

Mr. LOTT. Is that the commission amendment?

Mr. DORGAN. Yes.

Mr. LOTT. I believe the Senator is right, that is the pending business, and perhaps we could do that.

Mr. DORGAN. Perhaps the majority leader would accept that. I don't expect that will be very controversial. At least we could accept one amendment and then proceed to have another amendment laid down. I will not object at this moment, but I say that, if we continue to do this, the next time we want to go to morning business I am suggesting there be an objection and we go to regular order and deal with the fast-track bill.

Mr. LOTT. Maybe we can have morning business until we do it all in one final voice vote, everything left.

No, Mr. President, if the Senator would not object at this point, we could have the pending debate, and we will talk with the Senator during the interim.

Mr. DORGAN. I will not object, and to the extent that all of the things I mentioned are involved in the voice vote the Senator will propound later, I would be happy to accommodate that.

Mr. FORD. Reserving the right to object, Mr. President, what is the unanimous-consent request before the Chair?

Mr. NICKLES. Mr. President, could we have order?

Mr. LOTT. I don't know if I have the floor, but I yield the floor, Mr. President.

The PRESIDING OFFICER. The order of business is that the Senator from Nebraska be recognized, followed by the Senator from Delaware. Then we move to a period of morning business until 4 o'clock.

Mr. FORD. I have no objection.

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

#### IRS RESTRUCTURING ACT OF 1997

Mr. REID. Will the Senator from Nebraska yield for a question?

Mr. KERREY. Sure.

Mr. REID. Will the Senator restate the unanimous-consent request he had that was objected to?

Mr. KERREY. I asked the Senate to grant unanimous consent to proceed immediately to H.R. 2676, which is the IRS Restructuring Act of 1997 that was received from the House on Wednesday, that the bill be read a third time and passed and the motion to reconsider be laid on the table.

Mr. REID. I ask my friend, is that the same bill that passed the House of Representatives by a vote of 424 to 4?

Mr. KERREY. That is correct. Actually, I believe it is 426 to 4.

Mr. REID. Yes, 426 to 4. I ask my friend from Nebraska, is that the bill that created a new citizens oversight board?

Mr. KERREY. That is correct. It creates a public board that would for the first time have oversight of the IRS, have the power to develop a strategic

plan, and make budget recommendations to the Secretary of the Treasury.

Mrs. BOXER. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. The Senate will be in order.

Mr. REID. I ask my friend, is this the same bill that when the IRS is proven to have done something wrong, the person who is wronged can collect attorney's fees from the Internal Revenue Service?

Mr. KERREY. That is correct. A taxpayer under this legislation, under this new law, would have the power to collect attorney's fees and to collect up to \$100,000 if the IRS was held to be negligent.

Mr. REID. Is it true that this also creates a toll-free number for people to register complaints against the IRS?

Mr. KERREY. That is correct. It does create a toll-free number and powerful new incentives to move to electronic filing.

Mr. REID. I ask my friend, is this the same bill that creates a taxpayers' advocate office?

Mr. KERREY. That is correct. A new public board, in fact, would make the hiring decision and create an independent taxpayer advocate. The current advocate, as you know, is an employee of the IRS and, as a consequence, although he has done a good job, in many ways has a conflict of interest because his performance is being judged by IRS managers.

Mr. REID. I also ask my friend, is it also true in tax cases that the burden of proof shifts? As I understand—and I am asking this question of my friend from Nebraska—it is my impression now that the burden of proof to prove yourself, in effect, innocent is upon the taxpayer. Is that the way the law is now?

Mr. KERREY. That is correct.

Mr. REID. Would this law change that?

Mr. KERREY. This law would change it when it reached the tax court. In those cases where the taxpayer reached the tax court, the presumption would not be on the taxpayers to prove that they are innocent.

Mr. REID. I ask my friend also, during the time that the Finance Committee held their hearing and during the time that the commission met, is it true that there was evidence which came up to show that the IRS did have quotas for advancing people in the IRS hierarchy? And is it true that was against the law? It is against the law.

Mr. KERREY. That is true. In fact, the 3 days of hearings that the Senate Finance Committee held under the leadership of Chairman ROTH clearly exposed incidents out there in violation of the law where audits are done, where collection efforts are made based on quotas, based upon goals to try to go out and get individuals, regardless of whether or not there was additional tax actually being owed. In addition, I would say to my friend from Nevada, the current law allows the IRS to keep

confidential and private all audit criteria.

