 260, line 14, strike ''shall develop'' and insert ''shall, not later than January 1, 2000, develop''.

On page 305, lines 3 and 4, strike ''the date of the enactment of this Act'' and insert ''June 30, 2000''.

On page 305, lines 10 and 11, strike ''the date of the enactment of this Act'' and insert ''June 30, 2000''.

On page 308, line 13, strike ''the date of the enactment of this Act'' and insert ''June 30, 1999''.

On page 309, lines 7 and 8, strike ''the date of the enactment of this Act'' and insert ''December 31, 1999''.

On page 310, strike line 19, and insert ''December 31, 1999''.

On page 312, lines 15 and 16, strike ''the date of the enactment of this Act'' and insert ''December 31, 1999''.

On page 314, lines 3 and 4, strike ''the 180th day after the date of the enactment of this Act'' and insert ''December 31, 2000''.

On page 315, line 11, strike ''June 30, 2000'' and insert ''December 31, 2000''.

On page 324, strike lines 9 through 12, and insert:

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to collection actions initiated after December 31, 1999.

On page 343, after line 24, insert:

(c) EFFECTIVE DATE.—This section shall apply to collection actions initiated after December 31, 1999.

On page 345, lines 6 and 7, strike ''the date of the enactment of this Act'' and insert ''December 31, 1999''.

On page 348, line 6, strike ''December 31, 1998'' and insert ''December 31, 1999''.

On page 351, lines 13 and 14, strike ''the date of the enactment of this Act'' and insert ''December 31, 1999''.

On page 357, lines 6 and 7, strike ''the date of the enactment of this Act'' and insert ''December 31, 1999''.

On page 357, lines 9 and 10, strike ''the date of the enactment of this Act'' and insert ''December 31, 1999''.

On page 357, strike lines 16 and 17, and insert:

(B) December 31, 1999.

On page 362, lines 12 and 13, strike ''the 60th day after the date of the enactment of this Act'' and insert ''December 31, 1999''.

On page 370, lines 17 and 18, strike ''the date of the enactment of this Act'' and insert ''January 1, 1999''.

On page 371, line 11, insert: ''This subsection shall apply only with respect to taxes arising after June 30, 2000, and any liability for tax arising on or before such date but remaining unpaid as of such date.'' after the end period.

On page 374, lines 4 and 5, strike ''180 days after the date of the enactment of this Act'' and insert ''July 1, 2000''.

On page 379, line 15, insert '', on and after July 1, 1999,'' after ''shall''.

On page 382, line 2, strike ''60 days after the date of the enactment of this Act'' and insert ''on January 1, 2000''.

On page 383, line 14, insert '', except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999'' after ''Act''.

On page 385, lines 7 and 8, strike ''the date of the enactment of this Act'' and insert ''January 1, 2000''.

AMENDMENT NO. 2339

The PRESIDING OFFICER. The Senator from Delaware has 4 minutes remaining.

Mr. ROTH. Is the Senator ready to yield the balance of his time?

Mr. KERREY. Yes, sir.

Mr. ROTH. Mr. President, I yield the balance of my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. KERREY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the ROTH amendment No. 2339.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from North Carolina (Mr. HELMS) is necessarily absent.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA) is absent due to a death in the family.

The PRESIDING OFFICER (Mr. FRIST). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 42, as follows:

[Rollcall Vote No. 120 Leg.]

YEAS—56

Abraham	Faircloth	McConnell
Allard	Frist	Moseley-Braun
Ashcroft	Gorton	Murkowski
Bennett	Gramm	Nickles
Biden	Grams	Roberts
Bond	Grassley	Roth
Brownback	Gregg	Santorum
Burns	Hagel	Sessions
Campbell	Hatch	Shelby
Chafee	Hutchinson	Smith (NH)
Coats	Hutchison	Smith (OR)
Cochran	Inhofe	Snowe
Collins	Jeffords	Specter
Coverdell	Kempthorne	Stevens
Craig	Kyl	Thomas
D'Amato	Lott	Thompson
DeWine	Lugar	Thurmond
Domenici	Mack	Warner
Enzi	McCain	

NAYS—42

Baucus	Feinstein	Leahy
Bingaman	Ford	Levin
Boxer	Glenn	Lieberman
Breaux	Graham	Mikulski
Bryan	Harkin	Moynihan
Bumpers	Hollings	Murray
Byrd	Inouye	Reed
Cleland	Johnson	Reid
Conrad	Kennedy	Robb
Daschle	Kerrey	Rockefeller
Dodd	Kerry	Sarbanes
Dorgan	Kohl	Torricelli
Durbin	Landrieu	Wellstone
Feingold	Lautenberg	Wyden

NOT VOTING—2

Akaka	Helms

The amendment (No. 2339) was agreed to.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2340

The PRESIDING OFFICER. Under the previous order, the question occurs on amendment No. 2340.

The amendment (No. 2340) was rejected.

Mr. ROTH. Mr. President, I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. May we please have order. The Senator from West Virginia is recognized.

Mr. BYRD. Mr. President, this request has been cleared with the leaders on both sides.

I ask unanimous consent that the distinguished Senator from Texas, Mrs. HUTCHISON, and I may proceed for not to exceed 35 minutes as in morning business for the purpose of introducing a bill and speaking thereon.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from West Virginia is recognized.

(The remarks of Mr. BYRD and Mrs. HUTCHISON pertaining to the introduction of S. 2036 are located in today's RECORD under ''Statements on Introduced Bills and Joint Resolutions.'')

Mr. BYRD. Mr. President, I understand that Senator KOHL wishes a few minutes on another matter.

Whatever remaining time remains under our request, I ask that the Senator from Wisconsin, Mr. KOHL, have the remaining time.

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

The Senator from Wisconsin is recognized.

Mr. KOHL. Thank you, Senator BYRD.

Mr. President, I rise today in strong support of the IRS Reform bill. There is no doubt that this bill will count among the most important pieces of legislation that we will pass in the 105th Congress. A great deal of thanks and appreciation is due to Senators ROTH and MOYNIHAN for their work sheperding this bill through the Finance Committee, and most especially to my friend from Nebraska, Senator BOB KERREY, whose efforts on the Restructuring Commission and tireless advocacy brought us here today.

We have all been struck by the stories of abuse of taxpayers by overzealous or self-serving IRS employees. And all of us have received calls of concern and outrage from constituents who feel they have been treated unfairly by an agency that wields a tremendous amount of power in the daily lives of Americans.

We have also learned of retaliation against honest IRS employees who worked hard and wanted to do the right thing by speaking out against abuses. This legislation will go a long way towards addressing these problems.

It will also go a long way toward making the agency more effective in its policy mission and more responsive to budget constraints. We have all witnessed the $4 billion debacle of the IRS computer modernization effort and want to ensure resources are allocated responsibly in the future.

As ranking member of the Treasury Appropriations Subcommittee, I have had the opportunity to meet the Commissioner of the IRS, Mr. Rossotti, and am encouraged by his strong background in management and information technology. The legislation before us will provide the Commissioner with tools to put together a high-quality team to run the agency, and award those who do their jobs well.

This bill also includes new sources of outside oversight of the agency, such as the Oversight Board and the new Treasury IG's Office for Tax Administration. Coming from the business world, I know the importance of accountability and constant self-examination. Management and employees should always be looking for ways to do their jobs more effectively and be open to constructive criticism.

But for too long, the IRS has operated as if it were a class by itself, somehow above the standards of efficiency and customer service that any American business must follow to survive.

We have witnessed the effects of this problem in my home state of Wisconsin. For the past two and a half years, we have worked to address allegations of misconduct and discrimination at the Milwaukee-Waukesha IRS Offices. These allegations were discussed at length at the Committee hearings last week, and were so serious that some IRS employees felt the need to sneak into my office in Milwaukee to report on abuses.

Employees feared retaliation and alleged again and again that management was allowing, if not promoting, a hostile work environment. Such a deplorable situation of fear and intimidation is unacceptable, must be stopped, and must be prevented from happening in the future.

This bill sets up a confidential means through which honest employees can report allegations of abuses. In addition, I am offering an amendment with my colleague, Senator FEINGOLD, to ensure that oversight of the Milwaukee office is a top priority of the new IG. This legislation will prevent abuses in the future, but we must also be vigilant in dealing with serious problems that have yet to be resolved in the present.

Mr. President, while taking time to mention only a few of the many important provisions of this bill, I want to urge my colleagues to support this legislation.

We have a historic opportunity to right future wrongs and be party to the creation of a more consumer-friendly, efficient and responsible IRS. Let us seize that opportunity with enthusiasm and without further delay.

Mr. BYRD. Mr. President, I yield back the balance of the time.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. BOND. Mr. President, I will rise to introduce an amendment, but I will defer to my colleague from Delaware if he wishes to ask for a time agreement.

Mr. ROTH. Mr. President, I say to the distinguished Senator that I do want to ask for an agreement on the 40 minutes, but I have to wait for Senator KERREY to return. I will raise that when he comes.

Mr. BOND. Mr. President, I rise in support of the Internal Revenue Service Restructuring and Reform Act that we are now considering. Over the past several months Senator ROTH and his Finance Committee have done an exemplary job of reviewing the legislation sent to us by the House and identifying ways to improve and strengthen that bill. And it's been well worth the wait. I also commend my colleague from Delaware and his committee for including a number of the proposals that I introduced as part of my Putting the Taxpayer First Act, earlier this year. They represent suggestions that I received from Missourians and small business owners across the country, who have called, written, and stopped me on the street to stress the need for IRS reform and greater taxpayer rights.

While I believe we have made substantial progress toward that goal, one aspect of this bill continues to trouble me—the creation of the so-called oversight board. As currently proposed, a majority of this board will consist of six individuals who must split their time between watching over the IRS and running their private-sector businesses—each of which can be more than a full-time job. And even if these individuals can dedicate sufficient time, their ability to make real changes for the benefit of taxpayers amounts to little more than advice to the Commissioner, which he may or may not decide to take.

Despite these issues, the creation of a part-time board has been portrayed by many as the linchpin of solving the problems at the IRS. But when has such a part-time advisory board ever turned around a governmental agency as vast as the IRS and with such a poor record of service to millions of Americans? I have searched for a comparable success story within our government, and came up dry. And while some point to Canada's Revenue Office as an example, Canada's part-time board is still on the drawing board. Consequently, I think we are placing too much reliance on the untested and unproven concept of a part-time board to bring fundamental change to the IRS.

If we are going to create a board to steer the IRS back on course, let's do more than add some window dressing to this troubled agency. America's taxpayers deserve a well-managed agency committed to service. The amendment I offer today establishes the framework to accomplish that goal.

Mr. President, my amendment creates an independent, full-time Board of Governors for the IRS, which will exercise top-level administrative management over the agency. The Board of Governors will have full responsibility, authority, and accountability for the IRS' enforcement activities, such as examinations and collections, which are often at the heart of taxpayer complaints about the IRS. In addition, the Board will oversee the Office of the Taxpayer Advocate and the new independent appeals function required by the bill.

Under my amendment, the Board of Governors will consist of five members appointed by the President and confirmed by the Senate, each with a staggered five-year term. Four of the members will be drawn from the private sector. Overall these members will bring private-sector experience critical to the management of an agency like the IRS. Of equal importance, they will bring the perspective of the diverse group of taxpayers the IRS must serve, including individuals and small and large businesses. The fifth member of the Board will be the Commissioner of Internal Revenue, who will also serve as the Chairman of the Board of Governors.

The board I envision through this amendment corrects the major weaknesses of the bill's part-time advisory board. First, my full-time Board of Governors is a permanent solution to the management difficulties that have plagued the IRS for years. It seems like little more than a token gesture to create an oversight board for the IRS and have it expire after 10 years, as set out in the bill. If a board is expected to turn the IRS around, wouldn't it make sense to continue the reason for that success story?

Second, my full-time Board of Governors will have real authority to make a difference. The Board's direction is to ''oversee the Internal Revenue Service in the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.'' The only exception to this broad authority is that the Board will have only a consultative role in developing tax policy.

In contrast, the part-time advisory board recommended by the Finance Committee starts with broad authority but is quickly whittled down essentially to an advisory role. For instance, the part-time board would have no responsibility or authority with respect to tax policy. In my view, good tax policy must take into account more than just revenue and collections; it must consider the burdens that the law imposes on the taxpayers and the corresponding burdens involved in administering and enforcing those laws. A full-time Board of Governors managing the IRS will be uniquely qualified to provide critical perspective and feedback to the Treasury Department in crafting future tax proposals.

Similarly, the bill's part-time board would have no responsibility or authority over specific IRS law enforcement activities or personnel actions.

These restrictions fly in the face of the testimony that the Finance Committee received just last week, not to mention to committee's hearings last fall. Each of us was shocked by the taxpayers and IRS employees who came forward with accounts of poor service and abuse, and many of these cases involved IRS examination or collection activities. Moreover, these horror stories merely echo the countless letters and calls that each of us receives from taxpayers embroiled in disputes with the IRS in our home states.

Can any of us suggest, with a straight face, that creating a part-time advisory board will ''fix'' the IRS when that board cannot know about or address specific enforcement or personnel problems? While I am not suggesting that the IRS board should address every taxpayer grievance, the board should be able to take action with respect to specific types of examination and collection problems and those that involve IRS personnel.

Some will argue that the expansion of the taxpayer-confidentiality rules addresses this issue. I must disagree. The information that the part-time board will receive under this provision is dependent on the discretion of the Commissioner and the Treasury Inspector General. For too long, ''section 6103'' has been a convenient shield for the IRS to hide behind, and it will be too easy for that practice to continue leaving the board in the dark about the types of problems described all too clearly in the Finance Committee's hearings. In addition, limited access to taxpayer information won't help the board address personnel problems in the agency, which is critical if we are to restore credibility to the term ''service'' in its name.

My amendment resolves this problem. As full-time employees, the four members of the Board of Governors drawn from the private sector will have access to the same information available to the Commissioner. Moreover, the Board under my amendment will have authority to address personnel issues. As a result, their hands will not be tied when it comes to restoring taxpayer service and respect in all IRS enforcement activities.

The bill's part-time advisory board also starts out with authority to review and approve reorganization plans for the IRS. Yet tucked away at the end of the effective date section is a provision barring the part-time board from approving the current plan to reorganize the IRS along customer lines. This contradiction simply defies reason.

I am a strong advocate of reorganizing the IRS into divisions that serve

particular taxpayers with similar needs, like individual taxpayers and small business owners, and I included such a plan in my Putting the Taxpayer First Act that I introduced. IRS Commissioner Rossotti has also embraced this approach. With so much support, why should we restrict even a part-time advisory board from approving such a fundamental restructuring of the IRS but require its review and approval for all future plans? The full-time Board of Governors under my amendment would be required to evaluate and sign-off on all plans to reorganize the agency—it only makes sense!

Mr. President, besides giving the IRS board real authority to run the agency and make critical changes, my amendment also ensures that the members of the Board of Governors are sufficiently committed to the task. Having been governor of my state of Missouri, I have some appreciation of the time and energy it takes to run a large organization. But I can't begin to imagine how I could have hoped to make a difference if I spent only a few days a year commuting to our capital, Jefferson City, to govern the state, and spent the rest of my time running a successful business or even a not so successful law practice. That is the trap we will create with a part-time advisory board for the IRS.

The IRS has over 100,000 employees spread across the country and around the world. The agency has a budget of over $7 billion, and it collects more than $1 trillion each year from millions of taxpayers. It is an imposing task for even a full-time Board of Governors to reform an institution of this size—common-sense suggests it is an impossible task for a part-time advisory board.

What's more, the proponents of the bill contend that its part-time board will improve accountability within the IRS. But take, for example, a part-time board member who is an executive in a major corporation headquartered on the west coast. He flies to Washington several times a year as part of his IRS oversight responsibilities. How can he be accountable for the daily actions of this enormous organization when he is little more than a hostage to its bureaucracy on his occasional visit to Washington? If we are going to make changes to the IRS' management structure, we should give them a real chance for success and give the taxpayers confidence that reform can be achieved.

Mr. President, while not everyone will agree with my proposal, let's take a moment to look at some arguments I've heard so far. Some have commented that we won't get the best people to serve on the IRS board if they have to leave their private-sector jobs for a tour of government service. As an example that just the opposite is true, I point to our current IRS Commissioner. In my assessment, Commissioner Rossotti has outstanding credentials and has been very successful as a business owner in the private sector. In addition, I think most of my colleagues would agree that he has done an exceptional job during his short tenure at the helm of the IRS.

This criticism also rings rather hollow when we look at the individuals who have served on similar full-time boards and commissions throughout the government, like the Federal Reserve, the Federal Trade Commission, and the Securities and Exchange Commission, to name a few. I've never heard it suggested that we scrape the bottom of the barrel to find people qualified to serve in these full-time positions. Just the opposite is true. As Commissioner Rossotti, Treasury Secretary Rubin, and many others have demonstrated, there are business leaders in this country who are willing to take leave from their private-sector lives to serve the public.

Others have argued that the IRS Commissioner doesn't need a full-time board to run the agency, especially since the bill gives the Commissioner broader authority to bring in senior management talent. If that's true, why do we need a board at all? Why not have just Alan Greenspan run the Federal Reserve or Arthur Levitt oversee the securities markets? Surely the same arguments would apply to those boards and those commissions.

I believe there is value in having a core group of individuals who bring important talents and experience to complement the Commissioner's management of an agency like the IRS. Just as with other boards and commissions throughout the government, these individuals can share the top-level management burdens and allow the Commissioner to focus on the most pressing issues completely and quickly.

A third issue raised by my opponents is that a full-time board with real authority will make the IRS too independent. So what exactly is the problem? Sadly, there have been allegations in recent years that the IRS is being used for politically-motivated audits. Whether true or not, such assertions severely undercut any efforts to instill confidence in our tax-administration system. While I applaud the provision in the bill that prohibits Executive Branch influence over taxpayer audits, we can further ensure that result by establishing a board with representatives of both political parties, as my amendment requires. In the end, there should be nothing partisan about helping taxpayers to comply with the tax laws in the least burdensome manner possible.

Mr. President, my amendment offers a straight forward, common-sense solution for the management of this troubled agency and it cures the inherent weaknesses of the part-time advisory board called for in the bill. With a vast number of agencies across this city, including the city itself, managed under full-time boards and commissions, we have ample evidence that this structure can work for the IRS. In my opinion, if we want more than window dressing on the current management structure, a full-time, full authority, full accountability Board of Governors is the answer.

A part-time advisory board will not make a difference in how the agency is run. If we need a board, we need a full-time board. We don't need a part-time advisory board. Otherwise, if we do not want to have a full-time board, let's leave the agency's management alone, because when has a part-time advisory board ever turned an agency around? I suggest never.

AMENDMENT NO. 2341

(Purpose: To strike the Internal Revenue Service Oversight Board and establish a full-time Board of Governors for the Internal Revenue Service)

Mr. BOND. Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri (Mr. BOND) proposes an amendment numbered 2341.

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

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

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. ROTH. Mr. President, as I indicated before the distinguished Senator from Missouri spoke, we had a tentative agreement of 40 minutes for this amendment, with 20 minutes to a side. I ask that we unanimously agree to that with the time that the distinguished Senator used to discuss the amendment being deducted from the 20 minutes. I understand that is roughly 13 minutes. Is that satisfactory?

Mr. BOND. I ask for 10 minutes, because there are others on this side who may wish to speak.

Mr. KERREY. Mr. President, I wonder if the Senator from Delaware would agree—Senator REID has an amendment he wants to bring right after this—that we stack these votes, and have a UC to have both of these votes stacked.

Mr. ROTH. That would be fine.

The PRESIDING OFFICER (Mr. BURNS). Is there objection?

Mr. KERREY. We would have to get a time agreement.

Mr. ROTH. Let's agree on the Bond amendment first; the agreement being 40 minutes divided between the two sides, and that Senator BOND would have the remaining 10 minutes.

Mr. BOND. That is correct. Mr. President, 20 minutes for the side in opposition, and 10 minutes.

Mr. ROTH. And no second-degree amendments.

The PRESIDING OFFICER. Could I ask the Senator to restate the unanimous consent request.

Mr. ROTH. Mr. President, what we are proposing for unanimous consent is 40 minutes for consideration of the amendment to be divided between the

two sides, that it be agreed that the distinguished Senator has 10 minutes remaining on his side of the 20 minutes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROTH. And I would also add there would be no second-degree amendment.

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

Mr. KERREY. Could we modify it so we go to Senator REID'S amendment next and have rollcall votes not before 1:15?

Mr. ROTH. Let's wait on the rollcall votes. We can go ahead with the Reid amendment.

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

Mr. BOND. President, I ask for the yeas and nays on this amendment.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. BOND. Mr. President, I ask unanimous consent that there be a minute on each side for the proponents and opponents to state their case on the amendment since the vote is going to be stacked later.

Mr. ROTH. That is fine.

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

Mr. ROTH. I yield 10 minutes to the distinguished Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa is recognized for 10 minutes.

Mr. GRASSLEY. Mr. President, I, unfortunately, oppose the amendment by the Senator from Missouri. I say ''unfortunately'' because the Senator from Missouri has good motives in offering his amendment. They come from the fact that he has been an outspoken advocate for small business in the Senate. He has made a career of promoting an environment very good to small business, and obviously we all know that sometimes the Internal Revenue Service is one Government agency that tends to be anti-small business. We had a lot of information coming out of our hearings that IRS agents are told to go after the small people—forget about the bigger, wealthier people—because smaller people do not have the resources to fight.

That is particularly true of small business where you have accumulated some wealth in a small business but you do not necessarily have a lot of income. And so you do not have the resources to fight the IRS. So I do not find fault with the motives behind what Senator BOND is trying to do.

I definitely believe this bill we have before us, including the provisions for an advisory board, has been well thought out. The National Commission on the Restructuring of the IRS created the concept of this Board. We assessed the various pros and cons of separating the IRS from the supervision of the Secretary of the Treasury and making it more independent. We decided that it needed more independence. Next, we had to decide how the independent operation should be governed. To answer this, we came up with the Oversight Board.

So I thank Senator BOND for his advocacy for small business and his concern about this important legislation. But at the same time I think I must rise in opposition to this amendment. The Commission came up with this idea of having an oversight board for the IRS after months and months of discussion and consideration. It was a recommendation that we on the Commission put in our report because we thought it would keep the IRS on track and improving in the right direction. The Senator from Nebraska and I made this board one of the centerpieces of our legislation, S. 1096, which, of course, was the first comprehensive IRS reform legislation introduced in the Senate.

The National Commission on Restructuring of the IRS—Senator KERREY and I, two members of the House of Representatives, and 13 other people served on this Commission. Ten of the members were nongovernmental, private sector people who knew about the problems that the private sector was having with the IRS. We fully considered adopting a full-time oversight board at one time, but we came to the conclusion that it was not an advisable thing to do. We decided that this part-time board would be more effective, and I will give you the reasons for that.

First of all, the purpose of the board is to be advisory, not to manage the IRS. It is meant to function like a corporation's board of directors. It is not intended to get involved in the day-to-day operations of the IRS because the IRS already has a leader—the commissioner. And by the way, this is the first nonlawyer and more specifically nontax lawyer who has been head of the IRS. Mr. Rossotti, or somebody with his background from private sector management, brings to the management of the IRS a person who is consumer oriented, customer oriented. His own private sector corporation had to satisfy his consuming public for the services that he sold or he would not have been in business. He would not have developed a successful business. So to have a nontax attorney for the first time running the IRS is very, very good because it brings somebody in there who knows that organization ought to serve the taxpayers and not be a master of the taxpayers. He has already led the organization in some important changes and I have great confidence that he will continue to make productive changes. He will do a better job because of this legislation.

In addition, it seems to me that a full-time board would not attract the people who we want to attract to this board. A full-time board too often in this town attracts inside-the-beltway, Washington career people. That is not the type of person we want on the board.

What the IRS needs is guidance from people who come from the real world of work, people outside the beltway, people who are real Americans. It needs experts in business, management and customer service. It needs people who are willing to take the time in the name of public service to help guide the IRS, through this recovery period it is now in. The IRS does not need people who consider the full-time job of being on the IRS board a good career move. The fact is the people we want to serve on this board will not give up their full-time jobs to do it.

This bill is not intended to create more bureaucracy. We have too much bureaucracy already. This is generally true throughout Government. But we found it is definitely the case in the IRS. A full-time board would just be one more layer in an organization with way too many layers of bureaucracy already. For these reasons, I ask my colleagues to join me in opposing this amendment. If we want the IRS to be customer friendly, like a corporation must be, we must give it a corporate-like board.

I thank the Chair. I yield back the remainder of my time to be reserved.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I yield 5 minutes to the distinguished Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, let me first do as the Senator from Iowa did, Senator GRASSLEY, and compliment the intent of the distinguished Senator from Missouri. I started out exactly where the Senator from Missouri is, considering that a full-time board would be best. What I have concluded is that over time, examining what this board is going to be doing—and let nobody doubt, by the way, this board has substantial powers. This is not an advisory board. There are a number of things that we specifically say they cannot do, in order to avoid conflict of interest with procurement and with personnel and with confidentiality, but this board oversees the IRS in its administration, its management, its conduct, its direction, and its supervision of the execution and application of the IRS law.

It has substantial powers in making recommendations to the President as to who the Commissioner ought to be and has the power to recommend the Commissioner ought to be terminated. I urge colleagues to look at section 1102 of the proposed legislation.

I share the conclusion Senator GRASSLEY has just iterated in his opposition to this amendment; that is, that a full-time board would actually restrict our capacity to go out and get the people with the kind of talent that we need to be on this board in the first place. There are an awful lot of Americans who have expertise in management, have expertise in computers, have expertise in the operation of a large organization. They especially

have expertise in restructuring, which is going to be a very, very important piece of work that Mr. Rossotti will have the authority to do, restructuring and changing the nature an organization.

We need people with all those kinds of expertise. And if you require the individual to serve full time, my conclusion, strongly felt, is you will exclude large numbers of citizens who would say: If it is part time, I'm prepared to sit on this Board as a consequence of my desire to improve the way this IRS is operated. My desire to improve it is strong enough to serve part time, but I can't possibly do it full time. We are going to reduce the list if we make it full time, of citizens who could serve this in this way.

In addition, I point out this board sunsets in 2002; thus, Congress would have the opportunity to revisit and make a determination as to whether or not, as a result of the experience that we have had, this board needs to be full time.

So I urge those who were concerned about this board being part time, on the one hand to consider we are going to restrict our ability to get the kind of expertise that is needed on this board, and, second, we will have an opportunity, after 5 years, to revisit this issue. If the experience of this board is that they are recommending to us that full time would be better than part time, we will have ample opportunity to make that judgment.

I urge my colleagues, with great respect to the Senator from Missouri and his intent, to vote against this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. BOND. Mr. President, I yield myself such time as I may require. I thank my colleagues from both Iowa and Nebraska for their very thoughtful comments. As I said earlier, I appreciate so much the excellent work the Finance Committee has done on restructuring of the IRS. Truly, it is a very important issue.

Primarily, I hear them raising the point that we can't get people to serve if we have a full-time board. We are making it a small board. We need four individuals who want to serve.

Some say you can have part-time people who can come in and get the big picture authority. The problem is, we need them to work on specific law enforcement activities and personnel actions. We are not talking about somebody giving them the big picture; we are talking about somebody taking management responsibility. If individuals would serve, is their question. They say we can't get good individuals to serve.

We have the Commissioner of the IRS. He came from the private sector. He was willing to move in. Private-sector individuals have served, and have served with great distinction, in related areas, where they do an excellent job. Why should we think it is harder to get people to serve on the IRS board than it would be to serve on the FTC board or on the SEC? These are issues that I think are very closely related. If we can't get good people to serve on that board, I would be very much surprised. We would not see a part-time advisory board dealing with actual cases of taxpayer abuse. They would have to do so only when the Commissioner or the Treasury Inspector General said they could.

Let's just take an example—the alarming revelation last week that former Secretary Howard Baker and former Congressman James Quillen were the targets of a vendetta by a rogue IRS agent. Even more troubling, more troubling is that the agent's activities were covered up by numerous officials in the IRS district office.

This case clearly demonstrates a pattern of bad behavior in one office, but it may be indicative of structural or procedural defects throughout the agency. Are we really going to tie the hands of the IRS board and only permit it to review such problems as the Commissioner or the Treasury IG permit it? I say not. If we are going to do the job, we ought to do it right. Without this authority, the board will only find out about the problems like the rest of us—when the press points them out or when we have to go through a congressional hearing.

The problems of the IRS are well known. Now we need to make sure we fix them, not just tinker around the edges. The Bond amendment replaces the IRS management structure of a Commissioner plus a part-time limited authority board with an independent full-time board of governors, including the Commissioner. It is not an accident, as I have said earlier, that the SEC, the FTC, the Federal Reserve, are all run by boards or commissions. These agencies carry out sensitive regulatory and enforcement duties, and they must be insulated from political motives. Insulation from political motives is one of the objectives we must achieve in this IRS restructuring. The American taxpayer deserves the same level of protection as the people who are governed by and are subject to the rules and regulations of the SEC and the FTC and the FCC.

Who has not heard of the allegations that the IRS has targeted out-of-favor groups or those who seem to have nothing in common but their opposition to various White House policies? No American should have the enforcement powers of the IRS unleashed on them because they don't agree with the White House on an issue. I think that is simply why my amendment is so necessary. Under the current bill, the only way the part-time board would have known about the abuses we learned about last week is the same way the rest of us did when we watched Senator ROTH's hearing on television. That is how limited the authority of the part-time board is.

We need real reform of how the IRS does its business. I believe putting a full-time, independent board in place to run the agency is the best way to do that. I say to those people who really want reform, if you really believe a board is essential to restructuring the IRS, then I say let's get out and run with the big dogs; let's get a full time, independent board. Otherwise, get back up on the porch, because a part-time advisory board is not going to even have a large bark; it will have a minor meow.

If we are going to put some teeth into it, we need to have the teeth that a full-time, independent board governing the IRS can give to managing the agency, to make sure it does not abuse taxpayers.

Mr. President, I reserve the remainder of my time and yield the floor.

Mr. SHELBY. Mr. President, I rise in support of Senator BOND's amendment to establish a full-time IRS Board of Governors. I firmly believe that oversight of an agency with the equivalent of 100,000 full-time employees, a requested fiscal year 1999 budget of almost $8.2 billion, and a history of wasting $4 billion in an attempt to modernize the tax collection system, is, without question, a full time job.

Furthermore, rigorous oversight will be critical to ensuring that the reforms that Congress has in store for the agency will be carried out effectively and expeditiously. I think the prudent strategy is to keep the agency on very short leash given the shocking stories that have come to light from the recent Finance Committee hearings. I have my own ideas as to how to liberate the taxpayer from the IRS—namely the implementation of my flat-tax proposal. But short of comprehensive tax simplification, I strongly support Senator BOND's efforts.

Mr. President, the IRS is a very troubled agency that demands the highest level of scrutiny. I strongly urge my colleagues to support this amendment. I feel we owe it to the American taxpayer.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, how much time do I have?

The PRESIDING OFFICER. The Senator from Delaware has 10 minutes.

Mr. ROTH. Mr. President, I yield myself such time as I may use.

Mr. President, I, too, join my colleagues in paying my respects to the distinguished Senator from Missouri. He brings a wealth of background and experience, so his comments are always welcomed and listened to with great care. While I completely agree that the IRS oversight board must be adequately structured, I respectfully urge my colleagues to oppose this amendment which would make the IRS oversight board a full-time board.

In my judgment, the board should be a part-time board. The purpose of the board is to provide ''big picture'' oversight over the IRS, provide specific expertise to IRS management to ensure

accountability at the IRS, as well as to ensure that taxpayers are being treated and served properly.

The purpose of the board is not to micromanage the IRS. Commissioner Rossotti is a management expert, unlike his predecessors who were experts in tax law. As I have said many times on the floor, I think we are very fortunate in having an individual of his qualifications, his expertise, not only in management but high tech as well. I believe we should support the manager and provide a board that will help him turn the troubled agency around.

It is my judgment a full-time board would destroy the delicate balance we tried to include in this legislation. The Commissioner, not the board, should manage the IRS.

A full-time board would bog down in details, diffuse accountability, and I fear very much probably not include the type of individuals, the experts, the background, and vision that are necessary on the board. Also, I have to say that I would doubt that Commissioner Rossotti might remain with the IRS if the board were full time.

The very basic question is what would be the point? While I agree with my colleague's objectives, I do not believe that a full-time board would enhance the prospect of turning this agency around. In fact, making the board full time could very well undermine the purpose of this legislation.

As my distinguished colleague, the Senator from Nebraska, has pointed out, the board is sunsetted. There will be an opportunity in the future to see how this board is functioning, whether it is working in the manner that we hope and believe it will.

I urge my colleagues, Mr. President, to vote against the full-time board. I reserve the remainder of my time.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I, again, commend my colleague from Delaware for his outstanding leadership. I will only say that Commissioner Rossotti is going to leave sometime. I think it is important for us to make a structure which gives us the possibility of real reform in the IRS. An advisory board, in my experience in dealing with advisory boards, cannot and will not make a difference in the day-to-day management, the selection of IRS audits and the running of the agency which is the issue on the minds of American taxpayers. We need to do the job right, and I believe we need to make the change now.

Mr. President, if the distinguished manager of the bill has no further people wishing to speak—the ones who wanted to speak in support of the amendment are otherwise occupied—I am prepared to yield back the remainder of my time. We have 1 minute on each side prior to the vote. If the manager is finished with his speakers, I will join him in yielding back whatever time remains.

Mr. ROTH. Yes, Mr. President, I am pleased at this time to yield back the remainder of our time.

Mr. BOND. I yield back the remainder of time on our side. I thank the distinguished Senator from Delaware.

The PRESIDING OFFICER. All time has been yielded back.

Mr. ROTH. Mr. President, I ask unanimous consent that following the expiration or yielding back of time on the pending Bond amendment, it be temporarily set aside and a vote occur on, or in relation to, the Bond amendment at 1:15 p.m. today.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

PRIVILEGE OF THE FLOOR

Mr. REID. I also ask unanimous consent that a congressional fellow, Alan Easterling, be allowed privileges of the floor during this issue that is now before the Senate.

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

AMENDMENT NO. 2342

(Purpose: To amend the Internal Revenue Code of 1986 to eliminate payments for detection of underpayments and fraud)

Mr. REID. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2342.

Mr. REID. Mr. President, I ask unanimous consent that 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 subtitle H of title III, add the following:

SEC. . ELIMINATION OF PAYMENTS FOR DETECTION OF UNDERPAYMENTS AND FRAUD.

(a) IN GENERAL.—Subchapter B of chapter 78 is amended by striking section 7623.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 78 is amended by striking the item relating to section 7623.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

Mr. REID. Mr. President, as Members of this body know, I have worked long and hard with other Members of this body to change how the IRS functions. The first speech I gave on the Senate floor after being elected in 1986, was on the Taxpayer Bill of Rights. As I presented my remarks that day, presiding was Senator David Pryor of Arkansas. At the time, he was chairman of the Subcommittee on Finance that dealt with the Internal Revenue Service. Also, that same day in the Chamber was CHARLES GRASSLEY of Iowa, a longtime proponent of changes within the Internal Revenue Service.

I received a note from Senator Pryor after I finished my remarks that a page delivered to me, indicating he wanted to work with me on the legislation that I talked about. That same day, I received word from Senator GRASSLEY he wanted to work with me.

This was bipartisan legislation. The bill that I wrote, the Taxpayer Bill of Rights—because of these two Senators; the Senator from Arkansas, the Senator from Iowa; a Democrat and a Republican—we were able to move this bill through the Senate. It passed in 1988 and became law. It was really a significant change. The Taxpayer Bill of Rights changed the way the taxpayers dealt with the tax collectors. It put the taxpayer on a more equal footing with the tax collector. It was the beginning of some major changes in the way we deal with the Internal Revenue Service.

The Taxpayer Bill of Rights No. 2, in 1996, was also a change. But we are here now because of H.R. 2676, the IRS Restructuring and Reform Act of 1997. I say to the chairman of the full committee, the senior Senator from Delaware, I appreciate his working hard on this issue. I think the hearings have been informative to the American public and indicate that we need to do more. The Taxpayer Bill of Rights No. 1 and No. 2 were important, but we need to go further.

I was one of those initial sponsors of this legislation in the Senate. Senator KERREY of Nebraska, Senator GRASSLEY of Iowa, and I held a press conference where we talked about this legislation. At that time we didn't have a lot of support. But the support has built, and now we have support from the administration, and it is once again bipartisan legislation.

I look forward to the opportunity to speak in favor of the speedy passage of this much needed and long overdue reform.

What I want to talk about today in my amendment is one of the things that leads to the bad press, the bad feelings that the American public has about the IRS. What I want to prohibit the IRS from doing in the future is continuing with a program that I refer to as the ''Reward for Rats Program.'' This is a program where the IRS, in effect, has a contingent fee, much like a lawyer gets in a personal injury case. They say, ''If you have somebody who will snitch on a neighbor, an ex-wife, or business partner, and this will lead to our collecting money, then we will give you part of that money.''

I believe anyone who owes money to the Internal Revenue Service should pay it. But I think it should be collected in a way that is in keeping with the American system, not go into people's personal lives, where you have a wife—former wife or former husband

who just completed a long divorce, and the IRS contacts one of them and says, ''Hey, if you can give us a little information on your ex-spouse, then we will give you part of the money we collect.''

I think this is wrong, and I think we should stop it. There is nothing specifically in the statute which allows this. The problem is, there is nothing that disallows it. That is what this amendment would do. It is a practice which, if it isn't corrected, will be permitted under this legislation now before the body.

Last week, the Senate Finance Committee, under the leadership of the senior Senator from Delaware, conducted hearings in the cases of abusive practices by employees of the IRS. Witnesses before that committee provided testimony which describes an organization prepared, I am sorry to say, to use virtually any means to collect this Nation's taxes.

Again, I think the taxes should be collected but it should be in a fair way. An organization apparently prepared to take advantage of individual greed or desire for revenge to identify, rightly or wrongly, citizens who have failed to pay their taxes is something we need to do away with.

Last week, we learned of a restaurant owner whose life was ruined on the basis of no more than a tip from a vengeful informant. As recently reported in the press, we learned of a tax accountant who snitched on a client, motivated only by the expectation of payment for betraying a confidential relationship. In both cases that I have just provided, the information was false.

Such informants, most of the time, are not acting in some sense of civic duty. They don't act from a selfless interest in the Nation's well-being. They act against friends, relatives, employers, and associates because the IRS pays them to do so.

Under section 7623 of the Internal Revenue Code of 1986, they are authorized to pay sums, as required, to informants in order to bring to trial violators of Internal Revenue laws. In plain English, the IRS pays snitches to act against associates, employers, relatives, and others—whether motivated by greed or revenge—in order to collect taxes. I find this activity unseemly, distasteful, and just wrong.

Under the current IRS program, these informants are paid up to 15 percent of the money recovered as a result of their tips, but no less than $100. In a recent change to the so-called Snitch Program, the Service increased the maximum allowable reward to $2 million—a powerful incentive to anyone interested in becoming rich at the expense of a neighbor, former business associates or business associate, former wife, former husband.

As if the desire for revenge alone hasn't been responsible enough for ruined lives, the Service has a $2 million jackpot to sweeten the payoff. For the nosy neighbor, the alienated spouse, or the wronged partner, the odds of seeing that payday may appear better than anything the State can offer. This program is unethical, it is contrary to taxpayer privacy, and inconsistent with the spirit of the Taxpayer Bill of Rights.

Let's assume that someone comes to an accountant with a tax problem—under the present law, there is no confidentiality; we are trying to change that, of course—comes to an accountant with a tax problem, thinking, of course, you have to get this thing worked out with your accountant; and the accountant walks out after the meeting and calls the IRS and says, ''I have somebody you can get a real good chunk of money from, but of course I get 15 percent of it.''

I think that is wrong. It is contrary to taxpayer privacy and inconsistent with the spirit of the Taxpayer Bill of Rights which was passed previously.

The IRS would have you believe that these programs—this snitch program is warranted because of the millions of dollars it is able to collect through the snitches. This simply demonstrates that the IRS is relying upon others to do its work. It shouldn't be up to friends, families, coworkers, and neighbors to ensure taxes are being paid; it is up to the IRS. We should not be paying private citizens to perform the job the IRS employees are expected to carry out.

I think this program should come to an end. To that purpose, I propose this amendment, which will eliminate the payments for detection of underpayment and fraud. The amendment to eliminate the reward of greed and invasive action against honest taxpayers should pass.

I propose that in the process of reforming and restructuring the Internal Revenue Service, we join together to eliminate the ''Reward for Rats Program.'' It is time that this snitch program be eliminated and that we restore greater civic order to the manner in which the IRS conducts itself.

The amendment is considered important because it reforms the IRS, it fundamentally overhauls the manner in which they conduct business, and it serves the customers and also allows a more orderly way of collecting money. This amendment addresses an unethical and destructive program employed by the IRS in the collection of revenues. In that the amendment eliminates the program, it must be considered consistent with the spirit of this bill.

I ask unanimous consent to have printed in the RECORD a story from the Los Angeles Times dated April 15, 1998, entitled ''Rewards-for-Snitches Program Comes Under Fire,'' which illustrates what the problem is we are trying to correct.

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

[From the Los Angeles Times, Apr. 15, 1998]

IRS ''REWARDS-FOR-SNITCHES'' PROGRAM COMES UNDER FIRE

(By Ralph Vartabedian)

WASHINGTON.—Americans voluntarily hand over most of the $1.3 trillion owed to the Internal Revenue Service each year, but a tiny fraction of tax collections depends on an obscure and increasingly controversial IRS program of using paid informants.

Motivated by a combination of greed and revenge, informants are typically business associates, employees, acquaintances, neighbors or ex-spouses of tax cheats. Many experts say the program is one of the most unseemly parts of the U.S. tax system.

However, IRS officials say they exercise great care in handling the informants, weeding spurious allegations, and that the rewards play an important role in the nation's tax enforcement system.

The IRS pays the informants up to 15% of the taxes it recovers from their tips—up to a maximum of $2 million—though the vast majority of informants end up empty-handed.

After a series of recent congressional disclosures about widespread taxpayer abuses, watchdog groups are growing concerned about the ethics of the agency's informant reward program.

''We should refocus our efforts on good citizenry, not bribing people to answer questions,'' said John Berthoud, president of the nonpartisan National Taxpayers Union, who called on the IRS to end the program in an interview with The Times.

The program has been sharply criticized by individuals who say they were victimized by bogus allegations, and even by informants, such as Mary Case of Sherman Oaks, who say the IRS has stiffed them on their rewards.

The Senate Finance Committee, which has been broadly investigating IRS abuses over the last year, is expected to unveil new evidence later this month that taxpayers have been devastated by aggressive IRS investigations based on phony information from snitches.

ONE TAX ACCOUNTANT SNITCHED ON HIS CLIENT

Tax attorneys and accountants generally decry the informant reward system, asserting that the government is on thin ice in offering money to taxpayers to turn each other in. They argue that a cornerstone of the U.S. tax system is the protection of taxpayer privacy and that the IRS is wrong to encourage people to breach confidential business or family relationships. In one case, a St. Louis tax accountant informed on his own client.

''It smacks of communism, turn in your parents if you catch them cheating,'' said San Francisco tax attorney Frederick Daily, author of the book ''Stand up to the IRS.''

Bruce Hockman, a top Los Angeles tax attorney whose clientele includes the rich and famous, refuses to help clients snitch to the IRS. ''I have had people come in and ask me to take them downtown to IRS district headquarters,'' Hockman said. ''I say no way. The Nazis did it, turn people in. It is unseemly.''

Of course, Congress authorized the IRS to create the informant reward program in the first place. Former IRS historian Shelley Davis says her research indicates that informant rewards date back to the Civil War ear.

Tipsters are one of the important parts of the IRS toolbox for enforcing tax compliance, says Thomas J. Smith, assistant IRS commissioner for examination and chief of the agency's informant reward program.

93% OF SNITCHES' TIPS END UP IN TRASH CAN

IRS figures for 1996, the last year for which data are available, show that 9,430 Americans sought rewards. Of those, the IRS acted on just 650—meaning that 93% of the tips

ended up in the IRS garbage can. The IRS paid out about $3.5 million in rewards and recovered $103 million in taxes.

''If you look at the last three years, we have had 2,000 cases closed, resulting in taxes of $797 million,'' Smith said. ''So, in terms of dollars, most people would judge that as reasonably significant. It does supply a very useful source of information for us.''

The IRS has a national informant hotline (1–800–829–0433), though many informants walk in or call in to the IRS' 33 district offices or 10 regional service centers, Smith said.

With little fanfare and with no explanation, the IRS last year decided to substantially boost the maximum allowable award to $2 million from $100,000. It also set a minimum reward of $100, eliminating a lot of penny ante payments.

In 1996, the agency's largest award was a jackpot-size $1.06 million. (The agency does not disclose who gets the awards or what cases they involve.) The agency's smallest was just $18—less than the typical reward advertised in newspapers for lost dogs.

Under the new guidelines, rewards range from 1% to 15% of the tax recovered, depending on the assistance provided by the informer. But all awards are at the ''discretion'' of IRS officials, who make their decisions behind closed doors. Of course, the rewards are taxable income.

The IRS takes a low-key approach, not seeking to send the message that the federal government is actively recruiting paid stool pigeons. The agency does not make Form 211, which informants must fill out to claim a reward, widely available. It isn't even kept in the IRS national headquarters lobby, where the agency has almost every form on display.

Asked if the IRS encourages Americans to inform on others, Smith said he could offer no advice and suggested that individuals do what they feel is right. But former IRS officials are more blunt.

GARBAGE INFORMATION COMES STREAMING IN

''Informants rewards are pretty distasteful to everybody except the person who gets one,'' said Phillip Brand, a tax expert at KPMG Peat Marwich LLP and former IRS chief of compliance. ''People have a different feeling about informing when they do it as good citizens.''

Another problem with paying for information is that the IRS gets a lot of garbage information. Brand recalled a tipster once sought a reward for the disclosure that a secretary of State was dealing drugs to Queen Elizabeth II and not reporting the sales on his taxes.

But week allegations are less humorous when the IRS pursues them against innocent taxpayers. That apparently happened to John Colaprette of Virginia Beach, Va., whose home and two restaurants were raided in 1994 by armed IRS agents after his bookkeeper, Deborah A. Shofner, made phony allegations.

The bookkeeper was later arrested and charged with stealing from a Colaprette restaurant, the Jewish Mother. She was sentenced to 6 years and 11 months in Virginia.

