transforming aid to families with dependent children [AFDC] into a truly transitional welfare to work program. The act enables welfare recipients to gain the job skills and experience necessary to compete in the work force.

By passing the welfare program as a block grant, Congress has given Oklahoma the flexibility to tailor our programs to the needs of Oklahomans. States must meet strict work requirements, ensuring that an increasing percentage of beneficiaries leave the welfare rolls each year, or face a reduction in Federal funding. At the same time, a safety net is provided for States during periods of economic hardship, allowing exemptions for bulging caseloads and a 20-percent hardship exemption for extreme cases.

I am sad to see that the current budget bill reverses many of the reforms made in the Personal Responsibility and Work Opportunity Act. I hope to work with my colleagues in the future to restore the original intent of the welfare reforms passed last year.

INTRODUCTION OF H.R. 2292—THE INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1997

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1997

Mr. PORTMAN. Mr. Speaker, yesterday I was pleased to introduce with my colleague, the gentleman from Maryland [Mr. CARDIN], H.R. 2292—the Internal Revenue Service Restructuring and Reform Act of 1997. This bipartisan legislation is an outgrowth of the work of the National Commission on Restructuring the Internal Revenue Service, which was charged with taking the first comprehensive look at the IRS since 1952. The commission created a blueprint for transforming the IRS into a world-class service organization that serves all Americans. Now, we are taking the first step toward fulfilling the promise of providing better service to the American taxpayer.

Congress created the National Commission on Restructuring the Internal Revenue Service in response to mounting public concerns about the performance of the IRS. The commission was a bipartisan, bicameral effort—I co-chaired the commission with Senator BOB KERREY, a Democrat from Nebraska. Senator CHARLES GRASSLEY, a Republican from Iowa, and Congressman BILL COYNE, a Democrat from Pennsylvania, also served on the commission. The commission also had considerable expertise—members included a former IRS commissioner and Treasury Department official; a former head of the Congressional Joint Committee on Taxation; the former head of the New York state tax system; the chairman of the California State Board of Equalization; and a representative of: small businesses; technology firms; taxpayer advocacy groups (Americans for Tax Reform and the National Taxpayers Union); the IRS employees union; and the Clinton administration, including the Treasury Department.

During its year-long existence, the commission conducted 12 days of public hearings, held three town hall meetings around the country, and spent over 100 hours in private sessions with public and private sector experts, academics and citizens groups. The commission staff met privately with over 500 individuals, including the majority of senior-level IRS managers, and interviewed almost 300 front-line IRS employees. We received continuous input from various stakeholder groups and the general public. And, the commission had unprecedented access to IRS reports and documents.

Early in the course of the commission's work, we developed a simple goal: Taxpayer satisfaction must become paramount at all levels of the IRS. More than twice as many people pay taxes as vote, and the IRS is the only Federal agency that many citizens interact with directly. We must ensure that the IRS meets the public's expectations for professionalism, accountability, and efficiency. And, we must ensure that the IRS works for the taxpayer—not the other way around. In a very real sense, the commission's work was a yearlong audit of the IRS.

This legislation is based on the commission's report. It is designed to change the IRS as we know it—to transform the IRS into a responsive service organization for the 21st century. It focuses on solving the problems in our tax system, which fall into three major, cross-cutting areas: First, the complexity of the Tax Code; second, IRS customer service; and third, IRS management, governance, and oversight.

COMPLEXITY OF THE TAX CODE

The commission identified a clear and undeniable link between the complexity of the Tax Code and the difficulty of tax administration.

The commission found that the laws written by Congress and the President can lead to inadvertent noncompliance, increase the compliance costs of individuals and businesses, and add to the difficulty of revenue collection. The commission also found that the law is overly complex and that this complexity is a large source of taxpayer frustration with the IRS.

The commission found that the real culprit is not the IRS—but the Tax Code itself: Since 1956, the number of sections in the tax code has risen from 103 to 698. And, just since the 1986 simplification of the Tax Code, there have been 4,000 amendments to the Tax Code—a rate of more than one change per day. Despite claims of the Treasury Department to the contrary, front-line IRS employees consider the complexity of the Internal Revenue Code to be a major obstacle. The commission conducted a survey of almost 300 front-line IRS employees, and they overwhelmingly felt that the complexity of the Tax Code impedes their work. Money magazine annually asks 50 tax preparers and the IRS to prepare a 1040 for a sample family. Because of the complexity of the Code, no two preparers ever arrive at the same result, and results vary by thousands of dollars.