Citizens may be surprised to know this, but if you ask the IRS today, "What are your audit criteria? On what basis do you evaluate the taxpayers of Iowa or Delaware or Nebraska or Vermont or Mississippi? How do you evaluate your audits? How do you decide on what basis you are going to proceed on an audit?" the IRS will say to you, "You don't have a right to know. We won't disclose that information." The only available information has been obtained through a woman at the University of Syracuse through a Freedom of Information Act request for that information. If you look at audit data she has collected, you see broad variations, broad variations from State to State. In one State there will be very high percentages of audits; in another, very low percentages of audits. It is very inconsistent and subjective. Under this law, the audit standards and the criteria for audit would have to be made public. It would, as well, create a mechanism for expedited answers of Freedom of Information Act requests.

Mr. REID. I say to my friend, if we do not pass this legislation, now, early in November, until we come back late in January, it is my understanding there will be about 1.5 million Americans who will have dealings with the Internal Revenue Service where they are being questioned as to whether or not their tax burden is appropriate. Could we avoid that for at least a significant number of these people if we passed this legislation?

Mr. KERREY. The answer is absolutely yes. Indeed, I said the House passed this bill 426 to 4 on Wednesday. I came to the floor and asked unanimous consent to take it up on Thursday, did so again on Friday, and did so again on Saturday. I say to those who are wondering what is the impact of this, what is the impact of delay, the Senator is exactly right. The Senator is exactly right. There are 135,000 notices every single day. Every single day, 135,000 notices are sent to the taxpayers of the United States of America. What do those notices say? They say: You owe us more money.

Talk to somebody—I urge my colleagues, particularly on the other side of the aisle—talk to taxpayers who get one of these notices. Ask them how much power they have. Ask them how they feel when they receive one of these letters. Ask them what kind of access they have to the IRS under the current law. And they will tell you it's a terrifying moment when you receive that letter. You either pay it or you know you are going to spend an awful lot of money and an awful lot of time to dispute the dollar amount that the IRS says that you owe.

In addition, every single day, 250,000 Americans call the IRS. A quarter of them can't even get through. And of the ones that get through, 25 percent get the wrong answer. It is one of the reasons, when we did our poll—

Mr. LEAHY. May we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. KERREY. Unlike this remarkable poll, and I have to say I hope my colleagues on the other side of the aisle will object if Speaker GINGRICH tries to allocate somewhere between \$30 and \$100 million of taxpayer money for a 14-question poll, among which questions are: Do you think taxes are fair or unfair?

Whatever you think about this piece of legislation—do it next year or do it now, on behalf of the taxpayers—I will guarantee if the IRS was spending \$100 million which could go to taxpayer service, which could go to lots of other things, to do a 14-question poll mailed out to 80 million taxpayers, made available in every single post office, mailed out to every single provider, and then, guess what, then you mail it back, the taxpayer does, to the General Accounting Office to be compiled—you are not going to have 250,000 phone calls every single day. You are going to have another 100,000 phone calls from taxpayers who are going to say, "What the heck does this mean?" They are going to call their service centers.

So, while we are all sitting here saying we want the IRS to operate better, we have under consideration a poll that is going to make it more difficult for the IRS to do their job because you are going to have another 100,000 phone calls or so coming into the IRS office by confused taxpayers wondering what this is all about.

Between the time that this piece of legislation was passed by the House—and it is right down here at desk. All we have to do is ask unanimous consent to take this up. All the Republicans have to do is not object, allow the bill to be taken up. There have been 270,000 citizens between the time it got to that desk and right now—270,000 citizens got notices in the mail that they owe taxes. And another half a million who have called the IRS, trying to get a question answered.

Mr. REID. I ask another question to my friend. Isn't it true that the employees of the Internal Revenue Service, these people who work very hard every day—not the bosses, but the employees of the Internal Revenue Service—favor this legislation?

Mr. KERREY. Yes. In fact, not only does the National Federation of Independent Businessmen support this legislation, not only do most of the providers organizations that help taxpayers fill out their forms, but the head of the National Treasury Employees Union supports this legislation and has indicated that he wants to get it passed in a hurry.