''This case was investigated for just one and a half days before they obtained a search warrant, which was then executed 12 hours later,'' said Colaprette, who is expected to testify this month before the Senate Finance Committee's hearings on IRS abuses.

Although the committee is saying little about its planned hearings, it is expected to focus on the IRS' criminal investigation division, which handles most of the paid informants and conducts a wide range of undercover operations.

Since the raid on the Jewish Mother, the IRS has never assessed any back taxes or made any changes to his tax returns, Colaprette said. He has a $20-million suit against the IRS.

''Why do we have an agency that nobody controls?'' Colaprette asked.

It isn't unusual for the IRS to deal with informants who violate confidential relationships. Like Colaprette's bookkeeper, when St. Louis tax accountant James Checksfield informed on his own client in 1989, he was discredited. The government dropped its tax evasion case against the client and the accountant lost his license.

Smith, the IRS chief of exams, said he could not discuss any specific cases because of privacy laws. But he said the IRS carefully screens allegations and is mindful of the potential for bogus information.

''It is a concern that we take very seriously,'' Smith said. ''We absolutely try to be very careful about looking at returns with the greatest probability of error.'' Smith added that 89% of the returns examined as a result of a tip end up with changes.

While it isn't surprising that the targets of allegations feel abused, informants also are often frustrated over how the agency treats their claims.

IF CASE ISN'T CLOSED, NO REWARD IS PAID

Case, the Sherman Oaks woman, tipped the IRS in 1985 to Stanley D. Hexom, a San Jose real estate broker later accused of swindling millions of dollars from elderly California investors in fraudulent real estate deals. She has never received a reward from the IRS, but neither has the agency closed her case.

As Hexom's bookkeeper, Case provided IRS agents boxes of evidence, including copies of doctored tax returns and locations of bank accounts, as well as testifying to a federal grand jury.

Under IRS guidelines, an informant who provides such specific information is supposed to get 15% of the back taxes. But a big caveat is that the IRS has to actually collect the back taxes. So, if the agency comes up empty-handed, so does the informant.

There is no doubt that the IRS went after Hexom, who was convicted on two counts of bank fraud and one count of preparing a false tax return. IRS agents tried to collect from Hexom's wife, though she may have escaped assessment by claiming she was an innocent spouse, said Richard Blos, Hexom's attorney in San Jose.

Hexom was released from prison in 1993 and is currently living in the Phoenix area. He could not be reached for comment.

Smith acknowledged that the agency is often criticized for taking too long time to pay rewards, but he added that 13 years is an abnormally long time for an informant to be kept waiting.

Other informants say the agency's criminal investigation division takes all the credit for big money cases and undermines the role played by informants.

Joseph Pinnavaia, an Oceanside gemstone expert, helped the IRS crack a tax fraud ring in the early 1980's, in which worthless stones were being donated to museums for big tax write-offs.

Pinnavaia died last November, but not before completing a manuscript, entitled, ''The Most Corrupt Agency in the Federal Government: The Internal Revenue Service,'' which detailed how the agency mishandled his case.

With Pinnavaia's help, the IRS went after a doctor in Florida who had donated an allegedly worthless blue topaz gem to the Smithsonian Institution. By 1979, the IRS was receiving 10,000 tax returns a year with deductions for gemstones, it was later discovered.

Though Pinnavaia was awarded $11,000 for his help in the case, he asserted that the IRS cheated him by claiming it already knew about the larger nationwide fraud ring. The manuscript, a copy of which was provided to The Times, includes a variety of internal IRS documents, in which criminal division agents downplayed his role in the case.

''He felt the $11,000 didn't even cover his expenses,'' said Mathew D. Pinnavaia, his son. ''They tried to deny he played any role.''

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. First of all, let me say to the Senator from Nevada, long before I got on this issue of taxpayer rights, the Senator was there, working on Taxpayer Bill of Rights 1 and Taxpayer Bill of Rights 2. This legislation in title III is a continuation of your work. And I appreciate very much your early support of this bill that enabled us to fashion this legislation in a bipartisan way, which I think allows us to make certain that we can extend the rights and power and authority to the taxpayer and stop abuses that we see within the IRS's capacity to collect money that this Congress authorizes is to be collected.

I appreciate, specifically, the problem you are identifying with your amendment. It is a problem that, thanks to Chairman ROTH, we heard before our committee. We saw the problems that can occur when you offer somebody, essentially, a reward to inform; you can get abuse from that. As the Senator knows, as I have heard him talk about this as well, the dilemma is, how far do you go? We have this mechanism being used throughout law enforcement and there are many times when it works and when it is not abuse.

I am wondering if the Senator would allow to us modify his amendment so it can require the commissioner to do a thorough analysis of this problem. Commissioner Rossotti has had this brought to his attention. It would require him to do a thorough analysis of this problem and then come back to us and say, how can we change the law so as to make certain that you are able to use this system when appropriate, but we can get rid of some of the abuses that are quite obviously not the intent of this Congress.

Mr. REID. Mr. President, I say to my friend from Nebraska that I appreciate the kind comments about my work on the Internal Revenue Service tax issues generally in the past. I also want to say that but for the Senator from Nebraska, we would not be on the floor today. The people of Nebraska should understand, as I am sure they do, the tenaciousness of the senior Senator from Nebraska. The work that he has done on this issue—when the history books are written about tax reform in this country, one of the chapters has to be dedicated to him. I personally appreciate, on behalf of my constituents from the State of Nevada, the work that you have done on this issue. I also think the work done on the underlying legislation, giving the commissioner of the Internal Revenue Service the power to do some things for a change will allow the commissioner to take a good look at this program and make some

suggestions, which in the past fell on deaf ears because he had no power and authority to do anything. So I think we have a good commissioner. I am willing to have my amendment modified. I think it is a step in the right direction. There may be some things that I don't understand having only gotten——

Mr. ROTH. Mr. President, if the Senator yield. I find it very difficult to hear what the distinguished Senator is saying.

Mr. REID. Mr. President, I am happy to talk a little louder. I say to my friend from Delaware that this has always been one of my habits. I can remember when I first started trying case, there was a judge named Marshall—and Las Vegas only had 3 or 4 judges at the time—and he was hard of hearing. I would get up and talk to the jury and he could not hear what I was saying, so he would get upset at me. He thought I was saying things I didn't want him to hear. That wasn't the case then and it's not the case now. I will try to be more direct to the Senator from Delaware.

What I was saying is that I think this underlying legislation gives the commissioner of the IRS power he didn't have before, which is good. One of the problems we have had in the past is that the commissioner of the IRS has had no power to make changes in the way the Service operates. This legislation certainly gives him power to do that.

So, as I said to my friend from Nebraska, and I say again, I am willing for my amendment to be modified to have the commissioner report back to us within a reasonable time as to whether or not this program should be terminated in its entirety, or whether it should be modified. There may be instances when there may be a need for some type of a contingent fee. I am not aware of any, but there may be. I have enough confidence in the underlying legislation, which will be in effect in a few weeks, we hope, and in the commissioner of the IRS that I am willing to allow my amendment to be modified.

Mr. ROTH. Mr. President, I say to the distinguished Senator from Nevada that that is a very positive step, a very sound way of addressing the problem. It has been the practice in Government, as he well knows, that contingent fees are sometimes made available, not only in the IRS, but I believe in other areas of activity as well. As we all witnessed last week, this practice was used in an extremely abusive manner—a manner that should be dealt with. So I can understand the Senator's concern and interest in this matter.

I appreciate it and would find it acceptable, as far as I am concerned, if he would modify this to make a study, and within a limited time come back. I think we do have a new commissioner that is very effective and is bringing about change. This would help give him direction, and we think this is a matter of critical importance.

Mr. REID. If the Senator from Delaware will yield. I say to the manager of the bill, I think also that we focused attention, through the hearings that you have held, newspaper articles written, and through this amendment, on this practice that I am sure the commissioner will have enough information to come back to us as to whether or not this practice should be continued, modified in some way or, as I said, eliminated. So I would be happy to modify this amendment so that the commissioner could report back to us within a reasonable period of time.

Mr. ROTH. Mr. President, I think I will make a point of order that a quorum is not present and try to reach agreement on the specific language.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mrs. MURRAY. Mr. President, I rise today in strong support of H.R. 2676, the Internal Revenue Service Restructuring and Reform Act. We have waited too long for the opportunity to debate this issue and move this legislation. Senate action is coming six months after the House overwhelmingly passed this legislation and almost a year after the Kerrey/Portman Commission issued their recommendations for improving and reforming the IRS.

It is no wonder the American taxpayer is frustrated and angry. What kind of penalty or interest would the IRS levy against a taxpayer who was six months late in filing their taxes?

Mr. President, the IRS is an agency out of control. I hear this from people all across my state. They want the IRS reformed. And they want it done now.

What has this six month delay meant to taxpayers? Since November 5, 1997 the date the House voted on H.R. 2676, more than 17 million taxpayers have received a collection notice from the IRS; more than 34 million Americans have contacted the IRS to request assistance or information—of these calls, more than 16 million did not go through and close to 2 million Americans did not get correct answers.

This is unacceptable. Had we acted back in November, the impact on these families would have been dramatically different. We did not need more hearings, we needed action.

Since November 1997 I have heard from close to 1,200 taxpayers from my state who have written in support of systemwide reforms at the IRS. They have told me of their experiences and frustrations—and I have to say, some are quite disturbing.

Mr. President, I want to read some excerpts from a few of these letters—which have come from every corner of my state. They really highlight the abuses taking place by the IRS.

This comes from a constituent in Moses Lake, Washington. She says:

> We are people who obey the law. If there were things on our tax return which were in error or were questionable, we have no problem with being called to account for it. Nor do we take issue with paying more taxes if we legitimately owed more. However, the way we were treated by a representative of the IRS should never be allowed in any country, let alone ours, which is supposed to be based on presumption of innocence.

Another letter comes from a constituent in Seattle:

> In 1993, my husband and I bought a franchise and opened our business as sole proprietors. (If we had incorporated, our suffering would be over now). My husband, Craig, had plenty of knowledge and experience in carpentry and built a strong, thriving closet remodeling business. He did not, however, have business tax and accounting training, and he made mistakes in the paying of taxes and filling our paperwork to the IRS. As soon as he recognized his mistake, he alerted the IRS and began to try to make amends.
>
> It seemed he had awakened a vicious sleeping dog.

He goes on to say:

> Along with everything else, the IRS randomly cleaned out our bank accounts, as well as those of our children.
>
> It seems the IRS has an incentive program for their employees which persuades them to take quick, harsh action, trying to ''get what they can'' and ask questions of the ''customer'' later.

Finally, from a constituent in Kirkland, WA:

> For the past seven years both my husband and I have lived our lives under the tormenting cloud of the IRS.
>
> We had a lien put on our home and the letters began to come of companies wanting to help us with our troubles with the IRS. This was so devastating as we were just starting what we thought would be a beautiful life together. One day I came home to 12 different notices from the IRS I needed to sign for at the Post Office. That is a great way to spend taxpayers' money, don't you think?

These heavy-handed tactics by the IRS are not acceptable.

But this is not the first time I have heard from constituents about problems with the IRS. I knew reform was long overdue. It was not until the release of the Kerrey/Portman Commission report that I realized that it was not just a few bureaucrats abusing their position, but rather an agency out of control. An agency with management practices that encouraged abuse of taxpayers; managers who rewarded the most aggressive and unbending employees; and an agency that viewed taxpayers as the enemy.

Why is it so critical to enact IRS reform? We can all name many reasons why reform is necessary and important, but I think we all have to remember that taxpayers are only trying to meet their responsibilities in a democratic society. They are not turning to the IRS to apply for benefits or for assistance. They are attempting to honor their financial obligation and commitment to a democratic and progressive society. They are not asking for anything in return but to be treated fairly.

Unfortunately, this is not the experience of most taxpayers. This frustration with the IRS jeopardizes compliance with the tax code and undermines the faith taxpayers have in our system.

Currently, honest taxpayers and businesses pay an average of $1,600 per person for those who do not meet their financial obligations. An estimated $120 billion a year goes uncollected. We do not need to add to this by encouraging more taxpayers to give up.

The great thing about this legislation is that it keeps the taxpayer's interest in mind. It simply levels the playing field between the taxpayer, both large and small, and the IRS. What's more effective than forcing the IRS to work in a more fair and even-handed manner?

I am particularly pleased this legislation provides relief for ''innocent spouses'' who find themselves liable for taxes, interest, or penalties because of actions by their spouse. This has become a severe problem for many women and children. Following a divorce many women are left to fight the IRS to save their homes and their children's future. Spouses who engaged in illegal activities or misrepresented their income to the IRS simply flee and leave. The IRS then attempts to collect from the innocent spouse—who is often easier to locate—as she has custody of the children. It is a little difficult to hide when you have children.

The IRS then aggressively pursues these innocent spouses for a debt that they never knew about. If only we could be as aggressive in tracking down the billions of dollars in uncollected child support.

I urge the Senate to do the right thing today and pass this legislation. No more delays and no more excuses. The American taxpayer deserves better.

Thank you, Mr. President. I yield the floor.

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

The PRESIDING OFFICER (Mr. GREGG). The clerk will call the roll.

The bill clerk proceeded to call the roll.

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

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

AMENDMENT NO. 2343

(Purpose: To provide electronic access to Internal Revenue Service information on the Internet)

Mr. KERREY. Mr. President, I send an amendment to the desk, an amendment offered by Senator LEAHY and Senator ASHCROFT. It has been cleared on both sides. I ask that this amendment be agreed to.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Nebraska [Mr. KERREY], for Mr. LEAHY, for himself and Mr. ASHCROFT, proposes an amendment numbered 2343.

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

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

The amendment is as follows:

On page 262, after line 14, add the following new paragraph:

''In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall establish procedures for all Tax Forms, Instructions, and Publications created in the most recent 5-year period to be made available electronically on the Internet in a searchable database not later than the date such records are available to the public in printed form. In addition, in the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, established procedures for other taxpayer guidance to be made available electronically on the Internet in a searchable database not later than the date such guidance is available to the public in printed form.''

Mr. LEAHY. Mr. President, I commend Chairman ROTH and Senator MOYNIHAN for their outstanding work on legislation to reform the Internal Revenue Service (IRS). It is time for the IRS to deliver better service to the American people. Our nation's taxpayers deserve no less.

Today, Senator ASHCROFT and I are offering an amendment to H.R. 2676 based on the Taxpayers Internet Assistance Act of 1998, S. 1901. Our bipartisan legislation requires the IRS to provide taxpayers with speedy access to tax forms, publications and other published guidance via the Internet.

Mr. President, I want to praise the Senate Finance Committee, Chairman ROTH, Senator MOYNIHAN, Senator KERREY and Senator GRASSLEY for their leadership in moving the IRS reform legislation to the full Senate. I strongly support the bill approved by the Finance Committee.

As the Senate prepares to debate IRS reforms, we must use technology to make the IRS more effective for all taxpayers. What better way to do that then to require the IRS to maintain online access to the latest tax information. Every citizen in the United States, no matter if he or she lives in a small town or big city, should be able to receive electronically the latest published tax guidance or download the most up-to-date tax form.

The IRS web page at >http://irs.ustreas.gov< provides timely service to taxpayers by increasing electronic access to some tax forms and publications. I commend the IRS for its use of Internet technology to improve its services. More information and services should be offered online and not just as a passing fad. Our legislation is needed to build on this electronic start and lock into the law for today and tomorrow comprehensive online taxpayer services.

For Tax Forms, Instructions and Publications, our legislation provides for online posting of documents created during the most recent five years, the same period of time that the IRS now keeps these documents on CD-ROM for Congressional offices. With these common sense requirements, the IRS will be able to enhance its web page with comprehensive tax guidance in a matter of days at little cost to taxpayers under our bipartisan bill. In fact, the Congressional Budget Office has scored our legislation as adding no new direct spending.

Thomas Jefferson observed that, ''Information is the currency of democracy.'' Let's harness the power of the information age to make the IRS a truly democratic institution, open to all our citizens all the time. We strongly believe that the IRS must prepare itself for the next millennium now.

I thank Senator ASHCROFT for his support and urge my colleagues to support our amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2343) was agreed to.

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

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

AMENDMENT NO. 2342, AS MODIFIED

Mr. REID. Is the Reid amendment still the pending business?

The PRESIDING OFFICER. The Reid amendment is the pending business.

Mr. REID. I send a modification to the desk.

The PRESIDING OFFICER. The amendment will be modified.

The amendment (No. 2342), as modified, is as follows:

At the end of subtitle H of title III, add the following:

SEC. . STUDY OF PAYMENTS MADE FOR DETECTION OF UNDERPAYMENT AND FRAUD.

Not later than 1 year after the date of enactment of this Act, the Secretary of the Treasury shall conduct a study and report to Congress on the use of section 7623 of the Internal Revenue Code of 1986 including—

(1) an analysis of the present use of such section and the results of such use, and

(2) any legislative or administrative recommendations regarding the provisions of such section and its application.

Mr. KERREY. Mr. President, this amendment addresses a very important problem that we saw in the oversight hearings that the chairman conducted, and that is sometimes the payment made to induce an individual to provide evidence against a taxpayer who is violating the law becomes an incentive to provide evidence that is faulty and the taxpayers end up being abused as a consequence. Normally, a request for a study would not necessarily go very far. In this case, Commissioner Rossotti has already launched an investigation by the Criminal Investigation Division, using Mr. Webster,

former FBI Director, as the lead who has indicated he wants to get to the bottom of this problem as well. So I believe this modification is a good modification. I am prepared to accept it on this side.

Mr. ROTH. Mr. President, we have reviewed the proposed change in this amendment. As I understand it, it requires a study to be made on informant payment, that the study must be completed within a year. As I said earlier, we found there are some serious problems in this area, and the modified amendment is satisfactory to this side.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2342), as modified, was agreed to.

AMENDMENT NO. 2341

The PRESIDING OFFICER. The question recurs on the BOND amendment with 2 minutes equally divided.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, we all know the problems of the IRS. They are well known. This is a troubled agency. It needs to be turned around. This is a good bill, but I think we need to do one thing to make it better. When has a part-time board ever turned around a troubled agency? A part-time board will not do the job. We need a full-time board if they want to change the culture of the agency. A full-time board such as the FTC, the SEC, even the Federal Reserve, can draw the people from all walks of life across the country to make sure the culture of the IRS is changed.

If you want to do something about the IRS, you have to put into the field a big dog that can back up his bark. Otherwise you have a little puppy on the porch that is meowing with the cats. It is not going to change the IRS to put a toothless puppy in as an advisory board. I believe a full-time board can give us the strength we need for vital reform. I ask for support of my amendment.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I was concerned as to where that animal analogy was going to go. Again, I appreciate very much what the Senator from Missouri is trying to do. I think the intent is shared both by myself and the chairman of the committee. We believe very strongly that this amendment would actually reduce the President's ability to find qualified people to come and bring their considerable expertise to assist the Commissioner who will be granted new authority to manage the Internal Revenue Service to restructure and improve customer service, improve the use of technology, and increase the satisfaction that customers of the IRS get.

So although it is well intended—I actually started out where the Senator from Missouri is—I believe it will make it more difficult for us to get the kind of people the Commissioner needs to serve on this board.

The PRESIDING OFFICER. The question is on agreeing to the Bond amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. FORD. I announce that the Senator from Hawaii (Mr. AKAKA) is absent due to a death in the family.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 25, nays 74, as follows:

{Rollcall Vote No. 121 Leg.}

YEAS—25

Abraham	Faircloth	McConnell
Ashcroft	Frist	Nickles
Bond	Gramm	Shelby
Burns	Hollings	Smith (NH)
Campbell	Hutchinson	Stevens
Coverdell	Inhofe	Thomas
Craig	Kempthorne	Thurmond
D'Amato	Kyl	
DeWine	McCain	

NAYS—74

Allard	Ford	Lugar
Baucus	Glenn	Mack
Bennett	Gorton	Mikulski
Biden	Graham	Moseley-Braun
Bingaman	Grams	Moynihan
Boxer	Grassley	Murkowski
Breaux	Gregg	Murray
Brownback	Hagel	Reed
Bryan	Harkin	Reid
Bumpers	Hatch	Robb
Byrd	Helms	Roberts
Chafee	Hutchison	Rockefeller
Cleland	Inouye	Roth
Coats	Jeffords	Santorum
Cochran	Johnson	Sarbanes
Collins	Kennedy	Sessions
Conrad	Kerrey	Smith (OR)
Daschle	Kerry	Snowe
Dodd	Kohl	Specter
Domenici	Landrieu	Thompson
Dorgan	Lautenberg	Torricelli
Durbin	Leahy	Warner
Enzi	Levin	Wellstone
Feingold	Lieberman	Wyden
Feinstein	Lott	

NOT VOTING—1

Akaka

The amendment (No. 2341) was rejected.

Mr. ROTH. I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GREGG addressed the Chair.

The PRESIDING OFFICER (Mr. BURNS). The Senator from New Hampshire.

Mr. GREGG. Mr. President, I know there are a number of Members who wish to speak, so I will keep my comments brief. But first I want to congratulate the chairman of the committee, Chairman ROTH, for bringing forward this really excellent bill to try to address what have been some extraordinary abuses which have been testified to before his committee and testified to in other arenas.

In my own case, I held a meeting in New Hampshire—a number of meetings, and found that we have had over 75 cases involving complaints involving the Internal Revenue Service since I have been in the Senate, which is an extremely high percentage.

We held a number of meetings. In one of the meetings, we had a presentation that was really disturbing—two presentations, in fact. The first was a fellow who practiced tax law and tax preparation for over 27 years who brought in a memo, an actual memo that he had taken off the desk of an agent. And the memo stated very bluntly that the IRS agents in that arena, in that area, were to collect a specific amount of dollars. Not only were they to collect a specific amount of dollars, but they were to collect a specific amount of dollars every month. In fact, it went further. It said how much they were supposed to collect every day, almost down to every hour—how much money the agents in that area were supposed to collect. It was not collection on the basis of people who legitimately owed taxes; it was collection on the basis of a quota system. It was outrageous that such a memo should exist or such direction should occur with this agency.

The second instance, which was even more disturbing because it led to a death, involved a fairly well known case now in New Hampshire of Mrs. Barron and Mr. Barron. Mrs. Barron's husband was essentially driven to suicide as a result of the abusive and totally inappropriate tactics that the Service, and a specific member of the Service, used in pursuing Mr. Barron for collection of taxes that were owed.

It was so terrible and so outrageous that it did lead to Mr. Barron's death and has disrupted and destroyed really Mrs. Barron and her family. As of today—in fact, I believe it will be announced today—Mrs. Barron has now finally received, after 5 or 6 years, some slight recompensation from the Internal Revenue Service in that they have dropped all action against her and against her husband's estate, and stated that they will no longer pursue the liability which they originally alleged was due and which drove this family into such despair. The manner of the collection was just horrific. The way in which they proceeded was horrific.

Of course, we have seen testimony before the Senate committee on which Chairman ROTH has been holding hearings which reflected agents coming into slumber parties and forcing young children to get dressed in front of them, at gunpoint essentially, and throwing a household into chaos in that manner.

Even a former majority leader of this Senate, Senator Baker, was subject to what amounted to extortion as a result of the activities of what I think was then a rogue agent pursuing Senator Baker.

The instances go on and on. And almost every Member of this Senate, I suspect, has cases in their home State of abuse, of action taken by specific agents which went beyond anything which we in a democracy should tolerate.

Thus, this bill is absolutely appropriate because this bill puts the taxpayer back on a level playing field. Instead of treating the taxpayers as if

they are guilty until proven innocent—just the exact opposite of the way our culture proceeds—this bill puts the burden back on the Internal Revenue Service, where the taxpayer can present a reasonable case.

In addition, this bill says to the spouse, who is just a bystander, that they will not end up being treated unfairly or abused as a result of the misdeeds of their husband. And in most instances where the spouse simply signs the return, the innocent spouse language in this bill is very, very appropriate. And the chance to recover from the IRS for damages which are caused as a result of excessive activity on the part of agents who may act outside the reasonable course of collection of taxes is also very appropriate in this bill.

So this is truly a strong bill. It is dedicated to the purpose of trying to rein in the Internal Revenue Service management activities and make the Internal Revenue Service a more responsible agency as it deals with our citizenry. Because the bottom line, quite honestly, in our tax collection service, in our tax collection system as a democracy, is that people have to have confidence; they have to have confidence in the system. They have to have confidence that when they pay their taxes, they are paying, No. 1, their fair share and, No. 2, they are going to get fair treatment in the manner in which their taxes are reviewed. And as people lose that confidence, we will lose compliance.

What we have seen basically is that people have lost their confidence in the manner in which the Internal Revenue Service pursues the collection of taxes in this country. This bill will hopefully move a large step down the road towards reestablishing faith in the collection process that we pursue in this Nation for our tax obligations.

It does not get to the underlying problem, of course, which is that the tax laws have become far too complex, far too intricate, have gotten to a point of legal mumbo jumbo that very few people can understand what the tax laws actually say or can even comply with them without the assistance of professionals. That issue we also need to address as a Congress.

We need to simplify, make fairer, make flatter our tax system; make it a more comprehensible and understandable tax system. Pending doing that, which I hope we will do in the next year or so, this bill is a major stride forward in giving the taxpayers fairer and better treatment under the Internal Revenue Service procedures and allowing taxpayers to be treated like citizens of a democracy rather than citizens of a police state.

Mr. President, I yield back such time as I may have.

The PRESIDING OFFICER. Who yields time?

Mr. ROTH. I ask Senator ALLARD, do you want to proceed with your comments?

Mr. ALLARD. Thank you, Mr. Chairman.

The PRESIDING OFFICER. The Senator from Colorado is recognized.

Mr. ALLARD. Mr. President, I rise in support of H.R. 2676.

Mr. President, I also want to talk about reform of the Internal Revenue Service. The Senate Finance Committee examined this issue last year, and they recently conducted a careful reexamination. I commend my colleagues, particularly the chairman of the Finance Committee, for their vigilance on this issue.

They have worked very hard to identify problems with the Internal Revenue Service and to craft legislation to correct the problems that were pointed out during committee hearings.

As we saw in the hearings last fall, the IRS has lacked accountability for years. The most recent hearings remind us of the importance of reforming this institution.

No one can dispute the fact that we must end business as usual at the IRS.

We must bring accountability and integrity back to the IRS.

American citizens should not live in fear of their government.

Certainly most IRS employees work diligently and honestly to insure that they administer the nation's tax laws accurately and fairly.

But as we have seen, the IRS as an institution has fostered a culture that tolerates and at times even encourages those few who operate outside the law.

We desperately need reforms to bring to justice those agents and elements within the IRS that have so far flauted the law.

The best way to curtail the power of the IRS is to simplify our nation's tax laws.

Congress is the principal entity responsible for the tax code.

Frankly, I believe Congress should scrap the current tax system and start fresh with a simple and fair system.

The federal tax burden on hard working Americans is excessive and overly intrusive, and reform is long overdue.

By striking at the heart of the problem with a fairer, flatter tax system, Congress will put an end to abusive IRS practices.

Until Congress is able to pass substantive changes to the nation's tax system that the President is willing to sign, we must reform the IRS.

Senator ROTH's bill would create an independent oversight board that would redefine IRS accountability.

The board would provide desperately needed oversight of the management and operation of the IRS, as well as its enforcement and collection activities.

Taxpayers have a right to expect honesty and integrity in their dealings with the IRS.

In fact, the mission statement of the IRS calls on its employees to perform in a manner warranting the highest degree of public confidence in their integrity, efficiency, and fairness. Let me repeat that. The mission statement of the IRS calls on its employees to perform in a manner warranting the highest degree of public confidence in their integrity, efficiency, and fairness.

When this fundamental trust is breached, taxpayers must have adequate recourse.

The Senate IRS reform bill gives them the necessary recourse.

Taxpayers would have expanded ability to collect damages and expenses when they are the target of improper IRS actions.

Also, agents who take improper actions, such as improper seizures we have heard on this floor, false statements under oath, which was heard in the committee, falsifying documents, we heard those before, violation of taxpayer confidentiality, and even harassing a taxpayer, would be terminated under the Senate bill.

While it is important to make whole those who have been injured by the IRS, it is even more important to prevent abuses from ever happening.

Senator ROTH's bill would provide this important protection for taxpayers.

Innocent spouses could no longer be held liable for the tax debts of their spouse, and spousal liability would be limited on joint returns.

Thanks to this bill, taxpayers will finally receive due process in their dealings with the IRS, which I think is a significant part of this bill.

IRS agents would have to follow specific procedures before seizing assets or filing liens, and they would be prevented from seizing someone's home for a minor tax liability.

The IRS would also be subject to the same Fair Debt collection standards that all other bill collectors in America are required to follow.

This year I have met with citizens in all 63 counties of Colorado.

In many of those meetings I had, I constantly heard about how frustrating and intimidating it can be to deal with the IRS. The Senate IRS reform bill would make it easier for citizens to communicate with the IRS.

The bill would require all IRS notices and correspondence to include the name, phone number, and address of an IRS employee that the taxpayer should contact regarding the notice.

It would also be easier to contact the IRS with general questions since they would finally be required to publish local phone numbers and addresses in the phone book.

Unfortunately a few agents have elected to use the IRS as their personal weapon, but the abuse of taxpayers must stop.

The IRS must recommit itself to serving the taxpayers.

The Senate IRS reform bill is a significant step towards that goal.

According to Judge William Downes,

> The conduct of our Nation's affairs always demands that public servants discharge their duties under the Constitution and the laws of this Republic with fairness and a proper spirit of subservience to the people whom they are sworn to serve. Respect for the law can only be fostered if citizens believe that those responsible for implementing and enforcing the law are themselves acting in conformity with the law.

I conclude by saying Congress must pass this legislation to end abusive practices and restore American confidence in the IRS.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota.

AMENDMENT NO. 2344

(Purpose: To examine the transfer pricing enforcement efforts of the Internal Revenue Service)

Mr. DORGAN. Mr. President, I rise to offer an amendment on behalf of myself and Senator REID from Nevada. I believe the amendment has been worked out.

Let me describe it briefly. As I describe this amendment, let me say that the issue that is addressed in this bill dealing with the behavior of the Internal Revenue Service is an important issue. Stories with respect to hearings that have been held here in recent months, stories of abuse and taxpayer harassment, are stories that reflect horrible mismanagement, in my judgment, at the Internal Revenue Service.

This bill serves notice that that kind of behavior will not ever be tolerated at the Internal Revenue Service. This piece of legislation gives taxpayers some muscle to fight back when and if this occurs, and this piece of legislation makes some management changes at the Internal Revenue Service, some structural changes, to make sure the mismanagement does not occur again.

Now, there is another issue, however, that is important and this issue has not been the subject of hearings. That is the issue of enforcement. You must have a tax system to collect the money to do the things we need to do as a country—provide for our common defense, to pay for roads, to pay for health research, to pay for food safety, to pay for environment protection. So who pays those taxes? What kind of agency collects them and who pays the taxes?

We want to make sure our tax laws are enforced sufficiently so that some of the largest economic interests are not getting by paying zero taxes while the working families, who get out, go to work and work all day, and have a salary or a wage and have withholding taken out of their check, pay their taxes because they have no choice and no flexibility.

A recent study done by the GAO says foreign-controlled corporations doing business in the United States and not paying taxes equal 73 percent of all foreign corporations doing business here. Let me say that another way. If you think of the brand names of foreign products that you purchase in this country, just the most common brand names of companies who sell billions of dollars' worth of products in this country, and make billions of dollars in net income in this country, you can be sure that some of those names you just thought of are part of this 73 percent who do business here, make money here, and pay no taxes here—none, none at all. Seventy-three percent of foreign-controlled corporations doing business in the United States pay zero in Federal income taxes.

Now when they come here and compete against a U.S. corporation that does business only here and must pay taxes only here, they are engaged in unfair competition because they do business here tax free while our domestic business pays a tax to our country. This deals with tax enforcement.

The reason I offer this amendment is I want to just describe in a moment how tax avoidance occurs in this area and why it is important to have an Internal Revenue Service that is making sure these corporations pay their fair share of taxes in this country as well.

There have been a number of studies—a GAO study, a Treasury study, an IRS study, a study by two professors from Florida, Pak and Zdanowicz. Let me show Members what these studies have told us. Corporations, in this case foreign corporations doing business in this country, can simply inflate the cost of what they are selling to their U.S. subsidiary that they wholly own, and when they inflate the cost of the product they are selling to their wholly owned subsidiary, their subsidiary in the United States ends up doing a lot of business but ends up paying no taxes because they say they made no profits.

Let me give you an example of pricing. Tweezers. A pair of tweezers for $218. You have been to a drugstore or a grocery store and bought tweezers. Did you pay that for tweezers? I don't think so. Tweezers are priced at $218 so that a foreign corporation can overcharge to the domestic subsidiary and, therefore, take all the profit out of that subsidiary and claim they made no profit in the United States.

How about safety pins for $29 each? That is $29 for a safety pin. That is another way to price your profit out of the United States and show no income and pay no taxes to the United States.

How about a toothbrush imported into the United States from France for $18 apiece? Has anybody here bought a toothbrush for $18 apiece lately?

There is another way to do this, by the way, which is that corporations can have a foreign subsidiary in another country and they underprice their export to that foreign subsidiary, and that tends to move profits away from the United States as well.

Let me tell you what they do there. How about a piano, selling a piano to a company in Brazil for $50? Or what about tractor tires, selling a tractor tire to France for $7.69? Do you think U.S. farmers are able to buy a tractor tire for $7.69? How about a bulldozer for $551? You all know what a bulldozer looks like. Do you think you can buy that for $551? How about a missile-rocket launcher for $58? That is the way you move income around and end up not paying income tax to the United States of America, when all the rest of the taxpayers here pay the tax.

My point is very simple. How do you enforce what is called arms-length transactions between related corporations? Well, you take all their transactions and try to put them back together and measure whether they are priced in a way that would represent fair market prices. That is like taking two plates of spaghetti and trying to attach the ends of the spaghetti. It cannot be done. The result is billions and billions and billions of dollars—some estimates are over $40 billion a year—are lost to the U.S. Treasury through massive tax avoidance, while we are worried about whether people who go to work every day pay their taxes—and they do pay them because they don't have any flexibility; they can't get out of it and they can't overprice tweezers to $18 and tractor tires to $7.60. They pay their tax.

I want the IRS to worry about enforcement of our tax laws with respect to those who are doing business here to the tune of tens of billions of dollars, earning income here to the tune of tens of billions of dollars, and paying zero to this country in taxes. American firms that do business here must pay taxes; so too should foreign companies.

The amendment I offered is very simple. It simply requires the Internal Revenue Service Oversight Board that we are creating to conduct a study of whether the IRS has the resources needed to prevent the tax avoidance by these companies. In other words, do they have the resources to enforce in this area, No. 1; and No. 2, to analyze how much we are losing in this area of tax avoidance.

It is, in my judgment, scandalous. I refer anybody who is interested to the study by Pak and Zdanowicz, released not long ago. They are two Florida doctors who say that the U.S. Government was cheated out of $42.6 billion in tax revenues in 1997. That is a huge area.

I heard all this discussion on the floor about the IRS targeting low-income folks. That represents a different sort of enforcement. That deals with the earned-income tax credit. That is why that is happening. What about targeting the folks doing business here and not paying taxes here, who are earning billions of dollars every year in the United States in profits and using price transfers to price their income out of this country and shield it from the U.S. taxpayer? Shouldn't they have to pay income tax on their profit as well?

My amendment requires the oversight board to do certain things and report back to Congress within a year. I hope that perhaps this will stimulate some activity to take a look at this area and to see if we can't get the taxes that are owed this country by foreign corporations doing business in this country, making a great deal of money and paying nothing—literally zero—in Federal income taxes. My understanding is that this amendment has been cleared on both sides and, if so, I would only need a voice vote.

Mr. KERREY. Mr. President, we are prepared to accept this amendment. It

requires a study to be done. I think it is a very important amendment. I appreciate the Senator bringing it onto this bill and bringing it to our attention. There is a problem with noncompliance; it is a big problem. Indeed, there is a problem in the IRS with noncompliant taxpayers, and Americans believe a problem with the IRS is that people who are complying are being harassed by the IRS. We have spent a lot of time, as is appropriate, dealing with the second category. I appreciate what the Senator is asking for very much.

Mr. ROTH. Mr. President, likewise, I am willing to accept the amendment of the Senator from North Dakota.

The PRESIDING OFFICER (Mr. HUTCHINSON). Will the Senator call up his amendment?

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

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself and Mr. REID, proposes an amendment numbered 2344.

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

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

The amendment is as follows:

On page 394, between lines 15 and 16, insert:

SEC. 3803. STUDY OF TRANSFER PRICING ENFORCEMENT.

(1) IN GENERAL.—The Internal Revenue Service Oversight Board shall study whether the Internal Revenue Service has the resources needed to prevent tax avoidance by companies using unlawful transfer pricing methods.

(2) ASSISTANCE.—The Internal Revenue Service shall assist the Board in its study by analyzing and reporting to the Board on its enforcement of transfer pricing abuses, including a review of the effectiveness of the current enforcement tools used by the Internal Revenue Service to ensure compliance under section 482 of the Internal Revenue Code of 1986 and to determine the scope of nonpayment of United States taxes by reason of such abuses.

(3) REPORT.—The Board shall report to Congress, not later than 12 months after the date of enactment of this act, on the results of the study conducted under this subsection, including recommendations for improving the Internal Revenue Service's enforcement tools to ensure that multinational companies doing business in the United States pay their fair share of United States taxes.

Mr. DORGAN. Mr. President, I urge adoption of my amendment.

The PRESIDING OFFICER. Without objection, the amendment is agreed to.

The amendment (No. 2344) was agreed to.

Mr. REED. Mr. President, I ask unanimous consent to proceed as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. KERREY. I wonder if the Senator would specify an amount of time. Senator GRAHAM of Florida is going to offer an amendment, and we would like to keep moving on the bill. Do you have a period of time in mind?

Mr. REED. I will finish within 10 minutes, or maybe much less.

Mr. KERREY. Fifteen minutes is fine with me.

Mr. REED. Mr. President, it will be way under that.

MANAGED CARE

Mr. REED. Mr. President, today we are engaged in a very important debate about the reform of the IRS, but there is another very crucial debate that we also must consider and recognize, and that is the debate about the future of our health care system in the United States—particularly the managed care health care system, which is becoming so prominent in America today.

I am particularly concerned that children should also be part of this debate and that they deserve the same consumer protections that many have talked about in the context of adult health care plans. Managed care, as we all recognize, plays a very important and critical role in our health care delivery system and has provided many benefits. But we also hear repeatedly about instances in which patients—particularly children—are not served as well as they should be by managed care.

I recall one child who was brought to my attention in Rhode Island. A young child, Morgan Smith, was born in Rhode Island November of 1993. Shortly after her fourth birthday, Morgan was diagnosed with Rhabdomyosarcoma, a cancer that attacks any smooth muscle in the body, including blood vessels. They detected this cancer in Morgan's brain. She was indeed faced with a critical, life-threatening brain tumor.

We are fortunate in Rhode Island because we have an excellent children's hospital, Hasbro Children's Hospital in Providence, which is the hospital where Morgan was diagnosed. The pediatric oncologists there determined that the best treatment for Morgan would be to go to the New England Regional Medical Center in Boston for specialized chemotherapy. Now, her mother, obviously, was willing to do anything to treat her child and have the best benefits for her child.

At that point, the insurance company denied her the ability to bring her child to Boston and requested that they get a second opinion. They got that second opinion; it was the same as the first opinion. However, the HMO still refused to authorize the treatment necessary for that 4-year-old child to receive life-saving therapy in Boston.

Mrs. Smith literally had to wage war against the HMO to make her point. At the time, she was absolutely crushed by the prospect of her young child being stricken with a life-threatening brain tumor. She determined on her own to go to Boston regardless of the consequences, risking her financial future, risking all of the resources that she had, while also having to provide for her other children. Nevertheless, she was bound and determined to provide for Morgan.

Fortunately, this story has a happy ending. About a month after pleading by Mrs. Smith, and by others, the insurance company relented and she was granted permission to have the treatment conducted in Boston. And the child is doing very well.

That is merely one example of the stories we are hearing constantly about managed care and its inability at times to provide the kind of care that most parents think they should get when they pay good money, or their employer pays good money, for these managed care plans.

There have been studies in parts of the country suggesting that the managed care plans are not best suited, in many cases, for children. A study in California by Elizabeth Jameson at the University of California compared managed care plans with the State's Medicaid plan for children. Medicaid plans are sometimes stereotyped as the low-cost and, by inference, low-quality health care. This study, however, found that in many respects children in California's Medicaid Program were getting better pediatric care than those enrolled in managed care plans in the State.

The study found, for example, that some of the managed care plans imposed restrictions on referrals to pediatric specialists. They also found that many plan providers were attempting to deal with very complicated pediatric conditions with which they had little experience.

As a result of the anecdotal evidence, as a result of the statistical studies and surveys that have been done in parts of the country, I have introduced S. 1808, the Children's Health Insurance Accountability Act. It is designed to provide an opportunity for children's health to be considered and focused on in a managed care plan. This act would provide common sense protections for children in managed care plans—protections, for example, that would ensure that a family has access to necessary pediatric services; that they would have appeal rights and special conditions with respect to children; that they would have quality programs that measure outcomes with respect to children and not just to adults; that there would be utilization review rules that be geared toward children and not just to adults; that there would be child-specific information in terms of the sale of these plans on care provided to children.

There are so many parents who buy plans and think they have coverage for their kid, only to discover in a time of crisis that the coverage is not what they thought it was. My legislation would put that information up front.

What I have done with respect to children is consistent with a much broader class of legislation that is attempting to reform managed care for

the entire population of patients. The Health Care Bill of Rights, for example, introduced by my Democratic colleagues, is one such plan. My legislation is consistent with this overall thrust to ensure that managed care continues to operate for the benefit of patients, that operates by allowing physicians to provide advice, and not accountants, to control the diagnosis and the application of health care.

With respect to children, again, the American people are strongly supportive of proposals to give better access through managed care for pediatric services. In a February 1998 poll by the firm of Lake, Sosin, Snell, Perry and Associates and the Tarrance Group—two pollsters, one Democrat and one Republican—it was found that 89 percent of adults surveyed favored having ''Congress require HMOs and other insurance companies to allow parents to choose a pediatrician as their child's primary care physician.'' And 90 percent favored having ''Congress require HMOs and other insurance companies to allow parents of children with special care needs, like cerebral palsy, cystic fibrosis, or severe asthma, to choose a pediatric specialist to be their child's primary care physician.''

There is overwhelming public support for these provisions that will allow parents to truly and wisely choose coverage for their children and have the ability to have pediatric specialists care for their children.

Again, this is consistent with a theme, a message, and a responsibility that we all have; that is, to move in this time decisively, with determination, to ensure that we reform the managed care system, that we provide the benefits of managed care in terms of preventive services; in terms of access to physicians, that we do it in a way that physicians know they are providing the best care for their patients and that the consumers of health care know that they can have access to good-quality care.

The time to act is now. I join many of my colleagues on an almost daily basis in urging that we take up this matter quickly and that we move forward decisively and pass comprehensive managed care for all of our citizens, but particularly for our children.

I thank you, Mr. President. I yield my time.

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

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

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2347

(Purpose: To require 1 member of the Internal Revenue Service Oversight Board to be a representative of small business)

Mr. GRAHAM. Mr. President, I rise for the purpose of offering an amendment on behalf of myself and Senator BOND.

Yesterday, I spoke at some length about the issue of small business and the Internal Revenue Service. In that statement I pointed out that small business is a peculiarly affected part of the American economy as it relates to the Internal Revenue Service.

Small business, as we know, is the fastest growing sector of our economy. Typically, management has multiple responsibilities and does not have the kind of access to a panoply of expertise in accounting and law as a larger business would have. Oftentimes the small businessperson and those associated with the small business are in their own learning curve as to what requirements of compliance might be.

Therefore, it is my feeling as we look at this reform of the IRS that we should pay some special attention to how this will evolve in terms of its application to small businesses. As we know, one of the principal elements of this reform is the establishment of an IRS Oversight Board. This oversight board has the responsibility of being both the window of the Government onto the taxpayer, and the taxpayer back to the Government. So it serves an especially important role of understanding and communication.

The legislation is written so that three of the members of the nine-member oversight board are ex officio—the Secretary of the Treasury, the IRS Commissioner, and a representative of IRS employees. The other six appointees are Presidential appointments, and according to the current draft of the legislation these six appointees must possess expertise in the following areas: management of large service organizations, customer service, Federal tax laws, information technology, organization development, and needs and concerns of taxpayers.

The amendment that I am offering will add an additional category of expertise to be represented among the six Presidential appointees and that is the needs and concerns of small business. It is the expectation that the President would appoint six individuals, and his responsibility would be to assure that those six had a sufficient range of backgrounds that they would be able to cover the six and, if this amendment is added, the seventh requirement.

I think it is extremely important that among the six people who are appointed as Presidential appointees to the oversight board for the Internal Revenue Service there be represented in that six one or more individuals who understand the needs and concerns of small businesses of America and can assure that those concerns are effectively communicated to the management and administration of the Internal Revenue Service and, if necessary, the Congress, for appropriate changes in law.

The distinguished chairman of the Small Business Committee, Senator BOND, joins me in this effort. I want to commend him for his thorough analysis of the IRS bill as it affects small business and for including this provision in his legislation.

So, Mr. President, I send to the desk an amendment which would add to the requirements for those persons who are serving on the IRS Oversight Board that there be included expertise in the needs and concerns of small business.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 2347:

On page 176, between lines 4 and 5, insert the following:

''(vii) The needs and concerns of small businesses.

Mr. GRAHAM. I thank the Chair.

I ask for immediate consideration of this amendment.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The distinguished Senator from Nebraska.

Mr. KERREY. Mr. President, we would be prepared on this side to accept what I consider to be a very, very good amendment. The idea of this board is to give the President authority to select from a wide range of experiences that will assist the Commissioner of the Internal Revenue Service in managing the agency, and the Commissioner has already indicated—indeed, we are going to help him follow through—his preference to manage the IRS much differently than it currently is.

The IRS is currently managed using a three-tiered system that we adopted in 1952. There are regional and district offices, multiple offices, and you have all different kinds of taxpayer needs taken care of in each one of these district offices.

What the Commissioner has indicated he wants to do is reorganize along functional lines. Function No. 1 is large business of which I believe there are 7- or 800,000, individual taxpayers would be function No. 2, small business No. 3, and nonprofits No. 4.

So what the Commissioner is already attempting to do, and this law would direct him, is to entirely or completely eliminate the three tiers in favor of this kind of functional organization. But what he is already recognizing is that taxpayer needs vary not according to their geography but according to the category of the taxpayer. One of the largest and most important categories of radically different needs than the other three is small business.