The commission report and this legislation make specific recommendations for solving this problem. First, we recommend that Congress and the administration simplify the code. The commission was not charged with reforming the tax code. But the commission's final report strongly recommends that Congress and the President work toward simplifying the Tax Code wherever possible.

Until Congress and the administration reach a consensus on a fundamental tax reform proposal, we propose a number of steps to encourage simplification:

No. 1, Procedural changes in Congress to provide disincentives for adding complexity to the Code through a scoring mechanism for Tax Code complexity. Every tax proposal would have to be measured by a uniform set of criteria to determine its complexity and possible compliance costs on taxpayers and the IRS. And, Members would be able to raise a point of order on the House floor on any piece of tax legislation that causes additional complexity or compliance burdens—similar to the unfunded mandates legislation we enacted in 1995.

No. 2, Recommendation for providing the IRS with a more independent voice to comment on proposed tax legislation. Right now, the IRS is not present at the table when tax legislation is being considered and is forced to defer to the Treasury Department's tax policy goals. The commission proposes to give the IRS a voice in the legislative process. In a very real sense, the IRS will serve as an advocate for Tax Code simplicity.

No. 3, Although not included in this legislation, the commission report provides Congress with a list of 60 specific provisions of the Tax Code that the tax writing committees could simplify or eliminate to reduce compliance nightmares for taxpayers and administrative headaches for the IRS.

CUSTOMER SERVICE

Traditionally, the IRS has seen itself primarily as an enforcement bureaucracy. Yet 83 percent of the revenue owed to the Federal Government is paid voluntarily each year without proactive IRS involvement. Only an additional 3.5 percent is paid after the IRS becomes involved. But, over the years, the enforcement function within the IRS has come to dominate the agency.

Meanwhile, taxpayers have become accustomed to increasingly high performance standards from their banks, credit card companies, airlines and other service organizations. While the private sector has rewritten customer service standards over the last 25 years, IRS taxpayer service has remained essentially static. For example, many taxpayer problems that could be resolved in a single phone call don't get through to a properly trained IRS service representative.

The result is a considerable service gap between the IRS and the private sector: In a survey of 200 leading private and public sector organizations by the American Society for Quality Control, the IRS ranked dead last in customer service—and its rating actually dropped in 1996. Last year, only one in five calls to the IRS customer service hotline got through. The IRS reports considerable improvement in the number of taxpayers getting through this year, estimating that half the calls were answered. This is still unacceptable. An IRS employee may have to access as many as 6 different computer systems to resolve a taxpayer's problem, and answers to simple questions often take weeks. It takes the IRS, on average, about 18 months to match an individual's tax return with a 1099 form. Can you imagine a private sector firm taking 18 months to send someone a bill—with interest attached?

We recommend, through this legislation, a fundamental change in direction. We propose to transform the IRS by making taxpayer service the agency's top priority. It's time to put the word service into the Internal Revenue Service.

How do we do that? First, we level the playing field with significant enhancements to taxpayer rights—including a significant expansion of the taxpayer's right to seek redress against the IRS for wrongful actions. We will put disincentives within the IRS to ensure that disputes with taxpayers are resolved before they occur. And we will ask, for the first time, that taxpayers complete a survey after having an experience with the IRS to ensure that they were treated courteously, professionally and efficiently.

We also propose vast improvements to IRS technology. IRS must have the technology to provide high quality customer service. That means a phone system that works, trained taxpayer service representatives and a computer database that will allow customer service representatives to access accounts and resolve problems on the first phone call.

Electronic filing is an important component of this effort. It's a win-win situation for IRS and the taxpayer.

IRS still hand processes the vast majority of returns and still relies on paper—14 billion pieces of paper annually—an incredibly inefficient system. Electronic filing saves the IRS money—it costs the IRS about $7 to process a paper return, and less than $1 to process an electronic return.

There is currently close to a 22 percent error rate on paper 1040 forms. Half of that error rate comes from the taxpayer. But the other half comes from the IRS—when employees inadvertently misinput numbers. When forms are electronically filed with the IRS, there is less than a 1 percent error rate.

The legislation requires the IRS to develop and implement a strategic marketing plan to make paperless filing the preferred and most convenient and cost-efficient form of filing for 80 percent of taxpayers within the next 10 years. Our legislation provides tangible incentives—not mandates—to make electronic filing so easy that taxpayers will not want to file paper forms.

One of the most important incentives is extended filing deadlines for electronic filers to reduce the massive deluge of paper that overwhelms the IRS every April 15—increasing errors and delaying returns. We recommend a May 15 deadline for individuals who choose to file electronically.