Former Secretary of Treasury Baker and Brady and current Secretary of Treasury Rubin support this legislation. The previous IRS Commissioner, Peggy Richardson, supports this legislation, as does previous Commissioner Fred Goldberg, who is a member of the Commission.

You are absolutely right. The employees themselves are saying give the Commissioner the authority. When Mr. Rossotti came before the Finance Committee, everybody was very impressed that the President would send up an individual who had experience in the private sector. Mr. Rossotti said, "I am going to manage this agency."

I said to him, "You know, Mr. Rossotti, you are going to get over there and you will have a lot of responsibility but you don't have any authority. You can't even bring on the senior management, you can't provide the private-sector incentives you are describing out there. You have six legislative committees, three in the House and three in the Senate, with jurisdiction over you. You get through this next filing season with no problems and life is going to be good for you, but just have a little glitch between now and then and you are going to find out people are going to call you up in a hurry and blame you for all the things that you have no authority to do."

So I hope my colleagues on the other side will look at this legislation. The chairman has indicated he has objections, he would like to add some additional things. Most of the things he wants to add I support. I would like to get it done. He wants to hold hearings next year and do it. But these changes, for gosh sakes—if you look at the law as passed by the House, right down here at the desk, you scratch your head and say: For gosh sakes, that's common sense. We ought to already allow it.

So, on behalf of the taxpayers who get notices and will be calling the IRS every single day between now and the next year, I hope, between now and the next days, we can pass it. We could conference this thing in record time.

Mr. REID. It is my understanding that everyone on this side of the aisle, all Democrats, support this legislation moving forward immediately; is that true?

Mr. KERREY. Not only is that true but my guess is, if it were to be taken up, if no objection were placed against this unanimous-consent request, my guess is on final passage you would get 100 votes.

Mr. REID. So it's fair to say that virtually everybody in this Chamber, Democrats and Republicans, support this legislation?

Mr. KERREY. I think it is fair to say that. There are some who will say I want the board to have more authority, a few odds and ends done, but I don't think anybody in the Chamber would object to changing the law to give the Commissioner the authority to manage this agency or do all the other things the distinguished Senator from Nevada has identified on behalf of taxpayers, like providing a public statement of the basis of audits—I don't think anybody could object to doing that. And anybody looking at it, I think, would say, "Gee, that is not going to make things worse. That's

going to make things an awful lot better for those taxpayers getting notices and those taxpayers calling the IRS."

Mr. REID. I finally say to my friend from Nebraska that this legislation is good legislation. I am happy to be an original cosponsor of it. It is something the American people want and this Senate should deliver it. The House has already passed this legislation. Would the Senator agree?

Mr. KERREY. I completely agree with the distinguished Senator from Nevada on that point. Again, as long as we are in session, I intend to continue to come to the floor and ask unanimous consent to take this legislation up. Not because I think it is controversial, but because I think it is not controversial. We are hammering out in back-rooms all over this Capitol all kinds of deals to try to get fast track, to try to get things that are extremely controversial. This one is not. It has extremely broad support, a large margin of victory when it passed: 426 to 4 in the House. It is going to conference very easily. I have been down here three times. I will continue to come down here and ask unanimous consent to proceed immediately to consideration of this legislation.

Mr. BUMPERS. Will the Senator yield for a couple of comments and then a question?

Mr. KERREY. I will be happy to.

Mr. BUMPERS. First of all, when I was Governor of my State, one of the first orders I issued was that any employee of the Arkansas Revenue Department would be summarily fired if it was found that that employee, without provocation, was rude to a taxpayer. And within 3 weeks we fired one employee, and it had an unbelievable impact on the conduct of everybody else. We had very little trouble out of the revenue department during my 4 years as Governor.

No. 2, insofar as the Speaker's proposal to spend a minimum of \$30 million doing a survey, sending out a questionnaire to the taxpayers of this country asking how do you feel about your taxes and how do you feel about the IRS, I can save him that \$30 million. I already know the answer. Every Member of this body knows the answer to that question. People think they are overtaxed and they think the IRS is filled with a bunch of arrogant bureaucrats whose whole purpose in life is to make people miserable.

Finally, my question concerns this matter of attorney fees. Could you tell us what the criteria is in tax court? Let me walk through a case.

Let's say the IRS sends you a notice and says we have determined in looking over your tax return that you owe us an additional \$5,000, and here is why. And you write back and say I disagree. At that point, the burden is on you to prove that you don't owe \$5,000, and under this bill the burden will remain on you to prove that you don't owe \$5,000.