So what the Senator from Florida is doing is adding to the list of requirements the President would have to consider when making a selection, and that would be some small business experience which reinforces very much

the other section of this bill, which directs the Commissioner to eliminate, as much as possible, the three-tier system in favor of this functional system of organization.

So I think it is a very good amendment. It is one of these amendments that just has a few words in it. There is a lot more to this amendment than meets the eye. I think with the addition of a small business experience, this board is much more likely to be able to carry out its function, and that is to provide the kind of consistent oversight and advice the Commissioner needs to manage this very important agency.

Mr. ROTH. Mr. President, I think we are all in agreement as to the importance of small business. Certainly, the current success of our economy has depended in large part on the contribution of small business. For that reason, from this side I agree that we should accept the amendment, and so do.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 2347) was agreed to.

Mr. GRAHAM. Mr. President, I move to reconsider the vote.

Mr. KERREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. SESSIONS). The Senator from Montana.

Mr. BAUCUS. Mr. President, during the last couple of months, in every household across the country, Americans went through an annual rite. They sat down at the kitchen table, pulled all their financial records together, and figured out what they owed the Government in taxes.

Nobody likes doing their taxes. And people dislike paying them even more. Yet the vast majority of our citizens do pay their taxes. And they pay them honestly.

In short, Americans expect their money to be used to pay for all of the things that help make this nation great. In return, though, the American people want their Government to do two things.

First, the American people want their Government to treat them with respect and dignity as the revenue is being collected. They expect to have their privacy respected, and to be treated fairly.

Second, Americans expect that everyone else who enjoys the benefits taxes pay for will shoulder their share of the burden. That their neighbor down the street isn't hiding part of his income, and thus avoiding paying his fair share of the tax. That everyone is filing returns, and that the amounts claimed on those returns are accurate and true.

Mr. President, I truly believe the American people have the right to have both of these expectations met. And I believe we here in the Senate shoulder a great deal of the responsibility for making sure of it.

Chief Justice John Marshall said: ''The power to tax involves the power to destroy.'' It is our duty as Senators to make sure this country does not use its power in that fashion.

Running the IRS is a study in careful balances. And I believe that the IRS has somehow lost its ability to maintain one side of the equation over the years.

Many tax collectors, in their zeal to catch those among us who don't pay their taxes, seem to have lost sight of the most important truth about our tax system—that citizens have rights that must be protected.

Anything less undermines our ability to make a system of voluntary taxation work.

Here's a graphic example of how the system has gotten out of whack. It's contained in a recent letter from one of my constituents. It's a plea for help:

> The problem with the IRS started in 1997. John [not his real name] and I had just bought a house. I was a semester away from graduating from college, and we thought the [failed] business was behind us. The last week in July 1997, I returned home after a day of working at my part-time job to find a nasty note on my front door from [an IRS agent] stating that he had 'tracked' us down and expected a phone call or action would be taken. I promptly called him to find out the reasoning behind the note. He was very rude and reluctant to give me any information, because I [was not my husband]. I explained that I was his wife and he began talking to me in a degrading manner. He said, ''Your husband owes tax, and I expect to collect it in full.'' When I asked him to explain, he very quickly said it was for [my husband's failed business] and began treating me as a criminal who was running from the IRS.
>
> We feel we have not been treated fairly in this situation. We have attempted to make good on all other situations regarding this [failed] business and have not been hiding from the IRS. [The IRS agent] has been extremely rude and unsympathetic toward us. He has put a tax lien on everything we own. He has also made comments to our accountant indicating that he has been tracking our personal lives and mentioning purchases and other personal matters. In [the IRS agent's] eyes we are criminals cheating the government. In our eyes the government is cheating us by never giving us a fair chance to make good. This whole situation has cost us over $700 in accounting fees and is still unresolved. We are turning to you as a final attempt to resolve this problem. We hope you can help us in making the government work for the people not against them.

That letter sums up this issue in a nutshell: Make the Government work for the people, not against them. Make Government responsive to taxpayers' needs. Make service the priority of the Internal Revenue Service. Make the IRS treat taxpayers fairly—and with respect. That's what my constituent wants. And that's what I want.

We certainly don't want to tie IRS's hands so much that tax cheats are encouraged. The rest of us end up picking up the tab when someone cheats. At the same time, we also can't have IRS harassing innocent citizens, assuming everyone is guilty the minute they walk in the door.

I believe this legislation will help IRS find its way back to the reasonable balance that our tax system requires.

The IRS has suffered from years of neglect and lack of focus. The spotlight that has been turned on the Service, by the IRS Restructuring Commission and by the series of hearings we have held in the Senate Finance Committee, has already had a positive effect on the IRS.

The Service is expanding hours and people for its telephone answering service. Taxpayers got 13 million fewer busy signals this year when they called IRS to ask questions about their taxes. Toll-free calls are being answered 91% of the time—a huge improvement. Last year callers only got through 66% of the time, and only 39% of the time the year before. This year, phone lines are being answered 18 hours a day. And for the first time, the IRS is open on Saturdays.

People answering the phones are also getting better. One group of Baltimore IRS workers gave correct advice to 100% of recent random test calls. Nationally, accuracy scores are up to 93% this year, from only 63% as recently as 1989.

So more taxpayers are able to get through to the IRS when they have a question, and more of the answers they will get will be the right ones.

IRS has a webpage where taxpayers can download documents and forms. Now taxpayers don't have to run all over town just to find the right paperwork.

And the Service has had a series of ''Problemsolving Days'' around the country, where taxpayers can come in and get their problems taken care of. The last ''Problemsolving Day'' in my home state of Montana was in Billings in January. More than half of all the taxpayers who participated walked out with their problems taken care of on the spot. Many of the rest have been resolved in the succeeding weeks.

But there are still problems at the IRS, as our hearings—and my constituent's letter and plea for help—have clearly identified. And many of the improvements planned by our new IRS Commissioner, Charles Rossotti, require legislative action in order to go forward.

The bill before us is a very good beginning. It addresses the first expectation the American people share—making sure the Government treats them with respect and dignity as the revenue is being collected. It does this through a series of provisions.

First, the bill creates a board, made up chiefly of private citizens, to oversee the direction the IRS is going. The Board will keep an eye on the Service's budget, to make sure enough resources are being dedicated to customer service. It will help define long-term goals, and make sure the Service stays on track to meet those goals. The Board will ferret out problems at the IRS, and help craft solutions to those problems.

The bill creates significant new personnel flexibilities to make it easier for Commissioner Rossotti to get his

own team on board and reward employees who are doing well. It requires the IRS to submit an employee training plan to Congress, to help employees improve the quality of their work. The bill requires IRS to tell Congress about taxpayer complaints of misconduct by employees, and to take disciplinary action against ''bad apples''. The bill also makes it easier for IRS employees to provide confidential information to the Finance and Ways and Means Committees to report allegations of employee misconduct or taxpayer abuse.

The bill will reorganize the IRS, much as IBM was reorganized when they realized they couldn't compete against newcomers like Microsoft. Right now, IRS is organized horizontally, by function. This means every time a taxpayer has a question or a problem that crosses the Services' functional lines, they are handed off to a different person in an entirely different department. No one has final responsibility to getting the taxpayer's problem solved.

There is no accountability.

This bill reorganizes the agency by type of taxpayer. There will be a separate division for individuals, one for small businesses, one for large corporations, and one for tax exempt organizations. Employees within these divisions will be responsible for just about every type of problem their assigned group of taxpayers could have. They will stick with the taxpayer until his problem is solved.

No more passing the buck.

The bill also adds important new taxpayer protections to the law, to help protect citizens against arbitrary actions of IRS agents.

The bill will allow taxpayers to sue for negligent actions by IRS agents. Today they must meet a very high treshold by proving any abuse was intentional.

The bill expands the offers-in-compromise program. It makes it harder for IRS to turn down legitimate offers. The bill also requires IRS to leave taxpayers with more money to live on when they enter into repayment agreements.

In our hearings, taxpayers complained about the difficulty of using innocent spouse protections. The House and Senate bills take different approaches to solving this problem. Both make it easier for truly innocent spouses to be protected from the tax debts their guilty spouses have accumulated.

These are only a few examples of the taxpayer protections built into the legislation.

Finally, the bill before us today takes a first step toward addressing what may be the biggest contributor to taxpayer problems with our Tax Code—Congress itself. Witness after witness at our hearings complained about the complexity of the Code. Witness after witness complained about how hard it is to keep up with frequent changes we make in the law. And they are right.

This bill requires that every tax bill in the future be accompanied by an analysis of whether it will further complicate the Code. How hard it will be for taxpayers to comply with the new law. As we strive to achieve fairness in our Tax Code, we sacrifice simplicity. With this bill, we will be able to clearly understand the extent of that sacrifice.

I believe that one of the hardest things to do when restructuring any agency, and particularly one as sensitive as this one, is to find that delicate balance between giving the Government too much power and giving it too little.

Give it too much power, and innocent citizens will be abused. This is, obviously, unacceptable in a civilized society. Even one single instance of taxpayer abuse is one too many.

Law abiding taxpayers should not fear the taxman.

But clipping the Government's wings too closely presents its own dangers. Americans expect us to make sure everyone is sharing the burden of paying for the services our Government provides. And it is clear some of us are not. IRS estimates the ''tax gap'', which is the measure of tax avoidance, now is almost $200 billion a year. This amounts to more than $1,600 per year for every tax return filed by the rest of us.

This, too, must stop. Our entire system of collecting revenue would unravel if taxpayers stop paying their fair share because they believe everyone else is cheating.

The bill before us today is not perfect.

It does not address the problem of tax non-compliance. We have left that challenge for another day.

There are provisions in it that may seem good at first blush, but may cause more harm than good. We should try to fix these as the bill goes through the legislative process.

But I firmly believe we must not let the perfect be the enemy of the good. We must not let yet another tax season go by without the taxpayer protections this bill provides.

Passing a solid restructuring bill will do more to get the IRS on track than a hundred hearings where we sit, posture, pontificate and play politics.

It is our responsibility to the American people to get this job done quickly, and to get it done right. I want to be able to go back to the constituent who wrote me that letter and say, Yes, we fixed your problem. And, Yes, the Government works for you, not against you.

Thank you, Mr. President.

Mr. GRAMS addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. GRAMS. Mr. President, I rise today to speak briefly about IRS reform and overall reform of the tax system.

Paramilitary-style raids, attempted frame-ups, retaliation against whistle blowers, harassment of innocent individuals, all carried out by a Government agency oftentimes operating outside the bounds of the law and with seemingly limitless authority. A premise played out within the pages of the latest popular novel? Not exactly. These examples, unearthed during recent hearings here in the Senate, are taken directly from the playbook of the Internal Revenue Service.

The hearings, and the abuses they highlighted, have focused the nation's attention on the ''IRS Restructuring and Reform Act'' that is now before the Senate. Included within the legislation are many good provisions that would protect taxpayer rights and restrict the power of the agency. Key provisions would limit interest and penalties on delinquent taxes and shift the burden of proof from the taxpayer to the IRS in tax disputes.

Before I continue, Mr. President, I would like to take this opportunity to commend Senator ROTH, the Chairman of the Finance Committee, for his tremendous efforts to reform the IRS and his leadership on tax relief.

I also commend the Chairman for holding the series of oversight hearings that exposed the abuses upon taxpayers carried out by the IRS. All of us are greatly indebted to Senator ROTH for that. He has done an outstanding job to formulate a sound and responsible IRS restructuring plan.

If enacted, these reform provisions before us today would improve IRS service, make the agency more accountable, and provide better protections for the taxpayers. I fully agree with Senator ROTH that the goal of IRS reform should be to make the IRS ''a service-oriented agency instead of a law-enforcement agency.''

Still, Mr. President, a fundamental question remains: can the IRS really be fixed by reform without scrapping the Tax Code? To answer this, we need to take a closer look into the problems with the IRS.

The passage in 1913 of the 16th amendment to the Constitution granted Congress the power to impose an income tax. A tiny division of the Bureau of Internal Revenue Service was created to collect the taxes. Eighty-five years later, this division, now known as the IRS, has grown to become the most powerful agency in the entire Federal Government.

The IRS today employs more investigative agents than the FBI and the CIA combined, and boasts a total workforce of more than 100,000. It is hard to believe, but more employees work at the IRS than in all but the 36 largest corporations in this country. The decisions its bureaucrats make daily affect every American who takes home a paycheck.

The agency's job is to administer and enforce the Nation's tax laws and collect tax revenue for the Government. To ensure that all Americans pay their taxes, Congress has given the agency almost unlimited power—power that

goes beyond the authority granted to any other agency in the Federal Government.

By law, the IRS can audit individuals or businesses. It can impose penalties and impose a lien on a taxpayer's property or bank accounts, or seize them altogether. Average taxpayers and small business owners have few little administrative or legal remedies against such a powerful agency.

Its unlimited power has made the IRS a wasteful, arrogant, incompetent, intrusive, and abusive agency. The IRS is driven by illegal quotas and collection goals. It has targeted the underprivileged for audits. It has mistreated hundreds of thousands of innocent taxpayers. Clearly, this is an agency out of control, an agency in need of a complete overhaul.

But let us not forget how the IRS reached this troubled point. Congress deserves much of the blame for the present state of our hostile tax system, for it is Congress that created the IRS in the first place.

Congress grants the IRS its unlimited power. Congress writes the complicated Tax Code that taxes Americans' income over and over and provides loopholes to thousands of special groups, making the Tax Code too complicated for even most attorneys and tax accountants to fully understand. Congress requires the IRS to squeeze more tax money out of the taxpayers so that Congress has more to spend. On top of that, Congress does not have time to fully exercise its IRS oversight responsibilities. Even while it talks reform, Congress is making the Tax Code ever more burdensome—since last year, Congress has added 185 new sections and 824 changes to the Tax Code.

Most IRS employees are decent, hardworking people who face an impossible task: interpreting and applying the hundreds of thousands of pages of the Tax Code and its related regulations. A recent study shows that more than 8 million Americans each year receive incorrect bills or refunds due to IRS errors. Each year, Money magazine hires 50 professional tax preparers to calculate a return for a sample family. No two preparers have ever had the same result; answers can vary by thousands of dollars. It just shows that the Tax Code is confusing and arbitrary, and this in turn encourages waste, harassment, corruption and abuse.

Tinkering with the system by merely restructuring the IRS will not solve its fundamental flaws. It is clear that the real problem with the IRS is not management, or administration, but the Tax Code on which all IRS decisions are based. This is such an ugly agency it is hard to make it pretty by reforms.

We can replace the IRS management, we can improve its service, crack down on abuses, increase its efficiency, and reduce its waste, but the fundamental problems will not go away. Reorganizing the IRS without real reform of the Tax Code will send a false signal to the American people that once we restructure the IRS, all its problem will be solved and there will be no need to reform our tax system. Unfortunately, as the history books reveal, it is not that easy.

We have tried to overhaul the IRS in the past, and somehow the agency always comes back more powerful and more abusive than ever before. At least two versions of a ''taxpayer bill of rights'' previously enacted into law have had little effect in taming the IRS. Even after last year's IRS abuse hearings, which resulted in promised reforms, the abuses continue.

Mr. President, let me make this clear: it is vitally important that we continue our efforts to reform the IRS, and I strongly support Chairman ROTH's work and his legislation. My point is that we should not let this debate delay or derail real tax reform—to delay us from carrying out the demands of the taxpayers to scrap the Tax Code and replace it with one that is simpler, flatter, fairer, and friendlier.

This Chamber already passed a resolution to sunset the Tax Code. Now we should set a date to establish a new tax system. Once we have eliminated the Tax Code, there will be little, if any, need for the IRS and its playbook or its abuses.

Thank you very much, Mr. President. I yield the floor.

Mr. CONRAD addressed the Chair.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. CONRAD. I ask unanimous consent to be able to speak as in morning business for 12 minutes.

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

Mr. DORGAN. Mr. President, I certainly would not object, but I ask the chairman if I might be able to speak for 8 minutes by unanimous consent following Senator CONRAD.

Mr. ROTH. A total of 20 minutes then. The manager has no objection.

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

Mr. CONRAD. I thank the Chair.

THE FARM CRISIS IN NORTH DAKOTA

Mr. CONRAD. Mr. President, I rose 2 days ago to alert my colleagues to the economic disaster that is befalling North Dakota with a dramatic drop in farm income. And I showed this chart; the headline: ''North Dakota Farm Incomes Washed Away In 1997,'' that showed from 1996 to 1997 farm income dropped 98 percent in North Dakota.

In fact, in 1997, the total farm income in the entire State of North Dakota, one of the most agricultural States in the Nation, was down to only $15 million—$15 million—of farm income spread among 30,000 farmers. That was a farm income per farm of only $500.

Mr. President, the Wall Street Journal yesterday had a front page article entitled ''Off the Land,'' and they confirmed the basic outlines of the story that I ve been telling for the last 2 days on the Senate floor. And in their front page story, they pointed out, ''On the Northern Plains, Free-Market Farming Yields Pain, Upheaval. After Deregulation, Drop In Wheat Prices Compels Many Growers to Quit. The Effect Spreads South.''

Mr. President, the article in the Wall Street Journal goes on to report that:

Cheap wheat and bad weather are doing to Nathan Johnson what they couldn't do to three preceding generations of his farming family.

They are defeating him.

Mr. President, this is a story from northwestern Minnesota, but it is identical to what is happening right across the border in northern North Dakota.

This story goes on to say:

Last year, a disease called scab wiped out half the wheat [that Mr. Johnson] planted on the land around his family's 1887 homestead near the Canadian border. And now, a glut of foreign wheat is pushing down the grain's price at the local elevator to an unprofitable $3 a bushel. These days, Mr. Johnson is trying to rent out his land and looking for work in the city.

Mr. President, the article goes on to say:

Across the Northern Plains, the long migration away from agriculture is turning into a stampede. From Montana to Minnesota, thousands who made their living growing wheat are quitting the prairie. A blizzard of barnyard auctions is sending chills down the Main Streets of the towns that live off farmers.

One man is quoted as saying:

''We're doing a sale every day,'' says Brad Olstad of Steffes Auctioneers Inc. in Fargo, N.D. ''Wheat is a dying crop.''

And wheat, of course, is the commodity that goes to make bread, to make pasta; and they are talking here about it being a dying commodity.

Bad years are nothing new around here. Wheat prices were lower in 1990, when a similar coincidence of bumper harvests around the globe swamped the market. The drought of 1988 destroyed wheat fields. But none of that was as deadly to farmers as what is happening now: deregulation.

Two years ago, Uncle Sam began withholding from the decades-old business of protecting farmers against the vagaries of weather and markets. Grain and cotton farmers no longer receive ''deficiency'' payments when prices are below target levels. Shelved, too, was the disaster-aid program that pumped $18 million into Kennedy—

This is a small town in Minnesota that is being reported on in the Journal article—

and the rest of Kittson County after the 1988 drought.

* * * * * *

The bottom line: Many of Kittson County's farmers are suffering their biggest financial losses ever. ''Deregulation is turning into a disaster for us,'' says Duane A. Lyberg, president of the Northwestern State Bank.

Now, that tells you something about the depths of this disaster. It is not just farmers reporting on it, not just, as I reported yesterday, implement dealers or other suppliers to farmers; but now the bankers are reporting to us what a financial disaster they are facing.

In fact, I just completed 2 weeks of meetings across the State of North Dakota. And in every small town where I went, the bankers took me aside and said, ''Senator, there is something radically wrong in agriculture. Our farmers are not cash flowing. And they're not going to cash flow.''

In North Dakota, the Journal article reports:

So many are throwing in the towel that state officials got a federal grant last month to retrain hundreds of growers for other jobs. ''I've never seen it as bad as this,'' says Roger Johnson, North Dakota Commissioner of Agriculture.

They go on in this article to quote the former Secretary of Agriculture of the United States, and he says the following:

Unless the bankers get worried, nothing will get changed in Congress, says Bob Bergland, Agriculture Secretary during the Carter administration, who lives in nearby Roseau, where his family grows wheat. ''The hourglass is running out for a lot of farmers around here.''

That is the truth. We are in desperate trouble in the northern plains.

Let me just conclude with a final paragraph from the Wall Street Journal article.

Jim Tunhelm, the state legislator here, sits at his dining-room table, pointing all around him, in the direction of farmers he knows who are quitting. ''Arnold, Lamar, Troy,'' he says. He stops at eight. ''They should have called it 'Freedom to go broke.' [As he referred to the so-called Freedom to Farm bill we passed here in Congress in 1996.] We're going to disappear at this rate,'' [he concludes.]

That is the hard reality of what is happening in my home State. A 98-percent reduction in farm income in 1 year. Thousands of farmers leaving the land.

I started this series of reports 3 days ago. I pointed out that North Dakota had experienced this enormous drop in farm income. Yesterday, I reported on what others are saying who are close to the farm economy. Today, I am able to report the Wall Street Journal is confirming, in this front page story, precisely what I have been saying.

The fact is, we have a stealth disaster in North Dakota. It is brought on by low prices, by disease, and by weak Federal policy, a farm bill that does not sustain farmers in the bad times, or at least allow them to continue, and the lack of disaster program. The only disaster program we have now is low-interest loans.

So the Federal Government is saying to those farmers, those family farmers who dot the countryside, ''If you are in trouble, go deeper into debt.'' That can't be the answer. We must do better.

I urge my colleagues to pay attention because this isn't just a matter for North Dakota. Yes, we are in the first trench, but it is just a matter of time before others experience what we are experiencing now.

I thank the chair.

Mr. BAUCUS. I very much thank the Senator from North Dakota for drawing the Senate's attention to the Wall Street Journal article, and, more importantly, to the plight of our farmers in the northern Great Plains.

The article mentioned Montana and Minnesota. The Senator is absolutely correct. I have never seen it this bad. Just last weekend when I was home a banker pulled me aside and said virtually what you said, Senator; namely, it is getting so bad the bankers are getting worried about their loans and whether they will be repaid. It is true, the farmers can't cash flow. It is grim.

I urge farm organizations to dig down deep, put their heads together and come up with a solution that we, the Congress, can help with.

We passed Freedom to Farm. Most farmers in my State supported it at the time because the wheat price was high and the initial payments were high. We all knew the day would come when we would be paying the price for adopting that bill but it has come a lot earlier. It has come this year rather than a couple, 3 years from now and with much more strength. It is hurricane force and will drive more farmers off the land. Small towns in eastern Montana are drying up. People are leaving. You see shops on the main street boarded up. It is because the price of wheat, barley, and durum is so low and has been so low at a time when our Government has not done what it should be doing.

This is true of all administrations—to open up foreign markets, get those countries to reduce their barriers so we can sell more overseas. I am thinking particularly of China. China does not take Pacific Northwest wheat. It has not for years because of a bogus claim. That is one of the many examples of countries erecting trade barriers that make it difficult for us to sell a product.

I very much thank the Senator for raising this issue. I urge Senators to listen to the Senator's statement because we are going to be facing this issue here in the Senate fairly soon. I hope this is constructive in addressing the problems that the Senator mentions. It is happening in spades, today, in Montana, particularly eastern Montana.

I thank the Senator and I yield the floor.

The PRESIDING OFFICER (Ms. COLLINS). Under the previous order, the Senator from North Dakota, Senator DORGAN, is recognized.

Mr. DORGAN. Madam President, Senator CONRAD has raised the farm issue the last several days on the floor of the Senate, and I appreciate the comments he has made, as well as the comments of the Senator from Montana.

This is not just about dollars and cents. And it is not just a lesson in economics. My great-grandmother homesteaded in North Dakota when her husband died. She took six kids and homesteaded on the prairie, pitched a tent, homesteaded 160 acres, and began to run a farm. It was a hard, tough life, I am sure. Farming is not easy. They live out in the country. They have a yard light burning at night. Farmers get up in the morning to do chores, and they work all day. If they have enough money to put in a spring crop and plant some seeds, they wonder whether the grasshoppers will come, whether crop disease will come, whether it will hail and wipe out their crop. Maybe none of that will happen and they will raise a crop and that crop will come out of the ground. Then they will combine it in the fall and they wonder, will there be a price so they can sell the crop at something more than it cost to produce.

The answer, sadly, except for one year in the past 20 years has been no. There is no price for your crop above the full economic costs of production. You do what you love to do and you lose money.

The article in the Wall Street Journal referenced today by Senator CONRAD talks about these farmers who decide they can't do this anymore. They just quit. They have to quit.

I had a banker call me about two hours ago and he said, ''You know we only call when there are real problems, and you know I have one of the most conservative banks in the state.'' He said, ''The fact is I am now turning away good farmers. Year after year after year I have given them operating loans to go into the field in the spring. I can't do it this year because they can't cash flow. And they will have to quit farming.'' He said, ''That is what is happening out here in rural America.''

One might ask, why does it matter? And some people in this Chamber think it doesn't matter who farms. Why does it matter that we have a family farmer out on the land? Well, you can have corporate agrifactories gassing up their big tractors and farming coast to coast and you won't have anybody living out in rural America.

Is there a difference between having a network of family farms, and farm families that dot the landscape of this country, versus having corporate agrifactories that gather up land by the sections and the townships and the counties and then farm as far as the eye can see forever? Is there a difference? It seems to me there is a huge difference for this country.

For social and economic reasons, this country ought to care about having a network of families out on the farms in this country being able, year after year, to produce food for this country. If we continue to go in the direction we are headed, we will see thousands and thousands of family farmers leaving the land. It is because we have a farm policy that says you can't make a living out there. It tells family farmers you can't make it. Then this country will have lost something significant.

The seedbed of family values in this country that we hear so much about has always been the family farm. These

values roll in from the seedbed of the family farm into small towns and into America's cities. We will lose something important in this country if we do not decide family farms are important and that we will do something to try to protect them.

Some say in this Chamber, let farmers operate in the free market. Well, there is no free market. Do you think farmers can raise a cow and ship it to China? I think not. Can they raise a pig and sell it in China? I don't think so. Do you think farmers can compete against Canada, which sends unfairly subsidized durum into our markets? Can farmers compete against the European communities that subsidize their commodities at 8, 10, and even 12 times the level of U.S. subsidies in recent years in trying to get foreign markets for European wheat? Is that fair? Is that free? I don't think so. Yet, we tell our farmers, you just go ahead and operate in that marketplace. We will just call it free.

What happens in this free marketplace? What happens is that the people who haul the grain make record profits.

The people who process the grain make record profits. The people who trade the grain make record profits.

The only people who suffer the losses year after year, sufficient so that they are now going out of business in record numbers, are the people who buy the tractors, get up in the morning and plant the seed in the ground, harvest the crop in the fall, and try to sell it. Those are the people who are losing money.

You go to your grocery store and ask yourself a question. When the price of wheat was $4.50 or $5.50 a bushel and it plummeted to $3.30 a bushel, ask yourself what happened to the price of a loaf of bread in the grocery store. Did you see that price come down? I don't think so. How about when the price of beef plummeted? Did you go to the meat counter in your grocery store and see that the price of beef came down? I don't think so.

What does it say about this economic system of ours when we say to the people who do the hard work, the people who wear the work clothes, and start the tractor, and plow the ground, and plant the seed, and harvest: ''You can't make any money. It is everybody else in this process who can make record profits. But if you grow the seed, you lose money.''

When they take that wheat into a processing plant and puff it up and sell it on the grocery store shelf as puffed wheat breakfast food, they can charge more for the puff than the farmer is going to get from the wheat. One suffers and goes out of business, and the other makes a record profit.

If this Congress and this country doesn't start caring a bit about whether we have family farmers in our future, this country is going to lose something very important. When we talk about this subject around here, everybody talks about economics and dollars and cents. This isn't just about dollars and cents. This is not about knowing the cost of something. This is about knowing the value of something. We need to know the true value of family farmers in this country.

I am enormously frustrated. This article in the Wall Street Journal chronicles what we see and what we know every day in the streets of North Dakota, in our small towns, and out on the country roads, and the same is true in Montana. We have heard it farmers who come to our meetings and stand up. One farmer comes to mind who came to a meeting of mine. He was a big, burly guy and had kind of a beard. It was not a long beard, but kind of a short beard. He had friendly eyes. He stood up. He was a tall fellow. He said, ''My granddad farmed, my dad farmed, and I have farmed for 23 years.'' And then his chin began to quiver. He got tears in his eyes, and he said, ''But I have to quit this year because I don't have the money to continue. I'm out of business.''

He was the third generation in the family to farm. He was going out of business because this country has a farm policy that says we are going to pull the safety net out from under family farmers. Now, we had better reconnect that safety net if this country cares about having a family farmer left in its future.

Senator CONRAD, myself, Senator BAUCUS, Senator DASCHLE, Senator WELLSTONE, and so many others on both sides of the aisle, care about the future of family farmers. We must, it seems to me, convince the rest of this Congress that this current approach is an approach that leads to failure.

Let me read a paragraph in the Wall Street Journal article:

> The situation in Kittson County suggests that deregulation—

Which is the description of the current farm policy, which I voted against proudly—

> is staying, and for a grim reason: Farmers are giving up. Nobody is organizing the type of protests that attracted national attention the last time so many farmers here were in trouble. That was in the mid-1980s debt crisis, when Randy Swenson would travel from his Kittson County farm to Fargo and Bismarck to join demonstrators demanding a federal bailout. Now, the 46-year-old grower is just quitting.

I say to those out there on the family farm who have struggled, who risk everything in trying to make a living every single day—and I hope my colleagues will join me in this—that they ought not to give up hope. There are plenty of us in Congress who understand that family farming is a way of life that this country ought to nurture and protect and help in its future.

I hope, as we proceed to discuss this in the coming weeks, that we can impress the need for a change upon those who were the architects of this farm program. The current program puts farmers into the marketplace, whatever that marketplace happens to be. There are those who think this is fine, because after all they think it is a free marketplace. I hope they come to understand that the marketplace is not free. It has never been free.

We can't have farmers compete against unfair trade. We can't have farmers compete in a marketplace dominated by millers who want low prices in the marketplace and grocery manufacturers who want lower prices in the marketplace. We can't ask them to compete against scab disease that will wipe out the crop yield and crop quality. We can't ask them to compete against a railroad that will haul their grain to market but charge them 20 or 30 or 40 percent more than is justifiable.

If somebody thinks that is a free marketplace, then somebody doesn't know what ''free'' or ''marketplace'' really means. We can do better than that. There are enough of us here to raise enough dust to require that we do better, so that in the coming days some of this policy can change to be helpful to family farmers.

Mr. CONRAD. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. CONRAD. I don't know if the Senator noticed in the Wall Street Journal article, former Secretary of Agriculture Bob Bergland said, ''Unless the bankers get worried, nothing will get changed in Congress.''

Isn't it the case that you and I just met yesterday morning with the bankers from our State and those bankers are worried? We had banker after banker from across the State of North Dakota tell us they are going to wind up farming. We just got a report that, for the first time in anyone's memory, land in the Red River Valley of North Dakota, which is the richest farmland in the world, will not be farmed this year; it will not be farmed.

Isn't it the case, Senator DORGAN, when we talked to our bankers, they told us they anticipate thousands of farmers leaving the land this year in North Dakota and a much more serious situation next year unless we take action?

Mr. DORGAN. That is exactly the case. I just hope that as we finish these comments now, we will all understand that there is work to do. When you see reports like this—reports that don't surprise us because we have been hearing it for some long while—we should understand that while part of this country is doing quite well and there is a lot of good economic news, there are also troubled spots in our economy that are causing enormous hurt and pain to people who don't deserve it.

America's family farmers are wonderful people. They are the people in this country who work, who grow, who risk, who come together, neighbor to neighbor, to help each other. But they can't help each other when they go to the market and discover that the price of wheat is $3 or $3.30, or when they go

to the field and discover that scab wiped out half the quantity of their grain, or when they go to the railroad and discover that the price to haul the wheat to market is vastly inflated, or when they go to the border up in Canada and discover unfair shipments of grain that undercut their prices, or when they say, I would like to sell my wheat to China, or my beef to China, but you can't get wheat or meat into China in any meaningful quantity because we don't have open markets overseas.

It is not fair to put farmers in that position, and we should not. It seems to me that we have a responsibility to provide a basic safety net if we want to protect a network of family farmers to be present in this country's future. I think we ought to do that. I think it is a priority for us in this Congress, and I hope that a number of us can work together on a bipartisan basis to see that this occurs in the coming weeks and months.

Madam President, I yield the floor.

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

The PRESIDING OFFICER. The pending business is H.R. 2676, the IRS reform legislation.

Mr. HUTCHINSON. Madam President, I ask unanimous consent to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator is recognized for 10 minutes.

ASTHMA INHALERS

Mr. HUTCHINSON. Madam President, today, as you may be aware, is Asthma Awareness Day. I rise to discuss the issue of CFC-propelled asthma inhalers.

CFC-propelled inhalers are a necessary tool for proper management of asthma and other respiratory illnesses. Over 30 million Americans depend on these inhalers in order to function normally in their daily lives. In many cases, they are literally the difference between life and death.

I recently joined my colleague, Senator DEWINE, in introducing S. 2026, the Asthma Inhaler Protection Act. This bill is a revised version of legislation that I introduced last year in response to the Food and Drug Administration's announcement of its plans to issue a rule that will phase out the production of CFC-propelled inhalers.

The FDA's announcement to phase-out metered-dose inhalers was prompted by the Montreal Protocol agreement to eliminate ozone depleting chemicals, including CFCs. In the U.S., the manufacture of CFCs was discontinued in January of 1996. CFCs may still be used, however, as long as their use qualifies as an ''essential use.'' Currently, inhalers are considered as ''essential use'' and are exempt from the CFC ban.

As the United States contemplates total elimination of CFCs and removal of the essential use designation for inhalers, we face several issues.

First of all, how fast should we phase out CFC inhalers and will patients' health be jeopardized? It is my understanding that the amount of CFCs released by metered-dose inhalers accounts for less than 1.5 percent of the total amount emitted into the atmosphere. Is the environmental benefit of phasing out inhalers without taking into account the full needs of patients worth placing lives in danger?

As a member of the Senate Environment and Public Works Committee and the Senate Labor and Human Resources Committee, I support the goal of ridding our environment of ozone depleting chemicals.

However, from a patient perspective, any transition to CFC-free alternatives that does not take into account the needs of all patients will do more harm than good.

Under the FDA's initial proposal, a whole class of inhalers could be removed from the market if only three alternatives exist. The method by which the FDA has grouped inhaler medications into classes assumes that they are medically and therapeutically equivalent. I suggest to my colleagues this is FALSE.

Inhalers vary in terms of formulation, dosage strength, delivery of medication, and their effectiveness for patients. Patients frequently test several inhalers under physician supervision before they find the inhaler that works best for them. To deny patients their inhaler without a suitable range of alternatives could potentially put their lives at risk.

Another concern that cannot be overlooked is how the removal of existing products and their generic counterparts will influence the marketplace. A decrease in competition has obvious consequences in terms of cost and the availability of drugs on the shelf.

Finally, the FDA should take into account other countries' strategies for phasing out CFCs in inhalers in order to ensure that the U.S. takes the best and most responsible approach. I know that Canada, for example, has rejected the class approach taken by the FDA and proposed a policy that will require a proper range of alternatives to exist for each medication type. It also provides for a transition period so patients can ease off of their current medication and make sure that there is a new product that accommodates their needs.

The Asthma Inhaler Protection Act addresses all of these issues by including three requirements. First, before any further rulemaking, the FDA must conduct assessments and report to Congress on the health and environmental risks associated with its initial proposal. It must also consider whether any measures adopted by the meeting of the Montreal Protocol this November will facilitate the United States' transition away from CFC inhalers.

Second, the FDA is required to develop criteria by which ''essential use'' allowances for CFC-propelled inhalers will be removed. These criteria shall require that a range of alternatives are available for each medication type, and that they are comparable in terms of dosage strength, delivery systems and safety and efficacy. Furthermore, the alternatives must be available in sufficient numbers to meet consumer demand.

Finally, the Asthma Inhaler Protection Act includes steps to ensure that manufacturers will begin to transition away from inhalers that employ CFCs. Under the bill, no new applications for products containing CFCs will be considered by the FDA after 1998 unless they represent a significant advance in technology. Any new approvals, however, will be subject to the same criteria as I described earlier.

Madam President, the transition to non-CFC propelled inhalers in the United States must be well-planned and take into account both patient and environmental concerns. It is clear that the FDA needs to rethink its approach. We knew this last year after the FDA published its proposal and was flooded by more than 10,000 comments from concerned patients, providers, state medical boards, and advocacy groups. These concerns were again raised last month during a Senate Labor and Human Resources Committee hearing which Chairman JEFFORDS held at my request.

The Asthma Inhaler Protection Act will ensure that the FDA balances patients needs with environmental concerns, and above all, does not jeopardize the lives of millions of Americans who depend on CFC metered-dose inhalers.

It is simply a matter of ensuring that the 30 million Americans currently dependent upon these inhalers—and all of us have seen them; these little canisters that asthmatics carry with them every day everywhere they go—we simply must ensure that as the FDA moves forward that they will do so in a way that ensures that patients all across this country are not allowed to go without medical care that they so desperately need; and that the policy of the FDA will be such that these patients will know that they are not going to have less choice than they have now; that the particular peculiar medical needs that asthmatics and others of respiratory diseases have will be met; that they will be assured that the needs that they have can be addressed; and, that the FDA will take those concerns into account as they move forward.

I believe the FDA will be responsive. This legislation, though, is there, and I am looking forward to working with Senator DEWINE, Congressman PATRICK KENNEDY and Congressman MARK FOLEY on the House side to ensure that as the FDA moves forward with its rulemaking that it will do so in a way that is going to ensure that 30 million

Americans are cared for and are not left in the lurch worried that their very lives might be in danger.

I hope all of us on this day, the first Asthma Awareness Day, will do our part to educate the American people about the serious health impact, particularly upon our children, that asthma is having, and the dramatic increase that we have seen in asthma in this country, and that the FDA in their, I think, well-motivated goal of removing these chemicals from our environment will do so in a way that the health and safety of the American people is protected.

I yield the floor.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. WELLSTONE. Madam President, I ask unanimous consent for 5 minutes to speak as if in morning business.

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

Mr. WELLSTONE. Madam President, I thank my colleagues for their graciousness, and I especially thank Senator GRAMM of Texas. I appreciate it.

FARM CRISIS

Mr. WELLSTONE. Madam President, my colleagues from North Dakota, Senator CONRAD and Senator DORGAN, said it well moments ago when they were speaking about the Wall Street Journal piece that came out yesterday, Tuesday, May 5 regarding what has to be described as a farm crisis. In this piece, former Secretary of Agriculture Bob Bergland is quoted. Jim Tunheim, a State legislator from northwest Minnesota, is also quoted.

I want to talk about what is happening in my State of Minnesota because I believe it will be incumbent upon all of us here in the Senate and in the House of Representatives as well to take some action.

I was at a gathering in Crookston, MN some weeks ago. As I walked into the school, there was a sign posted outside that said, ''Farm Crisis Meeting''. It brought back awful memories of the mid-1980s when I went to probably hundreds of farm crisis meetings. What I saw then all across Minnesota were foreclosures; people being driven off their farms where they not only lived but where they worked as well. I saw a lot of broken dreams and a lot of broken lives and a lot of broken families. This is now happening again.

This very fine piece in the Wall Street Journal talks about this farm crisis in very personal terms.

I want to say to colleagues that I know of no other way to say it. Some 2 years ago, when we passed what was called the Freedom to Farm bill, I called it then the Freedom to Fail bill. And I think that is exactly what is happening. All of the discussion about the market presupposes that we have Adam Smith's invisible hand in agriculture. But what we have instead is a food industry where the conglomerates have muscled their way to the dinner table exercising raw economic power over farmers, consumers, taxpayers, and family farmers. Wheat farmers, corn growers and other farmers—vis-a-vis these large companies that they deal with don't have very much clout at all.

This was a good bill for some of the big grain companies. There are only a few. But it was not a good bill for family farmers.

Now, in northwest Minnesota, a combination of dealing with scab disease, wet weather over the last several years, and, most important of all, this Freedom to Farm bill, which has driven prices down, which doesn't give the farmers a loan rate to have some leverage in the market, which doesn't give them a safety net, is driving farmers off the land.

We need to take some action. The Secretary of Agriculture supports lifting the cap on the loan rate. And we can legislatively try to raise that loan rate so that we can give farmers a price in the marketplace.

I just want to say to my colleagues, I told you so. That is the way I will put it. I told you so. And northwest Minnesota is just a harbinger of what is going to happen across this country. Prices are low. Farmers are being driven off the land. There is a tremendous amount of economic pain. And it is not just the farmers. It is the communities where they live, where they go to church or to synagogue, where they buy their products, where they send their kids to school.

We have a serious crisis in northwest Minnesota. I am hearing from farmers in other parts of my State as well. I think rural America is going to go through some economic convulsions as a result, in part, of this legislation that we passed. We have to give farmers a fair price in the marketplace. We secured them some loan funding in the disaster appropriations bill we passed last week, which gives them at least some loan assistance for spring operations. But it doesn't make that much difference long-term. It can keep them going for awhile, but if they don't get a decent price in the marketplace, they don't have a prayer.

That is what this piece in the Wall Street Journal is about. That is why I come to the floor of the Senate. I look forward to working with my colleagues, Democrats and Republicans alike, who come from farm States. We have to do something. We are here to try to do well for people. We have to do better for family farmers in Minnesota and across our country.

I thank my colleague from Texas again for his graciousness, and I yield the floor.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate resumed consideration of the bill.

UNANIMOUS CONSENT AGREEMENT

Mr. ROTH. Madam President, I ask unanimous consent that the following list of amendments that I send to the desk be the only remaining first-degree amendments in order to H.R. 2676, and that they be subject to relevant second-degree amendments.

I further ask unanimous consent that following the final vote on the bill, the Senate insist on its amendment, request a conference with the House on the disagreeing votes, and the Chair be authorized to appoint conferees on the part of the Senate.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. I checked with the minority side. It is my understanding this has been agreed to by both sides, and his request is consistent with the understanding on this side as well.

Mr. ROTH. That is correct.

The PRESIDING OFFICER. If there is no objection, without objection, it is so ordered.

The list of amendments follow:

REPUBLICAN AMENDMENTS TO IRS REFORM

Roth—Effective Dates.
Roth—Relevant.
DeWine—Tech. Correction to Sec. 1059 of the Code.
DeWine—Tax Payer Compliance.
Collins—Reporting Requirements for Universities.
Thompson—Relevant.
Sessions—IRS Oversight Board.
B. Smith—Upward Reviews of Employees.
Stevens—Modify tools of trade exemption.
Craig—Taxpayer notification.
Craig—Taxpayer notification.
Craig—Taxpayer notification.
Ashcroft—electronic verification.
Coverdell—Random Audits.
Coverdell—Tax Clinics.
Coverdell—Tax Clinics.
Coverdell—Employees.
Coverdell—Mathematical and Clerical Errors.
Domenici—Spanish IRS Help Line.
Domenici—Live Person Help Line Option.
Domenici—Suspend Interest in Penalties.
Gramm—Lawsuit Waivers.
Gramm—Burden of Proof.
Gramm—Relevant.
Enzi—Charitable Contribution Technical Corrections.
Burns—Income Averaging for Farmers.
Bond—Electronic Filing.
Mack—Tip Reporting.
Mack—Treasury Secy.
Grams—Disasters.
Lott—Relevant.
Faircloth—Relevant.

DEMOCRATIC AMENDMENTS TO IRS RESTRUCTURING

Moynihan—Delay effective dates of certain provisions to allow IRS to address Y2K problems, per Rossotti request.

Kerrey—Require annual meeting between Finance and Oversight Board chair.

Kerrey—Authorize Treasury Secretary to waive signature requirement for electronic filing.

Kerrey—Require study of willful tax noncompliance by Joint Tax, Treasury, and IRS Commissioner.

Kerrey—Require IRS to review certain stats on success rate of Criminal Investigation Div.

Kerrey—Require report on fair debt collection provisions.

Kerrey—Encourage private/public sector cooperation, not competition, on electronic filing.

Graham/Nickles—Interest netting.
Graham—Innocent spouses.
Bingaman—Relevant.
Daschle—Reduce potential for tax compliance problems.
Daschle—Relevant.
Bumpers—Taxpayer protection.
Kohl—Prioritizing cases in Treasury IG.
Feingold—Milwaukee office of IRS.
Durbin—Relevant.
Feinstein—Relevant.

Mr. GRAMM addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Madam President, since no one is here to speak, I thought I would go ahead and say a few words. I have several amendments I am going to be offering, and I will, obviously, speak at that time. But I wanted to let my colleagues know about a story that ran on the 4th of this month, which was 2 days ago, on KTVT, Channel 11, a CBS affiliate in Dallas.

What struck me about this story is how symptomatic the story is of what we saw consistently in our hearings before the Finance Committee and how consistently this kind of thing is happening all over the country.

The story was the lead story on the 10 o'clock news on the 4th of May. The story is about tax collectors who aren't paying taxes. Basically, what happened is an investigative reporter asked the Internal Revenue Service for records related to tax collectors who themselves were violating the Tax Code, and did this ever happen, and, if so, what did the IRS do about it and what kind of records were kept. It is the kind of request that government at all levels gets every day from the media. Government officials do not always like to produce the requested information but, nonetheless, it is produced.

Well, the bottom line is, as you might have guessed, the Internal Revenue Service stated that it has no such data. Then an IRS employee slipped a document to the TV reporter, and the document showed that last year nearly 4,000 IRS employees did not file or pay taxes.

Collectively, according to reporter O'Connor in this story, they owe Uncle Sam more than $10 million. And this reporter said that this information coming into their hand forced the IRS to break this down into local numbers. The reporter then says, ''We have learned that in north Texas, between 1993 and 1996, 137 IRS employees did not file or pay their taxes. Last year alone, 14 IRS agents owed $400,000'' in unpaid taxes in north Texas.

Then what I wanted to call to my colleagues' attention is an extraordinary, at least in my mind, interview which sounds exactly like the testimony our committee heard over and over and over again. Listen to this. The reporter is asking Mary Durgin, who is Chief of Tax Compliance for the IRS—the reporter is asking the Chief of Tax Compliance for the IRS the following questions and let me just read the transcript.

Reporter O'CONNOR. You know of no Federal liens ever being filed against an IRS employee?

Ms. DURGIN. Um, I'm not aware of any.

The reporter asks the next question.

Reporter O'CONNOR. Do you know how many reprimands have been given in the last year?

Ms. DURGIN. I don't.

Reporter O'CONNOR. Do you know how many employees have been suspended?

Ms. DURGIN. I don't.

Reporter O'CONNOR. Fired?

