

and we can have a good debate about that.

To add an extraneous amendment onto this bill, and therefore not only preclude Senators from offering the amendments that they had hoped they could but to preclude us from even getting a vote on campaign finance reform makes it a poison pill and nothing more. If we are interested in debating the issue about whether or not organizations ought to refund part of their membership fees, that is one question. We should have a good debate about it. We should have an opportunity to discuss it. And we are prepared to allow a final vote on that issue if we can get agreement on this proposal.

If, on the other hand, we are simply using this as a guise, as a way in which to prevent Senators, perhaps the vast majority of Senators, from having a vote on campaign finance reform, from offering amendments, then it is nothing more than that.

So I hope we can work through this. I hope we can find a way to resolve this impasse. But certainly that would be one way to do it.

Let us take the Lott amendment. Let us set it aside. Let us have a good debate. Let us schedule a time when amendments could be offered. Senators will not filibuster the motion to proceed, nor the bill itself. I am hopeful we can work through that and at some point, as I have indicated, I will discuss this matter at greater length with the majority leader.

With that, I yield the floor.

Mr. KERREY addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. I ask unanimous consent to be able to speak as if in morning business.

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

REFORMING THE IRS

Mr. KERREY. Mr. President, I come to the floor today to speak about bipartisan efforts to reform the Internal Revenue Service because these efforts are being publicly challenged and criticized, I regret to say, inaccurately by the administration. It is perplexing to me personally why this administration would send a message to the American taxpayer that despite what they have been hearing the Internal Revenue Service does not need comprehensive reform.

During 3 days of hearings of the Senate Finance Committee last week, taxpayers and employees of the Internal Revenue Service testified under oath that the legal power to collect taxes has been and continues to be abused. Combined with 12 days of public hearings held by the congressionally mandated Commission on Restructuring the IRS, which conducted thousands of hours of interviews with IRS investigators, professional preparers, private sector experts, and taxpayers, a clear

and convincing conclusion has been reached. The law which creates and governs the actions of the IRS needs to be changed.

Mr. President, if lawmakers in the Senate and the House consider that hundreds of new collection notices will be sent to taxpayers every working day and that 800,000 monthly contacts in its notices of audit or taxes owed will be made, then there is an urgency for us to act quickly.

If we can prevent any of the suffering disclosed in these hearings with a change in the law, why would we hesitate to act?

Of equal importance is the need to increase confidence in this unique Federal agency. More Americans pay taxes than vote. Remember, America's tax system depends upon our voluntary declaration of taxes owed and a patriotic willingness to pay our fair share. If citizens believe there is a chance that voluntary compliance will result in their privacy being violated, their return unfairly audited, or their lives made miserable, all of which we now know is a possibility, then the percentage of citizen participation could fall even further. It is safe to say that the faith of the American people in our ability to govern is linked to the ability of the IRS to function properly.

The House leadership has declared its intent to pass a new law and to pass a law this year—a law which was created in a bipartisan and bicameral atmosphere—which would solve many of the problems highlighted by the Senate Finance Committee hearings last week. The House intends to enact comprehensive reform, similar to that recommended by the congressionally mandated National Commission on Restructuring the IRS. And the Senate, in my judgment, Mr. President, should do the same.

As cochair of the commission, along with Congressman ROB PORTMAN of Ohio, I would like to share with my colleagues the problems that were uncovered by our deliberation. To be clear, at no time during these deliberations did Congressman PORTMAN and I resort to bashing the IRS. Indeed, a former Commissioner of the IRS, Peggy Richardson, was an ex officio member of our commission. We gained unprecedented access and a window into the operations of the IRS. We visited service centers, we worked and talked with employees. It is significant to note that our legislation has the endorsement of the National Treasury Employees Union.

We found that the IRS has a law enforcement mentality, but that the vast majority of its employees perform functions including tracking finances, sending out notices, and assisting taxpayers.

We find as well the IRS has a general attitude that taxpayers are guilty, even though close to 90 percent of taxpayers are compliant.

We found that taxpayers have a low opinion of service levels provided by

the IRS and do not believe the IRS is trying to help make paying taxes easier. Indeed, in today's USA Today, a poll shows that 70 percent of Americans think that the IRS abuses their power.