If the IRS feels that they have won the argument, that you in fact do owe

\$5,000, and they refuse to relent, the normal method for you to challenge that is for you to pay the \$5,000 and then go to tax court to recover it. Is that a fair statement?

Mr. KERREY. That is correct.

Mr. REID. That's true.

Mr. BUMPERS. My question is, if you do recover the \$5,000 in tax court, are you automatically entitled to attorney's fees under this bill?

Mr. KERREY. You would be entitled to attorney's fees under this bill, yes.

Mr. BUMPERS. Let me ask you this question. Let's say we have a criminal case where the IRS charges you with tax evasion, that is, deliberately defrauding the Federal Government by evading or cheating on your income tax return. Then the U.S. attorney's office will indict you and haul you into court for a criminal trial.

At that point the IRS, of course, does have to sustain the burden, is that not correct?

Mr. KERREY. That is correct.

Mr. BUMPERS. Now, assuming that the IRS does not get a conviction in that case, then is the taxpayer entitled to attorney fees?

Mr. KERREY. I actually do not have an answer to your question, as to whether or not that is the case.

Mr. BUMPERS. I don't know the answer either. I think under existing law, and certainly under the Hyde amendment, you would be entitled to attorney fees if you were—I forget the exact language, something to the effect that if you have been frivolously or vexatiously charged and tried, you are entitled to attorney fees. But there is an existing statute which provides attorney fees if the court decides that this case should never have been brought, and several other criteria.

But I just wondered if this bill changed any of that regarding criminal trials.

Mr. KERREY. I don't have an answer, specifically, to your question. I can say that one of the things that we have done with this legislation is to make the taxpayer advocate more independent. Very often that is what is missing. Let's say that you are one of the 135,000, or you are one of the 270,000 since we have asked for this bill to be taken up, who get a notice and you disagree with that notice. There is a dispute resolution officer who works for the taxpayer advocate that you can call up. You can say, "Look, I have a dispute here. I think it is unfair. I would like to come in and talk to you." There is a mechanism under the Taxpayer Bill of Rights II to do that. And what we do is make that taxpayer advocate even more independent.

Very often what happens is the law requires the revenue agent to collect, even though the revenue agents say this doesn't make any sense. There is no mechanism that enables the revenue agent to be overruled. What we do is, by giving that taxpayer advocate more independence and more power and more authority to overrule, I think we are

going to reduce substantially the number of cases where a person looks at it and says, "My gosh, why would you spend a quarter of a million dollars to collect 100 bucks, or something like that?" These are cases that come all the time into our offices, and under the current law we are simply not able to do anything.

Mr. BUMPERS. Senator, if I could just make one last comment. This is not in defense of the IRS, just simply an observation. The truth of the matter is a lot of people resent the taxes they have to pay. That is a given. My salary is paid by the taxpayers, but every April 15 I get a little vexed, just like every other taxpayer does, about what I have to pay. But having said that, I think it would be remiss if we didn't point out that we lose \$100 billion a year in taxes to the Federal Treasury by people who defraud the system, the underground economy.

Consider the fact that 1997, this year, the people of this country will pay about \$650 billion in personal income tax.

The corporate tax, as you know, yields much less than that. But just take the personal income tax. If we are losing \$100 billion from people who absolutely refuse to live by the law—and that is who IRS ought to be after, of course—that is one of the reasons the rest of us have to pay more, because a lot of people don't.

I just wanted to make that point and to say I think the IRS generally tries its best to collect the appropriate amount of taxes. The thing that gets all of us in more trouble than anything else is when honest, hard-working people are pilloried by a bureaucratic agent or auditor from the IRS. The agent may be right. It is usually not so much a question of whether the agent is right or not; it is their conduct that is offensive to people, and that is one of the reasons their public relations is so poor.

Mr. KERREY. I appreciate both the Senators' questions and statements. As a former Governor, I have commented right from the beginning that he could fire anybody who was a discourteous employee.

Let me say again, for the record, we have a remarkable system of tax collection in the United States that is largely voluntary. One of the disturbing things about the current trend is we have gone from 93 percent voluntary compliance down to 83 percent in the last 30 years. That means 83 percent of our taxpayers voluntarily comply, and they are paying higher taxes as a result of the 17 percent who don't.