Ms. DURGIN. I don't. We don't keep those statistics.

Reporter O'CONNOR. Why would you not know that if you're the head of—

Before she can say ''tax compliance,'' Ms. Durgin says, ''because I don't count them.''

Now, I intend to send this to the Internal Revenue Service this afternoon and ask them to check this out, but this is exactly the kind of answer that we have gotten over and over and over from the Internal Revenue Service. And I intend to offer an amendment, probably tomorrow, that will give the head of the Internal Revenue Service the power to terminate any employee of the Internal Revenue Service who fails to file a tax return that should be filed or who willfully violates the tax laws of this country.

Now, I don't know what is behind this story. I have obviously not verified what has been said by this reporter. But I would have to say that if 4,000 IRS employees last year either didn't file a return or didn't pay taxes, that is a very, very serious charge. And I think the head of the IRS ought to have the ability to terminate the employment of somebody whose job it is to collect taxes from other people and at the same time they don't pay their own taxes.

Now, as you can imagine, this story interviews a businessperson who had their assets frozen, had all kinds of problems because there was a charge that he had not paid his taxes, and that is contrasted against the assertion that 4,000 IRS agents last year either didn't file a tax return or didn't pay their taxes.

I think this is a very serious matter. We ought to have a provision in the new law that says without regard to any other provision of law, if you work for the Internal Revenue Service and you willfully violate the Tax Code, you ought to lose your job.

I think that is something that is needed. I think it is a provision that we were already looking at, but I wanted to make my colleagues aware of this story on the CBS affiliate in Dallas night before last and about this extraordinary interview with Mary Durgin who, although she is the Chief of Tax Compliance at the IRS, doesn't know if any action has ever been taken at any time, in any place, under any circumstances, against any agent who violated the Tax Code.

That seems to me to be extraordinary, and, quite frankly, I would have trouble believing it had we not had exactly the same thing and the same answers given to very similar questions before our committee where, in fact, with all of the concerns that were raised last year, with all of the statements that were made about wrongdoing, little evidence exists that any individuals who had accusations made against them in those hearings or related to those hearings has had any corrective action taken.

As I said at the hearing, and it is something that I will certainly repeat tomorrow in offering this and other amendments, my concern with the Internal Revenue Service is not that you get some bad people when you hire 100,000 people. I mean, people are humans. They make mistakes. Some people seem to be more prone to them than others. And very smart people from time to time do very dumb things. With the IRS employing 100,000 people we ought not to be surprised that we have some people who do bad things and some people who do dumb things. But that is not what alarms me about our current situation at the Internal Revenue Service.

What alarms me is we seem to have a system where people who do bad things never have bad things happen to them. We have a system where, when people do good things like going to their supervisors and saying that other people are violating the law or violating the procedures of the Internal Revenue Service, bad things tend to happen to those good people. The difference between a good system and a bad system is not that under the good system you don't have people who do bad things. You do. But under a good system, people who do bad things end up being punished; people who do good things end up being rewarded, and as a result, people learn from rewards and penalties and so you get more good behavior and you get less bad behavior. That is the hallmark of a good institution.

Looking at all the abuses that we heard about during the Finance Committee hearings, the amazing thing to me was not that these things happened. The amazing thing is it doesn't appear that bad things ever happened to the people who did the bad things. It doesn't appear that people who violated the law, violated procedures, abused taxpayers, abused their fellow employees, were penalized. It appeared as if—based on the testimony that we heard—the IRS system was set up to protect its senior people or to provide an environment in which you reward unproductive and undesirable behavior. You would have to conclude that the structure has historically been one aimed at protecting its own versus protecting the taxpayer instead of creating a system that tries to reward productive behavior.

I think this is something we need to deal with. I think the bill that is before us is a dramatic improvement over the bill in the House. I congratulate Chairman ROTH. I think he has done an outstanding job. I think when we started these hearings many people were skeptical about them. I certainly was skeptical. But I think the hearings have

brought to light real abuses. And the important thing, obviously, for a legislative body, is not just to find out what is wrong but to try to do something about it.

I think we have a good bill before us. I don't think it solves all the problems. I would have to say I am very skeptical about this advisory board. I don't understand an advisory board that is supposed to advise the Secretary of the Treasury and the IRS Director, and the Secretary of the Treasury is a member of the advisory board. I don't understand how you advise yourself. It seems to me that gives the Secretary of the Treasury two bites out of the apple, and that is probably a mistake.

There are very real ethical problems that have been raised by the relevant agencies of Government that deal in ethics in having the head of the Treasury Employees Labor Union as a member of this advisory board, since that member, by the very nature of his job and source of employment, has a constant conflict of interest. I don't understand how you can change the ethics rules of the Government to put people in a position where they constantly have a conflict of interest and expect much to come out of this advisory board. So, frankly, I know many people are talking about the advisory board. I know they have high hopes for it. I have very little in the way of high hopes that we are going to get much out of this advisory board.

But what I think we are doing in this bill that will dramatically change behavior is, No. 1, we are shifting the burden of proof in disputes between taxpayers and the IRS. We are going to have some people who will say that in doing so we are jeopardizing our ability to collect taxes because the taxpayer is the only person who has access to the financial data and records that substantiate the claims made on the individual tax return. I think we have come up with an innovative way of resolving this. Let me give you the argument for shifting the burden of proof, and then describe the innovation that I think answers those concerns.

If you commit a crime, the police come out and investigate the crime, they gather evidence, they turn the evidence over to the prosecutor, the prosecutor evaluates the evidence, and in doing so, evaluates not only whether a crime was committed but evaluates the work of the police department and any abuse it might have committed along the way. And if the prosecutor is convinced there might be a case, he takes it before a grand jury that evaluates the work of the police, the work of the prosecutor, and the facts. Then, if the grand jury indicts a person for a crime, they go into court where people have a jury of their peers, they generally have an elected judge or an appointed judge, and they have an independent prosecutor.

Our problem with the Internal Revenue Service is that we are dealing with one agency that is literally investigator, prosecutor, judge, and jury all wrapped into one so that we have no effective checks and balances. As the ancient Greeks once observed, power corrupts. That is basically our problem in the Internal Revenue Service.

We have not fixed that problem, in my opinion. But the way we tried to get at it is to at least give you one thing you have if you are accused of being a common criminal, basically saying if you are a taxpayer you ought to have rights at least equivalent to a common criminal in dealing with your Government. The right that we want to guarantee is that the burden of proof is on the IRS to prove that you did something wrong, whereas now it is literally true that if you are accused by the Internal Revenue Service of violating the Code, the burden of proof is on you.

Here is the innovative way we have tried to protect our ability to collect taxes and guarantee this right as well. I thank Senator ROTH for working with me on this and for the solution that he and his staff have come up with.

The way the bill works is, if the Internal Revenue Service accuses you of violating the law or violating the rules with regard to the collection of taxes, if you present to them on a timely basis the financial data that a reasonable person could be expected to have kept, if you turn it over to them when requested, at the point that the taxpayer has demonstrated compliance with those requirements, and only then, the burden of proof shifts from the taxpayer to the Internal Revenue Service.

I think that answers all the concerns that were raised by IRS, all the legitimate concerns that were raised by law professors around the country about shifting the burden of proof. There were other concerns that this would produce endless hearings and rulings before courts. But we have dealt with that concern.

Another reform contained in the bill and which I think is very important, and is something that I have been a champion of along with our chairman, is strengthening the principle that if you are audited, either in your family's tax return or your business tax return, and you had to go out and hire lawyers and accountants to defend yourself—and you may spend thousands of dollars defending yourself—that at the end of the day if you are found to have complied with the law, that the IRS is responsible for reimbursement of the costs you have incurred in defending yourself.

So if I am an honest taxpayer and I paid my taxes and the IRS audits me and I have to go out and hire an accountant and a lawyer to defend myself, and we go through 18 months of contention, and finally there is a ruling that says I didn't violate the law, under our bill now, the Internal Revenue Service will now find it more difficult to avoid having to compensate me for my cost of hiring a lawyer and hiring accountants and defending myself.

Not only is that fair, but that is going to change behavior, because we are going to make this data public, we are going to list publicly and report to the Congress on the instances where the IRS has had to pay people these costs. We are going to force the Internal Revenue Service to make better judgments about whom to go after and whom not to go after.

A final wrinkle on this, which I think is very, very helpful, is that if you offer to settle with the Internal Revenue Service and you, say, offer to pay $15,000 to settle this dispute, and the IRS says, ''No, we won't take your $15,000; we are going to take you to court,'' if at the end of the proceedings you are found to owe less than $15,000, not counting penalty and interest built up during the time where the dispute exists, then the IRS will have to pay your legal and accounting costs from the time you made the offer until a final settlement is eventually reached.

This is a long way from the checks and balances we have in the criminal justice system. I would like to go further in separating the functions of the IRS so that we have more checks and balances, but I think our bill is a dramatic improvement over the House bill. I am very proud of what we have done. I hope we can do more. I congratulate our chairman.

I understand that Senator THOMPSON is here, so I yield the floor.

Mr. THOMPSON addressed the Chair.

The PRESIDING OFFICER. The Senator from Tennessee is recognized.

AMENDMENT NO. 2356

(Purpose: Striking the exemptions from criminal conflict laws for board member from employee organization)

Mr. THOMPSON. Madam President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Tennessee (Mr. THOMPSON), for himself and Mr. SESSIONS, proposes an amendment numbered 2356.

On page 180, beginning with line 7, strike all through page 181, line 17.

Mr. THOMPSON. Madam President, the amendment I am offering, with Senator SESSIONS and with the support of Chairman ROTH, strikes the provision of title I of the bill which provides for a special waiver of the criminal conflict of interest laws for the employee organization representative on the newly organized oversight board.

As chairman of the Governmental Affairs Committee, I have a specific interest in the application of Government ethics laws and any waivers of these criminal statutes which might be granted to Federal employees.

During markup of the measure, the Finance Committee adopted an amendment adding a member to the oversight board who would be a representative of an employee organization representing substantial numbers of IRS employees. However, because of the inherent conflict of interest in the new member's

position, the committee adopted a subsequent amendment waiving four essential ethics laws as they would apply to this particular board member.

It is this specific provision that I propose to strike. Under the waivers as granted, the employee organization representative would not be subject to the same ethics rules as the other members of the oversight board and would not be subject to the same ethics that apply to other public employees. The bill, as reported, exempts the employee organization representative from key ethics laws when the representative is acting on behalf of his or her organization.

The Office of Government Ethics reviewed these waivers and found them very troubling. In a letter addressed to the majority leader, Senator LOTT, minority leader Senator DASCHLE, and the floor managers of this bill, the Director of the Office of Government Ethics, Stephen Potts, described these conflict of interest waivers as unprecedented and inadvisable and antithetical to sound Government ethics policies and, thus, to sound Government.

I ask unanimous consent to have printed in the RECORD the referenced letter.

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

U.S. OFFICE OF GOVERNMENT ETHICS,
Washington, DC, May 1, 1998.

Hon. TRENT LOTT,
Majority Leader, U.S. Senate, Washington, DC.

DEAR MR. LEADER: This Office has reviewed H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998, as it has been reported by the Finance Committee and, we understand, is soon to be taken up by the Senate. At the request of both the majority and minority, we provided technical assistance to the Finance Committee staff with regard to drafting the language of provisions setting forth the ethical considerations for the Members of the Internal Revenue Service Oversight Board. We believe those provisions are written in a clear and technically correct manner.

However, one provision of the bill, the proposed 26 U.S.C. §7802(b)(3)(D), provides for waivers of applicable conflict of interest laws for one Member of that Board. We believe that this provision is antithetical to sound Government ethics policy and thus to sound Government. Such across-the-board statutory waivers for someone other than a mere advisor is unprecedented and, we believe, inadvisable.

We understand and agree that the employees of the Internal Revenue Service should have an opportunity to be heard in any decisions that may affect them. As we stated in a letter to the Finance Committee, there are standard ways of allowing input from interested parties without allowing the interested party to be the actual decision-maker in a Governmental matter. It is the latter role that is fundamentally at odds with the concept that Government decisions should be made by those who are acting for the public interest and not those acting for a private interest. The one private interest that is being waived in each case for this Board Member is the one most fundamentally in conflict with his or her duties to the public.

On the other hand, we cannot recommend that the waivers be eliminated for the individual appointed to such a position. That elimination would leave this individual extremely vulnerable to charges of criminal conduct for carrying out many Oversight Board actions or for carrying out his or her private duties for the employee organization. The fact this vulnerability exists exposes the pervasiveness of the conflicts for an officer or employee of an employee organization to serve on the Oversight Board.

Rather, we recommend the elimination of the position on the Board that creates such inherent conflicts. The elimination of the position could be coupled with a requirement that the Board consult with employee organizations. While we think a reasonable Board would consult without that requirement, requiring consultation might provide some assurance to the various employee organizations that they will be heard.

The criminal conflict of interest laws should not be viewed as impediments to good Government. They are there for a purpose and should not be waived for mere convenience. Some may point out that certain provisions of these laws are waived by agencies quite frequently. That is true. Some of the laws anticipate circumstances where a restriction could be waived and set forth the standards that must be met to issue waivers. Agencies can and do issue such waivers, but the waivers must meet the tests set forth in the statutes. For those conflicts laws that do provide for waivers (not all do), we believe that it would be extremely difficult for a reasonable person to determine that the interests this individual Board Member will undoubtedly have through his or her affiliation with the organization could meet those waiver tests.

In order to meet our recommendation, we believe the provisions of Subtitle B, sec. 1101(a) should be amended to eliminate proposed sections 7802(b)(1)(D), (b)(3)(A)(ii) and (b)(3)(D). All other references to an individual appointed under section 7802(b)(1)(D) should be removed and wherever a number of members of the Board is indicated (such as a Board composed of nine members or five members for a quorum) that number should be altered to reflect the elimination of this position.

We appreciate the opportunity to express our concerns and our recommendations. These are the views of the Office of Government Ethics and not necessarily those of the Administration. We are available to answer any questions you or any other Member of the Senate may have with regard to this letter or the conflict of interest laws. We are sending identical letters to Senators Daschle, Roth and Moynihan.

Sincerely,

STEPHEN D. POTTS,
Director.

Mr. THOMPSON. Madam President, waiving these conflict of interest statutes establishes a very bad precedent. We have an opportunity here to avoid a serious conflict of interest pitfall, and I hope all Senators will agree and approve adoption of this amendment.

Thank you, Madam President.

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

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

Mr. KERREY. Madam President, I would like to speak for a minute on the amendment just offered by the Senator from Tennessee and the Senator from Alabama striking the provision in title I concerning the oversight board and specifically concerning the employee representative on that board, and even more specifically the language that will enable that board member to function on the board; that is to say, language which, by the way, is not precedent setting.

There are many other cases where people have been given protection from very specific areas of conflict of interest in order to be able to do their work. In this case, the only protection against conflict of interest charges is postemployment, since the individual selected from the Department of Treasury is working for the IRS.

Certainly, we want the law to be written so they are able to go back to work with the IRS or do whatever work they had in connection with the employee's representative association without being prevented from doing so. So that is the only protection that this language provides.

There are really three sort of threshold questions that Members have to both ask and answer as they deliberate this particular amendment. The first is one that the Senator from Texas just raised a minute ago, which is skepticism about the nature of this board.

Is this board going to be able to get the job done? I believe strongly it is. It is not an advisory board. It is a board with a considerable amount of power and authority to guide the Commissioner of the Internal Revenue Service. It is a board that has been put together, under statute, to have the skills necessary to be able to advise the Commissioner on a variety of different things and to give the Commissioner input. The board will be making a budget recommendation to the Treasury Secretary. That is a considerable amount of power.

The board will forward three names to be Commissioner of the Internal Revenue Service to the President. The board can also instruct the President they believe the Commissioner should be removed from office. There are other powers enumerated in title I. Certainly one can be skeptical, as one always needs to be with any kind of a board. I may be proven wrong. I think this board will provide a substantial amount of guidance and assistance to the Commissioner. I think the powers that we have given this board are right.

I believe it is as well important to remember that what this legislation is attempting to do is create some balance in oversight. The executive oversight organization, this new board, should give taxpayers a sense that the IRS is more accountable, along with the taxpayer advocate provisions that are also contained in title I. However, it is important for us to make certain that Congress has the right amount of oversight.

The Restructuring Commission that met for over a year—Senator GRASSLEY

and I were both on that Commission—we heard time after time after time the taxpayers, and the providers that are assisting the taxpayers, saying that the biggest problem is Congress. There is inconsistent oversight. There are six committees to whom the Commissioner must come to report. The IRS is not Sears and Roebuck; they have 535 elected Members who are the board of directors.

One of the great tests to discover whether or not we understand what the IRS is doing is asking yourself the question: Do we know what the IRS budget is? Do you know how much we appropriate on an annual basis? It is about $7 billion this year, against about $1.6 trillion of tax revenue. They collect 95 percent of all the revenue that this Congress authorizes. We authorize the moneys that are to be spent and we specify with our tax laws how that money is to be collected and who is to be exempted.

I made the point many times that we talk a great deal on this floor about the need for simplification. One of the most powerful witnesses that the Finance Committee had before us was an individual, a tax lawyer who helps taxpayers, who was pointing out some abuse in our Tax Code. He was saying to us, as long as you tax income, as long as you have a tax on income, it is likely, as income becomes more and more complicated, and more and more complex, it is likely the IRS is going to become more and more involved in making determinations whether or not an individual has voluntarily reported the right amount of income.

And we change our Tax Code. I guess 2 or 3 weeks ago, when the Coverdell IRS bill was passed—I do not want to reargue that bill, but no one can argue that that increased not only the complexity of the Code and requires the IRS to work harder, but we have asked them to now rewrite the Code. That is the 63rd change since 1986.

In addition to that, the IRS is going to have to make certain that people who claim that deduction, claim to be able to use that educational IRA, they are going to have to provide receipts. Because the law says that you can use the education IRA for any expense that is connected to the education of the child in the school, and thus we are going to have to have the IRS out there if something is claimed and they can be audited and have to produce all those records and produce proof. They are not being required to produce the proof and records by accident, Mr. President. They are being asked to produce the records and proof because we wrote a law that said they had to do it.

So one of the things we are trying to get with this oversight board is some balance and get to a point where both the executive branch and the legislative branch can reach agreement on what we want the mission of the IRS to be so they can make good investments in tax system modernization.

The Senator from Alabama is on the floor. He and I started this thing back in 1995 with our oversight efforts in appropriations. We saw that nearly $4 billion had been wasted in the tax system modernization. Every witness, public and private, that came before the Restructuring Commission said the reason, No. 1, is you do not know what you want to use the technology for. You do not get shared consensus. You do not get to a point where you agree—the Congress and the executive branch—what the purpose of the technology is going to be. And as the man said, ''If you don't know where you're going, any road will take you there.''

That is exactly what the IRS has been doing. They have been deploying technology in a very dysfunctional organization, and as a consequence the technology will not do what they promised us it was going to do.

So threshold question No. 1 is, do you think this new oversight board is going to get the job done? I think it will. I think it will dramatically change the kind of accountability taxpayers get, and especially if we combine that with new oversight requirements on the part of the Congress. I am confident that oversight board—in combination with new oversight requirements of the Congress—I am confident that oversight board will increase the accountability and the operating efficiency and provide the Commissioner the kinds of guidance that the Commissioner needs.

Threshold question No. 2 is, who do you want to be on the board? What sort of composition? What sort of makeup? There is very little disagreement. As I hear from colleagues, we ought to have people with private sector expertise. The Senator from Florida earlier came to the floor and asked for some change in the bill to put somebody with small business experience on this board. I think it is very important that we do so. Both Chairman ROTH and I agreed to accept that. That has been altered, accepted, incorporated into the language.

But in addition, Mr. President, we also heard from people who have gone through the restructuring that the IRS is going to go through. And make no mistake about it, Mr. Rossotti, with the new powers that Chairman ROTH has written into this bill that he will have, Mr. Rossotti has a lot of work to do. He is going to go from a three-tier geographical system that has 10 regional centers and 33 district offices—I mean a tremendously complicated geographical organization that started in 1952—he is going to go from that to an organization that is along functional lines: Small business, individual business, large taxpayer and nonprofit; four different functional categories.

There is going to be a lot of personnel decisions to be made and a lot of personnel changes that have to be made. In addition, if he deploys the technology correctly, as we insist he do, and as the electronic filing section of this title of this bill allows him to do, there is going to be a lot of personnel decisions that have to be made.

As we heard in the Restructuring Commission, if you are going to make that kind of tough Restructuring Commission, you are better off having a personnel representative on the board. That is why the employee representative is on the board. We are not putting an employee representative on the board for political reasons, but putting one on the board to make sure you have an individual who can sell and who can persuade and can help get these kinds of restructuring decisions implemented and make certain that there is going to be a minimal amount of resistance on the employees' side.

We heard most eloquently from the new tax authorities in Australia that went through a very similar restructuring as we are doing here. And we took their example, as well as many other private sector people who talked about what happens when you restructure, to say that we ought to have an employee representative on the board.

Now remember, this board lasts for 10 years. It sunsets after 10 years. Congress may decide that it does not need the board at all anymore, may revisit threshold question No. 1 and threshold question No. 2. The composition of the board can be revisited at that time as well. We may, after these restructuring decisions are made, after you have the IRS reorganized along functional lines, and after the technology has been fully invested in and implemented, this Congress may decide that there is no need to have the representative of the employees' association on this board. I feel very strongly going in that we need it. That is a threshold question.

You may find you don't want it. You may have a legitimate belief that, no, that ought not to happen. Fine. But if you are going to have that person on the board—and I believe a majority of this Senate wants an employee representative on the board—if you are going to have an employee representative on the board, make it possible for that individual to do the job.

Why would you put somebody on the board and then neuter him with a statute that says there will be a conflict of interest? That is what this conflict of interest language does. It does not remove this representative from all the other conflict of interest laws in every one of the other private sectors that people have to abide by. It is not a precedent. There are hundreds of individuals throughout Government who have been given similar kinds of protection in order to be able to do their job.

I urge colleagues, as they come down and consider this, because it will be one of the complicated legal, constitutional issues, you have to walk yourself through three questions:

No. 1, do you think this oversight board will do the job? If you don't support the oversight board, it almost doesn't matter what the composition is.

No. 2, do you think you ought to have an employee representative on there to be able to get the support needed to do the tough personnel decisions that this Commissioner will have? Look seriously at new authorities we are giving the Commissioner. They are almost unprecedented. We are giving this Commissioner of the Internal Revenue Service, I think quite appropriately, new authorities to be able to hire, new authorities to be able to fire.

The distinguished Senator from Texas earlier indicated he was going to offer an amendment adding to the list of reasons that an employee can be fired. There are specific lists—I think it is five or six items—that if an employee of the IRS does something, they can be fired for cause. You don't have to go through the normal personnel procedures. Just on the face of it, say if an employee does something like that, they ought to be terminated.

The Commissioner has substantial new authority. They will need the full participation and cooperation of the employees of the IRS in order to be able to get it done.

I come to the threshold question No. 2 and say absolutely yes, we ought to have an employee representative on this board. If you answer that question yes, you have to make certain that the laws are written so the individual can do the job.

What we will have, unfortunately, is a debate about the conflict of interest stuff before we have done whether or not the person ought to be on the board. It is far better for us to take up the amendment that will be offered by some that we not have a Treasury employee representative on the board at all.

If that is your position, if that amendment is successful, we strike the employees representative, the conflict of interest thing is irrelevant. But if we end up with an employee representative on the board—to pass this amendment, which would make it impossible for that representative to do their job—it seems to me to put the cart before the horse and do something I think no Member wants to do, which is basically creating something that will not be able to do the job that we wanted to do.

I hope Members will vote against the Thompson-Sessions amendment. I hope they will listen to the arguments that will be offered in detail by many people who have great experience with conflict of interest law. Listen to the arguments of Senator LEVIN. Listen to the arguments of Senator GLENN. Listen to the arguments of those who understand how it is that we deal with conflicts of interest. We deal with them all the time.

This language is in response to the Office of Government Ethics concerns about this position. They, frankly, take the position they don't want an employee representative on there under any circumstances, no matter what you do. Take that position, but that is a policy decision that we have to make. We have to decide, Do you want an employee representative on? I say yes. Once you have the employee rep, we write the law so the individual is able to do the job. That is what we are attempting to do with the language that the distinguished Senator from Tennessee and the distinguished Senator from Alabama are proposing to strike.

I hope this amendment is defeated. I yield the floor.

Mr. SHELBY. What is the pending business?

The PRESIDING OFFICER (Mr. FAIRCLOTH). The amendment proposed by the Senator from Tennessee and the Senator from Alabama.

Mr. SHELBY. Mr. President, just for a few minutes I will also talk about the IRS reform legislation and a suggestion that I have that I think would improve it. I am at this point in time well aware that the pending business is another amendment, so I will only speak on this subject if I can.

I think perhaps the most important power given to Congress in the Constitution is bestowed to Congress in article I, section 8, the power to tax. This authority is vested in Congress, as the President and Senate know, because as elected representatives, Congress remains accountable to the public, and when they determine tax policy, this should be more so.

Unfortunately, the Internal Revenue Service effectively has the power to raise taxes through the use of its interpretive authority. Therefore, what I want to talk to the Senate and my colleagues about this afternoon for a few minutes is an amendment, which I am not offering now but I will in a future time, which will build upon past legislative initiatives that afforded protections to taxpayers from attempts by the Internal Revenue Service to bypass Congress and raise taxes through the regulatory decrees.

In 1996, Congress passed the Congressional Review Act, which provides that when a major agency rule takes effect, Congress has 60 days to review it. During this time period, Congress has the option to pass what we call a disapproval resolution. The Stealth Tax Prevention Act would expand the definition of a ''major rule'' to include any IRS regulation which increases Federal revenue.

For example, if the Office of Management and Budget finds that the implementation and the enforcement of a rule has resulted in an increase of Federal revenues over current practices for revenues anticipated from the rule on the date of the enactment of the statute under which the rule is promulgated, the rule will be found to be major in scope. Therefore, the amendment, or the legislation that I would like to see us adopt, sooner rather than later, would be to allow Congress to review the regulation and to prevent back-door tax increases on hard-working Americans.

An excellent example of this occurred last year when the Internal Revenue Service attempted to increase taxes through the regulatory process. In this instance, the IRS disqualified a taxpayer from being considered a limited partner if they ''participated in the partnership's business for more than 500 hours during the taxable year.'' The effect of this redefinition would have been to make these individuals subject to a 2.9 percent Medicare tax. President Clinton had included the identical provision in his universal health care legislation in 1994. When the administration's plan failed, the IRS attempted to subject limited partnerships to the same tax increase by using its regulatory powers.

I believe the intent of the Founding Fathers was to put the power to lay and collect taxes in the hands of the elected Members of Congress and no one else—not in the hands of the bureaucrats who are shielded from public accountability, but in the hands of Congress, who is accountable to the American people.

The proposed Stealth Tax Prevention Act that I want to see become law would be particularly helpful in lowering the tax burden on small business, which suffers disproportionately from IRS regulations. I believe Americans are paying a higher share of their income to the Federal Government currently than at any time since the end of World War II. Allowing bureaucrats to increase taxes even further at their own discretion through the regulatory process, through interpretation of the Tax Code, I believe is intolerable.

I believe this legislation is right and should be passed, and it is clearly in the spirit of the IRS reform legislation. This type of legislation would help rein in the power of the Internal Revenue Service and would leave the tax policy where it belongs, to elected Members of Congress, not unelected and not unaccountable IRS bureaucrats. I strongly urge my colleagues to get with me, to join me in the future in an effort to join the National Federation of Independent Business, NFIB, and the National Taxpayers Union, as well as a lot of my colleagues who would be supporting this type of legislation.

The bottom line is that the stealth tax legislation that I have been talking about would improve accountability and it would put it where it belongs—in the hands of Congress and not bureaucrats. I think it is something we have to consider and I believe we will consider in the future. I have talked to the chairman of the Finance Committee about this, as well as other members of the Finance Committee, and they seem to be very interested in this. I am going to try to work with them in the future.

I yield to the chairman.

Mr. ROTH. Mr. President, I say to the distinguished Senator from Alabama that I appreciate the fact that he is not raising it on this legislation before us, because it is not relevant. But

I also sympathize very much with the problem he has identified. I, indeed, would be happy to work with him because I do not think it is appropriate to legislate by regulation. I think that is what he seeks, and that is what I would be pleased to work with him on in the future.

Mr. SHELBY. Mr. President, I appreciate the chairman's statement. I have worked with him before. I just think it is very, very important for the American people that we, as Members of the U.S. Senate and House, should be the people who lay taxes, or reduce taxes, according to the Constitution. But that is not what is happening. The Internal Revenue Service is doing it through the back door. We should do things through the front door because that is the American way, and I think it is accountable. I have worked with the distinguished Senator from Nebraska on this for several years and got some of this going at his suggestion.

I yield to the Senator from Nebraska.

Mr. KERREY. Mr. President, I agree with Senator ROTH. This is a very important matter and issue, and I pledge my full cooperation to work with the distinguished Senator from Alabama as well.

I call to your attention, with the National Taxpayer Advocate, I think, we are going to get pretty close to this issue. In addition, by organizing—and the law requires it—the IRS along functional lines, we will now have small business organized as a single category.

One of the things Mr. Rossotti has already indicated is that he is likely to take some of the secondary recommendations that our Commission made. We have large numbers of relatively small businesses out there who expend a lot of money and don't pay any taxes at all. They have to comply with the code. He believes there may be some opportunity for us to significantly relieve a number of individuals—millions, in his words—that might otherwise have to fill out a form. So I think what the Senator has brought to our attention is a very important problem; it is taxation without representation. It is frustrating. I think we are going to get more accountability with this law, and we are going to have vehicles through the taxpayer advocate to do the very thing the Senator is talking about. I appreciate it, and I pledge my full cooperation to work with him on this.

Mr. SHELBY. Mr. President, I will wrap it up on this point at this time. I am certainly not going to wrap up this issue. I think this issue is just now becoming ventilated here and shared with my colleagues here in the Senate. A lot of us have known this for a long time. But the IRS reform bill that Senator ROTH and Senator KERREY have been pushing here is about, among other things, the agency overstepping its authority and, in a lot of instances, there are horror stories of abusing taxpayers. But I can't think of a worse way to abuse taxpayers than when the IRS raises taxes through the back door, by the regulatory process, and then we think, how did they do this or why did they do this? Why did we give them the authority to do this? Yet, ultimately, Mr. President, we are accountable to the voters, as we should be.

I think this is relevant. I am not going to offer it now in deference to the chairman and the Senator from Nebraska. But I want to make it clear that this is just the beginning of this fight because this makes a lot of sense to the American people.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Iowa.

Mr. GRASSLEY. Mr. President, I would like to speak to the point that the Senator from Alabama just raised. That point would be one of agreement. It would be to say that I have had the experience myself of having to get corrective legislation through. People would be surprised to know that a certain tax law that was in place legally for a long period of time was changed by a faceless bureaucrat, who increased the revenue and taxed somebody in a way where they hadn't been taxed before. And then we have a situation where those of us who want to correct what this faceless bureaucrat did find ourselves not only getting the bill written, finding all of the cosponsors that one needs, but also, then, when you actually get to the point of offering the amendment, you have to come up with an offset because there is supposedly a cost, not from the original legislation, but because some faceless bureaucrat is reinterpreting a tax law, which reinterpretation brings more revenue in; and then, if we want to go back to where Congress originally was, we have to dig up revenue and have an offset to correct something that Congress never intended in the first place.

So you can see that what the Senator from Alabama is trying to do is just to bring a little common sense to the Washington nonsense. I applaud him for doing it and also applaud him for not doing it on this bill. I commit myself to working with him. I would like to, at this point, ask him to see that I am added as a cosponsor to the original bill he put in, which has a number already.

Mr. SHELBY. Will the Senator yield?

Mr. GRASSLEY. Yes.

Mr. SHELBY. I would be glad to add you as a cosponsor. I believe we are going to pick up a lot of Senators on both sides of the aisle, I hope.

Mr. GRASSLEY. Mr. President, we are just talking about common sense. In other words, Congress passes a law. We want to tax at a certain level and a certain group of people. A lot of times those laws have been in place for a long period of time. Congressional intent was followed for a long period of time. And then there is somebody sitting in some bureaucracy—in this case, the Treasury Department—that says, oh, no, that is not what Congress intended; this is what they intended. Then he changes it. We don't have a process for reviewing that. This legislation will give a process for that review. But we will not find ourselves in a position of having to correct something that is contrary to congressional intent, but also with the idiotic situation that we somehow have to come up with revenue to offset a change of policy that we never intended in the first place.

So I applaud the Senator and thank him for not bringing it up at this point.

I yield the floor.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Alabama.

Mr. SESSIONS. Mr. President, first, I would like to say that I appreciate very much Senator SHELBY's suggestion for reform of the unilateral ability of IRS to increase taxes. I would like to ask my fellow Senator from Alabama if he would allow me to be a cosponsor of that.

Mr. SHELBY. Will the Senator from Alabama yield to the other Senator from Alabama?

Mr. SESSIONS. Yes.

Mr. SHELBY. I would be happy to do that. I think what we need to do in the next few weeks, working together with some of my colleagues like Senator KERREY and others on the other side of the aisle, is to let our colleagues know what this is and what it does. If we pass this legislation in the future, it is going to be another step toward accountability for us with the American people. I think it is very possible. I will be glad to add the Senator on.

Mr. SESSIONS. I thank the Senator very much.

Mr. President, I would like to first congratulate Senator ROTH and his committee on their effort to reform the Internal Revenue Service. I think they have made great progress, and the bill is to be greatly praised, is long needed, and I am delighted to see where we are discussing this matter.

I do, however, feel that it is important to join with Senator FRED THOMPSON of Tennessee, who spoke earlier this afternoon on his proposal to not waive applicable conflicts of interest laws with regard to individuals who sit on the IRS Oversight Board. I do not believe this is the appropriate thing to do. I believe we need to deal with this forthrightly. It should not be allowed to happen.

Mr. President, I spent almost 15 years as a Federal prosecutor. I prosecuted criminal cases on a regular basis. I personally tried judges and public officials for fraud and corruption. My office did many of those cases. It was an insidious thing as it occurred.

We have crafted over the years a series of laws that are designed in such a way that those laws protect the public from conflicts of interest and other types of unhealthy relationships that would put that person in office in a position in which his total fidelity is to

anything other than the government which he represents. That is what we are looking for. Somewhere in the Book of Ecclesiastes the preacher said ''A bribe corrupts the mind.'' A conflict of interest corrupts the mind. The person is torn. You cannot serve two masters. You can only serve one master. A member of a board of the oversight of the Internal Revenue Service ought to have a clear mind with one motive, and that is to improve and enhance the effectiveness of that institution which is fundamentally necessary. At least under the present Tax Code it is necessary.

So I believe this is an important matter. I would like to share with the Members of this body the Code sections of the law that would apparently be violated and could potentially clearly be violated by an appointment of the kind suggested here; that is, a member of the Internal Revenue Service Union on the oversight board.

This is suggested in this fashion: It follows under the rubric of bribery, graft, and conflict of interest in the United States Code. It is title 18 U.S. Code, section 203. It makes it a crime to seek himself or agree to receive any compensation as an agent or attorney for a third party when a person is working as an officer for the Federal Government.

We are talking about appointing a member to the board representing the Federal Government helping us to develop an effective Internal Revenue Service while at the same time receiving compensation as a union official in an organization that may well have a conflict of interest with the Internal Revenue Service. They are advocates. There is nothing wrong with that. Union members are advocates. Their commission, their heart and soul is committed to getting the maximum return for their members. It is not the same interest as a member of the board should have, which is in the public interest. You can't serve two masters.

I suggest that is a potential violation of the law if this member were to be on the board. It is not theoretical. We are talking about real conflict.

Section 205 of title 18 of the Criminal Code makes it a crime for any Federal employee to appear as an agent or attorney on behalf of anyone in a proceedings to which the United States is a party.

In other words, you can't have a Federal employee of the Government appearing in an action against the Government. Frequently the union is contesting with the Government. So now we have a person on one side of the lawsuit supposedly having his responsibilities solely to the best interest of the public of the United States at the same time being paid to represent his union members who may well be standing against what that interest is.

Title 18 of section 207 makes it a crime to make certain communications to an official of the Federal Government on behalf of any other person if the communications are made with intent to influence.

It makes it a crime to make certain communications to an official of Government on behalf of any other person if they are made with the intent to influence. This section is a dangerous section for any board member who is an officer of the union. It was designed really to deal with post-employment communications. But in this instance he would obviously be making communications both ways.

Title 18, section 208, is the general conflict of interest provision for the United States. It makes it a crime for a Federal employee to participate ''personally and substantially'' in any way in a matter where he himself, his family, a partner or others have ''a financial interest.''

This individual is paid by the union. It is in his financial interest to do the best bargaining he can, the most money and benefits he can for his union members. Yet he is serving on the offer side, the board, that is supposed to be protecting the public interest.

I would say, first of all, that I see there is a real danger that this member, if appointed as suggested, would in fact be in violation of any one or perhaps all four of those criminal statutes. If any of these violations are committed—and there are penalties of up to 1 year in jail for violation of them, and if any of them were done willfully the penalties go up to 5 years in jail, and are a felony. What is willful? It is knowingly and with intent to violate the law. I would say, first of all, we have four potential violations of criminal law by this appointment.

The Finance Committee to its credit recognized there was a problem. Well, they should have. There is a problem. And it is not theoretical. It is very real because the member they want to put on this board has a conflict of interest.

They say, ''Well, let's just change this law. Let's pass as part of our bill a proposal to exempt them from it, and just say it won't apply to this nominee to the board. And that would solve all of our problems.'' Well, I wish it were so simple that we could do that. You can call a cat a dog but it is still a cat. You can say there is no conflict of interest but it is still there under these circumstances. That is what the law was passed for.

I think we need to give some real credit to the Office of Government Ethics.

Mr. President, I serve on the Senate Ethics Committee. We hear complaints periodically. Many of them are not well founded at all. But we go over them one by one. Staff people analyze them. We read the Code and we see if we have a conflict of interest. If we do, we deal with that. A lot of Senators have been severely damaged because of founded ethics complaints against them over the years.

But I would just say to you that it is important for this institution to make sure that what we are doing is consistent with the highest possible standards of ethics and law in this nation.

The Office of Government Ethics took the extraordinary step on May 1st of writing a letter dealing with this special project; this very special thing. This is what they said.

First of all, they said the criminal conflict of interest laws should not be viewed as impediments to good government. What does that mean? Criminal conflict of interest laws should not be viewed as an impediment to good government. In other words, what they are saying is the criminal ethics laws are for good government. They are not trying to stop good government. They are trying to stop conflicts of interest that lead people in the position that they cannot effectively carry out their duties.

They go on to say—I am quoting directly—these laws ''are there for a purpose and should not be waived for mere convenience.''

Mr. President, I totally agree. I know it sounds like, well, we just have a problem. This is just a technical thing. We can just pass this law and exempt this board member from it, and that will be the only board member on the Commission exempt from the ethics law, the only one, but we will just do that because, well, it is convenient. We would like him to be on the Board, and we will just waive the ethics law. But you can't do that and expect it to go away. There is a conflict of interest that the law legitimately was set up to prohibit to make sure that we have an uncorrupted individual on that board. A member who does not have influences on them financially or otherwise that would cause them to do acts that are not in the public interest. I believe very sincerely that we have to deal with this issue and that it will not go away.

We must not do this. It would be a downward slope, a retreat from high standards of ethics—actually, a retreat from basic ethics. This isn't some gray area; this is flatly prohibited by present criminal law for which you can get 5 years in the slammer. U.S. attorneys are prosecuting people who do these kinds of things with these kinds of conflicts. To pass a law to say everybody else has to adhere to them except for one individual because he or she is special is a big mistake.

I can see how people may have not thought it through. I hope all Members of this body will give it most serious thought. It would be a mistake for us to blithely go along and think this waiver of the ethics law is just a mere technicality and see it as somehow an impediment to good Government. As the Government Ethics Office said, it is not an impediment to good Government; it is good Government. And it is put there for a purpose and should not be waived for mere inconvenience.

Mr. President, I certainly know that the members of this committee, the Finance Committee, who worked so hard,

are determined to reform the Internal Revenue Service. I know they want to do what they can. I know they want the influence of the IRS's members who have insight into how this enterprise ought to be operated. They have some good insight, and they have made some good, constructive comments to this legislation. But there are other ways, as the Government Ethics Office suggested, to allow them to have input. There are other ways to allow them to be able to shape any kind of rules, regulations or reforms that are made. There are ways to do this without giving up the fundamental principle that a man or woman can only serve one master, not two, and should not be holding public office with a clear conflict of interest.

I thank the Chair. I urge my fellow Senators to vote against this proposal.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Iowa.

Mr. GRASSLEY. Mr. President, I find myself this afternoon speaking against a lot of my friends with whom I generally agree most of the time, and so I am somewhat chagrined that I have to oppose my good friend from Alabama and the position he has just taken as he spoke in favor of the Thompson amendment. I rise in opposition to it.

This amendment is not about conflict of interest laws. That is not its intent. It is about having an employee representative serve on the oversight board. I believe very strongly that we must have the employee representative on this oversight board. As you have already heard Senator KERREY say, he agrees with that. We both had the honor of serving on this National Commission on the Restructuring of the IRS. We were the only two Senators to do so. I think our year's experience there taught us something, and that is the value of having people who speak for and work with the employees, other than in a management capacity, to show their good intent, that they want Government to function in an efficient manner and to serve the customers well.

That would be true of Rob Tobias, who is the current President of the National Treasury Employees Union. He served with us on this Commission. I was very impressed with him and with his work. With his hard work and support, the Commission, by a very strong majority—we probably would have had a majority otherwise, but such a slim majority that I don't feel we would be here with such a strong piece of legislation as we do now—issued a report that calls for far-reaching reforms at the IRS. The employees organization and their representative contributed substantially to this report and to making sure there were strong, substantive recommendations.

I believe that he or another employee representative will have the same effect while serving on the IRS Oversight Board. He and the members of his organization want real change at the IRS. The IRS employees care about where they work and how they serve the people. They want the IRS to run smoothly and their customers to be happy with the service they receive. They are caught up today in this culture of intimidation, a culture that says, ''We don't care anything about the taxpayers, we don't care how we treat the taxpayers,'' whether as a taxpayer or just as an American citizen who is doing business with them. I believe they want to take pride in where they work and the actions of the Internal Revenue Service. The employee representative will help ensure that the oversight board makes this happen.

For this reason, Senator KERREY and I included an employee representative on the IRS Oversight Board when we introduced the first IRS restructuring bill last July, S. 1096. For this reason, we offered the amendment that put the employee representative back on the oversight board during the Finance Committee debate because the chairman's mark did not have this in it.

Now, remember, the House of Representatives passed their bill by a vote of 426 to 4—426 to 4—and that bill in the House had an employee representative serving on the oversight board. We have strong support for this principle. If we are going to have an employee representative then on the oversight board, we need to let him do more than just serve the coffee while the meetings are going on, because if we do not have this language in the bill that the Thompson amendment wants to take out, he would not have the same power that we give to other members of that oversight board. Otherwise, we lose the benefit of that expertise. Otherwise, we lose the benefit of the enthusiasm of the organization and its representative to make real change at the Internal Revenue Service. Let me say, in short, otherwise, we are just simply wasting our time. This is a part-time advisory board. Consequently, it is a good place to use his advice.

The bill before us, as drafted, sets up additional requirements that the employee representative must meet. I would like to read from the committee report.

> The employee representative is subject to the same public financial disclosure rules as a private life board member. In addition, the employee organization is required to provide an annual financial report with the House Ways and Means Committee and the Senate Finance Committee. Such report is required to include the compensation paid to the individual employee by the employee organization and membership dues collected by that organization.

In addition, this person must have been confirmed by the Senate of the United States before serving on the IRS Oversight Board. These laws have been waived for similar purposes before. This is not new; it is not landmark. The point being made— that everybody should abide by the same laws—albeit true, but remember, as Senator KERREY said, we make those laws. We are making this policy to make this person an effective member of the IRS Oversight Board.

I conclude by saying that the conflict of interest laws are designed to alleviate hidden conflicts of interest. Now, this employee representative has no hidden agenda. We know who he works for. And guess what. The employee representative on the board works for an organization that represents employees. Again, the issue is not waiver of laws. The issue is having an employee representative being able to serve, and effectively serve, on the oversight board. This, of course, is a back-door way, if this amendment were to be adopted, to get rid of the employee representative. Or, if he wasn't gotten rid of, it would be making him an ineffective member of the oversight board, gutting the main intent that we have of his inclusion on the board, because we think there can be a contribution, a real contribution, made.

So, in my opinion, if my colleagues would accept my year's work on this issue, being a member of this IRS Restructuring Commission, I ask my colleagues to vote against the Thompson amendment. After my work on the National Commission on Restructuring, I think, regarding the bill we have, and even a much stronger bill that we have now because of the work of the Senator from Delaware on the legislation, improving it very much as a result of the committee hearings, we need to move forward. This would really cause problems if this person is not able to serve on this board.

So I emphasize again, this was in the House Ways and Means bill. It was approved by the House of Representatives by 426 to 4, to have an employee representative on the board.

I think all the arguments are very strong. I make no apologies for those arguments and would want to have this amendment defeated, the Thompson amendment.

I yield the floor.

The PRESIDING OFFICER. The Chair recognizes the Senator from Delaware.

Mr. ROTH. Mr. President, first, I would like to say I regret I cannot agree, on this particular issue, with my distinguished friend from Iowa, for whom I have the greatest respect. We are, more often than not, on the same side of an issue. But, because of the overwhelming arguments, at least in my judgment, to the contrary, I must rise in strong support of the amendment offered by the Senators from Tennessee and Alabama.

This amendment would strike the special waiver of all the criminal conflict of interest laws that were necessary to accommodate having an IRS employee representative on the IRS oversight board. Let me say that what I say today in no way is in disrespect to the individual who would probably be the employee representative, Mr. Tobias. By all reports, he is a most dedicated, informed man. But, as I

said, the problem is that this amendment would strike the special waiver of all the criminal conflict of interest laws that were necessary to accommodate having such a representative, and waiving all the conflict of interest laws is bad policy. It establishes very bad precedent.

When this issue was debated during the Finance Committee markup session, the Deputy Director of the Office of Government Ethics, the office that was set up and created to ensure that conflicts of interest do not arise in the Government, testified that she was not aware of any case where all the criminal conflict of interest laws have been statutorily waived for a single person.