MANAGEMENT, GOVERNANCE AND OVERSIGHT

All of these reforms are important. But none of them can take place in the current IRS management and oversight structure.

The commission found a serious lack of expertise, continuity and accountability in the management structure of the IRS. Over the years, IRS has developed an insular culture that is often resistant to input and ideas from outside the agency—preventing leaders at the top of the organization from effecting real changes. When things go wrong, such as the $4 billion computer modernization failure, no one is clearly responsible.

Billions of taxpayer dollars were wasted on the tax systems modernization program "due to pervasive management and technical weaknesses" according to GAO. In 1995, the GAO described the same efforts as "chaotic" and "ad hoc."

The IRS has failed a number of recent audits by the General Accounting Office and is unable to balance its own books. At the same time, we're spending more on the IRS than ever—the IRS budget has almost tripled since the Carter administration and now stands at $7.3 billion.

And, the Department of Treasury has not demonstrated a historic pattern of effective oversight of the IRS—often ignoring problems until they have reached crisis proportions. There are no clear lines of accountability and responsibility in the current IRS-Treasury relationship. And, Treasury often advocates tax policy goals that create administrative nightmares for the IRS.

Although I believe the current Treasury Secretary has been more attentive to the IRS than his predecessors (perhaps in part due to the commission's work), the Treasury Secretary and Deputy Secretary can only be expected to devote a small portion of their time to their responsibility of running the IRS. No Cabinet department is more important than the Treasury Department. Treasury also oversees U.S. domestic and international financial, economic and tax policy, including the specific responsibility for managing at least 10 other major agencies and bureaus, such as the Office of the Comptroller of the Currency, the Bureau of Alcohol, Tobacco, and Firearms, the Customs Service, the Office of Thrift Supervision, and the Secret Service.

This lack of focus on IRS is a natural result of these distractions and the disconnect between the important policy functions of the Treasury Department and the operational challenges of the IRS. It is important to note that this lack of effective oversight is not new; it has been a problem in Republican and Democratic administrations alike. There is an inherent flaw in the system.

Treasury oversight is also poorly coordinated—the IRS Commissioner is forced to deal with various assistant secretaries on budget, operations, computers, tax policy, and other issues. But IRS is often treated as an afterthought, and these Treasury Department officials rarely take responsibility for IRS operations.

The current structure is also weak because the expertise the IRS desperately needs just does not naturally reside at Treasury. While the officials at the Treasury Department have considerable expertise in tax policy and law enforcement, they are often lacking expertise in providing customer service, implementing major technology upgrades and managing a 100,000 person organization.

And, the frequent turnover of Treasury leadership exacerbates IRS' inability to complete long-term projects. Continuity is a serious problem: The most recent IRS Commissioner served under two Treasury Secretaries and three Deputy Secretaries. The average tenure of an IRS Commissioner over the last 20 years has been 2½ years, and the average tenure of a Deputy Treasury Secretary is even shorter.

Constant turnover with the Commissioner and at Treasury is in contrast to the insular nature of the IRS. Only 6 of the top 83 people at the IRS have been with the agency for less than 15 years. And, other than the Commissioner, only 2 non-IRS employees have been brought in from the outside world to fill senior positions at the IRS.

Meanwhile, the oversight in Congress has clearly contributed to the problem. Oversight responsibility for the IRS is shared by seven congressional committees. These committees do not meet formally to set long-term goals and objectives for the IRS and tend to focus on individual micro-issues, sometimes giving contradictory direction to the agency.

In response to these problems, the commission developed ideas for an entirely new management structure. The criteria we used to judge any new structure were: First, does it provide clear accountability; second, will it provide expertise in running a modern customer-service organization; and third, will it provide the continuity to get the job done through changing administrations and personnel? After a year-long process, the commission developed the following recommendations that serve as a basis for the governance component of this legislation.

INTERNAL REVENUE SERVICE OVERSIGHT BOARD

Overall responsibility for IRS governance should be placed with an independent oversight board—appointed by the President, confirmed by the Senate and accountable to Congress and the American people—to provide the expertise, continuity and accountability lacking now and clearly needed in order to implement major changes at the IRS. This oversight board will have the authority to hire and fire the commissioner, recommend a budget for the IRS and to oversee the operations of the IRS.

While representatives of the administration will serve on the oversight board, the majority of the board members will be private citizens who bring expertise in running large and complex organizations, expertise in customer service and expertise in technology. The needs and concerns of individual taxpayers will also be represented, as will IRS employees. Oversight board members will be appointed and will be removable by the President, confirmed by the Senate, and will serve for staggered 5-year terms.