There is a need to make certain there is a sufficient amount of law enforcement out there. The dilemma, though, is the current law, and I underscore this because we are a nation of laws, after all. The IRS is not a corporation. It is created by law, and it operates under law. Nobody doubts if their workload went up as a result of the balanced budget agreement we just

passed. There is significant new complexity in there of, what, four or five different rates you are paying for capital gains.

Mr. BUMPERS. I think an additional 800 pages in the code.

Mr. KERREY. An additional 800 pages in the code. Lord knows, this is good news to them compared to some years we don't pass a tax bill until about now, until they are almost always into their filing season.

What we have to understand, what citizens need to understand is the IRS is managed according to law. So title I of this bill that is sitting down here at this desk passed 421 to 4 in the House. Title I of this bill deals with management and accountability. Who could possibly object to passing a piece of legislation that would give the Commissioner of the IRS the management authority to do what you just described?

If the President of the United States calls up the Tax Commissioner, who he just appointed and we just confirmed, and says, "I just heard Senator BUMPERS on the floor say something really pretty smart, unusual. He said that when he was Governor of Arkansas, he told his revenue commissioner that anybody who is discourteous is going to be fired. I want you to do that."

Do you know what Mr. Rossotti would say? "That is a great idea, Mr. President, but the law doesn't give me that authority. I can't even hire my senior people. I can't manage this agency." The law doesn't give him that authority. It is not a corporation, it is a creature of law, and we have written this law so as to confine and make it difficult for the Commissioner to do the job.

You would think the question the Senator from Nevada asked earlier, if he is going to have this new authority to hire and fire, certainly the employees must be against that. Absolutely not. The Treasury Employees Union supports this legislation. Why? They know the Commissioner can't manage the agency. They know the new provisions not only to manage the agency but to provide accountability and oversight, both with a new public board and with a restructured legislative oversight process, is necessary, is needed, in order to get shared consensus on what the strategic plan is going to be.

That is what has been failing over the years. That is what has been missing over the years. By the way, I have only been here 8 years, but I have never heard a Commissioner get up during the middle of a tax debate and say, "Gee, Mr. President, that's a great tax idea you have," or "Senator" whoever, "that's a great tax idea you have, but this is what it is going to cost the taxpayer to comply."

The taxpayers already spend \$200 billion a year—\$200 billion a year—just to fill out the forms. You say everybody in this body ought to be for simplification. I think the tax bill passed 90-some to 8. I know I voted for it. I think the

distinguished Senator from Arkansas did not, so he can reclaim the floor and tell me what a fool I was, talking about simplification out of one side of my mouth and out of the other side of my mouth I voted for something that creates complexity.

For the first time, we give the Commissioner the authority to be at the table when tax law is written for the taxpayer and say, "This is what it is going to cost the taxpayer, this is what they are going to have to do to comply, Mr. President, or Mr. Chairman, of whatever."

We would give under this law the Commissioner not just the authority to manage, not just a restructured public board that would give the citizens a view of what is going on inside this agency and restructuring Congress so there is more consistent oversight.

The wonderful hearings the Finance Committee had, I was shocked to find out that was the first time in 20 years where the full committee had hearings of that kind. Some people criticize us saying we bash the IRS. I guess once every 20 years is all we are supposed to do.

The law is what dictates what the IRS can and cannot do. The law does. We can't bash the employees, the managers of the IRS on the one hand while on the other hand we refuse to take up a piece of legislation that would give the Commissioner the authority to do everything that we say we want the Commissioner to do.

So, as I said, it has been since Wednesday that the bill got down there. I have done this now three times on 3 straight days, and in that time, a quarter of a million taxpayers have received notices in the mail: "Dear Mr. and Mrs. Smith, you owe us X amount of dollars." Another half a million people have called up their IRS service center or their IRS office and tried to get a question answered and haven't been able to do so.

Again, I underscore, I hope my colleagues on both sides of the aisle understand that the Speaker may be successful in getting \$30 million, up to \$100 million of taxpayer money allocated to do a 14-question poll. If you look at these questions, you would say, "My gosh, we can answer those questions without spending \$30 to \$80 million of taxpayers' money to get answers that are so obvious it is embarrassing to even ask them, even if it were for free."

Mr. LEAHY. Will the Senator yield without losing his right to floor?