Last Friday, the Director of the Office of Government Ethics, in identical letters to the majority leader, the minority leader, Senator MOYNIHAN, the ranking member, and myself, said that waiving the conflict of interest laws for one board member, ''is antithetical to sound Government ethics policy and thus to sound Government. Such across-the-board statutory waivers for someone other than a mere advisor is unprecedented and, we believe, inadvisable.''

Let me repeat, this statement that it is inadvisable comes from the Office of Government Ethics.

I ask unanimous consent a copy of this letter be printed in the RECORD.

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

U.S. OFFICE OF
GOVERNMENT ETHICS,
Washington, DC, May 1, 1998.

Hon. TRENT LOTT,
Majority Leader,
U.S. Senate, Washington, DC.

DEAR MR. LEADER: This Office has reviewed H.R. 2676, the Internal Revenue Service Restructuring and Reform Act of 1998, as it has been reported by the Finance Committee and, we understand, is soon to be taken up by the Senate. At the request of both the majority and minority, we provided technical assistance to the Finance Committee staff with regard to drafting the language of provisions setting forth the ethical considerations for the Members of the Internal Revenue Service Oversight Board. We believe those provisions are written in a clear and technically correct manner.

However, one provision of the bill, the proposed 26 U.S.C. §7802(b)(3)(D), provides for waivers of applicable conflict of interest laws for one Member of that Board. We believe that this provision is antithetical to sound Government ethics policy and thus to sound Government. Such across-the-board statutory waivers for someone other than a mere advisor is unprecedented and, we believe, inadvisable.

We understand and agree that the employees of the Internal Revenue Service should have an opportunity to be heard in any decisions that may affect them. As we stated in a letter to the Finance Committee, there are standard ways of allowing input from interested parties without allowing the interested party to be the actual decision-maker in a Governmental matter. It is the latter role that is fundamentally at odds with the concept that Government decisions should be made by those who are acting for the public interest and not those acting for a private interest. The one private interest that is being waived in each case for this Board Member is the one most fundamentally in conflict with his or her duties to the public.

On the other hand, we cannot recommend that the waivers be eliminated for the individual appointed to such a position. That elimination would leave this individual extremely vulnerable to charges of criminal conduct for carrying out many Oversight Board actions or for carrying out his or her private duties for the employee organization. The fact this vulnerability exists exposes the pervasiveness of the conflicts for an officer or employee of an employee organization to serve on the Oversight Board.

Rather, we recommend the elimination of the position on the Board that creates such inherent conflicts. The elimination of the position could be coupled with a requirement that the Board consult with employee organizations. While we think a reasonable Board would consult without that requirement, requiring consultation might provide some assurance to the various employee organizations that they will be heard.

The criminal conflict of interest laws should not be viewed as impediments to good Government. They are there for a purpose and should not be waived for mere convenience. Some may point out that certain provisions of these laws are waived by agencies quite frequently. That is true. Some of the laws anticipate circumstances where a restriction could be waived and set forth the standards that must be met to issue waivers. Agencies can and do issue such waivers, but the waivers must meet the tests set forth in the statutes. For those conflicts laws that do provide for waivers (not all do), we believe that it would be extremely difficult for a reasonable person to determine that the interests this individual Board member will undoubtedly have through his or her affiliation with the organization could meet those waiver tests.

In order to meet our recommendation, we believe the provisions of Subtitle B, sec. 1101(a) should be amended to eliminate proposed sections 7802(b)(1)(D), (b)(3)(A)(ii) and (b)(3)(D). All other references to an individual appointed under section 7802(b)(1)(D) should be removed and wherever a number of members of the board is indicated (such as a Board composed of nine members or five members for a quorum) that number should be altered to reflect the elimination of this position.

We appreciate the opportunity to express our concerns and our recommendations. These are the views of the Office of Government Ethics and not necessarily those of the Administration. We are available to answer any questions you or any other Member of the Senate may have with regard to this letter or the conflict of interest laws. We are sending identical letters to Senators Daschle, Roth and Moynihan.

Sincerely,

STEPHEN D. POTTS,
Director.

Mr. ROTH. Senators note importantly, I think, how we are a nation of laws and we are, indeed, a nation of laws. When it comes to Government service, perhaps the most important set of laws is the criminal conflict of interest laws. Many of these laws trace their origins back to the Civil War era. They were enacted in the 1860s in response to misconduct in the procurement process. These laws embodied the principle that a Government servant, even a part-time servant, has an overriding responsibility to serve the best interests of the American public. The punishment for violating this public trust includes imprisonment of up to 5 years and penalties of up to $250,000. The severity of the penalties reflects the critical importance that these laws play in our Government. They serve to protect the public's trust in Government employees and the laws are designed to prevent Government employees from taking actions that could jeopardize this public trust.

Let me give a few real-life examples of what could happen if the conflict of interest laws are waived for the IRS employee representative. Just suppose that a representative of the IRS employees union serves on the oversight board and the union files a lawsuit against the oversight board. If the conflict of interest laws are waived, the union representative could work with the union in preparing the lawsuit and at the same time—at the same time—work with the oversight board in defending against the lawsuit. Taxpayers would be outraged by this conduct, and rightfully so.

Just suppose the union is asked to make a formal presentation to the oversight board. The union representative can make the formal presentation and then participate in the oversight board's deliberations with respect to the presentation. What message does this send to the taxpayer? What does this do to the public trust in Government employees and in what Congress is trying to do to improve the IRS?

Let me quote again from the letter by the Office of Government Ethics:

> The criminal conflict of interest laws should not be viewed as impediments to good Government. They are there for a purpose and should not be waived for mere convenience.

Mr. President, the criminal conflict of interest laws should not and must not be waived for a single individual. To do so would seriously erode the sacred trust that the public has placed in its employees to do what is in the Nation's best interests. For these reasons, I strongly support this amendment and I urge my colleagues to do the same.

I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Nebraska.

Mr. KERREY. Mr. President, again, I say to colleagues there is a three-part test that one has to go through in this regard: A, do you want an oversight board; B, who do you want on the board; and, C, how are you going to deal with apparent conflicts of interest?

The conflict of interest issue is a very serious issue and, indeed, our committee, in order to confirm Mr. Rossotti, had to deal with that. We wrote an agreement, a letter, I believe, of understanding between Mr. Rossotti, a private sector individual with significant private sector interests who was willing to come in and serve his country in the Government.

I talk to colleagues all the time about one of the problems we have in

Government today is it is getting harder and harder to get anybody to serve. Why? Because there is a perception that as soon as you come in and work for the Government that somehow you are going to be the crook.

I would be real careful with some of the rhetoric on this particular issue. We made an exception with Mr. Rossotti as a consequence and concerns about conflict of interest, and we didn't ask the Office of Government Ethics to comment on him, but we did on this one because many in the committee don't like this idea of having an employee representative on the board, nor does Government Ethics.

Let me talk about this idea of conflict of interest. According to the Office of Government Ethics, at least 609 exemptions under section 208(d)(1) were granted in 1997. Why? It is very important to understand. Why did we grant an exemption? The answer is because we have an interest. There is an important interest involved here, something that we want to do. So we find ourselves saying the interest is not so substantial as to be deemed likely to affect the integrity of the services which a government may expect from such officer or employee. That is the standard we use.

There were 609 exemptions granted because we have an interest in making certain that something gets done. That is what we have here. One of the worst excuses—I used to be in business before I got into politics. One of the reasons I got into politics is I got worn out listening to people say, ''I know what you are asking for is right, but, gosh, if I have to do it for you, then I have to do it for everybody.''

There is nothing more frustrating than to have somebody say, ''I don't want to set a dangerous precedent here.''

We need to decide what is right. Is it in the Nation's interest in an effort to restructure the IRS that is going to require significant and, I argue, traumatic personnel decisions, to have a representative of the Treasury employees' association on there? They represent 95 percent of over 100,000 employees. And we answered yes. The House answered yes. The Restructuring Commission answered yes, because there is an interest that we have.

Do we waive all conflict of interest requirements? Members should remember, every member of this board has to be recommended by the President and confirmed by the Senate. We all know around here, you can file a hold on anybody for any reason you want. If there is a conflict of interest, file a hold. That individual is likely never to get confirmed. In addition, for cause this individual can be removed at any time. The President can remove the individual from the board as a consequence of something they see they don't like, something they see they view as a perception of a conflict of interest, let alone a real conflict of interest.

Lastly, I will say if this individual is guilty of a conflict of interest, there will be charges filed against him or her and, indeed, every single member of this board is going to have to file an annual report indicating what their financial holdings are in order to avoid a conflict of interest.

Again, we all understand it is getting increasingly difficult to get people to serve because of the invasive nature of the examination. Talk to a friend of yours who has had an FBI background investigation. Gosh, they are out there talking to people you knew in the fourth grade. You wouldn't want to talk to people I knew in the fourth grade to find out whether I am going to be able to serve on some board or commission.

Let me just list for colleagues who are worried about this conflict of interest—we decided there is an overriding interest to have an employee representative on there as a consequence of the tremendous and traumatic changes that are going to occur over the next couple of years as the new authorities of this Commissioner are used to reorganization and restructure the IRS.

In addition, this representative is going to be required to have full, public, financial disclosure by the employee organization represented. All members of this oversight board will be required to do that. In addition, the employee organization is required to file detailed financial information with the House Ways and Means Committee and the Senate Finance Committee. The information would include membership dues and compensation of all employees.

In addition, it requires the employee representative to be subject to all the conflict of interest statutes applicable to special Government employees, except to the extent they apply to the employee organization.

Mr. President, as Members no doubt know, we have a bill and a thing called a report. It says, ''The Internal Revenue Service Restructuring and Reform Act of 1998, April 22, 1998.—Ordered to be printed; Mr. ROTH, from the Committee on Finance, submitted the following Report.''

This report describes the rationales and reasons for doing all these things. Let me read to colleagues who are wondering about this thing and really whether or not you want an employee representative on this board. As I said, if you do, you have to give that individual the authority and power to be able to do something, and we have made a judgment as a consequence of that overriding interest that we are going to write language in here that deals with apparent conflict. It doesn't waive all other conflicts, as I have just tried to address. But even the report does that. Let me read it to you:

> In general, the bill provides that the employee representative or Board member is subject to the same ethical conduct rules as private-life Board members.

Let me repeat this, because there is an inference in some of the statements down here that somehow we are waiving all conflict of interest rules. Not true. This individual is going to be subject to the same ethical conduct rules as private-life board members.

> However, the bill modifies the otherwise applicable ethical conduct rules so that they do not preclude the employee representative from carrying out his or her duties as a Board member and his or her duties with respect to the employee organization.

That is all we are doing. We say there is an overriding interest. We have to make sure the employee can carry out their job, so we provide specifically language in here that enables them to do it. Otherwise, why put them on the board?

> In particular, the employee representative is not prohibited from (1) representing the interests of the employee organization before the Federal Government; (2), acting on a Board matter because the employee organization has a financial interest in the matter.

They are precluded from conflicts dealing with procurements. They are precluded from taking bribes. They are precluded from all the other things that other board members are precluded from doing. All the rest of the things that all the board members are precluded from doing, this individual will be as well. Indeed, in the footnote, it says:

> Certain limitations to this exception to the otherwise applicable ethical rules would apply.

The rules pertaining to bribery would continue to apply. In addition, the representative would be acting on a matter in which he or she has a financial interest.

If some U.S. attorney, some prosecutor wants to bring charges against any member of this board for violating conflict of interest statutes, they are going to be able to do it. Everybody who has asked, whether it is by this President or future Presidents, ''Gee, Mr. and Mrs. Jones, would you be willing to serve on this board?'' They understand what is at stake. They understand the nature of American politics today. They understand if you walk into the arena willing to serve your country, you may find yourself saying, ''God, I wish I never said yes. All of a sudden I am more miserable than I thought I ever would be, because somebody has an ax to grind or grudge to fulfill is going after me all of a sudden.''

We have made a decision that we think as a result of the tremendous decisions that are going to have to be made by the Commission to restructure an organization that has 100,000 human beings—these are family people; these are people who have good jobs and are trying to get the job done. All they are doing is trying to execute our law.

One of the most amusing things down here is to hear people talk about the IRS as if they think it is a Sears and Roebuck or some private organization.

It is like the kiss of the Spider Woman. We are the creator of the IRS. We write the laws here.

In response to the OGE's concerns, we put language in here, and even OGE says we have adequately taken care of it. They just don't want an employee representative on there at all, no matter what you do with the law. No matter what you do with the language of the law, they are going to take the position that an employee representative shouldn't be on there.

Fine, let them take that decision. We made the decision we want that employee representative on there, and once we made that decision, we have to make certain we deal in a reasonable way so that with the law, that individual can do what we have asked them to do.

I have great respect for the Senator from Alabama and the Senator from Tennessee and, obviously, the distinguished chairman of our committee. I hope this amendment will be rejected.

I ask if the chairman—we have had two votes today, and we have, I think, somewhere in the neighborhood of 50 amendments that we are likely to deal with. The majority leader indicated he would like to wrap this up tomorrow night. I am wondering if we can get a time agreement. We have a couple others that are fairly contentious that it seems to me we need to get down here.

I would hazard the guess that nothing I have just said is going to persuade anybody one way or the other. This is one where everybody has pretty well made their minds up. Maybe they will be persuaded because of the eloquence and the logical manner of the chairman, but I think this is one where people have made up their minds. So let us insert our statements in the RECORD and go to a rollcall vote so we can get to the final passage of the bill, as the majority leader wants to, by tomorrow night.

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER (Mr. ABRAHAM). The Senator from Delaware.

Mr. ROTH. Let me say, on this question of completion of consideration of this legislation, I strongly agree that we want to move as expeditiously as possible. It is my intent that we will complete the legislation tomorrow, staying as late as may be necessary.

Mr. President, I would like to respond to some of the earlier comments made on the granting of waivers to the conflict of interest laws. I would like to point out that the waiver granted Mr. Rossotti was made by the same Office of Ethics that made a very persuasive argument here that we should not waive the criminal conflicts of interest as has been done under the legislation.

Let me point out that there is a major difference between receiving a specific agency waiver under section 208 of the ethics law, which is what the Senator was referring to, and a wholesale statutory waiver of all the conflict of interest laws, which is what is contemplated in the IRS bill.

Again, what Mr. Rossotti got was a specific agency waiver under section 208. To get a specific agency waiver under section 208, the employee must disclose the situation which gives rise to the conflict, and the agency need only to determine that the conflict—and I quote—''is not so substantial to affect the integrity of the services which the Government may expect from the employee.''

The problem with the IRS employee representative is that the conflicts are so substantial and pervasive that the representative would almost never qualify for a waiver. And that is not my conclusion, that is the conclusion of the Office of Government Ethics. Quoting from their letter dated March 27, 1998, the director wrote:

> While section 208 does contain a waiver provision, it applies only where the financial interest involved is ''not so substantial'' as to be deemed likely to affect an employee's service. We believe that it would be almost impossible for an officer of a union to legitimately meet the test set forth in the statute because of his own and the union's financial interest that would be affected by the matters before the Board.

The director repeated this point in his letter dated May 1, 1998, saying:

> For those conflicts laws that do provide for waivers (not all do), we believe that it would be extremely difficult for a reasonable person to determine that the interests this individual Board Member will undoubtedly have through his or her affiliation with the organization could meet those waiver tests.

The quoted language also raises a second important point, which is that some of the conflict of interest laws do not provide for waivers at all.

Mr. President, the bottom line is this: A statutory waiver of all the criminal conflict of interest laws for one person is simply wrong, it is very bad policy, and it establishes a dangerous precedent.

Mr. SESSIONS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Will the Senator yield for a question?

Mr. ROTH. Yes. I will be happy to.

Mr. SESSIONS. I say to the chairman, do you see what we are doing here, as a matter of principle, any different than if this body were to pass a law to exempt an individual from the bribery laws?

Mr. KERREY. I hope the answer is no, for gosh sakes. We understand what the nature of bribery is.

Mr. ROTH. Yes. A bribery law is part of the criminal code. I would not exempt it.

Mr. SESSIONS. This is a criminal provision. We have been using the word ''ethics,'' but it is really a criminal provision, isn't that right, Mr. Chairman?

Mr. ROTH. That is correct.

Mr. SESSIONS. Criminal law of the United States. And I can see, therefore, why the Ethics Committee would suggest it was unprecedented that the U.S. Congress would pass a law to exempt someone from the criminal law of the United States. I hope that is unprecedented. And my complaint, I say to the chairman, just simply is this—to say that I understand what the Senators have been trying to do. I understand their good intent. But I think we are confusing ourselves with the law of the United States. This is a very bad thing. It is a very bad policy. It should not happen. And we need to vote on it. I appreciate the chairman yielding.

Mr. KERREY. Mr. President, I don't know on what basis the distinguished Senator from Delaware answers the question that, yes, it is like giving an exemption to bribery law. In our own report, we say the rules related to bribery would continue to apply. I mean, that is a red herring, raising the issue of bribery. Look, I feel like I am arguing the red queen here.

We made a decision as a consequence of an overriding interest that we want a Treasury employee representative on this board. Why? What is the interest? Do you want to get the restructuring done or not? No? You are opposed to it? Fine. Say no. But our Commission heard from people, both in the private sector and the public sector, that have done this sort of thing. They said, ''Folks, if you want to get the job done''—understand we're talking about traumatic changes in how people work. You can imagine, we would want a Senate representative on a board that was going to be restructuring this place. Do you think anybody would say, ''Gee, we've got a conflict. We can't sit on a board that might reduce the number of people here from 100 to 80''? I don't think so. I think one of us would want to be on that board. And we would write to the Office of Government Ethics and say, ''To heck with you. We'll figure out a way to get it done.''

That is what we are talking about here. The employee representative will enable us to get the job done. We have to have a substantial reduction in forces as a consequence of this restructuring. It is going to be traumatic. It is going to be difficult. And over and over I have said we heard from both public and private sector people: Get somebody who's going to have to sell this thing on this board.

So now you are left with the question, how do I do that? Obviously, they still represent the employee's union. Obviously, they still have a job responsibility out there in some fashion. Well, we have to deal with that specific conflict. It is not a carte blanche, broad-based waiver that includes such things as bribery. Come on.

If you do not want a Treasury representative on there, don't put him on there. If you think the law is going to produce a conflict, well then, file a complaint, and go down to the Government Ethics Office and say this individual has a conflict. Any citizen is going to have the opportunity to do that.

But I caution Members. That is why we are having a tough time getting anybody to serve. We go through this

nominating process all the time around here, and we find ourselves with friends saying, ''My gosh, I don't want to serve in that capacity. Look at all the things I've got to go through in order to be a public servant today.''

Mr. Rossotti is a very good case in point—a very good case in point. A strict interpretation of the ethics rules would have caused us to say, ''Mr. Rossotti, I understand that you are willing to say yes to the President, but we have to respectfully say no. We are just not going to do it. We're not going to allow you. You have all this private sector experience, all this management experience, but it's a conflict. You've got ownership of stock in a company that does business with the IRS, therefore, you're disqualified.''

That is what we are dealing with here. The Commissioner of the IRS has a company that does business with the IRS. Now, can we deal with that? The answer is absolutely yes, because it is a compelling interest to get it done. Likewise, there is a compelling interest as a result of the traumatic change.

I ask any Member here, again, if there was a board out there that was going to make a decision that could reduce in force the number of people in the Senate from 100 to 80, would we say, ''Well, we don't need to have a representative on there because we have a conflict''? I don't think so.

We asked to be on the board, and we deal with the Office of Government Ethics, and we figure out a way to make certain that conflict is narrowly drawn, because of the overriding interest of the employee representative on the board who will make these decisions.

If you don't want the board, fine; I understand that. The Senator from Texas is skeptical about the board. Skepticism in many ways is deserved. You never know if the board will be great or not. I think it will be great. If you don't want an employee representative, fine; say so. But please don't get down here and say that we are doing something comparable to waiving the bribery statute. That is not what we are doing.

We are going to have a very, very difficult time if this degenerates into a debate about loosening up our ethics law to allow all kinds of criminal conduct. We are not doing that. It is a narrowly drawn exception to enable the individual to do a job we want the individual to do.

Mr. BAUCUS. Essentially, the amendment offered by the Senator from Tennessee is an amendment to take an employee off the board. That is the point. The real question we have to ask ourselves is: Do we want this restructuring to work or not? We create a Board, give the Board certain powers, and the Restructuring Commission, led by Senator GRASSLEY from Iowa and Senator KERREY of Nebraska, concluded there should be among board members an employee representative. That was their conclusion. They believed that would help restructuring work.

Why? Because so many of the problems that we have with the IRS, most of the problems that were documented at the Finance Committee hearings, are employee problems—that is, rogue employees, employees who were covering up, employees doing this or that. Also problems with managers—some of them were doing their job, some were not.

Obviously, an employee who is on the Board will be able to tell the Board what is going on, what is not going on, what the views of the employees are, and so forth.

Now some suggest that the Board should just consult with employees. That will not work. You need somebody there on the Oversight Board who will be able to not only report to the employees what is going on, but be able to send back to employees what board policy is if we are going to get restructuring to work.

We need teamwork here. We don't need an adversarial relationship. We are not talking about Board versus employees. We are talking about a Board which will make restructuring work. Just think about it. An employee on the Board will help make this work.

If you want an employee, you want a good employee; right? You want a good representative on the Board. How do you make sure you get a good, solid employee on the Board? First, you have the President appoint the employee. That is the what the bill provides. Obviously, the President will appoint somebody he or she thinks is a person who will do a very good job because it is in his interest to make IRS restructuring work.

What is another check? Confirmation by the Senate. I say to my colleagues, if you don't like the employee representative that the President nominates to the Board, you can vote against him or her. During the confirmation process, you have an opportunity to check into the background of this appointee. You can check to see whether this is a good or bad person. That is a real good check which will enable you to get a sense whether this is a person who has conflicts or who will be a public servant—who will be narrowly representing his or her private interests or his or her organization. You can get a sense of these matters through the confirmation hearings.

In addition to that, the President can remove any Board member, including the employee representative, at will—that is, without cause, at will.

Finally, the employee representative is subject to the same restrictions as the private life Board members; examples are the disclosure requirements and the 1-year restriction after service on the board.

Now, the main point here is: If you are going to have an employee on the Board, how do you make sure that there are no conflicts of interest? I remind my colleagues, when this bill passed the House 426–4, there were no restrictions; there was no waiver provision in the bill. They just said, OK, have an employee. Well, we have improved the bill by rewriting this provision.

I remind my colleagues, all the conflict of interest statutes apply to the employee representative, except for the very narrowly tailored situation where conflicts arise because of his status as employee representative. That is, because the employees he represents work for the IRS and he or she is compensated by the employee organization. Otherwise, all conflict of interest statutes apply.

The comparison was raised about these waivers being like waiving violations for bribery, a criminal offense. Of course, bribery is a criminal offense. That is irrelevant. Murder is a criminal offense too. There are all kinds of criminal offenses in our criminal law. That is totally irrelevant to what we are talking about here.

The narrow, technical question here is: Are the provisions and the safeguards that are written into this statute, in the committee report, sufficient to make sure that the employee representative does a good job and represents the public interest? Of course, that assumes you want an employee on the Board in the first place.

Frankly, I do believe that most of those who are arguing to remove the waiver are really arguing to remove the employee. It is a back-door way to get the employee off the Board. That is what is going on here. That is what the argument is really all about. It is just a back-door way to accomplish an objective instead of dealing with it frontally, instead of saying, ''We don't want an employee representative on the Board.''

I feel very strongly that if we want this restructuring Board to work, it makes sense to have an employee representative on it. There are lots of checks to make sure this employee is performing public service instead of some private interest.

The amendment before the Senate, if it passes, will make it very, very difficult for any employee to serve on the Board. I don't think that is what we want to do. It is not good for the country.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. THOMPSON. It seems the criticism of the amendment, first of all, is that there is no conflict anyway with regard to these employees serving on this board. Of course, if that is the case, there was no reason for the exemption. So by having the exemption in there, it is an open admission there is an inherent and obvious conflict of interest.

The question is whether we want to do something about it. Do we want to single out this particular individual and say, ''With regard to you—nobody else, but with regard to you—these

conflict of interest provisions will not apply; we don't care if you have a clear and obvious conflict of interest''?

Secondly, it is said that this is very, very narrow as far as the exemption is concerned, but the bill, as reported, exempts a union representative from four key ethic laws when the representative is acting on behalf of his or her union. Those four laws are a part of chapter 11, title 18, United States Code, entitled ''Bribery, Graft, and Conflicts of Interest.''

What are those provisions that we are exempting here? Generally speaking, title 18, section 203, makes it a crime to ''demand, seek, receive, accept, or agree to receive or accept'' any compensation as an agent or attorney for a third party when a person is working as an officer or employee of the Federal Government.

That is one of the things we would be exempting this employee from.

The other section, section 205 of title 18, which is the criminal title, makes it a crime for any Federal employee to appear as an agent or attorney on behalf of anyone in a proceeding to which the United States is a party.

So that is the second thing we would be exempting this particular member from.

Thirdly, section 207, makes it a crime to make certain communications to an official of the Federal Government on behalf of any other person if the communications are made ''with the intent to influence.''

This is the third exemption that would apply.

Lastly, section 208, which is a general conflict-of-interest provision which makes it a crime for a Federal employee to participate ''personally and substantially'' in any way in a matter where he, himself, his family, a partner, or certain others have ''a financial interest.''

So, one just has to make a decision as to whether or not you feel that this particular employee on this particular board—whether or not you feel the employee ought to be on the board or not; we are not taking them off the board by this amendment; presumably, there are some things that this member could decide that would not present a conflict of interest—but you simply have to decide whether or not you want to take this particular employee and treat him or her differently than anybody else in the Government. This is the sort of thing that we have spent substantial time in Governmental Affairs on with regard to the ethics provisions and their applicability to employees.

I do not think it would be a good policy to have this exemption. As I say, if there is no particular conflict with regard to any particular matter that is before the board, all this is irrelevant anyway. There is no need for the exemption anyway. But if, in fact, they are on the board and they are seeking compensation from a third party while working for the Federal Government, or if they are appearing as an agent on behalf of anybody else who has a matter before the board, or if they are making communications with intent to influence when they are on the payroll of somebody else, this basically has to do with whether or not it is a good idea to put somebody on the board to make decisions with regard to themselves and their fellow employees, who they represent. Certainly, they would have the ability to give their input in lots of different ways.

But as far as decisions are concerned, we have seen the problems that we have had with regard to IRS employees. Do we think we should place a representative of the IRS employees on this board to make decisions as to what to do with the people with the problem? Certainly they should be heard, but should they be on the board? Number one, OK, put them on the board; number two, should we exempt them from all of the ethical rules, or these four particular ethical conflict of interest provisions? I think we should not.

I yield the floor.

Mr. KERREY. Mr. President, first of all, let me once again say that we make exceptions in order to accomplish something that we believe is important to accomplish. We accommodate the exception in order to stay within the guidelines of the Office of Government Ethics. We did that for Mr. Rossotti. He would not be the commissioner of the IRS if we took a strict interpretation of the conflict of interest law. We just would not do it. He would be disqualified, as would anybody with any real private sector interest or any real private sector experience.

It is ridiculous, it seems to me, to suggest that we never make exceptions. This is an exceptional case. We make them all the time. We measure it carefully, and we take care to make certain that the other applicable parts of the conflict of interest law are still enforced. That is what we have done here. The Senator from Tennessee is quite right when he says, gee, you are making an exception of this individual. Yes, we are. Why? He is the only employee representative. If there were 7 employee representatives on the board, we would be doing the same thing for everybody. That is what is going on. We have one representative because there are going to be traumatic changes in the IRS as a result of new authorities we are granting the commissioner in title I. Look at the new authorities we are granting.

I draw a parallel to this body. If we were granting some board authority to make reductions around here, we would want to be on that board. We would want to participate in that decision. And somebody would say we have a conflict, but we would figure out a way to deal with that, rest assured, if that were the case. That is what we have done here. We have not exempted this individual. Just look at the statute. We have not exempted this individual from all other conflicts of interest—only the conflict that deals with the fact that he works for the IRS. That is what we are trying to deal with here. If you have some specific ways you want to deal with that so you can get the job done, we can do it. To stand out here and say, gee, we are making an exception, as if that is remarkable, yes, we are and we are trying to deal with an exceptional circumstance, as we did with Mr. Rossotti in the first place.

So, again, I say to colleagues that there is a threshold decision here. Do you want an IRS representative on the board at all? If you do, you have to deal with the concerns OGE has raised. That is what we have done.

Mr. THOMPSON. Mr. President, I refer to the position of the Office of Government Ethics on this. They have considered this matter and wrote to the minority leader. One provision of the bill provides for waivers of applicable conflict of interest laws for one member of that board. I am quoting now:

> We believe that this provision is antithetical to sound Government ethics policy and thus to sound Government. Such across-the-board statutory waivers for someone other than a mere advisor is unprecedented and, we believe, inadvisable.

So the comparisons to Mr. Rossotti, who formerly had a position in the private sector, are inapplicable. As far as this body is concerned, we spent a great deal of time answering to perceived conflict of interest situations. I doubt if we would ever be in a situation of exempting ourselves from any of those considerations here.

So this is a very narrowly tailored provision. I understand the sentiment of having some input, having as broad an input as possible. Hopefully, there would be a way to have that kind of input from the employees on perhaps a less formalbasis. But there is an overriding issue here, Mr. President. I don't think we can willy-nilly say that any time we want to make an exception to the ethics rules because we want to get the thing done. We can say that in almost every situation.

So I must agree with the ethics letter that has been made part of this RECORD, which says it is unprecedented and antithetical to good Government ethics policy and therefore to good Government.

I yield the floor.

Mr. KERREY. Mr. President, I ask unanimous consent that the amendment be temporarily laid aside so we can deal with an amendment to be offered by the Senators from Wisconsin, Mr. KOHL and Mr. FEINGOLD, who have an amendment that both sides have agreed to.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object, briefly. I wanted to clarify something.

The PRESIDING OFFICER. Objection is heard. The Senator from Nebraska is recognized.

Mr. KERREY. Mr. President, I ask unanimous consent that the Senator from New York be able to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. SESSIONS. I object. I would like to have 2 minutes.

The PRESIDING OFFICER. Has the Senator from Nebraska yielded the floor?

The Senator from Alabama——

Mr. D'AMATO. Mr. President, I have never objected to a person going forward for a minute or 2 minutes, but there is a way to try to accomplish this.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, with regard to my raising the question of bribery as being the same in principle as what we are discussing here, I would like to make a statement. Maybe I was misunderstood. I would like to just say that, fundamentally, we are waiving the applicability of sections 203, 205, 207 of the United States Criminal Code. The bribery section is section 201 1.

As a matter of principle, I just wanted to make the point that what we are being asked to do here is to waive the criminal law of the United States with regard to this particular individual, and the Ethics Committee has said it is unprecedented. That means this body has never done this in its entire history. This is a legal mistake. I am not here concerning myself with the individuals who make up the board. I am here because it was called to my attention that this problem existed. I am a former Federal prosecutor and a member of the Ethics Committee of this body, and I believe this is a legal mistake—a legal mistake we should not make. That is why I am making my comments now. I am very sorry to interrupt the Senator from New York, but it was important to clarify the record, I thought.

Mr. BAUCUS. How long will the Senator from New York speak?

Mr. D'AMATO. No longer than 5 minutes.

(By unanimous consent, the remarks of Mr. D'AMATO are printed in today's RECORD under ''Morning Business.'')

Mr. SARBANES. Mr. President, while I support H.R. 2676, the Internal Revenue Service restructuring bill that is now before the Senate, I would like to express my opposition to any amendment that would seek to remove an IRS employee representative from the citizens oversight board established in that legislation.

Mr. President, the idea of having an employee representative on the oversight board is hardly a novel one. In fact, that idea has been incorporated into virtually every IRS reform proposal that has been made in the last couple of years, including:

The recommendation of the bipartisan Commission to Restructure the Internal Revenue Service;

H.R. 2676, the House IRS reform bill that passed that body by a vote of 426–4.

The Senate Finance Committee's version of the IRS bill, which we are now considering; and

The recommendation of the Administration.

That an employee representative has been deemed an essential part of the proposed oversight board in particular—and IRS reform in general—should not be surprising.

The IRS is an enormous agency of over 100,000 employees. The IRS reform bill we are now considering gives the proposed oversight board significant authority to review and approve plans for this agency's operation—its strategic plans, its reorganization plans, its budget requests, and other fundamental operational matters.

Without the cooperation and input of the IRS' employees in this process, how can we possibly expect the Board's responsibilities to be discharged in a manner that will make the oversight board an effective instrument of reform?

Let us not forget that IRS employees have been instrumental in bringing to light much of the information that has caused Congress to undertake the reform efforts before us now.

Let us also recall that IRS employees have expertise in the operation of the agency that is unique and irreplaceable. This expertise is absolutely integral to effecting the kinds of changes that we in Congress—and more important, the American people—want and expect.

Mr. President, the idea of having employee input in the basic management decisions of major enterprises is not a novel one. In fact, the placement of an employee representative on the IRS oversight board mirrors similar steps taken in several private sector businesses. For example:

Northwest Airlines has a union representative on its Board of Directors;

Similarly, the steelworkers union holds a position on the Boards of Directors of several of our nation's biggest steel companies.

Thus, both the private sector and—in this legislation—the public sector have recognized the value of having employee input and participation in the management of major enterprises.

Those who seek to eliminate employee participation on the oversight board charge that a union representative on the board will have conflicting interests that will hinder the board's effectiveness. Mr. President, My colleagues should note that this union representative:

Is subject to nomination by the President and confirmation by the Senate;

Must make full financial disclosure in accordance with current laws, like all other Board members;

Is, unlike other Board members, subject to additional disclosure requirements, including requirements to file financial disclosure information with the Senate Finance and House Ways and Means Committees.

Will receive a waiver of conflict of interest laws along the lines of those granted in over 1000 cases a year, where the public benefit of the individual's participation in government decisionmaking outweighs the potential benefit arising out of that participation.

In short, Mr. President, the union representative will face greater scrutiny than any other member of the Board; such scrutiny will ensure that this representative will discharge his or her duties diligently and responsibly. Moreover, the House and the Senate Finance Committee have determined that the public benefit of having an employee representative on the Board outweighs the potential conflict by having him or her on the Board. I think this determination is indisputably correct, and should not be disturbed by the full Senate.

In closing, let me make a few remarks about federal employees in general.

It has become all to fashionable in recent years for Congress to berate federal employees and to denigrate the many contributions they make to our nation.

Federal employees render invaluable service to this nation. They work hard and are proud of that work. Many of them are highly educated and skilled. In short, they bring a great deal of expertise and dedication to their roles as civil servants.

Such dedication ought to be recognized, applauded, and, most important in this context, utilized to help the government's efforts become more responsive to our constituents. We are now engaged in such an effort. To remove federal employees from the oversight board would be shortsighted and a disservice to the nation. I therefore urge my colleagues to preserve the current composition of the oversight board and to defeat any amendment that would change that composition by removing the employee representative.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, I ask unanimous consent the pending amendment be laid aside.

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

AMENDMENT NO. 2357

(Purpose: To provide for an independent review of the investigation of the equal employment opportunity process of the Internal Revenue Service offices located in the area of Milwaukee and Waukesha, Wisconsin, and for other purposes)

Mr. KERREY. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nebraska (Mr. KERREY), for Mr. KOHL, and Mr. FEINGOLD, proposes an amendment numbered 2357.

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

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

The amendment is as follows:

On page 229, insert between lines 15 and 16 the following new section:

SEC. 1106. REVIEW OF MILWAUKEE AND WAUKESHA INTERNAL REVENUE SERVICE OFFICES.

(a) IN GENERAL.—

(1) REVIEW.—The Commissioner of Internal Revenue shall appoint an independent expert in employment and personnel matters to conduct a review of the investigation conducted by the task force, established by the Internal Revenue Service and initiated in January 1998, of the equal employment opportunity process of the Internal Revenue Service offices located in the area of Milwaukee and Waukesha, Wisconsin.

(2) CONTENT.—The review conducted under paragraph (1) shall include—

(A) a determination of the accuracy and validity of such investigation; and

(B) if determined necessary by the expert, a further investigation of such offices relating to—

(i) the equal employment opportunity process; and

(ii) any alleged discriminatory employment-related actions, including any alleged violations of Federal law.

(b) REPORT.—Not later than July 1, 1999, the independent expert shall report on the review conducted under subsection (a) (and any recommendations for action) to Congress and the Commissioner of Internal Revenue.

Mr. KERREY. Mr. President, this amendment has been cleared on both sides. We believe it is a good amendment.

I urge its adoption.

The PRESIDING OFFICER. Is there further debate? If there is no objection, the amendment is agreed to.

The amendment (No. 2357) was agreed to.

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

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

IN THIS TIME OF HOT AIR TOBACCO FARMERS SHOULD KEEP COOL

Mr. HELMS. Mr. President, it's fair to say that the so-called tobacco ''debate''—and I characterize most of the rhetorical chatter as ''so-called'' because it (1) has amounted to little more than posturing, and (2) has created enormous uncertainty and unease for the thousands of fine Americans who earn their living in the tobacco industry.

The public health community (and its ''Amen corner'' in Congress) would delight in putting the tobacco companies out of business rather than seriously and honestly addressing the issues facing the hundreds of communities in North Carolina and other states that are economically dependant on the tobacco industry. Mr. President, it's unfortunate that this issue has become so politicized that usually rational members of Congress have been totally irrational in their exaggeration of the entire situation.

Moreover, Mr. President, it is not anywhere in recorded history that anyone ever began smoking because a gun had been leveled at his or her head with orders to smoke, or else. There is no Senator who doesn't support efforts to curtail youth smoking, and not one parent has come forward asserting that Joe Camel and the Marlboro Man have more control over their children than they do.

But all the pious, exaggerated political nonsense aside, farmers must continue to grow their legal crop in order to provide for the livelihood of their families.

Sometime back, I promised the farm leaders of North Carolina that I would meet with the chief executives of all tobacco companies to encourage them to buy the maximum amount of U.S. tobacco possible in 1998. I have kept that commitment. I have indeed met with the leaders of all companies, one by one. Their concern for tobacco farmers, and for all other citizens who earn their livings ''in tobacco'', was immediate, impressive and sincere.

There is no doubt in my mind, as a result of these meetings, that leaders of the tobacco companies do indeed intend to purchase as much U.S. tobacco as possible this marketing season.

In fact, some CEOs assured me that they plan to purchase more U.S. tobacco this marketing season than they purchased in 1997. One company leader emphasized his company's plans to increase its purchases of U.S. leaf every year through 2002.

The tobacco companies understand the need to purchase at least this year's effective quota in order to prevent another substantial decrease in quota next year. There will be a lot of personal bankruptcies in North Carolina if our farmers are faced with another 10 to 17 percent reduction in quota. But I am confident—and I do expect—that the tobacco companies will honor their commitment to me and the tobacco farmers of this country to purchase U.S. tobacco this marketing season.

Mr. President, everyone in the tobacco community—particularly the tobacco companies—realizes that the tobacco farmers should have been included in the so-called ''National Tobacco Settlement'' in the first place.

Tobacco farmers and manufacturers are at a crossroads that may very well define their destiny. They can either choose to work in good faith, or they can choose not to. If they choose to harbor ill-will and mistrust, the destruction rampant in this industry will be far greater than anything Congress could ever levy by politics or legislation.

Mr. President, during these obviously difficult times in tobacco country, squadrons of politicians in Washington and elsewhere are eager for headlines back home at the expense of the farmers. No one knows what will happen with the McCain bill, nor with any other tobacco legislation that may come forward. But I can promise you this: there will continue to be a number of special interest groups that will try to exploit the fears of the tobacco farmer for their own gain.

I can counsel our folks back home to avoid being disillusioned. If we work together and in good faith, the tobacco farmers of America will continue to have a future, no matter the threats and pleadings from the political chorus—which is becoming a little more discordant with every passing day.

Mr. President, I thank the Chair.

Mr. KERREY. Mr. President, I want to say to the Senator from North Carolina, independent of the subject matter to which he just spoke, that I see him and the way he lives, and he is one tough bird. I admire his courage and I admire the way he keeps after it.

I just wish him the best of health.

Mr. HELMS. I thank the Senator.

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

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

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

The Senate continued with the consideration of the bill.

AMENDMENT NO. 2343

Mr. ASHCROFT. Mr. President, I thank Senator ROTH and Senator MOYNIHAN for having accepted the Leahy-Ashcroft amendment which will provide electronic access to the IRS information on the Internet. This amendment will require the IRS to maintain its web site with current forms, instructions and publications so people anywhere with access to the Internet can have access to those forms.

To allow the public to have easy, efficient electronic access to all the IRS information that may be needed to adequately prepare a tax filing is a real benefit to the people, and I thank Senator ROTH and Senator MOYNIHAN for accepting the Leahy-Ashcroft amendment which will provide electronic access to the IRS information on the Internet. And I thank Senator LEAHY for his involvement in that measure.

Mr. President, I am pleased that the bipartisan amendment introduced by Senator LEAHY and me has been adopted into the current legislation. This amendment will give individuals the ability to access a great deal of material from the IRS. Revenue rulings,

treasury regulations, internal revenue bulletins, and IRS general counsel memorandum are just a few of the documents that will routinely be made available in an easy to use format. This information should provide for an easier and more understandable approach to tax planning and preparation. Individuals will be able to see rulings that may be similar to a situation they are in currently and plan accordingly.

A central idea that I have carried from the time I was elected as a U.S. Senator was that the federal government be open and accessible to the public. I spent time traveling around Missouri, and visited every county, to demonstrate to students how they could access information about the federal government through my website. To rural and urban areas the power of the Internet is tremendous—so much that was far from reach is now accessible. This amendment moves IRS information closer to the public in an orderly educational way.

As has been mentioned here, the tax code has become increasingly complex and onerous. My wife is a tax attorney, she even teaches tax law at Howard University, and we do not even prepare our own tax forms. My hope is that this modest effort will provide the public with timely, reliable information that may assist in their efforts to prepare their taxes.

The effort is clearly a first step, that along with the rest of the provisions of this piece of legislation should provide the taxpayer with much more protection than they currently enjoy. Again, I thank the Finance Committee for its work, and Senator LEAHY for his advocacy on this issue.

Mr. President, I ask that the pending amendment be set aside and that I be allowed to send an amendment to the desk for consideration.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

AMENDMENT NO. 2348

(Purpose: Striking the presumption that electronic verifications are treated as actually submitted and subscribed by a person)

Mr. ASHCROFT. I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Missouri [Mr. ASHCROFT], for himself and Mr. LEAHY, proposes an amendment numbered 2348.

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

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

The amendment is as follows:

On page 261, strike lines 4 through 7, and insert ''and subscribed''.

Mr. ASHCROFT. Mr. President, the amendment which I have just sent to the desk, known as the Ashcroft-Leahy amendment, would strike a one-sentence provision that holds taxpayers as guilty until proven innocent. The IRS would deem a minimum level of security of a personal identification number code assigned each taxpayer for purposes of electronic filing as actually more binding than an analog signature.

Let me just sort of put that in ordinary language. Ordinarily, it is the responsibility of the IRS in seeking to act upon a tax return to prove that the signature is actually the signature of the person who purportedly signed it. For those individuals signing electronically, this provision would be reversed so that a person who signs electronically would be discriminated against as compared to an individual who signs in analog form.

That is a problem, but it is really not nearly the problem that comes when you just open the door to the legal nightmare for taxpayers who might be victims of electronic identity theft, where their identity is stolen electronically, whose pin codes or real electronic signature is fraudulently used. And secondly, not only does it subject people to that kind of risk, but it makes very bad technology policy. As we begin to welcome the use of technology to alleviate the kind of burden that is both on taxpayers and on the individuals in the bureaucracy, it is time for us to welcome the kind of technology which would provide valid authentication but not to switch to individuals who provide their tax returns via the Internet or via electronic filing a kind of discrimination which would be a disincentive for them to use the program.

The IRS is wedded to technology that is decades old. The kind of things they are talking about, the PIN code system would only make matters worse. A PIN code that anyone can type is not a secure means of authenticating documents. As we proceed into the future of electronic signatures with the use of a wide variety of technologies that will provide for authentication, it is important that we not, in the law, place this prejudice against the use of technology.

Currently, the Internal Revenue Service plans to implement electronic filing by means of a taxpayer PIN code that would actually be more authoritative than a written signature, so the person filing with a written signature would not undertake some of the responsibilities and liabilities people do with the electronic filing. That disparity in the way people are treated is not reasonable, it is not appropriate, and it is counterproductive. The IRS should use the best technology available for protection of such sensitive information and help to ensure the future of electronic commerce.

So we offer this Ashcroft-Leahy amendment which simply would strike the one-sentence provision that reverses, in terms of signatures on the Internet, the normal burdens of proof and the normal responsibility of the person proving up the document to prove the authenticity of the signature. To change in this respect for those who file electronically would be to repudiate hundreds of years of legal tradition, in terms of those seeking to prove up documents, that they prove the signature when they prove up the document.

Madam President, the Finance Committee version of this bill would establish a presumption against taxpayers filing electronically signed tax returns which does not exist for paper returns and which could have devastating consequences. Unless the Senate strikes this presumption, and opposes a similar provision in the House-passed version of this legislation, we will be leaving open the very real possibility that taxpayers who have been the victims of electronic identity theft will find themselves presumed guilty. Do we really want the innocent victim of a malicious computer hacker, forging spouse, a conniving business partner, or an embezzling accountant, to be confronted with a potentially insurmountable evidentiary hurdle when they assert that they either did not sign a tax document, or that the document has been materially altered since they signed it? What is worse is that this provision only places this burden on those who file electronically—another bias against technology.

Electronic tax filing is clearly the wave of the future and is the best method for both the IRS and taxpayers. For tax year 1997 24.2 million returns—one in five—were filed electronically, up from 19 million in the preceding year. Electronic filing is more efficient and accurate for all parties, but taxpayers should not be asked to give up rights in order to use this better technology. Certainly we did not ask for a greater burden to be placed on taxpayers who use a typewriter instead of a pen to prepare their taxes.

This language in the IRS bill is the first federal statutory language dealing with the authentication of electronic interaction between citizens and the Federal government. It is very important that we set the right precedent. But this presumption is completely at odds with the view of legal experts on electronic commerce and evidence and would set precisely the wrong precedent. If this presumption becomes law inevitable ''horror stories'' will result. For many Americans, electronic authentication of their tax returns will be their first experience with an all-electronic transaction. We must be careful that we do not permit situations to occur which will cause the public to feel that electronic commerce and transactions should be avoided if they want to preserve their rights.