We found that training is not a priority, and employees do not have the skills of their private sector counterparts.

We found that the IRS uses employee evaluation measures that do not encourage employees to provide quality service to taxpayers.

We found IRS management and governance structure makes strategic planning impossible and has caused a massive failure of the IRS's \$3.4 billion computer modernization program. Mr. President, this conclusion has been supported by a GAO report that was issued in 1996.

We found the IRS computer systems were developed during the 1960's and 1970's and lacked the capability to provide taxpayers with quality service.

We found wasteful inefficiencies and high error rates existing in the processing of paper forms.

We found that the Treasury Department has done little to correct IRS management problems, and lacks the expertise and continuity to do so effectively. In fact, Treasury officials were noticeably absent at last week's Finance Committee hearings.

We found as well the congressional oversight of the IRS is scattered and can send confusing signals to the IRS that can be manipulated by the IRS to avoid accountability. Indeed, witness after witness came before our committee, knowledgeable witnesses who assist taxpayers in preparing their returns, and laid equal blame upon the executive and the legislative branches.

We found as well that complexity and constant changing of the Tax Code is a major obstacle that intensifies all of these problems.

The administration continues to criticize the legislation introduced by Senator GRASSLEY and I on this floor on the 23d of July, and Congressman PORTMAN and Congressman CARDIN in the House in the same week. They continue to criticize our legislation unfairly and, most important, inaccurately. In order to perhaps clear up some of the differences between what we are proposing and what the administration would like to see happen, I would like to review the complaints made against the IRS in last week's hearings and show how the law as proposed by Senator GRASSLEY and I, the IRS Restructuring Reform Act of 1997, would change things.

Criticism No. 1. Citizens have no power in a dispute with the IRS. Our law would create in law new protections for the taxpayer and new rights if a taxpayer dispute arises. At a minimum, the law should, one, expand authority of the taxpayer advocate to issue taxpayer assistance orders; two, to expand the authority of the taxpayer to recover costs and fees by permitting awards relating back to the 30-

day notice letter, allowing awards for pro bono services, increasing net worth limitations, and allowing recovery for IRS negligence up to \$100,000; third, require the IRS to provide more information to taxpayers, such as making public their general audit selection criteria and explaining certain rights to taxpayers before audits such as joint and several liability and extensions of statutes of limitations.

The question of fairness of audits can be solved by requiring the IRS to provide general audit selection criteria. Remarkably, the only information we currently have about how the IRS audits comes from a researcher who used the Freedom of Information Act to force the IRS to surrender some data. There simply is no good reason for us not to write a law requiring an annual disclosure.

Fourth, force the IRS to resolve its dispute with the National Archives in which allegations have been made that historical records have been mishandled or destroyed.

Fifth, help taxpayers pay their fair share of taxes by establishing national and local allowances for offers-in-compromise; eliminating the interest differential; dropping tolling penalties during installment agreements; and providing safe harbors to qualify for installment agreements.

Sixth, open low-income taxpayer clinics with matching grants up to \$100,000 a year for up to 3 years to help low-income taxpayers and especially small business.

No. 7, expand the jurisdiction of the tax court to allow more taxpayers to take advantage of the simplified small case procedures.

And, eighth, require a study of the administration of penalties, especially penalties that will fall heavier on married filers and the burden of proof needed before penalties are determined valid.

These are eight suggested changes in the law that would give taxpayers more power, more authority. They are not made as a consequence of receiving a number of complaints. They are made as a consequence of thoughtful deliberation between Republicans and Democrats, trying to figure out what the payers themselves say need to be done. We examined it in a bipartisan and bicameral fashion with the full cooperation and participation of former Commissioner Richardson who says today that she would support these provisions. These changes in the law, all by themselves, would solve many of the problems that we heard before the Senate Finance Committee last week. And all by themselves, would go a long way toward increasing citizen confidence that they are going to be able to get a fair deal from the IRS.

The administration's bill, which they introduced—had Members introduce for them—has no taxpayer protections or rights provisions. I want to underline that. One of the things the administration has been saying is we like the

Portman-Kerrey bill but we don't like the board. We like everything in it. If they like everything in it, the question is why don't they have taxpayer protections or rights provisions? I believe the reason is they introduced their bill, had their bill introduced, just so they could say we want to change the IRS as well.