Mr. KERREY. I will be pleased to yield.

Mr. LEAHY. Mr. President, is the Senator aware that you can do a nationwide poll within 3 to 4 percentage points for under \$50,000? Is that not correct?

Mr. KERREY. Indeed, the restructuring commission did a poll for \$20,000.

Mr. LEAHY. Mr. President, I wonder if the Senator is aware that we seem to

go off on things that are not very urgent, whereas we don't take time for things that are urgent.

For example, the nomination of Bill Lann Lee. All the members of the Judiciary Committee on this side of the aisle have asked the chairman for another hearing on Bill Lann Lee, because it is obvious from the debate we had on Thursday in the committee that misstatements of facts have been used, distortion of his record have been used. We find that people supposedly opposing Bill Lann Lee, in fact, support him. We find the cases in which he was involved were misconstrued.

So I just mention this, if we want to do something worthwhile, then I hope the Judiciary Committee and the chairman will stop refusing to have another hearing and will listen to all of us who have asked for another hearing out of fairness to a man who has been much maligned.

I thank the distinguished Senator from Nebraska and yield back to him to answer the question.

Mr. KERREY. What was the question again?

Mr. President, I hope that in the next day or two, while we are deliberating in this world's greatest deliberative body, resolving all the terrible conflicts we have on a variety of things, I hope we are able to get consideration of this legislation. I believe it will pass almost unanimously, if not unanimously, in the Senate. I believe it could be conferred very, very quickly with the House and be on to the President.

I think all of us, once it is passed and signed by the President, will feel glad that we changed the law to give the Commissioner the kind of authority that the Commissioner is going to need to manage this rather difficult and troubled agency.

I thank, again, my very patient chairman for waiting for this opportunity to respond. I appreciate, again, his leadership in conducting 3 days of public hearings, piercing the 6103 veil to be able to see inside this agency even further than what the restructuring commission did. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware.

Mr. ROTH. Mr. President, this is the third day in a row that the Senator from Nebraska, Senator KERREY, has asked for a unanimous-consent agreement to pass the House IRS restructuring bill. And for the third day in a row, I have, again, objected.

Moving this bill today by unanimous consent is the politically expedient thing to do. It is the easy thing to do, and if we approve this legislation now, we could all go home and try to convince our constituents that we solved all the problems with the IRS and they wouldn't have to worry again.

But this would not be true. This bill, while it is a good start, does not ad-

dress the very egregious problems that the Senate Finance Committee exposed in our September hearings. The most significant reform in this bill is the creation of an oversight board. But, Mr. President, the board does not have the power to look at audit and collection issues where the most help is needed for the taxpayer. It falls short on many accountability issues that were raised at our hearings, basic issues such as requiring employees to sign correspondence to taxpayers. It does not alter the power that agents have to abusively slap liens and levies on taxpayers. It does not ensure taxpayers their due-process rights.

Those are only a few of the missing links. The restructuring commission and the Ways and Means Committee did good work, but what they have done is only a beginning. We need to go further.

Some have said let's pass this now and then come back and do more next year. Well, Mr. President, we know where that will lead. If we pass this reform legislation, legislation that even Senator KERREY admits has important omissions, those who are not anxious to pass it will rise up and cry that we have already passed reform legislation. When we attempt to strengthen it, they will say that we need no further reform or that we must give this effort a few years to see that it works. The truth is, we will basically get only one real chance to reform the IRS, and for the taxpayer, we must get it right. I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

Mr. KERREY. I want to respond, and then I will get out of here.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KERREY. Mr. President, again, I want to praise the chairman of the Finance Committee for the hearings and the chance given to this. I respectfully disagree. I don't think we will just get one bite of the apple. I believe Majority Leader LOTT and the Speaker are committed to going further. Both of them have talked especially about the need to simplify the Tax Code. I would be surprised if either one of them would object to some of the additional things that Chairman ROTH has indicated that he wants to address.

I just say very respectfully on behalf of the taxpayers who are not going to have an agency that is managed well, this is not just a public board. Title I does change the way that oversight occurs, both on the legislative and on the executive side. There is no question that that change is important. But I believe that the most important piece of this legislation is giving the Commissioner the authority under the law to manage the agency. That is the most important thing that is missing today.

Second, I think it is not a small item to say that for the first time, the American people will have an agency that will be required under the law to provide them the audit standards. Why

do you audit a certain way in Nebraska, a certain way in Iowa and a certain way in all the other States?