Our legislation leaves full control of tax policy to the Treasury Department. The oversight board will oversee tax administration. Oversight board members will be subject to full disclosure rules and will not be permitted to examine individual tax returns or have the power to affect enforcement decisions. I believe the legitimate concerns Treasury raised about the oversight board throughout the commission's yearlong work have been clearly addressed in this legislation.

CONGRESSIONAL OVERSIGHT

We also propose to streamline and coordinate congressional oversight of the IRS under the auspices of the Joint Tax Committee, to ensure that Members of Congress and staff have sufficient information to make informed decisions about both tax legislation and tax administration. This entity would bring together the leadership of the seven congressional committees with IRS oversight responsibility to focus on long-term priorities and goal setting for the agency.

IRS PERSONNEL AND BUDGETING

The commissioner should be apolitical and should serve for a 5-year term. We strengthen the ability of the commissioner to make real changes at the IRS by providing the hiring flexibility to recruit high-quality executives. We also propose to provide the commissioner with the stable budgeting needed to permit long-term planning and to allow essential projects to be funded with certainty.

FINANCIAL ACCOUNTABILITY

But, to ensure that taxpayer dollars are being put to good use, the IRS must demonstrate that it can balance its own books. We recommend a number of steps to improve IRS financial accountability.

Taken as a whole, our recommendations provide a blueprint that will fundamentally transform the IRS into a modern service organization. I believe they will vastly enhance service and accountability to the taxpayer.

I look forward to working with my colleague from Maryland, Mr. CARDIN, Members of the House and Senate, and the administration to improve and refine this bill during the legislative process so that, together, we can transform the Internal Revenue Service into a modern, efficient organization that truly serves the American taxpayer.

NEW FEDERAL FIREARMS LICENSE CATEGORY FOR GUNSMITHS

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1997

Mr. KLECZKA. Mr. Speaker, I call the attention of the House to a problem affecting gunsmiths as a result of the 1994 Crime Act.

The 1994 law contained a provision requiring applicants for a new Federal firearms license, or renewal of an existing one, to prove that they are in compliance with any State or local zoning ordinances. Many States and localities have zoning laws that prevent individuals from obtaining dealers' licenses. For licensing purposes, the term ''dealer'' includes any person who makes or repairs firearms, which includes gunsmiths. Therefore, many gunsmiths are now being denied their Federal firearms license.

One of my constituents, who is a gunsmith, informed me about his difficulties in complying with the Crime Act. As a result, I have introduced legislation to create a new Federal firearms license category for gunsmiths. The Bureau of Alcohol, Tobacco, and Firearms, which administers the Federal license categories, supports creating this new category.

My legislation will not allow gunsmiths to sell or transfer firearms, but it will permit them to continue to work in their profession. I urge my colleagues to support this bill.

UNITED STATES INVESTORS IN LLOYD'S OF LONDON DESERVE THEIR DAY IN UNITED STATES COURT

HON. HENRY J. HYDE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 31, 1997

Mr. HYDE. Mr. Speaker, as chairman of the House Judiciary Committee, I am interested in matters concerning Federal court jurisdiction. For many years, citizens of Illinois and other States were solicited in their States to invest in Lloyd's of London insurance syndicates. In many instances, these investors have been denied access to the Federal courts where they attempted to assert their rights and remedies under the Federal securities statutes. Investors asserting securities claims against Lloyd's have seen their cases thrown out of court based on clauses in Lloyd's investment contracts which provide for the application of English law and the forum of the English courts. (Choice Clauses). I am heartened, however, by the recent appeals court ruling in *Richards* v. *Lloyd's of London* and strong pronouncements by the Securities and Exchange Commission in that appeal, which recognize the statutory bar against agreements which waive compliance with the Federal securities laws. The *Richards* decision, unless set aside by the full ninth circuit court of appeals or the Supreme Court, clears the way for the investors to have the chance to prove their case where it belongs—in U.S. district court.

The plaintiffs in *Richards*—known as ''Names''—allege that Lloyd's defrauded them by concealing that the insurance syndicates to which they furnished capital were saddled with massive asbestos and toxic waste liabilities. They assert that, for two decades, Lloyd's undertook a major recruitment program in the United States by offering investment contracts by which residents of the United States could become ''External Names'' at Lloyd's—passive investors who were prohibited from being involved with the operations and management of Lloyd's syndicates or business operations. Plaintiffs in *Richards* claim that Lloyd's alleged fraud cost them many million of dollars. They also seek rescission of their agreements with Lloyd's on the grounds that Lloyd's allegedly sold them unregistered, nonexempt securities and made material representatives or omitted material facts.