This presumption is antithetical to the jurisprudence developing in the area of cyberlaw. There are several measures being considered in Congress dealing with broad issues of electronic signatures, and none of them proposes to set such an adverse evidentiary standard against those who employ electronic authentication. The drafting committee of the National Conference

of Commissioners on Uniform State Laws, which is laboring to produce a model Electronic Authentication Act for consideration by state legislatures, has just voted to delete any presumptions pertaining to electronic signatures from that civil law measure. The Committee on Cyberspace Law of the American Bar Association's Business Law Section discussed this IRS presumption at their last meeting and voted to authorize communications to the Senate opposing the provision. Additionally, the Working Groups on Evidence and on Law and Regulation of the Information Security Committee of the ABA's Science and Technology Section recommended that no presumptions as to identity and intent should attach to an electronic signature.

With many of the experts in this developing legal area reaching consensus that presumptions should not operate against electronic signatories even in a civil law context, how can we justify establishing one which can be utilized against taxpayers in criminal prosecutions?

Let's be clear on what this legislation does in its present form. It authorizes the IRS to develop procedures for the acceptance of signatures in digital and electronic form so that electronically filing taxpayers no longer have to send a signed paper form 8453 to the IRS. That is good policy. It establishes the principle that an electronically signed tax document shall be treated for all civil and criminal purposes as a paper document. And that too is good policy. But it permits the IRS to provide for alternative means of subscribing to electronic documents until it adopts procedures for digital and electronic signatures. And it would allow any IRS-authorized method of subscription to create a presumption that the taxpayer actually submitted and subscribed to the tax document—a presumption in both civil and criminal cases.

Worse yet, the legislative history of this provision, in both the House and Senate bills, is silent as to the minimum standards for authentication technologies that can be adopted by the IRS as well as to the evidentiary burden which must be overcome by taxpayers who allege that they have been victims of identity theft. What, in fact, is the IRS planning to use for authentication of electronic tax documents? Their plans are public, and they consist of issuing a PIN number to taxpayers and relying on that as the primary means of electronic authentication through the year 2007. A PIN number is not generally recognized as an electronic or digital signature for electronic commerce purposes, and it is certainly not secure or reliable.

The Finance Committee recently held hearings on the plight of innocent spouses, many of whom were caught up in tax disputes when their spouse forged their name on a fraudulent tax return. This provision would make it easier for such a fraud to be perpetrated in the future, as the malicious spouse would simply have to type their marriage partner's PIN number on an electronic return rather than forge their signature on paper. And the victimized spouse would be worse off, because they would have to overcome an evidentiary presumption which does not exist for an ink signature. This presumption is dangerous.

We have not only failed to require that the IRS utilize only secure and reliable authentication methodologies, but we have also given it carte blanche to determine what burden a taxpayer must bear to overcome this evidentiary hurdle. This is completely at odds with other provisions of the bill which seek to alter the burden of proof in tax disputes in favor of taxpayers. It has been observed that proving a negative can be an impossible task. Yet this provision would let the IRS require taxpayers to somehow prove that they did not place their PIN number, not a digital signature, on a tax document which they may well have never seen.

Striking this presumption will in no way diminish the ability of the IRS to rapidly implement an all-electronic tax system. It will simply compel the IRS to choose secure and reliable authentication technologies and associated procedures for signing tax documents which create strong evidence of identify and intent. Electronic signatures do not require any assist from an evidentiary presumption to meet the legal requirements of a binding signature. To the contrary, electronic and digital signature technologies are already available which provide better evidence than an ink signature on paper. Further, these technologies not only provide superior authentication, but they also accomplish something that no pen on ink signature can—they provide irrefutable evidence as to non-repudiation by demonstrating that not a single word on a document has been altered, added, or deleted since the time it was signed. With such technologies readily available at reasonable cost, why should we permit the use of insecure and unreliable methodologies coupled to an anti-taxpayer presumption? After striking this presumption an electronic tax document will still have the same legal standing as a paper document. It will still constitute prima facie evidence as an authentic and reliable writing. But, if questions arise regarding the genuineness of an electronic signature, or under the current IRS plan a mere PIN number, and the intent with which it was attached, they will be resolved on the basis of the available evidence and will not be prejudged by a presumption against a taxpayer.

This amendment is already supported by several groups, including the Electronic Frontier Foundation, Americans for Tax Reform, Eagle Forum, Citizen's For A Sound Economy, National Taxpayer's Union, the Chamber of Commerce, the Association of Concerned Taxpayers, Black America's PAC, Citizens Against Higher Taxes, Regulatory Policy Center, and the Seniors Coalition. These are groups that have had the vision to look to the future of electronic commerce and electronic interaction with our government and have seen that bad precedent now will severely damage efforts in the future. I also want to thank Senator LEAHY and his staff for their quick response and solid work on this important provision.

This may seem like an esoteric issue. It is an evidentiary concern within a tax bill regarding procedures and technologies with which most of us are not yet very familiar. But a massive shift to electronic commerce, transactions, authentication and evidence is underway which will soon revolutionize the manner in which the public and private sectors conduct their business. That is why it is so important that we take the correct first steps. I urge my colleagues to join me and act to delete this dangerous presumption from the IRS bill. This legislation will only fulfill our goal of enhancing taxpayer rights if we adopt the principle that those rights should be identical regardless of whether taxpayers file physical or virtual documents.

I want to especially thank the Senator from Vermont, Senator LEAHY, for his involvement in these issues and his sensitivity to the need to have a forward-looking, future-oriented policy expressed towards electronics, electronic data transmission, the filing electronically of tax returns. I personally thank Senator BURNS of Montana, who has asked that he be added as an original cosponsor of the Ashcroft-Leahy amendment.

I ask unanimous consent that Senator BURNS be included as an original cosponsor of the amendment.

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

Mr. ASHCROFT. I yield the floor.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Madam President, I strongly support the amendment offered by my friend from Missouri and commend the Senator from Missouri for what he has just said.

I am proud to cosponsor this effort. It strikes the one sentence in this IRS reform bill that I believe takes away the rights of a taxpayer. I know that is not the intent of the sponsors of this legislation. They have done a very good job trying to reform the IRS. I think we can correct this error.

The bill as currently written would create a rebuttable presumption by the Internal Revenue Service that any tax return which has been signed by electronic or digital means has actually been submitted by the person associated with the virtual signature. That is a rebuttable assumption that is unnecessary. It is adverse to the taxpayers' interests. But worse, it is likely to deter taxpayers from accepting all-electronic tax filing.

More and more things are being done online, more and more things are being

done electronically, and more and more taxpayers are getting used to doing a lot of their commercial transactions electronically. And they should be able to do the same with the one thing that every one of us has to do at least once a year, and that is file a tax return. We may or may not order from an electronic catalog, we may or may not buy things over the Internet, but sometime during the year we have to pay our taxes. If we are used to using things electronically, we should be able to file our tax return electronically.

But unless the sentence we are talking about is removed from this bill, a taxpayer filing an all-electronic tax document will face a greater evidentiary burden in any subsequent dispute with the IRS than a taxpayer who signed a paper return with pen and ink. An electronic signature should have no less and no greater status in the tax context than a physical signature.

The presumption would provide unintended assistance to perpetrators of tax frauds, forgeries, and electronic identity thefts such as the ''innocent spouse'' cases recently reviewed by the Finance Committee. It could even reverse the presumption of innocence and due process of taxpayers in criminal prosecutions by the IRS. None of us want to do that.

We have laws regarding authentication of electronic and digital signatures, but they are in their infancy. Several States, including my home State of Vermont, are crafting legislation to promote secure and reliable digital signatures. Senator ASHCROFT and I, by working together to craft bipartisan Federal legislation on digital signatures, are trying to do precisely that. Congress should not be giving the Internal Revenue Service unrestricted authority in this emerging area of cyberspace law.

If you adopt the Ashcroft-Leahy amendment, then, if you have an electronically authenticated tax document, it will still be treated under the bill, for all civil and criminal purposes, the same as a paper return. That principle of equality is the correct standard. Citizens should not be required to forfeit rights to use new technology.

If somebody is used to using the Internet, if they are used to using their computers in electronic commerce, they should not suddenly have a roadblock go up to say, ''But not on your tax returns. You have to go the old-fashioned way.'' If people are going into the computer and digital age, they ought to be able to do that for their tax returns, too.

I commend what Senator ROTH, the distinguished chairman of the Finance Committee, and Senator KERREY and Senator MOYNIHAN and Senator GRASSLEY have done here to bring us into the electronic age and to bring us to a more modern system with the IRS. What the Senator from Missouri, Mr. ASHCROFT, and I are trying to do is to make sure we go even further into the modern age. Our amendment is supported by such diverse groups as the U.S. Chamber of Commerce, the Electronic Frontier Foundation, and Americans for Tax Reform.

So I hope my colleagues will support the Ashcroft-Leahy-Burns amendment.

Madam President, I yield the floor.

Mr. BURNS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BURNS. Madam President, I congratulate my colleagues, Senator ASHCROFT and Senator LEAHY. Senator LEAHY and I have been on many issues with regard to the Internet. I think Senator LEAHY, whenever we talk about this issue, what we want to do with it, also understands another issue called encryption and how important security is. We have been around to see this thing grow and blossom. They go hand in hand, basically, as we use this technology more.

My friend from Missouri being very interested in this, as chairman of the Subcommittee on Communications, we will continue to work on these kind of issues. This should be an easy amendment for this body to support—in fact, for this Congress to support. If you want to continue to use the same burdensome and bureaucratic methods that we have used in the past, then don't support this amendment. Don't support this amendment if you like the status quo. If we, as a voice of our constituents, are truly interested in IRS reform for taxpayers, then we need to support it. More and more Americans are becoming Internet savvy, and the day is not far off when most of the business and personal transactions will take place on the Internet. We are already banking; we are handling financial transactions on the Internet. So why should this not be one that we can use, at least once a year?

The Internet is just not for surfing anymore. If you want to surf, I guess you can go to California. But in Montana and rural areas, our connection to these kinds of services is going to come through that medium.

We need electronic commerce. It is going to be the future of the new way, and we have to accept that and learn to use it.

Adopting this amendment will encourage the American taxpayer that we are interested in reforming the way the IRS does business. There is no reason to treat electronic tax filers any different than taxpayers using the traditional filing methods.

The deployment of electronic commerce will ultimately save American taxpayers not only time, but it will save them money. Such discriminating treatment makes no sense and has a far-reaching negative impact in delaying the benefits to both the U.S. Government and citizens in conducting business electronically.

The amendment at issue is a perfect example of that. What possible justification is there in placing the presumption upon the taxpayer improving a case simply because he chose to file his tax return electronically instead of putting it in an envelope? It is just unproductive.

If we are not supposed to look to the future, then what are we supposed to be doing around here? Are we not supposed to make our Federal Government friendlier and more accessible to the taxpayer? I would say yes, we are. Are we not supposed to have a visionary agenda regarding the IRS? I say we should.

We in Congress should strive for a consistent treatment for functionally equivalent transactions, and I believe this will be one of our most significant challenges as we move into the next century.

More and more businesses, and communications generally, will be transacted over the Internet. That is why I am a cosponsor of this amendment. It will level the playing field for all taxpayers, regardless of the method they choose in filing their taxes.

The Internet offers unlimited opportunity to both business and personal transactions. We need to foster those opportunities. We need to make it easier for taxpayers to file their taxes.

Our antiquated understanding of how transactions have to be treated historically is not the way we can do things in the future. This is why I am an advocate of a variety of different measures that would foster and encourage commerce and communication over the Internet, including the Internet Tax Freedom Act. And the use of encryption comes into this also, because the technology itself will never bloom until we can have some confidence in the security of the information that we send over the Internet. We have to work on that just as much. The continuing buildout of broadband infrastructure is very important. We will continue to develop that to make sure that it is accessible to every American and not just a chosen few, regardless of geographic location.

Madam President, I ask support of this amendment because I think it is very important if we are really serious about changing the way the IRS does business.

I thank the Chair. I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Madam President, in spite of what the Senator from Montana just said, I continue to support his amendment. There is no rebuttable presumption on my part. I believe it is a good amendment, and I am prepared to accept it.

I want to comment before the distinguished chairman of the committee rises to accept the amendment. I call to your attention that this title I consider to be one of the most important ones in the bill. I appreciate this may be the only amendment on this title. Congressman Portman and I put a lot of time and attention into it. I call to your attention that it starts off by saying:

It is the policy of the Congress that—

(1) paperless filing should be the preferred and most convenient means of filing tax and information returns, and

(2) it should be the goal of the Internal Revenue Service to have at least 80 percent of all such returns filed electronically by the year 2007.

The House actually mandates 80 percent. This just says the goal. Later, I will try to get an amendment, and I urge you to look at it—I will get you copies of it—which will add a third item which would say ''the Internal Revenue Service should work cooperatively and not competitively with the private sector to increase electronic filing of such returns consistent with the Office of Management and Budget Circular A–76.''

If this is going to develop correctly, I believe the IRS has to manage the competition with the private sector. We have to write the rules so the private sector can be called upon to answer the questions of how to use the technology correctly. I hope we can get an amendment adopted which will instruct the IRS not to compete but to work cooperatively with the private sector to get this done.

Mr. ROTH. Madam President, as my distinguished colleague indicated, this matter has been cleared with both sides. The amendment is acceptable.

The PRESIDING OFFICER. If there is no objection, the amendment is agreed to.

The amendment (No. 2348) was agreed to.

UNANIMOUS CONSENT AGREEMENT

Mr. ROTH. Madam President, I ask unanimous consent that notwithstanding the previous consent agreement, the following amendments also be considered in order to H.R. 2676, the IRS reform bill, with all other provisions of the previous agreement still in effect: Grassley, refund offset; Grassley, Iowa pilot project; Grassley, taxpayer advocate council; Nickles, relevant. I ask unanimous consent for these additions.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. ROTH. Mr. President, I ask unanimous consent that at 9:30 a.m. on Thursday, the Senate resume consideration of the Thompson amendment No. 2356, and that the time until 10 o'clock a.m. be equally divided in the usual form. I further ask unanimous consent that at 10 o'clock a.m., the Senate proceed to a vote on, or in relation to, the Thompson amendment, and that no amendments be in order to the Thompson amendment prior to its disposition.

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

Mr. KERREY. Madam President, the distinguished chairman of the Finance Committee, Senator ROTH, and I will try to manage this bill so we can get it done tomorrow. There are what, 15 amendments approximately now on both sides. In order to get it done, Members who have amendments, I hope after we have our vote tomorrow morning, will stay on the floor and offer them so we can finish this bill. If we don't, it is likely there will be an extremely late session tomorrow night. Most of the controversial items on this piece of legislation really have been dealt with. We have the Treasury employees representative amendment to be dealt with tomorrow. We have the Treasury Secretary to be dealt with tomorrow. Most of the controversial stuff has already been resolved. I hope Members who have amendments will come down here with them as quickly as possible so we can finish this important piece of legislation tomorrow.

Mr. ROTH. I want to underscore what the distinguished Senator just said. It is important that we complete consideration of this legislation tomorrow. But in order to do so, it is of critical importance that those with amendments come down early so that we can dispose of them expeditiously.

MORNING BUSINESS

Mr. ROTH. Madam President, I ask unanimous consent there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

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

NATIONAL EATING DISORDER AWARENESS DAY

Mr. REID. Mr. President, I want to extend my appreciation to every Member of this Senate for unanimously passing a resolution that dedicates today to be National Eating Disorder Awareness Day.

The purpose is to raise awareness and educate others so that we can end the silence that has shrouded eating disorders for so long. The reason this is important is, this affects 8 million people. Eight million people in this country have eating disorders; the vast majority of them are women.

A recent study of a group of fourth graders reveals that 50 percent of these little students believed they were overweight. Eighty-one percent of the girls in the same group reported that they had already been on diets. These are 9-year-old kids.

Today, younger and younger children are adopting restrictive eating procedures and patterns. What begins as abnormal behavior toward food and weight control may develop into anorexia, bulimia, and other forms of disordered eating.

As with any illness, I believe it is wise to invest in resources and programs working toward prevention. By heightening awareness and increasing education, we can save many young children before they become trapped in a life-threatening cycle of an eating disorder.

I extend my appreciation to the entire Senate for allowing this resolution to pass. It sends a message to the country that we care about the 8 million people who have eating disorders.

URGING PRESIDENT CLINTON TO RETRACT ULTIMATUM TO ISRAEL

Mr. D'AMATO. Mr. President, the reason I rise at this time is because certain matters have come to my attention and they are disturbing. Today, I have sent a letter to the President of the United States in regard to this.

Mr. President, Israel is our closest ally, it is our most trusted friend among the nations of the Middle East. We have a long history of working together and supporting one another for the benefit of both nations and all of our people.

Now as we celebrate the 50th anniversary of Israel's independence, we should reaffirm our commitment to their peace and security and our support for their continuation as a strong, reliable, independent nation.

I am proud of what Israel has accomplished over 50 years. I am proud of their commitment to freedom and justice. Israel should be praised for what it has accomplished and for doing so over a very long period of time in which it has faced terrorism from within and without its own borders.

Israel has always fought its own battles. Its young have shed much blood to protect their freedom and they continue to this day to defend their right to exist. And their very right to exist is being threatened. Nations hostile to Israel throughout the region are a continuing threat to Israel's existence. And the Palestinian Authority to this day has yet to recognize Israel's legitimate right to exist.

It is wrong for the Clinton administration to pressure Israel to forgo its own security needs at this critical time. It is just wrong. It is counterproductive. It is dangerous to a legitimate peace effort. The brave Israeli citizens who stand ready to defend their nation should be supported by us in every fashion. To place an ultimatum on Israel at this time undermines the peace process and it denies a good friend the right to determine its own security needs. It is not just bad policy; it is wrong.

I urge President Clinton in the strongest terms to retract his ultimatum to Israel and to return America to our proper role as a friendly mediator in the search for peace and security for all nations in the Middle East.

Mr. President, I yield the floor.

U.S. FOREIGN OIL CONSUMPTION FOR WEEK ENDING APRIL 24TH

Mr. HELMS. Mr. President, the American Petroleum Institute's report for the week ending April 24, that the U.S. imported 8,287,000 barrels of oil each day, an increase of 304,000 barrels over the 7,983,000 imported each day during the same week a year ago.

Americans relied on foreign oil for 56.3 percent of their needs last week. There are no signs that the upward spiral will abate. Before the Persian Gulf War, the United States obtained approximately 45 percent of its oil supply

from foreign countries. During the Arab oil embargo in the 1970s, foreign oil accounted for only 35 percent of America's oil supply.

Politicians had better give consideration to the economic calamity sure to occur in America if and when foreign producers shut off our supply—or double the already enormous cost of imported oil flowing into the U.S.—now 8,287,000 barrels a day.

THE VERY BAD DEBT BOXSCORE

Mr. HELMS. Mr. President, at the close of business yesterday, Tuesday, May 5, 1998, the federal debt stood at $5,486,129,027,438.95 (Five trillion, four hundred eighty-six billion, one hundred twenty-nine million, twenty-seven thousand, four hundred thirty-eight dollars and ninety-five cents).

One year ago, May 5, 1997, the federal debt stood at $5,332,472,000,000 (Five trillion, three hundred thirty-two billion, four hundred seventy-two million).

Five years ago, May 5, 1993, the federal debt stood at $4,243,813,000,000 (Four trillion, two hundred forty-three billion, eight hundred thirteen million).

Ten years ago, May 5, 1988, the federal debt stood at $2,516,506,000,000 (Two trillion, five hundred sixteen billion, five hundred six million).

Fifteen years ago, May 5, 1983, the federal debt stood at $1,255,471,000,000 (One trillion, two hundred fifty-five billion, four hundred seventy-one million) which reflects a debt increase of more than $4 trillion—$4,230,658,027,438.95 (Four trillion, two hundred thirty billion, six hundred fifty-eight million, twenty-seven thousand, four hundred thirty-eight dollars and ninety-five cents) during the past 15 years.

''YOUTH HEALTH ISSUES''

Mr. LEAHY. Mr. President, I rise today to recognize a commendable group of Vermont teens. Oftentimes, society shortchanges teenagers by placing unfair stereotypes upon them and by not listening to what they have to say. The eighth grade students of Barton Academy have written an article to prove that they, as teens, are vital members of their community and of society as a whole. I was particularly impressed with not only the message but with the eloquence of this article. I ask unanimous consent that the article be printed in the CONGRESSIONAL RECORD so that all Senators may read the words of these fine teenagers.

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

[From the 1997 Vermont Kids Count]

YOUTH HEALTH ISSUES

The following article, written by a class of Barton eighth graders, introduces this section on youth health issues. It provides the much-needed perspectives of teenagers, drawing attention to not only their daily lives but to the heart of many teen issues—the adult society in which they live and grow.

TEENS DEFEND THEMSELVES AGAINST STEREOTYPES

We present ourselves not as problems to society, but as we really are, 32 teens looking at themselves and society. Not statistics, but the real thing, us. We would like to present what we do that we are proud of, feel we have accomplished, and what we have given to others. We come from all social and economic backgrounds and come together each day in our town school. We have our ups and downs with each other, but get along more often than we do not. Life is not perfect, but neither is yours.

If you knew us, lived with us, celebrated and grieved with us there would be no need for this response. However, it is our experience that most adults simply ignore, disregard or fear teens. How many adults can you see in any given line at a movie even nod recognition of a teen's humanity, much less start a short conversation? We want to start that conversation.

Hey Mister, did you know that some of us do barn chores before we even go to school every morning. We do evening chores, too. In between, we go to school, make honor roll on occasion, play sports, participate in band and chorus and ride the roller coaster of adolescence.

Some of us have part-time jobs to earn the money we want for things. We shovel snow, mow lawns, baby-sit and clean houses for less than minimum wage. We've saved our money for a few years to get what we wanted. We also earn money to buy some of our own clothing, sports equipment and entertainment. Some of us even earn money to contribute to family necessities. Imagine that.

We have a sense of community. Who do you see picking up the trash along our roads and fields during Green Up Day? Who is collecting bottles for a class trip? Who are the crossing guards so younger children won't get hit by cars? Whose clothes have thoughtfully been gone through and chosen with care to give to clothing centers, or victims of fires? We have given our clothes, our bicycles, games, money and music to others in need just because we were asked.

We, the 32 teens of the eighth grade of Barton, have volunteered to carry elders' grocery bags just because we saw them struggling. We also volunteer to shovel out our grandparents' dooryards, and even accept the money they insist we take because we know it makes them feel good, too. We march and play our musical instruments in Memorial Day and Veterans Day parades in honor of those who served. Sometimes we go to local nursing homes and play our instruments or sing. Sometimes we go just to share and talk.

Most of us have family responsibilities that we honor. We split wood and stack it; and move it from one place to another. We trudge through snow and mud to gather sap and help sugar. We do the laundry for the family, set the table, cook some meals, and clean up afterward and empty the trash. We grumble, but we do the chores. We watch our younger brothers and sisters. For the most part, we think we are pretty helpful. Some of us were even responsible for bringing the possibility of recycling into our homes.

Did you know that teens in our community volunteer to tutor younger children? Some of the teens at Lake Region Union High School coach our junior hoop program and referee our games. Most of us would gladly lend a hand if we were asked.

Society says that our job is school. Mandatory. We do that, too. We go, learn, try to learn, and try to learn again. Sometimes we give up but not too often. The dropout rate at Lake Region union High School is less than 2 percent, according to Lake Region Annual Report, Jan. 15, 1997. We might not be in the top 10 percent of the world's smartest kids, but do we really need to be? Society is a problem to us sometimes, too. If you want to separate society into parts, we, as teens and citizens, are not responsible for the pollution of the world, the genocide in most corners, poverty, houseless people, pornography, gridlock and the corruption of our national leaders. Drugs are everywhere. Do we manufacture them or smuggle them into the country? Society has taught us from the first time we viewed a sporting event that beer is where it's at. How are we to sort out the mixed messages we are bombarded with? We listen weekly to the adults in the news who compare us unfavorably with the test scores of other countries. We do not make the movies rated PG–13 that include more profanity than we would ever think of using. Where are the everyday role models that you would like us to emulate?

Our advice—get to know a teen up front and personal. We don't like the word scapegoat for anyone. It makes it too easy to cast the first stone.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT CONCERNING THE PROPOSED AGREEMENT FOR COOPERATION BETWEEN THE UNITED STATES OF AMERICA AND UKRAINE CONCERNING PEACEFUL USES OF NUCLEAR ENERGY—MESSAGE FROM THE PRESIDENT—PM 122

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

I am pleased to transmit to the Congress, pursuant to sections 123b. and 123d. of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2153 (b), (d)), the text of a proposed Agreement for Cooperation Between the United States of America and Ukraine Concerning Peaceful Uses of Nuclear Energy, with accompanying annex and agreed minute. I am also pleased to transmit my written approval, authorization, and determination concerning the agreement, and the memorandum of the Director of the United States Arms

Control and Disarmament Agency with the Nuclear Proliferation Assessment Statement concerning the agreement. The joint memorandum submitted to me by the Secretary of State and the Secretary of Energy, which includes a summary of the provisions of the agreement and various other attachments, including agency views, is also enclosed.

The proposed agreement with Ukraine has been negotiated in accordance with the Atomic Energy Act of 1954, as amended by the Nuclear Non-Proliferation Act of 1978 and as otherwise amended. In my judgment, the proposed agreement meets all statutory requirements and will advance the nonproliferation and other foreign policy interests of the United States. The agreement provides a comprehensive framework for peaceful nuclear cooperation between the United States and Ukraine under appropriate conditions and controls reflecting our common commitment to nuclear nonproliferation goals.

The proposed new agreement with Ukraine permits the transfer of technology, material, equipment (including reactors), and components for nuclear research, and nuclear power production. It provides for U.S. consent rights to retransfers, enrichment, and reprocessing as required by U.S. law. It does not permit transfers of any sensitive nuclear technology, restricted data, or sensitive nuclear facilities or major critical components of such facilities. In the event of termination, key conditions and controls continue with respect to material and equipment subject to the agreement.

Ukraine is a nonnuclear weapon state party to the Treaty on the Nonproliferation of Nuclear Weapons (NPT). Following the dissolution of the Soviet Union, Ukraine agreed to the removal of all nuclear weapons from its territory. It has a full-scope safeguards agreement in force with the International Atomic Energy Agency (IAEA) to implement its safeguards obligations under the NPT. Ukraine was accepted as a member of the Nuclear Suppliers Group in April 1996, and as a member of the NPT Exporters Committee (Zangger Committee) in May 1997.

I have considered the views and recommendations of the interested agencies in reviewing the proposed agreement and have determined that its performance will promote, and will not constitute an unreasonable risk to, the common defense and security. Accordingly, I have approved the agreement and authorized its execution and urge that the Congress give it favorable consideration.

Because this agreement meets all applicable requirements of the Atomic Energy Act, as amended, for agreements for peaceful nuclear cooperation, I am transmitting it to the Congress without exempting it from any requirement contained in section 123a. of that Act. This transmission shall constitute a submittal for purposes of both sections 123b. and 123d. of the Atomic Energy Act. My Administration is prepared to begin immediately the consultations with the Senate Foreign Relations and House International Relations Committees as provided in section 123b. Upon completion of the 30-day continuous session period provided for in section 123b., the 60-day continuous session provided for in section 123d. shall commence.

WILLIAM J. CLINTON.

THE WHITE HOUSE, *May 6, 1998*.

MESSAGES FROM THE HOUSE

At 3:55 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker appoints the following Members as additional conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.S. 2400) entitled ''An Act to authorize funds for Federal-aid highways, highway safety programs, and transit programs, and for other purposes'': As additional conferees from the Committee on Ways and Means, solely for consideration of title XI of the House bill and title VI of the Senate amendment and modifications committed to conference: Mr. NUSSLE, Mr. HULSHOF, and Mr. RANGEL.

The message further announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 567. An act to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 220. Concurrent resolution regarding American victims of terrorism.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent and referred as indicated:

H.R. 567. An act to amend the Trademark Act of 1946 to provide for the registration and protection of trademarks used in commerce, in order to carry out provisions of certain international conventions, and for other purposes; to the Committee on the Judiciary.

The following concurrent resolution was read and referred as indicated:

H. Con. Res. 220. Concurrent resolution regarding American victims of terrorism; to the Committee on Foreign Relations.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC–4766. A communication from the Administrator of the Agricultural Marketing Service, Department of Agriculture, transmittng, pursuant to law, the report of a rule entitled ''Marketing Order Regulating the Handling of Spearmint Oil Produced in the Far West; Revision of the Salable Quantity and Allotment Percentage for Class 3 (Native) Spearmint Oil for the 1997–98 Marketing Year'' (Docket FV98–905–2 IFR) received on May 4, 1998; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4767. A communication from the Acting Assistant Secretary of Defense for Reserve Affairs, transmitting, pursuant to law, notice of the delay of the report on military technical positions; to the Committee on Armed Services.

EC–4768. A communication from the Secretay of Defense, transmitting, notices of military retirements; to the Committee on Armed Services.

EC–4769. A communication from the General Counsel of the Department of Defense, transmitting, a draft of proposed legislation entitled ''Authority to Fund Inspector Expenses From the Organization for the Prohibition of Chemical Weapons''; to the Committee on Armed Services.

EC–4770. A communication from the Executive Director of the Civil Air Patrol, transmitting, pursuant to law, the annual report of the Civil Air Patrol for fiscal year 1997; to the Committee on the Judiciary.

EC–4771. A communication from the Chairman of the Sentencing Commision, transmitting, amendments to the sentencing guidelines, policy statements, and official commentary; to the Committee on the Judiciary.

EC–4772. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the report of amendments to the Federal Rules of Appellate Procedure; to the Committee on the Judiciary.

EC–4773. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the report of amendments to the Federal Rules of Evidence; to the Committee on the Judiciary.

EC–4774. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the report of amendments to the Federal Rules of Civil Procedure; to the Committee on the Judiciary.

EC–4775. A communication from the Chief Justice of the Supreme Court of the United States, transmitting, pursuant to law, the report of amendments to the Federal Rules of Criminal Procedure; to the Committee on the Judiciary.

EC–4776. A communication from the Director of the Administrative Office of the U.S. Courts, transmitting, pursuant to law, the wiretap report for calendar year 1997; to the Committee on the Judiciary.

EC–4777. A communication from the Director of Operations and Finance, the American Battle Monuments Commission, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1997; to the Committee on the Judiciary.

EC–4778. A communication from the Attorney General, transmitting, pursuant to law, a report on the U.S. Parole Commission for 1998; to the Committee on the Judiciary.

EC–4779. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, the report of a rule entitled ''Amendment of the Definition of Arriving Alien'' (RIN1115–AE87) received on April 22, 1998; to the Committee on the Judiciary.

EC–4780. A communication from the Commissioner of the Immigration and Naturalization Service, Department of Justice,

transmitting, pursuant to law, the report of a rule entitled ''Screening Requirements of Carriers'' (RIN1115–AD97) received on April 29, 1998; to the Committee on the Judiciary.

EC–4781. A communication from the Acting Assistant Attorney General (Office of Legislative Affairs), transmitting, pursuant to law, the report of settlements (Property Damage and Personal Injury) for calendar year 1997; to the Committee on the Judiciary.

EC–4782. A communication from the Associate Attorney General, transmitting, pursuant to law, the report under the Freedom of Information Act for calendar year 1997; to the Committee on the Judiciary.

EC–4783. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of two rules: ''Texas Regulatory Program and Abandoned Mine Land Reclamation Plan (Recodification)'' (TX–040–FOR), ''Pennsylvania Regulatory Program (Coal refuse disposal)'' (PA–112–FOR) received on April 21, 1998; to the Committee on Energy and Natural Resources.

EC–4784. A communication from the Director of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled ''Maryland Regulatory Program (Bond liability for remined lands)'' (MD–042–FOR) received on April 16, 1998; to the Committee on Energy and Natural Resources.

EC–4785. A communication from the Assistant Secretary of the Interior for Land and Minerals Management, transmitting, pursuant to law, the report of a rule entitled ''National Forest Exchanges'' (RIN1004–AC97) received on April 28, 1998; to the Committee on Energy and Natural Resources.

EC–4786. A communication from the Assistant Secretary of the Interior for Land and Minerals Management, transmitting, pursuant to law, the report of a rule entitled ''Royalties on Gas, Gas Analysis Reports, Oil and Gas Production Measurement, Surface Commingling, and Security'' (RIN1010–AC23) received on May 1, 1998; to the Committee on Energy and Natural Resources.

EC–4787. A communication from the Commissioner of the Bureau of Reclamation, Department of the Interior, transmitting, pursuant to law, a modification report relative to the safety of dams; to the Committee on Energy and Natural Resources.

EC–4788. A communication from the Acting Assistant Secretary of the Interior for Fish and Wildlife and Parks, transmitting, pursuant to law, a report on threatened national historic landmarks; to the Committee on Energy and Natural Resources.

EC–4789. A communication from the Acting Deputy Chief of Operations, Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Notice, Comment, and Appeal Procedures for National Forest System Projects and Activities'' received on April 20, 1998; to the Committee on Energy and Natural Resources.

EC–4790. A communication from the Acting Associate Chief of the Forest Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled ''Smith River National Recreation Area'' (RIN0596–AB39) received on April 20, 1998; to the Committee on Energy and Natural Resources.

EC–4791. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of Financial Assistant Letter 98–02 received on April 16, 1998; to the Committee on Energy and Natural Resources.

EC–4792. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of an administrative directive regarding In-House Energy Management received on April 21, 1998; to the Committee on Energy and Natural Resources.

EC–4793. A communication from the Director of the Office of Rulemaking Coordination, Department of Energy, transmitting, pursuant to law, the report of an administrative directive regarding suspect and counterfeit items received on April 21, 1998; to the Committee on Energy and Natural Resources.

EC–4794. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled ''A Role for Federal Purchasing in Commercializing New Energy-Efficient and Renewable-Energy Technologies''; to the Committee on Energy and Natural Resources.

EC–4795. A communication from the Secretary of Energy, transmitting, pursuant to law, a report entitled ''Building Energy Efficiency Standards Activities''; to the Committee on Energy and Natural Resources.

EC–4796. A communication from the Secretary of Energy, transmitting, pursuant to law, the report under the Metal Casting Competitiveness Research Act for fiscal year 1997; to the Committee on Energy and Natural Resources.

EC–4797. A communication from the Secretary of Energy, transmitting, pursuant to law, the report on the Strategic Petroleum Reserve for calendar year 1997; to the Committee on Energy and Natural Resources.

EC–4798. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report relative to the uranium industry for calendar year 1997; to the Committee on Energy and Natural Resources.

EC–4799. A communication from the Administrator of the Energy Information Administration, Department of Energy, transmitting, pursuant to law, a report entitled ''International Energy Outlook 1998: With Projections Through 2020''; to the Committee on Energy and Natural Resources.

REPORTS OF COMMITTEES

The following report of committees was submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 2037. An original bill to amend title 17, United States Code, to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, to provide limitations on copyright liability relating to material online, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BYRD (for himself and Mrs. HUTCHISON):

S. 2036. A bill to condition the use of appropriated funds for the purpose of an orderly and honorable reduction of U.S. ground forces from the Republic of Bosnia and Herzegovina; to the Committee on Foreign Relations.

By Mr. HATCH:

S. 2037. An original bill to amend title 17, United States Code, to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, to provide limitations on copyright liability relating to material online, and for other purposes; from the Committee on the Judiciary; placed on the calendar.

By Mr. CHAFEE (for himself, Mr. BAUCUS, and Mr. WARNER) (by request):

S. 2038. A bill to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance; to the Committee on Environment and Public Works.

By Mr. BINGAMAN:

S. 2039. A bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MURKOWSKI (for himself and Mr. STEVENS):

S. Res. 223. A resolution commending the Prince William Sound Community College on twenty years of education service; to the Committee on the Judiciary.

By Mr. STEVENS (for himself, Mr. COCHRAN, Mr. CHAFEE, Mr. HOLLINGS, Mr. INOUYE, and Mr. MURKOWSKI):

S. Res. 224. A resolution expressing the sense of the Senate regarding an international project to evaluate and facilitate the exchange of advanced technologies; considered and agreed to.

By Mr. ABRAHAM (for himself and Mr. LIEBERMAN):

S. Con. Res. 94. A concurrent resolution supporting the religious tolerance toward Muslims; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. BYRD (for himself and Mrs. HUTCHISON):

S. 2036. A bill to condition the use of appropriated funds for the purpose of an orderly and honorable reduction of U.S. ground forces from the Republic of Bosnia and Herzegovina; to the Committee on Foreign Relations.

THE BOSNIA FORCE REALIGNMENT ACT

Mr. BYRD. Mr. President, the bill that I introduce today, on behalf of the distinguished Senator from Texas, Mrs. HUTCHISON, and myself, is an attempt to reduce the American portion of the NATO deployment to Bosnia and Herzegovina. It does so in a carefully staged manner over the next 2 years, going from the administration-planned force size of 6,900 ground troops at the end of this June, to 2,500 troops in February, 2000. In the interim, the amendment calls for a force size of 5,000 U.S. troops to be arrived at by February 1999, and 3,500 by July 1999.

This is a gradual drawdown to a level which more accurately approximates the size of the forces of France and Germany at this time. The United States would continue to honor its commitment to NATO to play an appropriate role in the Bosnia stabilization force, but the amendment provides

crucial leverage on our allies in Europe to assume the leadership role that is appropriate for them in an operation near their borders in Europe.

The current plan by the administration, including the requirement for meeting a series of general benchmarks in the areas of democratization, an independent press and judiciary, and other reforms, could keep the United States with the leading force in Bosnia for an indefinite period. I do not believe the American people will support the proposition of a semi-permanent deployment with no end-game. Nevertheless, this year, for the first time, the President has said that there is no definite end-game, or exit schedule which he would propose. Thus, the pressure is off our allies to pick up more of the leading role, and our allies are perfectly content to keep the United States spending some $1.8 billion per year on this operation, in addition to the funds we contribute to NATO on an annual basis.

My good friend from the state of Michigan, the ranking member of the Armed Services Committee, Mr. LEVIN, has also been concerned over the permanent nature of the American deployment and the lack of leadership being displayed by our European partners. He has offered a proposal, as a provision in the supplemental appropriations bill, which was approved by the conference committee on that bill, to urge the President to reach an agreement on the deadlines for closure on the various benchmarks in the President's report. This is a good amendment by Mr. LEVIN, and it is a very good starting point, and I am supportive of it, but I am afraid that it does not contain the kind of pressure that would cause the administration to act decisively with our allies on the matter of sharing the burden of leadership in Bosnia. I do not think that the Levin amendment, which, as I say, I strongly support, goes far enough.

The administration seems not to work very effectively, except under the pressure of explicit deadlines and an explicit schedule with specific numbers, dates, and goals. This specificity is provided by the amendment which Mrs. HUTCHISON and I presently intend to offer to the fiscal year 1999 Department of Defense authorization bill when it comes to the floor. I hope that my colleagues will have a careful look at the details of the amendment. I believe that it deserves strong bipartisan support. It is a responsible approach, and it provides the time and the impetus for our allies to get their acts together and begin to take responsibility for the peace of the European Continent. The United States will continue to play an important supporting role in this effort, but I hope we will begin to wean our allies from the overdependence upon the United States that they currently exhibit.

Reports over the last few days on the very disturbing developments in the Serbian province of Kosovo need the focus of the Senate and the administration and of all Americans. These events demonstrate my point. We may well have a catastrophe in the making, and the question of heading off, or at least containing ethnic unrest in Kosovo must be addressed by the administration, as well as by NATO. I don't see any evidence that the administration is moving in the direction of providing that kind of address. There may be steps that we need to take right now to prepare for worst-case eventualities. The administration needs to inform the Senate in detail on its policy regarding the possible scenarios involving the situation in Kosovo.

The amendment offered by Senator HUTCHISON and myself does provide that the forces which we move out of Bosnia proper can be redeployed to the periphery of that troubled region—into Hungary, for instance, and particularly into Macedonia, in an effort to demonstrate to the Serbs and other parties that NATO will not stand for the spreading of the ethnic conflict beyond the borders of Bosnia and Serbia. But the spread of the ethnic conflict in Kosovo is a separate issue which must be addressed by the administration, and I hope that the administration will get busy and give us just such an address. Everything possible should be done to forestall a spread of the ethnic conflict in Kosovo. Bosnia and its violent disposition must be contained and must not be allowed to infect the rest of Europe. We cannot countenance the spread of the ethnic violence into the southern Balkans, and we must do everything that we can to forestall the involvement of Greece and Turkey in future instabilities caused by the Bosnia and Kosovo situations.

The reduction in U.S. forces over a two-year period arranges a sure but gentle glidepath during which a reconfiguration of the composition of allied forces can be accomplished without opening up vulnerabilities for U.S. forces or causing uncertainties on the part of Serbian elements as to the staying power of NATO, while Bosnian unrest remains a threat to the peace of the continent. Yet, history must move in Europe, and the role of leadership on the ground, through the presence of American armies, must transition to one where a healthier balance of responsibility is created. This transition is especially important in light of the recent developments in Kosovo. In the long run, in an era where new states are being incorporated into NATO, and new practices of consensus-building and peacekeeping must be developed among the states of the alliance, Europe must begin to get a surer grasp of its own destiny through a spirit of close cooperation among its European NATO partners.

Mr. President, I hope that my colleagues will review the details of the amendment, and will choose to cosponsor it.

Mr. President, I send the bill to the desk on behalf of the distinguished Senator from Texas, Mrs. HUTCHISON, and myself and I ask that the title be stated.

The PRESIDING OFFICER. The clerk will state the title.

The bill clerk read as follows:

A bill to condition the use of appropriated funds for the purpose of an orderly and honorable reduction of U.S. ground forces from the Republic of Bosnia and Herzegovina.

Mr. BYRD. Mr. President, the distinguished Senator from Texas and I expect this bill to be referred to the appropriate committee.

The PRESIDING OFFICER. The bill will be appropriately referred.

Mr. BYRD. As of now, Mr. President, I yield the remainder of whatever time I would have had to Mrs. HUTCHISON, that she may add it to the amount of time that she would have had under the request.

Let me express my appreciation for her cosponsorship of this amendment. She will work hard on its behalf as I will, and I feel honored and fortunate to have her as cosponsor of the bill. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, how much time is left on our amendment?

The PRESIDING OFFICER. Twenty-four minutes.

Mrs. HUTCHISON. Thank you, Mr. President.

Mr. President, I want to say how pleased I am to be working with my colleague, the senior Senator from West Virginia, who was honored last night on the Senate floor for having cast the most number of votes of any Senator in the history of our country—15,000. It was quite awesome. I am pleased to have someone of his stature and experience to take the lead on this very important act that we hope the Senate will pass in the form of an amendment to the defense authorization bill, or failing that, the appropriations bill, because it is time that Congress step up to the line and fulfill its constitutional responsibility for allocating the military dollars.

Mr. President, as the senior Senator from West Virginia has stated, our bill will begin the orderly and honorable withdrawal of U.S. ground forces from the Republic of Bosnia and Herzegovina.

U.S. forces in Bosnia have accomplished the military mission assigned to them. They were sent to enforce the Dayton peace accords by keeping the warring factions separated. We all owe our troops a debt of gratitude for having done this with no combat loss of life to any American.

I have just returned this weekend from my seventh trip to the Balkans. I saw a well-trained professional force capable of performing any mission that we would give them as long as we give them the support they need. But I also saw a force on a mission with no clear direction and certainly no exit strategy. It has no end date. These troops

have been spending more and more time away from home than at any other point in their careers.

The continuing and open-ended commitment of U.S. ground forces in Bosnia is subject to the oversight authority of Congress. When we narrowly voted to support this mission in 1995, I voted against it because I was afraid what would happen is exactly what is happening. We are now in an open-ended mission. This was not supposed to be an open-ended mission. It was supposed to be a 1-year commitment. That deadline was missed and the next deadline was missed.

It is very important that we have an exit strategy. The Secretary of Defense, and the Chairman of the Joint Chiefs, have said an exit strategy and an exit date is most important if we are not going to have mission creep. But, in fact, what I fear is that we do have mission creep in Bosnia, and as a matter of fact, we also have deadline creep.

NATO forces have increased their participation in police activities, something for which they are not trained. General Joulwan has said our military forces are not trained for police missions, and yet that is what they are doing more and more.

U.S. commanders in NATO have stated on several occasions that, in accordance with the Dayton peace accords, the principal responsibility for law enforcement rests with the parties to the Dayton agreement—the Serbs, the Croats, and the Muslims.

In a recent letter to Congress, President Clinton identified a host of additional missions that seem to go well beyond the peacekeeping scope of the U.S. forces in Bosnia and are aimed really at nation-building. These include—and I quote from his letter—''supporting * * * the conduct of elections and the installation of elected officials,'' and ''supporting * * * media reform efforts.''

During our recent trip we were briefed that establishing a rule of law and a judiciary were also among the criteria that must be established prior to our troops' withdrawal.

Mr. President, these are goals that could take 50 years to achieve, and they define a mission without an exit strategy. I would just say that the distinguished Senator who is presiding at this moment was also in the meetings we had in Bosnia this weekend. I think I speak for all of us who were there in saying that what we were told about an end date is a recipe for a mission with no exit strategy. Congress has had little to say, as the President has authorized an ever-longer commitment of troops for an ever-growing number of missions.

I believe that exceeds the war power authority of the President, although this is debatable and I cannot say that it is totally clear. But while the Constitution leaves some issues unsettled regarding war powers, there is no such conflict over the power of the purse. The Congress alone has the power. We have the responsibility to provide the money for our military and to look at the big picture.

The big picture, Mr. President, is that our troops are being flung around the world in police missions and peacekeeping missions, and we are losing the edge that a superpower must have to be able to act when no one else can or no one else will.

Senator BYRD and I do not want Congress to ever shrink from its constitutional responsibility. And it is Senator BYRD who understands the Constitution better than anyone on this floor. But I, as a new Member, am trying to see things in a way that our Founding Fathers intended and to remain true to the balance of power that they attempted to create.

Our bill is aimed at getting our European allies to start taking a greater share of the responsibility for their own regional security matters. This will free the United States to respond where our allies cannot or will not and where the United States is the only power that is capable of doing so.

It is in the interest of our allies that we maintain the capability to keep the world safe from threats that would endanger our mutual security. The United States has nearly twice the number of troops on the ground as our next closest ally, Great Britain. We have three times more than the French and German allies.

Our bill provides for a gradual-phased timetable of reduction of the level of U.S. troops so that by February in the year 2000 the American ground combat level would not exceed 2,500. This timetable is consistent with the stated objectives of the Clinton administration.

In a recent letter to several Senators, President Clinton said, ''The deployment will not be open-ended. . .SFOR will be progressively reduced.