A second criticism we heard was that the IRS is isolated from the taxpayer. Anybody who does not think the IRS is isolated has not examined the structure. It is buried in Treasury. The Secretary of Treasury is in charge of oversight, not just of the IRS, the 115,000-person organization, but the Secretary of the Treasury obviously has lots of other things on his mind—whatever the Secretary is. It does not have to be Secretary Rubin—any Secretary faced this. They also have to manage Secret Service, Customs, the Bureau of Alcohol, Tobacco and Firearms. Keeping the operational side inside Treasury buried as it is, makes it difficult to achieve accountability.

This, in my judgment, may be the most common thread that ran through the decisions, the criticisms that we heard, not only last week but for the entire last year.

Tax Code complexity, outdated technology, a primitive management structure contributed to the problem, but these factors alone did not explain a bureaucratic culture that produced allegations of taxpayers being hounded based on their vulnerability; confidential returns being snooped; or records being altered to reflect the IRS's point of view. Those flaws are the symptom of an agency isolated from the customers it is supposed to be serving. The IRS is languishing under a suffocating bureaucracy from which it is getting inadequate oversight and far too little input from the taxpayer.

Our new law would do a number of things. First, it would create a Presidentially appointed citizens oversight board that would oversee the operation of the IRS. The members of this board, for example, could have expertise in the operation of large service organizations or in other areas. What we tried to do was give the President maximum flexibility, so he could make selection of individuals who had expertise—the Secretary of Treasury is on the board, the head of the National Treasury Employees Union is on the board—because we believe that there are going to be significant personnel decisions that have to be made. We believe it is important to have a representative on the board, making those decisions and getting support as a consequence.

The board would be responsible for oversight, approval of strategic plans and review of operational plans. The President would appoint board members for 5-year terms and would have the authority to remove any of these members at will.

The board would approve an advisory budget of IRS, prepared in conjunction with the commissioner. It would have

no access to taxpayer return information and it would not participate in law enforcement. This is what has drawn the most heat from the administration, and leads me to suspect that their principal concern is relinquishing any authority to a board that would have any authority over the decisions that are being made.

They have misrepresented and said that the board is going to be composed of chief executive officers—not mentioned in the law. They have suggested of these board members, as recently as yesterday, there were going to be significant conflicts of interest. If that be the case, how could the Secretary of Treasury sit on the board? How could anybody from the private sector sit on any advisory board that we have in all of Government? We understand conflicts of interest and we deal with them. It is not accurate to say that we cannot protect ourselves, especially when this statute says that this board will have no access to taxpayer return information and it will not participate in law enforcement.

Equally important, and oftentimes lost in the debate over this board, is that our law would create a requirement for two annual joint hearings of tax writing, appropriating, and oversight committees. It would also expand the duties and reporting requirements of the joint committee on taxation.

The Finance Committee hearings last week were the first oversight hearings in 21 years. It is the inconsistent oversight that we are trying to deal with, with this provision. But, in addition, we heard from individual after individual, the restructuring commission did, that one of the most important things you have to do before you make a technology decision or other allocation decision, you have to get a shared agreement on what the mission is going to be. Having a new oversight board for the IRS, working with a new oversight committee on the congressional side, would give us the possibility of achieving this common and shared mission.

In our deliberations, we found that congressional oversight of the IRS had no coordination. This provision will allow the IRS Citizens Oversight Board and Congress to reach agreement on regulations, goals, and objectives. It will enable the authorization of new initiatives after IRS satisfies rigorous contingencies to assure financial accountability, subject, of course, as always to the approval of the appropriating committees.

For example, decisions about the design and purchase of computer systems will be made after the legislative and executive branches have agreed on a plan. The strategy is to collect taxes owed from those Americans unwilling to pay their fair share, must also be jointly approved in order to survive congressional funding cycles.

Finally, we must provide funding for the century date change. As all of us have looked at that particular problem know, if you think the IRS computer

system is a mess now, it could get a heck of a lot worse if the date change problem is not fixed and not fixed at 100 percent.