Mr. Speaker, for over 60 years there has been a statutory bar against contracts with investors that waive compliance with the Federal securities laws. Section 14 of the Securities Act of 1933 provides:

> Any condition, stipulation, or provision binding any person acquiring any security to waive compliance with any provision of this title or of the rules and regulations of the Commission [the SEC] shall be void.

15 U.S.C. §77 n. The bar of Section 29(a) of the 1934 Act is substantially the same. 15 U.S.C. §78cc(a).

In *Richards,* a panel of the Ninth Circuit ruled, 2–1, that because of the Choice Clauses would strip plaintiffs of all their rights under the Federal securities laws, they violate the anti-waiver statutes and are thus void. The court remanded the case to the federal district court where the plaintiffs will have the opportunity to present a case that Lloyd's fraudulently sold them unregistered securities and that the court should order rescission of their investment contacts with Lloyd's and other relief.

I would like to cite several portions of the *Richards* opinion which show the eminent logic of this result:

> The district court made an error of law in supposing that the Choice Clauses were unenforceable only if unreasonable. Congress had already determined that such clauses were void. It was not for a court to weigh their reasonableness, not for a court to say whether they offended any policy of the United States. The policy decision had been made by the legislature.
>
> * * * * *
>
> Is there a significant difference between a *policy* objection to enforcement of the anti-waiver bars and a *statutory* obstacle to such enforcement? We believe there is. Where a statute exists, a policy has been given form and focus and precise force. A statute represents a decision by the elected representatives of the people as to what particular policy should prevail, and how.
>
> * * * * *
>
> There is no question that the Choice Clauses operate in tandem as a prospective waiver of the plaintiffs' remedies under the 1933 and 1934 Acts. If the Supreme Court would condemn such clauses where they work against a public policy embodied in statutes even through the statutes themselves do not void the clauses, a fortiori the Supreme Court would condemn similar clauses when the run in the teeth of two precise statutory provisions making them void.
>
> * * * * *
>
> Congress was no ignorant of the potential international character of securities transactions. Congress specifically modified the 1933 Act to cover transactions in foreign commerce. S. Rep. No. 47, 73d Cong., 1st Sess. (1933) (accompanying S. 875.) A court should not apply the reasonableness test or say whether the clauses offended any policy of the United States when Congress has expressly made that determination. We do not believe that we should turn the clock back to 1929 or introduce caveat emptor as a rule governing the solicitation in the United States of investments in securities by residents of the United States.

In addition, the SEC filed two briefs, amicus curiae in *Richards* and participated in oral argument in favor of reversing the district court's enforcement of the Choice Clauses. The SEC's position is correct in my view, and I would like to share some of the SEC's compelling statements:

> The issue addressed is an important one to the enforcement of the federal securities laws. The district court's decision, if upheld, would allow foreign promoters of securities undertaking large scale selling efforts in the United States to avoid private liability under the securities laws simply by requiring the American investors to agree to resolve disputes in a foreign jurisdiction under foreign law, even if the remedies available under the foreign law were far less effective than those available under United States law. Such a holding would seriously impair the ability of defrauded investors to obtain compensation for their losses, and would hamper the deterrent function of the federal securities laws by discouraging private actions. The Commission strongly urges this court to reverse the district court's erroneous dismissal of this action.
>
> * * * * *
>
> The fact that the investors agreed to these provision is irrelevant, since the very objective of the antiwaiver provisions is to invalidate such agreements. As the Supreme Court held in *Shearson/American Express Inc.* v. *McMahon,* 482 U.S. 220, 230 (1987), ''[t]he voluntariness of the agreement is irrelevant to this inquiry: if a stipulation waives compliance with a statutory duty, it is void under [the antiwaiver provisions], whether voluntary or not.
>
> * * * * *
>
> In this case, in contrast, the requirement that investors litigate in England, coupled with the requirement that they do so under English law, not only ''weakens'' the investors' ability to recover, but in fact precludes any possibility of recovery under the federal securities laws. These clauses are directly contrary to express statutory prohibitions in the antiwaiver provisions and should be held void.
>
> * * * * *
>
> The antiwaiver provisions, however, are not simply an expression of public policy that favors United States securities laws unless other comparable laws are available. Rather, they are an express and unequivocal directive that the rights and obligations under the securities laws cannot be waived.