Mr. President, the Senator from West Virginia and I hope to aid the administration by offering a credible and orderly timetable for such reductions so that we can provide the ability to finance the mission with some sense that we will know what to expect.

Our bill provides 6,900 troops by June 30, 1998; 5,000 by February 2, 1999; 3,500 by June 30, 1999; and 2,500 by February 2, 2000.

Our bill exempts from these totals those forces that are needed to protect the U.S. troops as the drawdowns proceed. We also exempt those forces necessary to protect U.S. diplomatic facilities. Most important, we exempt any U.S. ground forces which may be deployed as part of NATO containment operations in regions surrounding the Republic of Bosnia and Herzegovina.

It is my belief that one of our principal objectives in the Balkans should be to prevent the conflict in Bosnia from spilling over into neighboring European countries. Should the President propose to establish a NATO containment perimeter around Bosnia, our bill would permit that.

Why is our legislation needed? What does it have to do with military readiness? Just last week this Congress approved adding a half a billion dollars to the Bosnia operation. This brings our total to $8 billion. The President has asked for another $2 billion for the next year. That makes a $10 billion operation, five times the original estimate this administration gave Congress.

Where is this money coming from? It is coming from future readiness. We are borrowing from the future to pay for a mission that is clearly capable of being performed by countries other than the world's only superpower. If they can do this, the United States can be ready to respond in other areas where we have mutual security threats with our allies, such as the Middle East and Asia.

There are ample indications that our readiness has begun to suffer as we have drawn forces and resources off to support regional conflicts. In the U.S. Pacific Command, the commander in chief testified before Congress that some forces required for long-term commitments in the Asia-Pacific area of responsibility are now positioned in the Persian Gulf. He further reports that the Pacific fleet is short over 1,900 sailors in key technical ratings.

In the Pacific Air Forces, the F–16 cannibalization rate is 12.8 percent—a more than 100 percent increase since 1995 due to lack of spare parts.

The Army faces similar shortfalls. A recent Army Times report revealed that while the 1st Armored Division was staffed at 94 percent, its combat support and service support specialties were filled at below 85 percent, and captains and majors were filled at 73 percent. Noncommissioned officers are also in short supply in the divisions, particularly sergeants. In the 10th Division, 24 of 162 infantry squads were not fully or only minimally filled.

According to Major General Carl Ernst, commanding general of the Army's premier infantry training post at Fort Monroe, VA, this is having a serious negative impact on the Army. General Ernst recently told a congressional panel at Fort Monroe, ''We are now dangerously close to the breaking point.''

What about the Air Force? In the Air Force, only 29 percent of the pilots eligible for a $60,000 bonus to sign up for 5 more years signed up. That is half the number that took that bonus last year.

Our military is stretched to the breaking point. Our military cannot continue to provide peacekeeping operations all over the world. This causes them to lose the skills for which they have been trained and dulls their fighting edge. We are letting it happen because the operations tempo is too high and the amount of money we have is finite.

What is suffering is the quality of life of our military. We are losing our most experienced people. Also our modernization suffers as we try to keep our

best planes in the air, with the parts that they need to function, and, perhaps most important, the systems that we will need to meet the future security risks of our country and those of all of our allies. This includes the threat of an incoming ballistic missile with a nuclear, chemical, or biological weapon. We know that 30 countries in the world have ballistic missile capabilities, yet we are not deploying as quickly as possible any defenses.

What the Senator from West Virginia and I are asking is that our allies, who are perfectly capable of performing these peacekeeping missions as well as anyone can, take that responsibility. Let the United States build our forces through modernization and technology and develop missile defense systems so that we can be there if there is a real threat to our mutual security. We cannot have a military that is unable to respond. We must not have a military that is not respected by our allies, nor our adversaries.

The Senator from West Virginia has stood for the constitutional responsibility of Congress. I hope to follow in his footsteps in always reminding our Senate of the importance that we uphold our one-third of the balance of power in our Government. Our one-third is that we must be the stewards of the funds. Only Congress was empowered to declare war. I do not believe that our Founding Fathers intended for us to be sending troops abroad in operations other than war. They intended it to be a tough decision, to put our troops in harm's way.

Mr. President, I am going to stand for the U.S. Senate's responsibility to assure that we do not fling our troops around the world in operations other than war and dissipate our resources and our readiness. I am proud to cosponsor with the Senator from West Virginia the bill that will begin the orderly and responsible exit from Bosnia, with our allies, as a team, coming together and sharing this burden in a way that meets the regional test and meets our responsibility in the world to do that which no one else can.

I thank the Senator from West Virginia for his leadership in this area. I hope we will have the strongest bipartisan support for our bill so that we can make this law, so that our allies will know that when we say we are going to do something—whether it is something they like or don't like—that we will keep our word. That is in their best interests as well as ours.

I yield the floor.

Mr. BYRD. How much time remains?

The PRESIDING OFFICER. Six and a half minutes.

Mr. BYRD. I thank the distinguished Senator from Texas for a very knowledgeable and forceful statement, well articulated, and one which shows a great deal of wisdom with respect to the impact upon the readiness of our military forces, the impact caused by having our forces in Europe under the circumstances which we have described.

Mr. President, in order that Senators may be well informed as to the substance of the bill which the Senator from Texas and I are introducing, I ask unanimous consent it be printed in the RECORD.

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

S. 2036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Bosnia Force Realignment Act''.

SEC. 2. FINDINGS.

(a) The Congress finds the following:

(1) United States Armed Forces in the Republic of Bosnia and Herzegovina have accomplished the military mission assigned to them as a component of the Implementation and Stabilization Forces.

(2) The continuing and open-ended commitment of U.S. ground forces in the Republic of Bosnia and Herzegovina is subject to the oversight authority of the Congress;

(3) Congress may limit the use of appropriated funds to create the conditions for an orderly and honorable withdrawal of U.S. troops from the Republic of Bosnia and Herzegovina;

(4) On November 27, 1995, the President affirmed that United States participation in the multinational military Implementation Force in the Republic of Bosnia and Herzegovina would terminate in about one year.

(5) The President declared the expiration date of the mandate for the Implementation Force to be December 20, 1996.

(6) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff expressed confidence that the Implementation Force would complete its mission in about one year.

(7) The Secretary of Defense and the Chairman of the Joint Chiefs of Staff expressed the critical importance of establishing a firm deadline, in the absence of which there is a potential for expansion of the mission of U.S. forces;

(8) On October 3, 1996, the Chairman of the Joint Chiefs of Staff announced the intention of the United States Administration to delay the removal of United States Armed Forces personnel from the Republic of Bosnia and Herzegovina until March 1997.

(9) In November 1996 the President announced his intention to further extend the deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina until June 1998.

(10) The President did not request authorization by the Congress of a policy that would result in the further deployment of United States Armed Forces in the Republic of Bosnia and Herzegovina until June 1998.

(11) Notwithstanding the passage of two previously established deadlines, the reaffirmation of those deadlines by senior national security officials, and the endorsement by those same national security officials of the importance of having a deadline as a hedge against an expanded mission, the President announced on December 17, 1997 that establishing a deadline had been a mistake and that U.S. ground combat forces were committed to the NATO-led mission in Bosnia for the indefinite future;

(12) NATO military forces have increased their participation in law enforcement, particularly police, activities;

(13) U.S. Commanders of NATO have stated on several occasions that, in accordance with the Dayton Peace Accords, the principal responsibility for such law enforcement and police activities lies with the Bosnian parties themselves.

SEC. 3. LIMITATIONS ON THE USE OF FUNDS.

(a) Funds appropriated or otherwise made available for the Department of Defense for any fiscal year may not be obligated for the ground elements of the United States Armed Forces in the Republic of Bosnia and Herzegovina except as conditioned below;

(1) The President shall continue the ongoing withdrawal of American forces from the NATO Stabilization Force in the Republic of Bosnia and Herzegovina such that U.S. ground forces in that force or the planned multi-national successor force shall not exceed:

(i) 6900, by June 30, 1998;

(ii) 5000, by February 2, 1999;

(iii) 3500, by June 30, 1999, and;

(iv) 2500, by February 2, 2000.

(b) EXCEPTIONS.—The limitation in subsection (a) shall not apply—

(1) to the extent necessary for U.S. ground forces to protect themselves as the drawdowns outlined in sub-paragraph (a)(1) proceeds;

(2) to the extent necessary to support a limited number of United States military personnel sufficient only to protect United States diplomatic facilities in existence on the date of the enactment of this Act; or

(3) to the extent necessary to support noncombat military personnel sufficient only to advise the commanders North Atlantic Treaty Organization peacekeeping operations in the Republic of Bosnia and Herzegovina; and

(4) to U.S. ground forces that may be deployed as part of NATO containment operations in regions surrounding the Republic of Bosnia and Herzegovina.

(c) CONSTRUCTION OF SECTION.—Nothing in this section shall be deemed to restrict the authority of the President under the Constitution to protect the lives of United States citizens.

(d) LIMITATION ON SUPPORT FOR LAW ENFORCEMENT ACTIVITIES IN BOSNIA.—None of the funds appropriated or otherwise made available to the Department of Defense for any fiscal year may be obligated or expended after the date of the enactment of this Act for the:

(1) Conduct of, or direct support for, law enforcement and police activities in the Republic of Bosnia and Herzegovina, except for the training of law enforcement personnel or to prevent imminent loss of life.

(2) Conduct of, or support for, any activity in the Republic of Bosnia and Herzegovina that may have the effect of jeopardizing the primary mission of the NATO-led force in preventing armed conflict between the Federation of Bosnia and Herzegovina and the Republika Srpska ('Bosnian Entities').

(3) Transfer of refugees within the Republic of Bosnia and Herzegovina that, in the opinion of the commander of NATO Forces involved in such transfer—

(A) has as one of its purposes the acquisition of control by a Bosnian Entity of territory allocated to the other Bosnian Entity under the Dayton Peace Agreement; or

(B) may expose United States Armed Forces to substantial risk to their personal safety.

(4) Implementation of any decision to change the legal status of any territory within the Republic of Bosnia and Herzegovina unless expressly agreed to by all signatories to the Dayton Peace Agreement.

SEC. 4. PRESIDENTIAL REPORT.

(a) Not later than December 1, 1998, the President shall submit to Congress a report on the progress towards meeting the drawdown limit established in section 2(a).

(b) The report under paragraph (a) shall include an identification of the specific steps

taken by the United States Government to transfer the United States portion of the peacekeeping mission in the Republic of Bosnia and Herzegovina to European allied nations or organizations.

By Mr. HATCH:

S. 2037. An original bill to amend title 17, United States Code, to implement the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, to provide limitations on copyright liability relating to material online, and for other purposes; from the Committee on the Judiciary; placed on the calendar.

DIGITAL MILLENNIUM COPYRIGHT ACT

Mr. LEAHY. Mr. President, the Digital Millennium Copyright Act, which the Senate Judiciary Committee is reporting today, is important for our economy, for our creative industries and for the future of the Internet. This legislation is based on the WIPO implementing legislation, S. 1121, recommended by the Administration and introduced last year by the Chairman, Senators THOMPSON and KOHL and me.

Following intensive discussions with a number of interested parties, including libraries, universities, small businesses, online and Internet service providers, telephone companies, computer users, broadcasters, content providers and device manufacturers, the Committee was able to reach unanimous agreement on certain modifications and additions incorporated into the bill and making this bill a product of which we can all be proud.

Significant provisions were added to the bill in Title II to clarify the liability for copyright infringement of online and Internet service providers. These provisions set forth ''safe harbors'' from liability for ISPs and OSPs under clearly defined circumstances, which both encourage responsible behavior and protect important intellectual property rights. In addition, during the Committee's consideration of this bill, an Ashcroft-Leahy-Hatch amendment was adopted to ensure that computer users are given reasonable notice of when their Web sites are the subject of infringement complaints, and to provide procedures for computer users to have material mistakenly taken down put back.

This bill contains a number of provisions designed to help libraries and archives. First, libraries expressed concerns about the possibility of criminal sanctions or potentially ruinous monetary liability for actions taken in good faith. This bill makes sure that libraries acting in good faith can never be subject to fines or civil damages. Specifically, a library is exempt from monetary liability in a civil suit if it was not aware and had no reason to believe that its acts constituted a violation. In addition, libraries are completely exempt from the criminal provisions.

Second, the bill contains a browsing exception for libraries. Libraries have indicated that in an online environment dominated by encrypted works it may be impossible for them to gain access to works to decide whether or not to acquire them. The current version of the bill permits libraries to circumvent access prevention technologies in order to make a good faith determination of whether or not it would like to buy a copy of a work. If the library decides that it wishes to acquire the work it must negotiate with the copyright owner just as libraries do today.

Third, the Chairman, Senator ASHCROFT and I crafted an amendment to provide for the preservation of digital works by qualified libraries and archives. The ability of Libraries to preserve legible copies of works in digital form is one I consider critical. Under present law, libraries are permitted to make a single facsimile copy of works in their collections for preservation purposes, or to replace lost, damaged or stolen copies of works that have become commercially unavailable. This law, however, has become outmoded by changing technology and preservation practices. The bill ensures that libraries' collections will continue to be available to future generations by permitting libraries to make up to three copies in any format—including in digital form. This was one of the proposals in the National Information Infrastructure Copyright Protection Act of 1995, which I sponsored in the last Congress. The Register of Copyrights, among others, has supported that proposal.

In addition, the bill would permit a library to transfer a work from one digital format to another if the equipment needed to read the earlier format becomes unavailable commercially. This change addresses a problem that should be familiar to anyone whose office has boxes of eight-inch floppy disks tucked away somewhere.

These provisions go a long way toward meeting the concerns that libraries have expressed about the original bill, S. 1121, introduced to implement the WIPO treaties.

Another issue that the bill addresses is distance learning. When Congress enacted the present copyright law it recognized the potential of broadcast and cable technology to supplement classroom teaching, and to bring the classroom to those who, because of their disabilities or other special circumstances, are unable to attend classes. At the same time, Congress also recognized the potential for unauthorized transmissions of works to harm the markets for educational uses of copyrighted materials. In the present Copyright Act, we struck a careful balance and crafted a narrow exemption. But as with so many areas of copyright law, the advent of digital technology requires us to take another look at the issue.

I recognize that the issue of distance learning has been under consideration for the past several years by the Conference on Fair Use (CONFU) that was established by the Administration to consider issues relating to fair use in the digital environment. In spite of the hard work of the participants, CONFU has so far been unable to forge a comprehensive agreement on guidelines for the application of fair use to digital distance learning. The issue is an important one, and I commend Senator ASHCROFT for his attention to this matter.

We made tremendous strides in charting the appropriate course for updating the Copyright Act to permit the use of copyrighted works in valid distance learning activities. The Chairman, Senator ASHCROFT and I joined together to ask the Copyright Office to facilitate discussions among interested library and educational groups and content providers with a view toward making recommendations that could be incorporated into the DMCA at the April 30 mark up. The Copyright Office did just that, once again providing a valuable service to this Committee.

Based on the Copyright Office's recommendations, we incorporated into the DMCA a new Section 122 requiring the Copyright Office to make broader recommendations to Congress on digital distance education within six months. Upon receiving the Copyright Office's recommendations, it is my hope that the Senate Judiciary Committee will promptly commence hearings on the issue and move expeditiously to enact further legislation on the matter. I know that my fellow members on this Committee are as anxious as I am to complete the process that we started in Committee of updating the Copyright Act to permit the appropriate use of copyrighted works in valid distance learning activities. This step should be viewed as a beginning—not an end, and we are committed to reaching that end point as quickly as possible.

Senator FEINSTEIN had sought to clarify when a university would be held responsible for the actions of its employees in connection with its eligibility for the safe harbors spelled out in title II of the bill. Chairman HATCH, Senator ASHCROFT and I agreed with Senator FEINSTEIN that the best way to address this issue is to have the Copyright Office examine this issue in a comprehensive fashion, because of its importance, complexity, and implications for other online service providers, including libraries and archives.

Amendments sponsored by Senators ASHCROFT, HATCH and I were also crafted to address the issues of reverse engineering, ephemeral recordings and to clarify for broadcasters the use of copyright management information in the course of certain analog and digital transmissions.

Legislative language was incorporated into the bill to clarify that the law enforcement exemptions apply to all government agencies which conduct law enforcement and intelligence work, as well as to government contractors engaging in intelligence, investigative, or protective work.

Chairman HATCH, Senator ASHCROFT and I agreed to language to assuage the concerns of the consumer electronics

manufacturers, and others, that the bill might require them to design their products to respond to any particular technological protection measure. We also agreed to incorporate provisions into the bill clarifying that nothing in the bill will prevent parents from controlling their children's access to the Internet or individuals from protecting personal identifying information.

By reaching agreement on this bill, this Committee is helping to create American jobs, protect American ingenuity, and foster an ever more vibrant Internet. In short, the WIPO treaties and this implementing legislation are important to America's economic future. The bill addresses the problems caused when copyrighted works are disseminated through the Internet and other electronic transmissions without the authority of the copyright owner. By establishing clear rules of the road, this bill will allow electronic commerce to flourish in a way that does not undermine America's copyright community.

In a recent letter about the DMCA, Secretary Daley said, ''The United States must lead the way in setting a standard that will protect our creative industries and serve as a model for the rest of the world. And we need to act as quickly as possible.''

This bill is a well-balanced package of proposals that address the needs of creators, consumers and commerce well into the next century. I urge all of my colleagues to support the Digital Millennium Copyright Act and work for its prompt passage.

Mr. KOHL. Mr. President, I rise to express my support for the Digital Millennium Copyright Act of 1998. In my view, we need this measure to stop an epidemic of illegal copying of protected works—such as movies, books, musical recordings, and software. The copyright industry is one of our most thriving businesses. But we still lose more than $15 billion each year due to foreign copyright piracy, according to some estimates.

This foreign piracy is out of control. For example, one of my staffers investigating video piracy on a trip to China walked into a Hong Kong arcade and bought three bootlegged computer games—including ''Toy Story'' and ''NBA '97''—for just $10. These games normally sell for about $100. Indeed, the manager was so brazen about it, he even agreed to give a receipt.

Illegal copying has been a longstanding concern to me. I introduced one of the precursors to this bill, the Motion Picture Anti-Piracy Act, which in principle has been incorporated into this measure. And I was one of the original cosponsors of the original proposed WIPO implementing legislation, the preliminary version of this measure.

In my opinion, this bill achieves a fair balance by taking steps to effectively deter piracy, while still allowing fair use of protected materials. It is the product of intensive negotiations between all of the interested parties—including the copyright industry, telephone companies, libraries, universities and device manufacturers. And every major concern raised during that process was addressed. For these reasons, it earned the unanimous support of the Judiciary Committee. Of course, as with any legislation, some tinkering may still be needed.

I am confident that this bill has the best approach for stopping piracy and strengthening one of our biggest export industries. It deserves our support.

By Mr. CHAFEE (for himself, Mr. BAUCUS, and Mr. WARNER) (by request):

S. 2038. A bill to amend the John F. Kennedy Center Act to authorize appropriations for the John F. Kennedy Center for the Performing Arts and to further define the criteria for capital repair and operation and maintenance; to the Committee on Environment and Public Works.

THE JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

Mr. CHAFEE. Mr. President, today I am introducing the John F. Kennedy Center for the Performing Arts Authorization Act. I am introducing this bill at the request of the Kennedy Center Board of Trustees, in my capacity as Chairman of the Committee on Environment and Public Works. Joining me as cosponsors of the bill are the chairman and ranking member of the Subcommittee on Transportation and Infrastructure, Senators WARNER and BAUCUS.

The concept of a national center for the performing arts originated during the administration of President Dwight D. Eisenhower. President Eisenhower envisioned a national cultural center in the nation's capital, and in 1958, with the support of Congress, he signed into law the National Cultural Center Act, which established the Center as an independently administered bureau of the Smithsonian Institution. Following the death of President Kennedy, the Congress in 1964 renamed the Center in honor of the late president.

The Kennedy Center was opened to the public in September 1971. The response was overwhelming—so much so that the Center's Board of Trustees requested help from Congress in maintaining and operating the Center, for the benefit of the millions of visitors. In 1972, Congress authorized the National Park Service to provide maintenance, security, and other services necessary to maintain the facility. For the next two decades, the Park Service received federal appropriations for the maintenance and operation of the Presidential monument.

In the early part of this decade, however, it became clear that the Kennedy Center facility—which had not seen comprehensive capital repair since its opening—had deteriorated significantly due to both age and intensive public use. Those repairs that had taken place—such as the 1977 repair of the leaking roof—were undertaken in response to threatening conditions. The Board of Trustees, with the support of the Park Service, therefore set out to achieve a more effective long-term approach to management of the facility, with one entity responsible for both the care of the physical plant and the staging of performance activities.

In 1994, therefore, Congress approved and the President signed the John F. Kennedy Center Act Amendments (Public Law 103–279). That Act authorized the transfer of all capital repair, operations, and maintenance of the facility from the Park Service to the Board of Trustees.

The Act also directed the Board to develop a comprehensive, multi-year plan for the restoration and ongoing maintenance of the Kennedy Center. In 1995, the Board delivered the Comprehensive Building Plan, which set forth a long-term, two-stage program for the remediation of substandard building conditions, as well as continuous maintenance for the future. Phase I, scheduled for Fiscal Years 1995 through 1998, has concluded successfully. During this time, several major projects were completed, including the installation of a new, energy-efficient heating and cooling system, replacement of the leaking roof and roof terrace, and the major renovation of the Concert Hall. Phase II is scheduled to take place over the next eleven fiscal years, through Fiscal Year 2009. This stage will involve the massive ''Center Block'' project, during which the Opera House will be overhauled, as well as projects to make improvements to the plaza, improve accessibility to the theaters, install fire and other safety technology, and make a host of other repairs designed to ensure that the facility meets life safety standards.

That brings us to the legislation I am introducing today. For the major Phase II projects to get underway, Congress must revise the 1994 Act to authorize appropriate funding for the next several fiscal years. The bill I am introducing today authorizes significant funding levels for the next eleven fiscal years for maintenance as well as capital repair work.

Over the next several weeks, I and other members of the Committee on Environment and Public Works intend to review carefully the planned repair activities and the authorization request. The Kennedy Center is a living Presidential memorial and a national monument, and as such demands a high standard of maintenance and upkeep. As an ex-officio member of the Board, and Chairman of the authorizing Committee, I am dedicated to the appropriate restoration and preservation of the facility, which millions of Americans have enjoyed for more than a quarter of a century. Nevertheless, it is Congress' duty on behalf of the taxpayers to scrutinize this request closely. I look forward to working with my colleagues in the Senate, the Administration, and the Kennedy Center Board

to ensure that we allocate federal resources in an effective and responsible manner.

By Mr. BINGAMAN:

S. 2039. A bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail; to the Committee on Energy and Natural Resources.

THE EL CAMINO REAL DE TIERRA ADENTRO NATIONAL TRAIL ACT

Mr. BINGAMAN. Mr. President, I rise today to introduce a bill to amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail. This legislation is important to New Mexico and contributes to the national dialogue on the history of this country and who we are as a people.

In history classes across the country, children learn about the establishment of European settlements on the East Coast, and the east to west migration which occurred under the banner of Manifest Destiny. We in New Mexico, however, also know the story of the northward exploration and settlement of this country by the Spanish, a little known but important piece of America's history.

My legislation recognizes a proud chapter in American history; the northward exploration and settlement of the Southwest by the Spanish. Building upon a network of trade routes used by the indigenous Pueblos along the Rio Grande, Spanish explorers established a migration route into the interior of the continent which they called ''El Camino Real de Tierra Adentro,'' the Royal Road of the Interior. My bill will amend the National Trails System Act to designate El Camino Real de Tierra Adentro as a National Historic Trail, and give the National Park Service a mandate to develop interpretive displays explaining the importance of the trail during the Spanish settlement of the southwest United States.

This legislation is especially appropriate in this year of the Cuartocentenario, which commemorates the 400th anniversary of the establishment of the first Spanish capital at San Juan Pueblo, the first terminus of the El Camino Real de Tierra Adentro.

In 1598, almost a decade before the first English colonists landed at Jamestown, Virginia, Don Juan de Oñate led a Spanish expedition which established the northern portion of El Camino Real de Tierra Adentro. The road was the main route for communication and trade between the colonial Spanish capital of Mexico City and the Spanish provincial capitals at San Juan de Los Caballeros, San Gabriel and then Santa Fe, New Mexico.

From 1598 to 1821 El Camino Real de Tierra Adentro facilitated the exploration, conquest, colonization, settlement, religious conversion, and military occupation of the borderlands. The Spanish influence from that period can still be seen today in the ethnic and cultural traditions of the southwestern United States.

In the 17th century, caravans of wagons and livestock struggled for months to cross the desert and bring supplies up El Camino Real to missions, mining towns and settlements in New Mexico. On one section known as the Jornada del Muerto, or Journey of Death, they traveled for 90 miles without water, shelter, or firewood. Wagons heading south carried the products of New Mexico to markets in Mexico.

El Camino Real became an integral part of an international network of commerce between Europe, the United States, New Mexico and other provinces of the Mexican republic. The route is a symbol of the commercial exchange and cultural interaction between nations and diverse ethnic groups that led to the development of the southwestern United States. It is also a proud symbol of the contributions of Hispanic people to the development of this great country.

As we enter the 21st century, it's essential that we embrace the diversity of people and cultures that make up our country. It is the source of our dynamism and strength. I look forward to helping to advance our understanding of our rich cultural history through this initiative.

Mr. President I ask unanimous consent that the text of the bill be printed in the RECORD.

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

S. 2039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''El Camino Real de Tierra Adentro National Historic Trail Act''.

SEC. 2. FINDINGS.

Congress finds that—

(1) El Camino Real de Tierra Adentro (the Royal Road of the Interior), served as the primary route between the colonial Spanish capital of Mexico City and the Spanish provincial capitals at San Juan de Los Caballeros (1598–1600), San Gabriel (1600–1609) and Santa Fe (1610–1821);

(2) the portion of El Camino Real in what is now the United States extended between El Paso, Texas, and present San Juan Pueblo, New Mexico, a distance of 404 miles;

(3) El Camino Real is a symbol of the cultural interaction between nations and ethnic groups and of the commercial exchange that made possible the development and growth of the borderland;

(4) American Indian groups, especially the Pueblo Indians of the Rio Grande, developed trails for trade long before Europeans arrived;

(5) in 1598, Juan de Oñate led a Spanish military expedition along those trails to establish the northern portion of El Camino Real;

(6) during the Mexican National Period and part of the United States Territorial Period, El Camino Real facilitated the emigration of people to New Mexico and other areas that were to become part of the United States;

(7) the exploration, conquest, colonization, settlement, religious conversion, and military occupation of a large area of the borderland was made possible by El Camino Real, the historical period of which extended from 1598 to 1882;

(8) American Indians, European emigrants, miners, ranchers, soldiers, and missionaries used El Camino Real during the historic development of the borderland, promoting cultural interaction among Spaniards, other Europeans, American Indians, Mexicans, and Americans; and

(9) El Camino Real fostered the spread of Catholicism, mining, an extensive network of commerce, and ethnic and cultural traditions including music, folklore, medicine, foods, architecture, language, place names, irrigation systems, and Spanish law.

SEC. 3. AUTHORIZATION AND ADMINISTRATION.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended—

(1) by designating the paragraphs relating to the California National Historic Trail, the Pony Express National Historic Trail, and the Selma to Montgomery National Historic Trail as paragraphs (18), (19), and (20), respectively; and

(2) by adding at the end the following:

''(21) EL CAMINO REAL DE TIERRA ADENTRO.—

''(A) IN GENERAL.—El Camino Real de Tierra Adentro (the Royal Road of the Interior) National Historic Trail, a 404 mile long trail from the Rio Grande near El Paso, Texas to San Juan Pueblo, New Mexico, as generally depicted on the maps entitled 'United States Route: El Camino Real de Tierra Adentro', contained in the report prepared pursuant to subsection (b) entitled 'National Historic Trail Feasibility Study and Environmental Assessment: El Camino Real de Tierra Adentro, Texas-New Mexico', dated March 1997.

''(B) MAP.—A map generally depicting the trail shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior.

''(C) ADMINISTRATION.—The trail shall be administered by the Secretary of the Interior.

''(D) LAND ACQUISITION.—No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.

''(E) VOLUNTEER GROUPS; CONSULTATION.—The Secretary of the Interior shall—

''(i) encourage volunteer trail groups to participate in the development and maintenance of the trail; and

''(ii) consult with affected Federal, State, and tribal agencies in the administration of the trail.

''(F) COORDINATION OF ACTIVITIES.—The Secretary of the Interior may coordinate with United States and Mexican public and non-governmental organizations, academic institutions, and, in consultation with the Secretary of State, the government of Mexico and its political subdivisions, for the purpose of exchanging trail information and research, fostering trail preservation and educational programs, providing technical assistance, and working to establish an international historic trail with complementary preservation and education programs in each nation.''.

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. GRAMS, his name was withdrawn as a cosponsor of S. 10, a bill to reduce violent juvenile crime, promote accountability by juvenile criminals, punish and deter violent gang crime, and for other purposes.

S. 263

At the request of Mr. MCCONNELL, the name of the Senator from Missouri (Mr. ASHCROFT) was added as a cosponsor of S. 263, a bill to prohibit the import, export, sale, purchase, possession, transportation, acquisition, and receipt of bear viscera or products that contain or claim to contain bear viscera, and for other purposes.

S. 831

At the request of Mr. GRASSLEY, his name was added as a cosponsor of S. 831, a bill to amend chapter 8 of title 5, United States Code, to provide for congressional review of any rule promulgated by the Internal Revenue Service that increases Federal revenue, and for other purposes.

S. 1002

At the request of Mr. ABRAHAM, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 1002, a bill to require Federal agencies to assess the impact of policies and regulations on families, and for other purposes.

S. 1141

At the request of Mr. JOHNSON, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 1141, a bill to amend the Energy Policy Act of 1992 to take into account newly developed renewable energy-based fuels and to equalize alternative fuel vehicle acquisition incentives to increase the flexibility of controlled fleet owners and operators, and for other purposes.

S. 1180

At the request of Mr. KEMPTHORNE, the name of the Senator from Kentucky (Mr. MCCONNELL) was added as a cosponsor of S. 1180, a bill to reauthorize the Endangered Species Act.

S. 1252

At the request of Mr. DODD, his name was added as a cosponsor of S. 1252, a bill to amend the Internal Revenue Code of 1986 to increase the amount of low-income housing credits which may be allocated in each State, and to index such amount for inflation.

At the request of Mr. GRAHAM, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1252, supra.

S. 1283

At the request of Mr. BUMPERS, the name of the Senator from Maryland (Mr. SARBANES) was added as a cosponsor of S. 1283, a bill to award Congressional gold medals to Jean Brown Trickey, Carlotta Walls LaNier, Melba Patillo Beals, Terrence Roberts, Gloria Ray Karlmark, Thelma Mothershed Wair, Ernest Green, Elizabeth Eckford, and Jefferson Thomas, commonly referred collectively as the ''Little Rock Nine'' on the occasion of the 40th anniversary of the integration of the Central High School in Little Rock, Arkansas.

S. 1334

At the request of Mr. BOND, the names of the Senator from Nebraska (Mr. KERREY) and the Senator from Indiana (Mr. LUGAR) were added as cosponsors of S. 1334, a bill to amend title 10, United States Code, to establish a demonstration project to evaluate the feasibility of using the Federal Employees Health Benefits program to ensure the availability of adequate health care for Medicare-eligible beneficiaries under the military health care system.

S. 1525

At the request of Mr. SPECTER, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from New York (Mr. D'AMATO) were added as cosponsors of S. 1525, a bill to provide financial assistance for higher education to the dependents of Federal, State, and local public safety officers who are killed or permanently and totally disabled as the result of a traumatic injury sustained in the line of duty.

S. 1679

At the request of Mr. SARBANES, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1679, a bill to modify the conditions that must be met before certain alternative pay authorities may be excerised by the President with respect to Federal employees.

S. 1693

At the request of Mr. THOMAS, the name of the Senator from Alaska (Mr. MURKOWSKI) was added as a cosponsor of S. 1693, a bill to renew, reform, reinvigorate, and protect the National Park System.

S. 1929

At the request of Mrs. HUTCHISON, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1929, a bill to amend the Internal Revenue Code of 1986 to provide tax incentives to encourage production of oil and gas within the United States, and for other purposes.

S. 1959

At the request of Mr. COVERDELL, the name of the Senator from Iowa (Mr. GRASSLEY) was added as a cosponsor of S. 1959, a bill to prohibit the expenditure of Federal funds to provide or support programs to provide individuals with hypodermic needles or syringes for the use of illegal drugs.

S. 1981

At the request of Mr. HUTCHINSON, the names of the Senator from Virginia (Mr. WARNER) and the Senator from Missouri (Mr. ASHCROFT) were added as cosponsors of S. 1981, a bill to preserve the balance of rights between employers, employees, and labor organizations which is fundamental to our system of collective bargaining while preserving the rights of workers to organize, or otherwise engage in concerted activities protected under the National Labor Relations Act.

S. 1985

At the request of Mr. HATCH, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 1985, a bill to amend Part L of the Omnibus Crime Control and Safe Streets Act of 1968.

SENATE CONCURRENT RESOLUTION 75

At the request of Mr. FEINGOLD, the names of the Senator from Montana (Mr. BURNS), the Senator from California (Mrs. BOXER), the Senator from Hawaii (Mr. AKAKA), the Senator from Ohio (Mr. DEWINE), the Senator from North Carolina (Mr. HELMS), the Senator from New Jersey (Mr. TORRICELLI), the Senator from Georgia (Mr. CLELAND), the Senator from North Carolina (Mr. FAIRCLOTH), the Senator from Nebraska (Mr. KERREY), the Senator from Rhode Island (Mr. REED), the Senator from Florida (Mr. GRAHAM), the Senator from Montana (Mr. BAUCUS), and the Senator from Kentucky (Mr. FORD) were added as cosponsors of Senate Concurrent Resolution 75, a concurrent resolution honoring the sesquicentennial of Wisconsin statehood.

SENATE RESOLUTION 216

At the request of Mr. LIEBERMAN, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Oklahoma (Mr. INHOFE), the Senator from Hawaii (Mr. INOUYE), and the Senator from Wisconsin (Mr. KOHL) were added as cosponsors of Senate Resolution 216, a resolution expressing the sense of the Senate regarding Japan's difficult economic condition.

SENATE CONCURRENT RESOLUTION 94—SUPPORTING RELIGIOUS TOLERANCE TOWARD MUSLIMS

Mr. ABRAHAM (for himself and Mr. LIEBERMAN) submitted the following concurrent resolution; which was referred to the Committee on the Judiciary:

S. CON. RES. 94

Whereas the American Muslim community, comprised of approximately 5,000,000 people, is a vital part of our Nation, with more than 1,500 mosques, Islamic schools, and Islamic centers in neighborhoods across the United States;

Whereas Islam is one of the great Abrahamic faiths, whose significant contributions throughout history have advanced the fields of math, science, medicine, law, philosophy, art, and literature;

Whereas the United States is a secular nation, with an unprecedented commitment to religious tolerance and pluralism, where the rights, liberties, and freedoms guaranteed by the Constitution are guaranteed to all citizens regardless of religious affiliation;

Whereas Muslims have been subjected, simply because of their faith, to acts of discrimination and harassment that all too often have led to hate-inspired violence, as was the case during the rush to judgment in the aftermath of the tragic Oklahoma City bombing;

Whereas discrimination against Muslims intimidates American Muslims and may prevent Muslims from freely expressing their opinions and exercising their religious beliefs as guaranteed by the first amendment to the Constitution;

Whereas American Muslims have regrettably been portrayed in a negative light in some discussions of policy issues such as issues relating to religious persecution abroad or fighting terrorism in the United States;

Whereas stereotypes and anti-Muslim rhetoric have also contributed to a backlash

against Muslims in some neighborhoods across the United States; and

Whereas all persons in the United States who espouse and adhere to the values of the founders of our Nation should help in the fight against bias, bigotry, and intolerance in all their forms and from all their sources: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) Congress condemns anti-Muslim intolerance and discrimination as wholly inconsistent with the American values of religious tolerance and pluralism;

(2) while Congress respects and upholds the right of individuals to free speech, Congress acknowledges that individuals and organizations that foster such intolerance create an atmosphere of hatred and fear that divides the Nation;

(3) Congress resolves to uphold a level of political discourse that does not involve making a scapegoat of an entire religion or drawing political conclusions on the basis of religious doctrine; and

(4) Congress recognizes the contributions of American Muslims, who are followers of one of the three major monotheistic religions of the world and one of the fastest growing faiths in the United States.

Mr. ABRAHAM. Mr. President, I rise today to introduce S. Con. Res. 94, which encourages religious tolerance toward Muslims in America. I am proud to join my colleague, Senator JOE LIEBERMAN, in co-sponsoring this legislation. S. Con Res. 94 calls upon Congress to lead the effort in condemning anti-Muslim intolerance and discrimination.

Many may ask why a resolution such as this needs to be introduced in Congress. The answer is, unfortunately, that some Muslims in America have been subjected to discrimination and harassment based simply upon their religious beliefs. This, Mr. President, is inimical to the protections of our Constitution, and to our long-held, fundamental beliefs concerning religious tolerance and pluralism.

It is important to note that Islam is one of the three great monotheistic religions based upon the teachings of Abraham. The American Muslim community, numbering close to 5 million, is a vibrant part of our nation. The many mosques, Islamic schools and centers across America serve to remind us all that Islam has contributed to advancements in the fields of mathematics, science, medicine, law, philosophy, art and literature. Furthermore, many Americans of the Muslim faith are leaders in their communities, and successes in their professions.

It is my sincere hope that our colleagues will join us in taking a stand against anti-Muslim intolerance and discrimination by co-sponsoring this legislation.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I am proud to join Senator ABRAHAM in submitting this resolution recognizing the need—indeed the obligation—for our nation to show greater tolerance towards Americans of Muslim faith. Tolerance for people of all faiths was among the founding principles of our nation. Since the early 17th Century, when the Puritans fled to America seeking the religious freedom that was denied them in England, our nation has cherished religious pluralism and ingrained in its people the value of allowing every person to worship according to the dictates of his or her own conscience. When the Framers drafted the Constitution, they saw this principle as so important, so sacrosanct, that they enshrined religious freedom not once, but twice, in the Bill of Rights' very first Amendment. Perhaps because of this constitutional mandate, or perhaps because of the resulting tolerance the First Amendment has engendered in our society, our nation has in the more than 200 years since it began become a haven for those seeking both refuge from religious persecution and a society accepting and nurturing of a pluralism in religious beliefs.

Indeed, like millions of their coreligionists, my own grandparents came to the United States from Central and Eastern Europe early this century, in part to escape the discrimination they suffered on account of their Jewish faith and heritage. They and those of us who descended from them ultimately found an acceptance in this country that is virtually unparalleled in history. As a result of this country's continued willingness to welcome people of different faiths like my grandparents, both we and American society have been enriched.

Unfortunately, the traditional American values of religious tolerance and acceptance thus far too often have been denied to a more recent group of arrivals and their descendants. Despite the tremendous contributions Muslim Americans are making to American society, and despite the fact that Islam shares a common origin—and common values—with America's two other predominant monotheistic religions, Americans of Islamic faith have been subjected to harassment and discrimination solely on account of their religion and heritage. This must end. It is time for us to reaffirm our commitment to religious pluralism and tolerance. It is time for us to loudly proclaim that a diversity of religious beliefs and traditions enriches rather than diminishes our society because religion—including Islam—is a great source of values and good deeds in our democracy. It is time for us to extend to our Muslim citizens in practice the promise of our nation's ideals: tolerance of and gratitude for their religious beliefs. I hope the resolution we are submitting today puts us one step closer to achieving that ideal.

SENATE RESOLUTION 224—EXPRESSING THE SENSE OF THE SENATE REGARDING AN INTERNATIONAL PROJECT TO EVALUATE AND FACILITATE THE EXCHANGE OF ADVANCED TECHNOLOGIES

Mr. STEVENS (for himself, Mr. COCHRAN, Mr. CHAFEE, Mr. HOLLINGS, Mr. INOUYE, and Mr. MURKOWSKI) submitted the following resolution; which was considered and agreed to:

S. RES. 224

Whereas currently in the post Cold-War world, there are new opportunities to facilitate international political and scientific cooperation on cost-effective and advanced innovative nuclear waste technologies;

Whereas there is increasing public interest in monitoring and remediation of nuclear wastes; and

Whereas it is in the best interest of the United States to explore and develop options with the international community to facilitate the exchange of evolving advanced nuclear waste technologies: *Now, therefore, be it*

Resolved, That it is the sense of the Senate that—the President should instruct the Secretary of Energy, in consultation with the Secretary of State, the Secretary of Defense, the Administrator of the Environmental Protection Agency, and other officials as appropriate, to consider the Advanced Technology Research Project (known as ''ATRP'') and report to the Committee on Energy and Natural Resources of the Senate on:

(1) whether the United States should encourage the establishment of an international project to facilitate the evaluation and international exchange of data (including cost data) relating to advanced nuclear waste technologies, including technologies for solid and liquid radioactive wastes and contaminated soils and sediments;

(2) whether such a project could be funded privately through industry, public interest, and scientific organizations and administered by an international non-governmental, nonprofit organization, with operations in the United States, Russia, Japan, and other countries that have an interest in developing such technologies; and

(3) any legislation that the Secretary believes would be required to enable such a project to be undertaken.

AMENDMENTS SUBMITTED

THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998

ROTH AMENDMENT NO. 2339

Mr. ROTH proposed an amendment to the bill (H.R. 2676) to amend the Internal Revenue Code of 1986 to restructure and reform the Internal Revenue Service, and for other purposes; as follows:

On page 401, strike line 3, and insert: ''beginning after December 31, 1998''.

On page 415, between lines 16 and 17, insert:

SEC. 5007. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

''(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

''(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

''(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses arising in taxable years beginning after the date of the enactment of this Act.

SEC. 5008. MODIFICATION OF AGI LIMIT FOR CONVERSIONS TO ROTH IRAS.

(a) IN GENERAL.—Section 408A(c)(3)(C)(i) (relating to limits based on modified adjusted gross income) is amended to read as follows:

''(i) adjusted gross income shall be determined in the same manner as under section 219(g)(3), except that—

''(I) any amount included in gross income under subsection (d)(3) shall not be taken into account, and

''(II) any amount included in gross income by reason of a required distribution under a provision described in paragraph (5) shall not be taken into account for purposes of subparagraph (B)(i).''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 5009. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking ''October 1, 2003'' and inserting ''October 1, 2007''.

KERREY AMENDMENT NO. 2340

Mr. KERREY proposed an amendment to the bill, H.R. 2676, supra; as follows:

Beginning on page 277, line 4, strike all through page 279, line 25.

On page 280, line 1, strike ''**3105**'' and insert ''**3104**''.

On page 282, line 11, strike ''**3106**'' and insert ''**3105**''.

On page 286, line 1, strike ''**3107**'' and insert ''3106''.

On page 309, lines 7 and 8, strike ''the date of the enactment of this Act'' and insert ''_____, 1998''.

On page 399, line 24, strike ''the date of the enactment of this Act'' and insert ''December 31, 2001''.

On page 400, lines 4 and 5, strike ''the date of the enactment of this Act'' and insert ''December 31, 2001''.

On page 415, between lines 16 and 17, insert:

SEC. 5007. CLARIFICATION OF DEFINITION OF SPECIFIED LIABILITY LOSS.

(a) IN GENERAL.—Subparagraph (B) of section 172(f)(1) (defining specified liability loss) is amended to read as follows:

''(B) Any amount (not described in subparagraph (A)) allowable as a deduction under this chapter which is attributable to a liability—

''(i) under a Federal or State law requiring the reclamation of land, decommissioning of a nuclear power plant (or any unit thereof), dismantlement of an offshore drilling platform, remediation of environmental contamination, or payment of workmen's compensation, and

''(ii) with respect to which the act (or failure to act) giving rise to such liability occurs at least 3 years before the beginning of the taxable year.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to net operating losses arising in taxable years beginning after the date of the enactment of this Act.

SEC. 5008. PROPERTY SUBJECT TO A LIABILITY TREATED IN SAME MANNER AS ASSUMPTION OF LIABILITY.

(a) REPEAL OF PROPERTY SUBJECT TO A LIABILITY TEST.—

(1) SECTION 357.—Section 357(a) (relating to assumption of liability) is amended by striking '', or acquires from the taxpayer property subject to a liability'' in paragraph (2).

(2) SECTION 358.—Section 358(d)(1) (relating to assumption of liability) is amended by striking ''or acquired from the taxpayer property subject to a liability''.

(3) SECTION 368.—

(A) Section 368(a)(1)(C) is amended by striking '', or the fact that property acquired is subject to a liability,''.

(B) The last sentence of section 368(a)(2)(B) is amended by striking '', and the amount of any liability to which any property acquired from the acquiring corporation is subject,''.

(b) CLARIFICATION OF ASSUMPTION OF LIABILITY.—Section 357(c) is amended by adding at the end the following new paragraph:

''(4) DETERMINATION OF AMOUNT OF LIABILITY ASSUMED.—For purposes of this section, section 358(d), section 368(a)(1)(C), and section 368(a)(2)(B)—

''(A) a liability shall be treated as having been assumed to the extent, as determined on the basis of facts and circumstances, the transferor is relieved of such liability or any portion thereof (including through an indemnity agreement or other similar arrangement), and

''(B) in the case of the transfer of any property subject to a nonrecourse liability, unless the facts and circumstances indicate otherwise, the transferee shall be treated as assuming with respect to such property a ratable portion of such liability determined on the basis of the relative fair market values (determined without regard to section 7701(g)) of all assets subject to such liability.''

(c) APPLICATION TO PROVISIONS OTHER THAN SUBCHAPTER C.—

(1) SECTION 584.—Section 584(h)(3) is amended—

(A) by striking '', and the fact that any property transferred by the common trust fund is subject to a liability,'' in subparagraph (A),

(B) by striking clause (ii) of subparagraph (B) and inserting:

''(ii) ASSUMED LIABILITIES.—For purposes of clause (i), the term 'assumed liabilities' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

''(C) ASSUMPTION.—For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(c)(4) shall apply.''

(2) SECTION 1031.—The last sentence of section 1031(d) is amended—

(A) by striking ''assumed a liability of the taxpayer or acquired from the taxpayer property subject to a liability'' and inserting ''assumed (as determined under section 357(c)(4)) a liability of the taxpayer'', and

(B) by striking ''or acquisition (in the amount of the liability)''.

(d) CONFORMING AMENDMENTS.—

(1) Section 351(h)(1) is amended by striking '', or acquires property subject to a liability,''.