The administration proposal would codify the status quo. Treasury proposes the creation of an IRS management board made up of 20 Government officials, mainly political appointees from departments including OMB, OPM, and the Vice President's office. I urge colleagues who are concerned about this board that Senator GRASSLEY, Congressman PORTMAN and Congressman CARDIN and I are proposing, who are critical of that, compare it to what the administration is proposing. To repeat, the administration wants a 20-person board composed entirely of Government officials, political appointees, including people from OMB, OPM, and the Vice President's office.

They also propose an advisory board of citizens. For decades there has been a commissioner's advisory group to the IRS, and we were told that it was ineffectual and the bureaucracy ignored their advice.

The reason they ignored their advice, Mr. President, is an advisory board has no authority, no power, and no one, to my knowledge, pays a lot of attention to advisory boards that lack either authority or power.

Fourteen expert witnesses testified before the Ways and Means Committee on September 16. All but two or three testified in favor of the bill that Congressmen PORTMAN and CARDIN introduced, and all testified against the administration's proposal.

I would like to read the names of some of the experts who testified: Eugene Steuerle, senior fellow of the Urban Institute, against; Donald F. Kettl, director, Brookings Institution, against; Robert B. Stobaugh, Harvard Business School, against; Phillip Mann, section of taxation, American Bar Association, against. And on and on, Mr. President.

The administration's proposal has been opposed by all the people that they cite, or some of the people they cite at least as reasons not to support the newly constructed oversight board that Senator GRASSLEY and I have proposed. Again, I have regrettably reached the conclusion that this really is not about what is going to work as it is about making certain that no power and authority is relinquished by the Secretary of the Treasury over the 115,000 people who work for the IRS.

The third criticism that we heard not only last week, but all year long, was that the IRS management structure does not allow for the removal of bad apples. Our law, Mr. President, would create a 5-year term for the IRS Commissioner. In current form, our legislation says that the board appoints the Commissioner. I would be willing to consider having the President appoint the Commissioner with formal input from the board and continuing to allow the board to evaluate and recommend removal for cause.

This law would give this Commissioner increased legal authority to manage the IRS. Consistent with merit system principles, veterans preferences and established labor/management rules, the Commission would be given a new rating system to hire qualified applicants and flexibility to hire a senior team of managers.

Remarkably, the IRS Commissioner has very little flexibility in managing this agency, and one of the difficulties that he or she is going to have, regardless of who they have, in managing with zero tolerance is the sort of things we saw last week: the absence of the power and authority to be able to manage as I think most of us in Congress and most of the American taxpaying citizens would like to see done.

The administration's proposal would create a 5-year term for the Commissioner. That is true; that is the same as ours. But it stops there. It would not have board members with 5-year terms to provide the needed continuity and support to the Commissioner. All the political appointees could come and go in the same year.

One of the biggest problems we have with the IRS is lack of continuity, particularly continuity of management oversight. One of the defects of a board being all political appointees inside the Government is that they tend to turn over more. It is this turnover that makes it difficult for us to get the kind of continuity this agency demands.

The fourth criticism we have heard is it is difficult to file a tax return and there is a breathtaking gap between the service taxpayers get from the IRS and the service they get in the private sector.

Our new law would create goals and due dates for electronic filing. At the heart of comprehensive reform must be a vision of an IRS that operates in the new paradigm of electronic commerce. One of the most telling comparisons made by taxpayers who appeared before us was the comparison given between an ATM card that is provided by their commercial banks and the lack of similar conveniences from the IRS. Potential savings to the taxpayers are large: The error rate for electronic filers was less than 1 percent, compared with 20 percent for a paper file. While we will never have a paperless IRS, Congress must change the law to provide incentives and assistance to a new IRS which gives its customers services comparable to the private sector.

The administration proposal would allow the IRS to spend more money on marketing electronic filing, but would not include any specific goals or requirements for the IRS to take immediate action to increase electronic filing.