(2) Section 357 is amended by striking ''or acquisition'' each place it appears in subsection (a) or (b).

(3) Section 357(b)(1) is amended by striking ''or acquired''.

(4) Section 357(c)(1) is amended by striking '', plus the amount of the liabilities to which the property is subject,''.

(5) Section 357(c)(3) is amended by striking ''or to which the property transferred is subject''.

(6) Section 358(d)(1) is amended by striking ''or acquisition (in the amount of the liability)''.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 5009. EXTENSION OF INTERNAL REVENUE SERVICE USER FEES.

Subsection (c) of section 10511 of the Revenue Act of 1987 is amended by striking ''October 1, 2003'' and inserting ''October 1, 2007''.

SEC. 5010. EXTENSION OF HAZARDOUS SUBSTANCE SUPERFUND TAXES.

(a) EXTENSION OF TAXES.—

(1) ENVIRONMENTAL TAX.—Section 59A(e) is amended to read as follows:

''(e) APPLICATION OF TAX.—The tax imposed by this section shall apply to taxable years beginning after December 31, 1986, and before January 1, 1996, and to taxable years beginning after December 31, 2001, and before January 1, 2008.''

(2) EXCISE TAXES.—Section 4611(e) is amended to read as follows:

''(e) APPLICATION OF HAZARDOUS SUBSTANCE SUPERFUND FINANCING RATE.—The Hazardous Substance Superfund financing rate under this section shall apply after December 31, 1986, and before January 1, 1996, and after December 31, 2001, and before October 1, 2008.''

(b) EFFECTIVE DATES.—

(1) INCOME TAX.—The amendment made by subsection (a)(1) shall apply to taxable years beginning after December 31, 2001.

(2) EXCISE TAX.—The amendment made by subsection (a)(2) shall take effect on January 1, 2002.

SEC. 5011. MODIFICATION OF DEPRECIATION METHOD FOR TAX-EXEMPT USE PROPERTY.

(a) IN GENERAL.—Subparagraph (A) of section 168(g)(3) (relating to tax-exempt use property subject to lease) is amended to read as follows:

''(A) TAX-EXEMPT USE PROPERTY.—In the case of any tax-exempt use property, the recovery period used for purposes of paragraph (2) shall be equal to 150 percent of the class life of the property determined without regard to this subparagraph.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to property—

(1) placed in service after December 31, 1998, and

(2) placed in service on or before such date which—

(A) becomes tax-exempt use property after such date, or

(B) becomes subject to a lease after such date which was not in effect on such date.

In the case of property to which paragraph (2) applies, the amendment shall only apply with respect to periods on and after the date the property becomes tax-exempt use property or subject to such a lease.

SEC. 5012. EXTENSION OF REPORTING FOR CERTAIN VETERANS PAYMENTS.

The last sentence of section 6103(l)(7) (relating to disclosure of return information to Federal, State, and local agencies administering certain programs) is amended by striking ''September 30, 2003'' and inserting ''September 30, 2008''.

On page 260, line 14, strike ''shall develop'' and insert ''shall, not later than January 1, 2000, develop''.

On page 305, lines 3 and 4, strike ''the date of the enactment of this Act'' and insert ''June 30, 2000''.

On page 305, lines 10 and 11, strike ''the date of the enactment of this Act'' and insert ''June 30, 2000''.

On page 308, line 13, strike ''the date of the enactment of this Act'' and insert ''June 30, 1999''.

On page 309, lines 7 and 8, strike ''the date of the enactment of this Act'' and insert ''December 31, 1999''.

On page 310, strike line 19, and insert ''December 31, 1999''.

On page 312, lines 15 and 16, strike ''the date of the enactment of this Act'' and insert ''December 31, 1999''.

On page 314, lines 3 and 4, strike ''the 180th day after the date of the enactment of this Act'' and insert ''December 31, 2000''.

On page 315, line 11, strike ''June 30, 2000'' and insert ''December 31, 2000''.

On page 324, strike lines 9 through 12, and insert:

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to collection actions initiated after December 31, 1999.

On page 343, after line 24, insert:

(c) EFFECTIVE DATE.—This section shall apply to collection actions initiated after December 31, 1999.

On page 345, lines 6 and 7, strike ''the date of the enactment of this Act'' and insert ''December 31, 1999''.

On page 348, line 6, strike ''December 31, 1998'' and insert ''December 31, 1999''.

On page 351, lines 13 and 14, strike ''the date of the enactment of this Act'' and insert ''December 31, 1999''.

On page 357, lines 6 and 7, strike ''the date of the enactment of this Act'' and insert ''December 31, 1999''.

On page 357, lines 9 and 10, strike ''the date of the enactment of this Act'' and insert ''December 31, 1999''.

On page 357, strike lines 16 and 17, and insert:

(B) December 31, 1999.

On page 362, lines 12 and 13, strike ''the 60th day after the date of the enactment of this Act'' and insert ''December 31, 1999''.

On page 370, lines 17 and 18, strike ''the date of the enactment of this Act'' and insert ''January 1, 1999''.

On page 371, line 11, insert: ''This subsection shall apply only with respect to taxes arising after June 30, 2000, and any liability for tax arising on or before such date but remaining unpaid as of such date.'' after the end period.

On page 374, lines 4 and 5, strike ''180 days after the date of the enactment of this Act'' and insert ''July 1, 2000''.

On page 379, line 15, insert '', on and after July 1, 1999,'' after ''shall''.

On page 382, line 2, strike ''60 days after the date of the enactment of this Act'' and insert ''on January 1, 2000''.

On page 383, line 14, insert '', except that the removal of any designation under subsection (a)(2)(A) shall not be required to begin before January 1, 1999'' after ''Act''.

On page 385, lines 7 and 8, strike ''the date of the enactment of this Act'' and insert ''January 1, 2000''.

BOND AMENDMENT NO. 2341

Mr. BOND proposed an amendment to the bill, H.R. 2676, supra; as follows:

Beginning on page 174, strike line 10 and all that follows through page 192, line 25, and insert the following:

SEC. 1101. INTERNAL REVENUE SERVICE BOARD OF GOVERNORS.

(a) IN GENERAL.—Section 7802 (relating to the Commissioner of Internal Revenue) is amended to read as follows:

''SEC. 7802. INTERNAL REVENUE SERVICE BOARD OF GOVERNORS.

''(a) ESTABLISHMENT.—There is established within the Department of the Treasury the Internal Revenue Service Board of Governors (in this title referred to as the 'Board').

''(b) MEMBERSHIP.—

''(1) COMPOSITION.—The Board shall be composed of 5 members, of whom—

''(A) 4 shall be individuals who are appointed by the President, by and with the advice and consent of the Senate, and

''(B) 1 shall be the Commissioner of Internal Revenue.

Not more than 2 members of the Board appointed under subparagraph (A) may be affiliated with the same political party.

''(2) QUALIFICATIONS.—Members of the Board described in paragraph (1)(A) shall be appointed solely on the basis of their professional experience and expertise in 1 or more of the following areas:

''(A) The needs and concerns of taxpayers.

''(B) Organization development.

''(C) Customer service.

''(D) Operation of small businesses.

''(E) Management of large businesses.

''(F) Information technology.

''(G) Compliance.

In the aggregate, the members of the Board described in paragraph (1)(A) should collectively bring to bear expertise in these enumerated areas.

''(3) TERMS.—Each member who is described in paragraph (1)(A) shall be appointed for a term of 5 years, except that of the members first appointed—

''(A) 1 member who is affiliated with the same political party as the President shall be appointed for a term of 1 year,

''(B) 1 member who is not affiliated with the same political party as the President shall be appointed for a term of 2 years,

''(C) 1 member who is affiliated with the same political party as the President shall be appointed for a term of 3 years, and

''(D) 1 member who is not affiliated with the same political party as the President shall be appointed for a term of 4 years.

A member of the Board may serve on the Board after the expiration of the member's term until a successor has taken office as a member of the Board.

''(4) REAPPOINTMENT.—An individual who is described in paragraph (1)(A) may be appointed to no more than two 5-year terms on the Board.

''(5) VACANCY.—Any vacancy on the Board—

''(A) shall not affect the powers of the Board, and

''(B) shall be filled in the same manner as the original appointment.

Any member appointed to fill a vacancy occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that term.

''(6) REMOVAL.—

''(A) IN GENERAL.—A member of the Board may be removed at the will of the President.

''(B) COMMISSIONER OF INTERNAL REVENUE.—An individual described in paragraph (1)(B) shall be removed upon termination of employment.

''(c) GENERAL RESPONSIBILITIES.—

''(1) IN GENERAL.—The Board shall oversee the Internal Revenue Service in the administration, management, conduct, direction, and supervision of the execution and application of the internal revenue laws or related statutes and tax conventions to which the United States is a party.

''(2) CONSULTATION ON TAX POLICY.—The Board shall be responsible for consulting with the Secretary of the Treasury with respect to the development and formulation of Federal tax policy relating to existing or proposed internal revenue laws, related statutes, and tax conventions.

''(d) SPECIFIC RESPONSIBILITIES.—The Board shall have the following specific responsibilities:

''(1) STRATEGIC PLANS.—To review and approve strategic plans of the Internal Revenue Service, including the establishment of—

''(A) mission and objectives, and standards of performance relative to either, and

''(B) annual and long-range strategic plans.

''(2) OPERATIONAL PLANS.—To review and approve the operational functions of the Internal Revenue Service, including—

''(A) plans for modernization of the tax system,

''(B) plans for outsourcing or managed competition, and

''(C) plans for training and education.

''(3) MANAGEMENT.—To—

''(A) recommend to the President candidates for appointment as the Commissioner of Internal Revenue and recommend to the President the removal of the Commissioner,

''(B) recommend to the Secretary of the Treasury 3 candidates for appointment as the National Taxpayer Advocate from individuals who have—

''(i) a background in customer service as well as tax law, and

''(ii) experience in representing individual taxpayers,

''(C) recommend to the Secretary of the Treasury the removal of the National Taxpayer Advocate,

''(D) oversee the operation of the Office of the Taxpayer Advocate and the Internal Revenue Service Office of Appeals,

''(E) review and approve the Commissioner's selection, evaluation, and compensation of Internal Revenue Service senior executives who have program management responsibilities over significant functions of the Internal Revenue Service,

''(F) review and approve the Commissioner's plans for reorganization of the Internal Revenue Service, and

''(G) review and approve procedures of the Internal Revenue Service relating to financial audits required by law.

''(4) BUDGET.—To—

''(A) review and approve the budget request of the Internal Revenue Service prepared by the Commissioner,

''(B) submit such budget request to the Secretary of the Treasury, and

''(C) ensure that the budget request supports the annual and long-range strategic plans of the Internal Revenue Service.

''(5) TAXPAYER PROTECTION.—To ensure the proper treatment of taxpayers by the employees of the Internal Revenue Service.

The Secretary shall submit, without revision, the budget request referred to in paragraph (4) for any fiscal year to the President who shall submit, without revision, such request to Congress together with the President's annual budget request for the Internal Revenue Service for such fiscal year.

''(e) BOARD PERSONNEL MATTERS.—

''(1) COMPENSATION OF MEMBERS.—Each member of the Board who is described in subsection (b)(1)(A) shall be compensated at an annual rate equal to the rate for Executive Schedule IV under title 5 of the United States Code. The Commissioner shall receive no additional compensation for service on the Board.

''(2) STAFF.—The Chairperson of the Board shall have the authority to hire such personnel as may be necessary to enable the Board to perform its duties.

''(3) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

''(f) ADMINISTRATIVE MATTERS.—

''(1) CHAIR.—

''(A) TERM.—The Commissioner of Internal Revenue shall serve as the chairperson of the Board.

''(B) POWERS.—Except as otherwise provided by a majority vote of the Board, the powers of the Chairperson shall include—

''(i) establishing committees,

''(ii) setting meeting places and times,

''(iii) establishing meeting agendas, and

''(iv) developing rules for the conduct of business.

''(2) MEETINGS.—The Board shall meet at least once each month and at such other times as the Board determines appropriate.

''(3) QUORUM; VOTING REQUIREMENTS; DELEGATION OF AUTHORITIES.—3 members of the Board shall constitute a quorum. All decisions of the Board with respect to the exercise of its duties and powers under this section shall be made by a majority vote of the members present and voting. A member of the Board may not delegate to any person the member's vote or any decisionmaking authority or duty vested in the Board by the provisions of this section.

''(4) REPORTS.—The Board shall each year report with respect to the conduct of its responsibilities under this title to the President, the Committees on Ways and Means, Government Reform and Oversight, and Appropriations of the House of Representatives, and the Committees on Finance, Governmental Affairs, and Appropriations of the Senate.''.

(b) CONFORMING AMENDMENTS.—

(1) Section 5315 of title 5, United States Code, is amended by adding at the end the following new item:

''Members, Internal Revenue Service Board of Governors.''

(2) Section 7701(a) (relating to definitions) is amended by inserting after paragraph (46) the following new paragraph:

''(47) BOARD.—The term 'Board' means the Board of Governors of the Internal Revenue Service.''

(3) The table of sections for subchapter A of chapter 80 is amended by striking the item relating to section 7802 the inserting the following new item:

''Sec. 7802. Internal Revenue Service Board of Governors.''

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect on the date of the enactment of this Act.

(2) INITIAL NOMINATIONS TO INTERNAL REVENUE SERVICE BOARD OF GOVERNORS.—The President shall submit nominations under section 7802 of the Internal Revenue Code of 1986, as added by this section, to the Senate not later than 6 months after the date of the enactment of this Act.

(3) EFFECT ON ACTIONS PRIOR TO APPOINTMENT OF BOARD OF GOVERNORS.—Nothing in this section shall be construed to invalidate the actions and authority of the Internal Revenue Service prior to the appointment of the members of the Internal Revenue Service Board of Governors.

On page 194, line 14, strike ''Oversight''.

On page 195, line 2, strike ''Oversight''.

On page 197, lines 11 and 12, strike ''Oversight''.

On page 202, line 2, strike ''Oversight''.

On page 212, line 13, strike ''Oversight Board'' and insert ''Board of Governors''.

On page 217, line 10, strike ''Oversight Board'' and insert ''Board of Governors''.

On page 217, lines 22 and 23, strike ''Oversight Board'' and insert ''Board of Governors''.

On page 220, line 12, strike ''Oversight Board'' and insert ''Board of Governors''.

On page 220, line 17, strike ''Oversight Board'' and insert ''Board of Governors''.

On page 235, line 2, strike ''Oversight Board'' and insert ''Board of Governors''.

On page 258, line 8, strike ''Oversight Board'' and insert ''Board of Governors''.

REID AMENDMENT NO. 2342

Mr. REID proposed an amendment to the bill, H.R. 2676, supra; as follows:

At the end of subtitle H of title III, add the following:

SEC. ___. ELIMINATION OF PAYMENTS FOR DETECTION OF UNDERPAYMENTS AND FRAUD.

(a) IN GENERAL.—Subchapter B of chapter 78 is amended by striking section 7623.

(b) CONFORMING AMENDMENT.—The table of sections for subchapter B of chapter 78 is amended by striking the item relating to section 7623.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

LEAHY (AND ASHCROFT) AMENDMENT NO. 2343

Mr. KERREY (for Mr. LEAHY, for himself and Mr. ASHCROFT) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 262, after line 14, add the following new paragraph:

''In the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall establish procedures for all Tax Forms, Instructions, and Publications created in the most recent 5-year period to be made available electronically on the Internet in a searchable database not later than the date such records are available to the public in printed form. In addition, in the case of taxable periods beginning after December 31, 1998, the Secretary of the Treasury or the Secretary's delegate shall, to the extent practicable, establish procedures for other taxpayer guidance to be made available electronically on the Internet in a searchable database not later than the date such guidance is available to the public in printed form.''

DORGAN (AND REID) AMENDMENT NO. 2344

Mr. DORGAN (for himself and Mr. REID) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 394, between lines 15 and 16, insert:

SEC. 3803. STUDY OF TRANSFER PRICING ENFORCEMENT.

(1) IN GENERAL.—The Internal Revenue Service Oversight Board shall study whether the Internal Revenue Service has the resources needed to prevent tax avoidance by companies using unlawful transfer pricing methods.

(2) ASSISTANCE.—The Internal Revenue Service shall assist the Board in its study by analyzing and reporting to the Board on its enforcement of transfer pricing abuses, including a review of the effectiveness of the current enforcement tools used by the Internal Revenue Service to ensure compliance under section 482 of the Internal Revenue Code of 1986 and to determine the scope of nonpayment of United States taxes by reason of such abuses.

(3) REPORT.—The Board shall report to Congress, not later than 12 months after the date of enactment of this Act, on the results of the study conducted under this subsection, including recommendations for improving the Internal Revenue Service's enforcement tools to ensure that multinational companies doing business in the United States pay their fair share of United States taxes.

DEWINE AMENDMENTS NOS. 2345–2346

(Ordered to lie on the table.)

Mr. DEWINE submitted two amendments intended to be proposed by him to the bill, H.R. 2676, supra; as follows:

AMENDMENT NO. 2345

On page 291, between lines 6 and 7, insert:

SEC. 3108. PROCEEDINGS TO REDUCE COMPLIANCE BURDENS RELATING TO NET OPERATING LOSSES.

(a) ADMINISTRATIVE PROCEEDINGS.—Section 6001 (relating to notice or regulations requiring records, statements, and special returns) is amended—

(1) by striking ''Every'' and inserting

''(a) IN GENERAL.—Every'', and

(2) by adding at the end the following new subsection:

''(b) SPECIAL RULE FOR RECORDS RELATING TO NET OPERATING LOSSES.—

''(1) IN GENERAL.—If, within 5 years of filing, the Secretary has not examined any return of tax for a taxable year in which a net operating loss (as defined in section 172(c)) arises, the taxpayer may request the Secretary to—

''(A) enter into a formal record retention agreement with respect to records relating to such taxable year, or

''(B) if an agreement under subparagraph (A) cannot be mutually agreed upon, conduct an examination of such return.

''(2) TIME FOR ACTION.—

''(A) IN GENERAL.—The Secretary shall have 90 days from receipt of a request to enter into the agreement under paragraph (1)(A). If an agreement cannot be reached within such 90-day period, the Secretary shall immediately schedule the date for the examination under paragraph (1)(B).

''(B) EXAMINATION.—Any examination under paragraph (1)(B) shall be completed within 1 year of the close of the 90-day period under subparagraph (A) unless the taxpayer and the Secretary mutually agree to an extension of the 1-year period.

''(C) EFFECT OF FAILURE.—If the Secretary fails to meet any deadline under this paragraph, the net operating loss for the taxable year at issue shall be the amount included on the return of tax.

''(3) PAYMENT.—The Secretary may assess a fee of up to $10,000 on any taxpayer filing a request under this subsection in order to defray the Secretary's expenses under this subsection.''

(b) DECLARATORY JUDGMENT PROCEEDING.—

(1) IN GENERAL.—Part IV of subchapter C of chapter 76 is amended by adding at the end the following new section:

''SEC. 7480. DECLARATORY JUDGMENT INVOLVING NET OPERATING LOSS DEDUCTION.

''(a) CREATION OF REMEDY.—In a case of actual controversy involving a determination by the Secretary of the correctness of a net operating loss under section 172(c) under an examination (or administrative appeal thereof) pursuant to section 6001(b), upon the filing of an appropriate pleading, the Tax Court may make a declaration with respect to the correctness of such deduction. Any such declaration shall have the force and effect of a decision of the Tax Court and shall be reviewable as such.

''(b) LIMITATIONS.—

''(1) PETITIONER.—A pleading may be filed under this section only by a taxpayer who filed a request under section 6001(b).

''(2) EXHAUSTION OF ADMINISTRATIVE REMEDIES.—The court shall not issue a declaratory judgment or decree under this section in any proceeding unless it determines the petitioner has exhausted all administrative remedies within the Internal Revenue Service. A petitioner shall be deemed to have exhausted its administrative remedies as of the close of the period described in section 6601(b)(2)(B).

''(3) TIME FOR BRINGING ACTION.—No proceeding may be initiated under this section unless it is filed before the 91st day after the last day of the period under section 6601(b)(2)(B).''

(2) CONFORMING AMENDMENT.—The table of sections for part IV of subchapter C of chapter 76 is amended by adding at the end the following new item:

''Sec. 7480. Declaratory judgment involving net operating loss deduction.''

AMENDMENT NO. 2346

On page 312, strike lines 1 through 6 and insert:

(b) AMENDMENT RELATED TO SECTION 1011 OF 1997 ACT.—Subsection (d) of Section 1059 of the 1986 Code is amended by adding at the end the following paragraph:

''(7) EXCEPTION FOR EXCESS LOSS ACCOUNTS.—Except as provided in regulations prescribed by the Secretary after March 26, 1998, subsection (a) shall not apply to any extraordinary dividend to the extent that the regulations prescribed under section 1502 require the creation or increase of an excess loss account.

GRAHAM AMENDMENT NO. 2347

Mr. GRAHAM proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 176, between lines 4 and 5, insert the following:

''(vii) The needs and concerns of small businesses.''

ASHCROFT (AND LEAHY) AMENDMENT NO. 2348

Mr. ASHCROFT (for himself and Mr. LEAHY) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 261, strike lines 4 through 7, and insert ''and subscribed''.

COVERDELL AMENDMENTS NOS. 2349–2353

(Ordered to lie on the table.)

Mr. COVERDELL submitted four amendments intended to be proposed by him to the bill, H.R. 2676, supra; as follows:

AMENDMENT NO. 2349

At the appropriate place insert the following:

SEC. . FAIRNESS WHEN COLLECTING A TAX DUE TO MATHEMATICAL AND CLERICAL ERRORS.

(a) IN GENERAL.—Section 6404(d) of the Internal Revenue Code of 1986 (relating to abatements) is amended to read as follows:

''(d) ABATEMENT OF INTEREST, PENALTY, ADDITIONAL, AMOUNT, AND ADDITION TO TAX ATTRIBUTABLE TO CERTAIN MATHEMATICAL, OR CLERICAL ERRORS.—In the case of an assessment of additional tax attributable to a mathematical or clerical error (as defined in section 6213(g)(2)), the Secretary shall abate any interest, penalty, additional amount, and addition to tax with respect to such assessment if, within 60 days after notice of such assessment is sent under section 6213(b)(1) by certified mail or registered mail, the taxpayer pays, or files a request for an abatement of, such assessment.''.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to notices filed after the date of the enactment of this Act.

AMENDMENT NO. 2350

After ''misconduct.'' on page 252, line 18, insert:

''Such a terminated employee shall be barred from employment in the Federal service.''

AMENDMENT NO. 2351

On page 376, strike lines 3 through 15, and insert:

''(B) REPRESENTATION OF LOW INCOME TAXPAYERS.—A clinic meets the requirements of subparagraph (A)(ii)(I) if at least 90 percent of the taxpayers represented by the clinic have incomes which do not exceed 250 percent of the poverty level, as determined in accordance with criteria established by the Director of the Office of Management and Budget.

AMENDMENT NO. 2352

Beginning on page 377, line 20, strike all through page 378, line 14, and insert:

''(4) CRITERIA FOR AWARDS.—In determining whether to make a grant under this section, the Secretary—

''(A) shall consider—

''(i) the numbers of taxpayers who will be served by the clinic, including the number of taxpayers in the geographical area for whom English is a second language,

''(ii) the existence of other low income taxpayer clinics serving the same population,

''(iii) the quality of the program offered by the low income taxpayer clinic, including the qualifications of its administrators and qualified representatives, and its record, if any, in providing service to low income taxpayers, and

''(iv) alternative funding sources available to the clinic, including amounts received from other grants and contributions, and the endowment and resources of the institution sponsoring the clinic, and

''(B) shall give preference to any clinic in existence on the date of the enactment of this section.

COVERDELL (AND OTHERS) AMENDMENT NO. 2353

(Ordered to lie on the table.)

Mr. COVERDELL (for himself, Mr. COCHRAN, Mr. FRIST, Mr. HAGEL, and Mr. INHOFE) submitted an amendment intended to be proposed by them to the bill, H.R. 2676, supra; as follows:

On page 342, after line 24, add:

SEC. 3418. PROHIBITION OF RANDOM AUDITS.

(a) IN GENERAL.—Section 7602 (relating to examination of books and witnesses), as amended by section 3417, is amended by adding at the end the following new subsection:

''(f) LIMITATIONS ON AUTHORITY TO EXAMINE.—

''(1) IDENTIFICATION OF PURPOSE AND BASIS FOR EXAMINATION REQUIRED.—In taking any action under subsection (a), the Secretary shall identify in plain language the purpose and the basis for initiating an examination in any notice of such an examination to any person described in subsection (a).

''(2) RANDOM AUDITS PROHIBITED.—The Secretary shall not base, in whole or in part, the initiation of an examination of a return under subsection (a) on the use of a statistically random return selection technique from a population or subpopulation.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to examinations initiated after April 29, 1998.

STEVENS AMENDMENT NO. 2354

(Ordered to lie on the table.)

Mr. STEVENS submitted an amendment intended to be proposed by them to the bill, H.R. 2676, supra; as follows:

On page 344, strike lines 7 through 9 and insert in lieu thereof the following:

(b) BOOKS, ETC.—Section 6334(a)(3) (relating to books and tools of a trade, business, or profession) is amended by striking ''$1,250 in value'' and inserting ''$5,000 in value, and any permits issued by a State and required under State law for the harvest of fish or wildlife in the trade, business, or profession of the taxpayer''.

SHELBY (AND SESSIONS) AMENDMENT NO. 2355

Mr. SHELBY (for himself and Mr. SESSIONS) proposed an amendment to the bill, H.R. 2676, supra; as follows:

At the appropriate place in the bill insert the following new section:

SEC. ___. CONGRESSIONAL REVIEW OF INTERNAL REVENUE SERVICE RULES THAT INCREASE REVENUE.

(a) SHORT TITLE.—This section may be cited as the ''Stealth Tax Prevention Act''.

(b) IN GENERAL.—Section 804(2) of title 5, United States Code, is amended to read as follows:

''(2) The term 'major rule'—

''(A) means any rule that—

''(i) the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds has resulted in or is likely to result in—

''(I) an annual effect on the economy of $100,000,000 or more;

''(II) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or

''(III) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets; or

''(ii)(I) is promulgated by the Internal Revenue Service; and

''(II) the Administrator of the Office of Information and Regulatory Affairs of the Office of Management and Budget finds that the implementation and enforcement of the rule has resulted in or is likely to result in any net increase in Federal revenues over current practices in tax collection or revenues anticipated from the rule on the date of the enactment of the statute under which the rule is promulgated; and

''(B) does not include any rule promulgated under the Telecommunications Act of 1996 and the amendments made by that Act.''.

THOMPSON (AND OTHERS) AMENDMENT NO. 2356

Mr. THOMPSON (for himself, Mr. SESSIONS, and Mr. FAIRCLOTH) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 180, beginning with line 7, strike all through page 181, line 17.

KOHL (AND FEINGOLD) AMENDMENT NO. 2357

Mr. KERREY (for Mr. KOHL, for himself, and Mr. FEINGOLD) proposed an amendment to the bill, H.R. 2676, supra; as follows:

On page 229, insert between lines 15 and 16 the following new section:

SEC. 1106. REVIEW OF MILWAUKEE AND WAUKESHA INTERNAL REVENUE SERVICE OFFICES.

(a) IN GENERAL.—

(1) REVIEW.—The Commissioner of Internal Revenue shall appoint an independent expert in employment and personnel matters to conduct a review of the investigation conducted by the task force, established by the Internal Revenue Service and initiated in January 1998, of the equal employment opportunity process of the Internal Revenue Service offices located in the area of Milwaukee and Waukesha, Wisconsin.

(2) CONTENT.—The review conducted under paragraph (1) shall include—

(A) a determination of the accuracy and validity of such investigation; and

(B) if determined necessary by the expert, a further investigation of such offices relating to—

(i) the equal employment opportunity process; and

(ii) any alleged discriminatory employment-related actions, including any alleged violations of Federal law.

(b) REPORT.—Not later than July 1, 1999, the independent expert shall report on the review conducted under subsection (a) (and any recommendations for action) to Congress and the Commissioner of Internal Revenue.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Mr. ROTH. Mr. President, I ask unanimous consent that the full Committee on Armed Services be authorized to meet on Wednesday may 6, 1998, and Thursday May 7, 1998, at 10 a.m. in closed session, to mark up the Department of Defense Authorization Act for Fiscal Year 1999.

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

COMMITTEE ON INDIAN AFFAIRS

Mr. ROTH. Mr. President, I ask unanimous consent that the Senate Committee on Indian Affairs be authorized to meet to conduct a hearing on Wednesday, May 6, 1998 at 10:00 a.m. on Tribal Sovereign Immunity, focusing on torts. The hearing will be held in room 106 of the Dirksen Senate Office Building.

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

SELECT COMMITTEE ON INTELLIGENCE

Mr. ROTH. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on Wednesday, May 6, 1998 at 11:30 am to hold closed mark-up on the FY 99 Intelligence Authorization.

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

SPECIAL COMMITTEE ON AGING

Mr. ROTH. Mr. President, I ask unanimous consent that the Special Committee on Aging be permitted to meet on May 6, 1998 at 2:00 p.m. for the purpose of conducting a hearing.

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

SUBCOMMITTEE ON COMMUNICATIONS

Mr. ROTH. Mr. President, I ask unanimous consent that the Communications Subcommittee of the Senate Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, May 6, 1998, at 9:30 a.m. on oversight of the Common Carrier Bureau.

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

SUBCOMMITTEE ON EUROPEAN AFFAIRS

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on European Affairs be authorized to meet during the session of the Senate on Wednesday, May 6, 1998 at 2:00 p.m. to hold a hearing.

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

SUBCOMMITTEE ON FORESTS AND PUBLIC LAND MANAGEMENT

Mr. ROTH. Mr. President, I ask unanimous consent that the Subcommittee on Forests and Public Land Management of the Committee on Energy and Natural Resources be granted permission to meet during the session of the Senate on Wednesday, May 6, for purposes of conducting a subcommittee hearing which is scheduled to begin at 2:30 p.m. The purpose of this hearing is to receive testimony on S. 94, a bill to provide for the orderly disposal of Federal lands in Nevada, and for the acquisition of certain environmentally sensitive lands in Nevada, and for other purposes; and H.R. 449, a bill to provide for the orderly disposal of certain Federal lands in Clark County, Nevada, and to provide for the acquisition of environmentally sensitive lands in the State of Nevada.

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

ADDITIONAL STATEMENTS

TRIBUTE TO BRUCE BOHNSACK

● Mr. CONRAD. Mr. President, I rise today to give a brief tribute to Mr. Bruce Bohnsack from my home state of North Dakota. Mr. Bohnsack operates a grain and soybean farm which has been in his family for more than 100 years. As a producer, Bruce has a keen interest in farm policy issues and has been active in the affairs of a farmer owned credit cooperative—the Farm Credit System.

Bruce's active involvement in Farm Credit has been on various levels. He is a member of the Federal Land Credit Association of Fargo and has served as director of that association for 18 years. Bohnsack joined the board of the St. Paul Farm Credit Bank in 1987—at a time of crisis for the bank and the Farm Credit System as a whole.

The Farm Credit System of the mid-1980s was fighting a battle for survival. One of the things that saved the System was the leadership of Farm Credit board members like Bruce Bohnsack. Bruce and his colleagues in St. Paul made a number of sound business decisions of critical importance to the institutions and the farmers they serve. One such decision was to combine the St. Paul and St. Louis Farm Credit Banks to create AgriBank, FCB. This first voluntary merger of Farm Credit banks in the history of the System helped to ensure the efficiency and effectiveness of the wholesale bank while retaining local accountability at the association level.

Bruce and other farmer elected lenders in the System also provided helpful input to the Committee on Agriculture when we drafted the Agricultural Credit Act of 1987. The 1987 Act is one of the great success stories in recent years for which Congress and the Farm Credit System can both be justifiably proud. Since 1987 the Farm Credit System has experienced a remarkable turn around. It is now better capitalized and better positioned to serve farmers than ever before in its history. Congress played a role in this turn around by providing Farm Credit with a loan not a grant. The principal and interest on the loan made possible under the 1987 legislation is being repaid by the System several years ahead of schedule.

Bruce Bohnsack's interest in farm policy issues is also reflected in his service on the St. Paul District Farm Credit Council and national Farm Credit Council boards of directors. As chairman of these two boards, Bruce was as an advocate for Farm Credit in the halls of Congress and in North Dakota. While he no longer serves on these boards, you can bet he will continue to be active in North Dakota Farmers Union, North Dakota State Township Officers Association, his local Lutheran church and other farm and community groups.

On behalf of North Dakota farmers, I would like to thank Bruce Bohnsack for his years of service to the Farm Credit System and American agriculture. We wish him well in the years ahead.●

FIRST LIEUTENANT JOSEPH VAN OOSTERHOUT RETIRES FROM MICHIGAN STATE POLICE

● Mr. ABRAHAM. Mr. President, I rise today to honor First Lieutenant Joseph Van Oosterhout, Post Commander of the Michigan State Police. He is retiring from the State Police after 23 years and 9 months of dedicated service.

First Lieutenant Van Oosterhout joined the Michigan State Police after serving in the United States Navy during the Vietnam War from 1967 to 1971. After serving in the military, he attended Western Michigan University where he worked towards the Bachelor's Degree he later earned while with the State Police. He was enlisted in the Michigan State Police in 1974, first stationed at the Benton Harbor Post and later to the Detroit Post and White Pigeon Post. In 1982, Van Oosterhout was promoted to Sergeant in the Traffic Services Division in Lansing. In 1987, he was assigned as Assistant Post Commander at the Ypsilanti Post. In 1992, he was promoted to Post Commander at the Iron Mountain Post. Also in 1992, he was transferred to the Negaunee Post as Post Commander where he has served ever since.

Throughout his career, First Lieutenant Van Oosterhout has received a great deal of recognition for his excellent service. In 1988, he was recognized as being the police officer in Michigan who had contributed most to traffic safety. He received one Departmental Award for breaking a crime ring and another for making a drug bust that had ties to several states.

Van Oosterhout, husband to Becky and father to Leah, Sarah, Joe and Andrew, will be remembered for his excellent service and dedication to the Department of State Police, friendly demeanor and concern for those he worked with. I extend my warmest congratulations to him on his retirement.●

MICHIGAN SPORTS HALL OF FAME INDUCTEES

● Mr. ABRAHAM. Mr. President, I rise today to honor five men who have been newly elected to the Michigan Sports Hall of Fame. Earvin ''Magic'' Johnson, one of basketball's all time greatest players who began his career with Michigan State University and gained further fame as a Los Angeles Laker; Leonard ''Red'' Kelly, one of the Red Wings greatest players who was recently named one of the 50 greatest players in NHL history; Bob Reynolds, the legendary sports broadcaster at the radio station WJR in Detroit; Isiah Thomas, possibly the greatest Detroit Piston of all time; and George Webster, All American linebacker from Michigan State University.

In addition to the inductees, Peter Karmanos, Jr., Chairman of the Compuware Corporation and owner of the Carolina Hurricanes of the National Hockey League will receive the Gerald R. Ford Sports Person of the Year Award. All of these men will be honored at the 44th Annual Induction Dinner of the Michigan Sports Hall of Fame on Wednesday evening, May 20, 1998 at Detroit's Cobo Center.

I want to extend my sincerest congratulations to all of these men. I am confident that the event will be a great success.●

COVERDELL A+ SAVINGS ACCOUNTS BILL—EXPLANATION OF VOTES

● Mr. ABRAHAM. Mr. President, the Senate recently voted on an important piece of legislation, the Coverdell A+ Savings Account bill. I believe it is important to clarify my position on several amendments offered to this bill.

In general, I believe the best way to ensure effective education policy is to direct as many dollars and resources as possible to the local level. By giving localities the resources and flexibility they need, I am confident that communities and parents will best direct those funds to meet the unique and diverse needs of their children. For this reason, I support the Coverdell A+ Savings Account bill. This legislation, puts resources at the most local level: with parents. Parents will now have the ability to save for and meet the educational needs of their children. Whether it means hiring a tutor for their child, buying a home computer, finding an alternative educational setting, or saving for college, parents will be in the position to take positive steps towards providing a positive educational future for their children.

For similar reasons, I supported an amendment offered by Senator GORTON to give states the option of (1) continuing to receive federal education programs under the current funding system; (2) receiving federal education programs as a block grant going directly to the state without federal regulations; or (3) receiving federal education programs in a block grant going directly to the local education agency without federal regulations. By allowing local education agencies to receive federal resources without federal red tape and bureaucracy, we will be putting more power and flexibility in the hands of the people most closely involved with educating children. As a safe-guard to ensure that an appropriate level of federal funding continues, Senator GORTON's amendment insists that if future funding dips below the current level of funding, the programs would be forced back into the current categorical funding.

I also supported an amendment offered by Senators MACK and D'AMATO which would allow states to use existing block grant funds under the Elementary and Secondary Education Act to fund teacher testing and merit pay programs in the state. I believe this amendment would allow states to develop important programs to help ensure quality teachers in the classroom and to pay those teachers accordingly.

Finally, I supported an amendment that was offered by Senator KAY BAILEY HUTCHISON which clarified the federal position on same-sex schools. This amendment would allow same-sex classrooms and schools to be eligible to receive federal funding as long as comparable education opportunities are offered for students of both sexes. I believe the federal government must allow states and communities to find creative solutions to meeting the educational needs of their children.

Again, I support the philosophy behind the Coverdell bill and the Gorton amendment which places control, resources, and decision making with parents and local communities. Unfortunately, most of the amendments offered by Democrats, while noble ideas, fund their programs by eliminating the education savings accounts and by focusing the programs and power at the federal level. While there were many interesting ideas debated, such as the amendment offered by Senator LEVIN which would increase the lifetime learning education credit for teachers or the amendment offered by Senator LANDRIEU to provide incentive grants for Blue Ribbon Schools, each proposal was paid for by defunding the A+ Savings Accounts. For that reason, I could not support these weakening amendments.

Senator GLENN offered an amendment which would eliminate the ability of parents to use their tax-free savings to pay for private school tuition or homeschooling expenses. The provision included in the A+ bill is identical to the provision supported by President Clinton and the Democrats in the Balanced Budget Act which allows parents to save $500 a year for college expenses. The Balanced Budget Act, which was signed into law by the President, does not differentiate between private and public colleges. It is inconsistent to subsidize a more limited number of college students and not offer the same benefit in K–12 education.

Senator MOSELY-BRAUN offered an amendment to eliminate the Coverdell A+ Savings accounts and to use the money instead to create a federal school construction program. While I recognize the need for adequate school construction, I believe the Coverdell bill more adequately addresses the needs for school construction through a provision included in the legislation offered by Senator GRAHAM. This provision fosters public private partnerships for school construction and maintains the function of school construction at the local level. The bill provides for $3 billion in tax-exempt bond funding for school construction.

I voted against an amendment offered by Senator KENNEDY which would forgive a maximum of $8,000 in student loans for teachers entering ''high need areas or subjects'' and would pay for this provision by eliminating the A+ Savings Accounts. I opposed this amendment because the Higher Education Reauthorization Act approved by the Senate Labor Committee contains similar incentives of student loan forgiveness for teachers entering inner-city or rural teaching environments.

I opposed an amendment offered by Senator BOXER which would create a new $250 million federal after-school program. While I support after-school mentoring and tutoring programs for children, I believe these programs should be operated at the local level. In addition, the federal government already funds 4 after-school care programs and 19 existing federal programs that provide tutoring and mentoring for students on a one-on-one basis.

I am encouraged by the Senate's action on the Coverdell A+ Savings bill and the amendment offered by Senator GORTON. I look forward to additional debate on education issues and new and innovative proposals to place greater control and resources at the local level.●

REGARDING INTERNATIONAL PROJECT EVALUATING AND FACILITATING INTERNATIONAL EXCHANGE OF ADVANCED TECHNOLOGIES

Mr. ROTH. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 224, submitted earlier by Senator STEVENS and others.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 224) expressing the sense of the Senate concerning an international project to evaluate and facilitate

the international exchange of advanced technology.

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. STEVENS. Madam President, last spring, the Duma Chairman of the Committee on the Problems of the Russian North, Vladimir Goman, met with Senator COCHRAN and myself to ask us for our participation in a new project which would help facilitate Russia's efforts in the remediation of nuclear wastes.

Since that meeting, the Russian Duma has passed a Resolution pledging funding and infrastructure for the Advanced Technology Research Project (ATRP). In Europe, industry and key decision makers of the European Parliament, the German Bundestag, the Union of European Labor Parties, and several national nuclear waste management and research and development institutions, including the Swiss NAGRA, have all pledged their support for the ATRP.

This ATRP, originally proposed by the Russian Duma, with participation from academia, private industry and governmental and public organizations, is a privately funded, neutral organization. It will facilitate information exchange on nuclear waste management technologies, and the development of a worldwide nuclear waste management technology marketplace. It is the goal of this project to advance self sufficiency in nuclear waste management in Russia and to globally provide advanced and affordable solutions to nuclear waste.

ATRP will be entirely privately funded through private industry, public interest, and scientific organizations. This Private-Public Partnership will be implemented through ATRP's global nuclear waste technology clearinghouse, database, conferences, workshops, and trade shows worldwide. The objective is advanced, safer, and efficient nuclear waste management at the lowest possible cost.

The management of nuclear waste is one of the world's most pressing concerns and perhaps Russia's greatest ecological threat. ATRP will help Russia help itself by developing an international market for technology exchange. It will also benefit United States and all other nuclear nations by making nuclear waste management technology more readily available in the international market place.

I hope that my colleagues will join me in supporting this Resolution which will help us all work toward an international solution to this very pressing issue of nuclear wage management.

Mr. ROTH. Madam President, I ask unanimous consent that the resolution be agreed to; that the preamble be agreed to; that the motion to reconsider be laid upon the table; and that any statements relating to the resolution appear at the appropriate place in the RECORD.

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

The resolution (S. Res. 224) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 224

Whereas currently in the post Cold-War world, there are new opportunities to facilitate international political and scientific cooperation on cost-effective and advanced innovative nuclear waste technologies;

Whereas there is increasing public interest in monitoring and remediation of nuclear wastes; and

Whereas it is in the best interest of the United States to explore and develop options with the international community to facilitate the exchange of evolving advanced nuclear waste technologies: Now, therefore, be it

Resolved, That it is the sense of the Senate that—the President should instruct the Secretary of Energy, in consultation with the Secretary of State, the Secretary of Defense, the Administrator of the Environmental Protection Agency, and other officials as appropriate, to consider the Advanced Technology Research Project (known as ''ATRP'') and report to the Committee on Energy and Natural Resources of the Senate on:

(1) whether the United States should encourage the establishment of an international project to facilitate the evaluation and international exchange of data (including cost data) relating to advanced nuclear waste technologies, including technologies for solid and liquid radioactive wastes and contaminated soils and sediments;

(2) whether such a project could be funded privately through industry, public interest, and scientific organizations and administered by an international non-governmental, nonprofit organization, with operations in the United States, Russia, Japan, and other countries that have an interest in developing such technologies; and

(3) any legislation that the Secretary believes would be required to enable such a project to be undertaken.

APPOINTMENTS BY THE VICE PRESIDENT

The PRESIDING OFFICER. The Chair, on behalf of the Vice President, pursuant to 22 U.S.C. 276d–276g, as amended, appoints the following Senators as members of the Senate Delegation to the Canada-U.S. Interparliamentary Group during the Second Session of the 105th Congress, to be held in Nantucket, Massachusetts, May 14–18, 1998: The Senator from Iowa (Mr. GRASSLEY); the Senator from Minnesota (Mr. GRAMS).

ORDERS FOR THURSDAY, MAY 7, 1998

Mr. ROTH. Madam President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, May 7, 1998. I further ask unanimous consent that on Thursday, immediately following the prayer, the routine requests through the morning hour be granted, and the Senate then resume consideration of the Thompson-Sessions amendment No. 2356 to H.R. 2676, the IRS reform bill.

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

PROGRAM

Mr. ROTH. Madam President, for the information of all Senators, tomorrow morning at 9:30 a.m., the Senate will resume consideration of the Thompson-Sessions amendment to H.R. 2676, the IRS reform bill. Under the previous order, the time between 9:30 and 10 will be equally divided for debate on the Thompson-Sessions amendment. Following the conclusion or yielding back of the time, the Senate will proceed to vote on or in relation to the amendment.

Senators are reminded that a unanimous consent agreement was reached limiting amendments to the IRS bill. It is hoped that following the 10 a.m. vote, Senators will come to the floor to offer their amendments under short time agreements. The cooperation of all Members will be necessary in order for the Senate to complete action on this very important piece of legislation. Therefore, rollcall votes will occur throughout Thursday's session with respect to the IRS reform bill or any other legislative or executive items cleared for action.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. ROTH. Madam President, if there is no further business to come before the Senate, I now ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:21 p.m., adjourned until Thursday, May 7, 1998, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate May 6, 1998:

CENTRAL INTELLIGENCE AGENCY

L. BRITT SNIDER, OF VIRGINIA, TO BE INSPECTOR GENERAL, CENTRAL INTELLIGENCE AGENCY, VICE FRDERICK PORTER HITZ, RESIGNED.

IN THE ARMY

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be major general

JOHN P. ABIZAID, 0000
JOSEPH W. ARBUCKLE, 0000
BARRY D. BATES, 0000
WILLIAM G. BOYKIN, 0000
CHARLES C. CAMPBELL, 0000
JAMES L. CAMPBELL, 0000
GEORGE W. CASEY, JR., 0000
DEAN W. CASH, 0000
DENNIS D. CAVIN, 0000
JOSEPH M. COSUMANO, JR., 0000
PETER M. CUVIELLO, 0000
ROBERT F. DEES, 0000
JOHN C. DOESBURG, 0000
JAMES E. DONALD, 0000
BENJAMIN S. GRIFFIN, 0000
DENNIS K. JACKSON, 0000
JAMES T. JACKSON, 0000
WILLIAM J. LENNOX, JR., 0000
ALBERT J. MADORA, 0000
DAVID D. MCKIERNAN, 0000
GEOFFREY D. MILLER, 0000
WILLIE B. NANCE, JR., 0000
ROBERT W. NOONAN, JR., 0000
KENNETH L. PRIVRATSKY, 0000
HAWTHORNE L. PROCTOR, 0000
ROBERT J. ST. ONGE, JR., 0000
ROBERT L. VAN ANTWERP, JR., 0000
DANIEL R. ZANINI, 0000

IN THE NAVY

THE FOLLOWING-NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

GEORGE P. NANOS, JR., 0000