The fifth criticism we heard is that Congress has created a monster of a Tax Code that is too complex to administer. Under our new law, Mr. President, we would create a process for evaluating the cost to the taxpayer of tax law complexity by giving the Com-

missioner, for the first time, an advisory role when new tax laws are being considered; requiring, as well, a tax complexity analysis during legislative deliberations; increasing Federal-State cooperation; and requiring the Joint Committee on Taxation to study feasibility of estimating taxpayers' compliance burdens.

We just made the Social Security Administration independent. The President's nominee was confirmed by the Senate. When the President's nominee came before the Senate Finance Committee, we were able to ask the question: If you reach a conclusion that the President doesn't like or that we don't like up here, are you going to be able to express that conclusion publicly? And the answer is yes. That is what comes with independence.

We need an IRS Commissioner that is able to, while we are debating taxes, say, "Great idea, Mr. President, I saw everybody gave you a standing ovation." "Great speech, Senator Blowhard, I see you got a standing ovation as well, but guess what it is going to cost the taxpayer to comply with your idea? They may give you a standing ovation, but if it becomes law, this is what it is going to create as far as the taxpayer is concerned."

Under the current law, the IRS Commissioner will never come before the American people and make that kind of statement. Under our law, they would be required to do so. The complexity of the Code may require comprehensive reform of our tax law, but in the meantime, why not give the Commissioner authority to advise Congress of the potential problems of our ideas, and why not require a tax complexity analysis? At least we could then evaluate these potential new costs before proceeding. The administration's proposal would not do anything to encourage simplification of the tax law, although it would allow the IRS to enter into cooperative agreements with State tax administrators.

Mr. President, let me add a closing note about the administration's handling of this bill. Honest people can have honest disagreements. For that reason, I tried to be restrained in my criticism of the administration's proposal. But the ongoing public relations battle they are waging requires me to respond.

First, my broad critique is that the administration's proposal is both timid and hollow. We started our proposal with the belief that the law needed to be changed. Laws, Mr. President, have teeth. They must be enforced. They make a difference. The administration's proposal is more a set of suggestions than a set of laws—false substitutes. They become dentures rather than teeth.

Second, the administration has leveled its strongest complaints against our proposal for an oversight board comprised of taxpayers. We made this proposal because we thought the IRS was culturally isolated from the taxpayer, because we believe the IRS

lacked the independence from the bureaucracy it needs to fix the problems, and because we believe the agency needs input from outside its own headquarters.

I assume the administration agrees with this observation, because it, too, has proposed an oversight board. The problem with the administration's board is that its members would come from the same bureaucracies that created the problem we heard about last week. Taxpayers would have no input except through an advisory panel, and the board they propose would have little real power. In fact, all 14 expert witnesses, as I said earlier, testifying before the Ways and Means Committee said they do not support the administration's IRS governance proposals.

The administration contends our oversight board would consist of self-interested CEO's. This is quite simply, and quite directly, false, and the administration knows it. They have read our bill. They know what is in it. And they continue to describe it inaccurately in order to get people to presume they should oppose it.

Our proposal is for a nine-member board, two of whom will be the Secretary of the Treasury and a representative of Treasury employees. The other seven could be anyone who the President appoints and the Senate confirms—anyone. A small business owner in Lincoln, NE, can be on this board, as a taxpayer advocate from anywhere in America. "CEO" does not appear in our bill. I do not know where the administration has concocted this ruse, unless they fear that CEO's are who this administration will appoint.

The administration also claims a board run by taxpayers is a recipe for conflicts of interest. At root, this is an argument that the vast majority of taxpayers who do not work for the Government lack the necessary moral rectitude to participate in reforming the Government that belongs to them, and I strongly disagree. Americans who work and pay taxes in the private sector contribute to Government all the time. In fact, one of them is the Secretary of the Treasury today. He ran one of Wall Street's most elite firms. I presume that whatever mechanism has been sufficient to protect him against conflicts of interest would also be sufficient to guard against conflicts of interest by members of this board.

Finally, it seems to me the administration is intent, perhaps determined, on preserving the basic structure of the status quo. They wish to strand the IRS in the labyrinth that is the Treasury Department's bureaucracy and is the same bureaucracy that has failed to run the IRS in a manner that gives citizens confidence.

The problems at the IRS are not this administration's fault alone, but I cannot help but observe that if the Treasury Department had done a great job running the IRS the last 5 years, I might be more convinced that they ought to keep running it. But the sim-

ple truth is, they haven't. Perhaps the best summary of the administration's proposal is this: If you like the service you get from the IRS now, you'll love the administration's IRS protection bill.

Having responded in kind, Mr. President, I still hope the administration will start participating in this debate constructively. I still believe we can work out our differences, which are not great, as long as they begin to tell the truth about Senator GRASSLEY's and my plan.

Regardless, Congress needs to proceed as quickly as possible to enact changes in the law which will result in the best practices being applied to the operations of the IRS. Americans want an IRS that can quickly answer the question, How much do I owe; an IRS that is customer oriented to those payers willing to voluntarily comply as is a commercial bank to its customers; an IRS that knows it had better be right when it comes after a taxpayer for collection, otherwise it will pay for wrongly accusing a taxpayer of being delinquent.

In the interest of those Americans who voluntarily comply but who struggle with a complicated code, a confusing service policy, incompatible information systems, and the fear that they could be the next in line for harassment, the time has come for Congress to act.

Mr. President, it is time the IRS starts working for the American taxpayer. To further delay is to ask millions to suffer unnecessarily. I yield the floor.

The PRESIDING OFFICER (Mr. ROBERTS). Who seeks time?

Mr. FAIRCLOTH addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina is recognized.

DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 1998

The Senate continued with the consideration of the bill.

Mr. FAIRCLOTH. Thank you, Mr. President.

The managers are here to accept amendments to the District of Columbia appropriations bill, and I remind all Senators that we intend to complete action on the bill today. I encourage any Member to come to the floor immediately if you have any amendments or to advise the staff if you intend to offer an amendment.

Mrs. BOXER. Will the Senator yield?

Mr. FAIRCLOTH. I will yield to the ranking member on this bill.

The PRESIDING OFFICER. The Senator from California is recognized.

Mrs. BOXER. Thank you very much, Mr. President. I just want to reiterate to our side that if there are amendments, we are here, and we are very hopeful to move this bill through. The chairman and I work well together. We are just waiting for colleagues from both sides. We think this is an impor-

tant bill. We think there are a lot of good things, and we want to move them forward. We are hoping people will come down at this time.

I ask unanimous consent to speak as in morning business for up to 12 minutes.

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

Mrs. BOXER. Thank you very much, Mr. President. If I do see colleagues who are here to offer amendments to this bill, I hope they will let me know, and I will make my remarks brief.

CAMPAIN FINANCE REFORM IS A PRESSING MATTER

Mrs. BOXER. Mr. President, I was listening to the news this morning, and the reporter said, "The Senate has agreed to set aside campaign finance reform and go to more pressing matters."

I thought to myself, campaign finance reform is a pressing matter. It seems to me there can be no more pressing matter. We ought to deal with this issue of campaign finance reform and let the chips fall.

We have a lot of parliamentary games being played. One of my colleagues, Senator DORGAN, said earlier that if the American public was listening this morning and heard somebody say, "There is a poison pill on a tree that has been filled," the public would not really understand what we were talking about. When we talk about a poison pill, we are talking about an objectionable amendment that is extraneous to what we are trying to do being offered in an attempt to kill the underlying bill. Filling the tree means using a parliamentary tactic to prevent opponents of an amendment from offering any changes to that amendment. So I apologize to the American public if they tuned in and heard somebody talking about a tree being filled with poison pills because it does get confusing.

But the matter is not that confusing. The matter is, how do we finance our campaigns, and can we improve that system? I think all of America is crying out, "Yes, we can improve it." Only a few say, "Don't touch it, it is great, and money is speech."

Now, it is true that a divided Supreme Court did equate spending as much money as you have with the right of free speech. But that was a close call. It seems to me our Founders would be turning in their graves if they believed at the time they stood up for free speech that it really meant "only if you are rich," because, folks, that is what it is about.

I am proud of my colleagues, RUSS FEINGOLD and JOHN McCAIN, for pressing this matter across party lines, and standing up for campaign finance reform. I am proud of both of them because it is not easy. The status quo around here is what people like the best.

I have to tell you, when I think about speech, I think about both sides of it. If