What is the basis of the audits?

Today, the IRS, under the law—they don't withhold it because they are being ornery or don't withhold it because they just don't want to give it to us. The law says: Do not give it. The law says: Do not provide it publicly.

It is not a small item to provide to the taxpayers public information, to give them a window on why audits are done, and what is the standard to which audits occur. It is not a small item to shift to the taxpayer additional power and give the taxpayer advocate the kind of independence that the taxpayers themselves have asked for over and over and over.

We had 12 days of public hearings. The congressionally mandated restructuring commission that Congressman PORTMAN and I chaired, during that we heard over and over and over that the No. 1 problem is the law—the law in regards to complexity, the law in regards to power, the law in regards to oversight, the law in regards to management.

This process started clear back in 1995 when we discovered that through a GAO audit that nearly \$3.5 billion of the taxpayer money had been wasted on a taxpayer modernization system. Why? Because the IRS and the Congress don't have a mechanism where they can reach consensus on a strategic plan. And without a strategic plan, no matter what you did with technology, you are apt to spend money incorrectly.

So this process began over 2 years ago and has deliberated that entire time. And I have to say, I am not going to go home—if this piece of legislation were to be enacted—and I intend to come down again and ask unanimous consent so that it can be taken up. It is lying right there at the table. It is not one of these controversial things that we are debating, trying to get done, so we can get out of here. This one is going to pass with a big margin.

I don't have to go home and say it solves every problem. I don't have to go home and say we have solved every education problem because we just passed Labor-HHS. We know there is still work to be done next year. We know there is still work to be done in the defense authorization bill. We didn't hold it up because we said, "Gosh, we've got to solve every problem before we enact this legislation." We understand—I hope we understand that our best course is to try to make incremental progress, do those things where Republicans and Democrats know that change in the law will improve the operation of some agency of Government.

Ms. MOSELEY-BRAUN. Will the Senator yield for a question?

Mr. KERREY. I will be pleased to.

Ms. MOSELEY-BRAUN. Is the Senator aware of any voices in opposition or people who are not anxious to pass

this bill? It passed overwhelmingly in the House. And it is my understanding and impression from this Chamber that just about everybody wants to have an opportunity to pass this legislation or to vote on IRS reform sooner rather than later.

Is the Senator aware of any group or organizations or individuals who have reached out and said, "No, no, we don't want to reform the IRS"?

Mr. KERREY. No. Indeed, it is endorsed by almost every organization outside of the Government that has contact with the IRS. The National Federation of Independent Businessmen supports this legislation, as well as the National Treasury Employees Union supports this legislation. The accountants support the legislation. The enrolled agents support the legislation. I mean, groups that deal daily with the IRS are asking the Congress to change the law.

There have been objections raised that it doesn't do something in addition; but, again, we can do all of that. We do not have to get every single thing done in order to change the law if we know that the change in the law will improve the operational efficiency of some agency of Government, especially one that sends out 135,000 notices every single day to taxpayers that they owe additional money.

Ms. MOSELEY-BRAUN. Am I correct in my impression that even the Treasury Department has endorsed or embraced the recommendations of the Commission that are represented in this IRS restructuring bill?

Mr. KERREY. The Treasury Department and the administration support the bill that is lying right down there, that if there was no objection we would take up immediately here and pass in the Senate as well. Not only does the Treasury support it, but former Treasury Secretary Brady, former Treasury Secretary Baker, former Commissioner Richardson, and former Commissioner Goldberg.

I mean, everybody that has looked at the law, they can say it could go further, do additional things, but nobody has lodged an argument that says the changes in this law would not stand a very good chance of improving the operational efficiency experienced by taxpayers who receive notices every day and by taxpayers who have questions and call up the IRS and try to get those questions answered.

Ms. MOSELEY-BRAUN. We have on average in my State of Illinois, 33,457 tax returns that will be audited in the next year. I know there are 30,000 such audits pending in my home State. And it just seems to me that to the extent that this legislation provides some relief to taxpayers, and justice to taxpayers, that the delay that is being suggested here in passing the legislation denies them that justice. And that expression "justice delayed is justice denied"—that we really do put in jeopardy the rights that we, I think, all recognize that people ought to have as citizens of this great country.

Mr. KERREY. Right.

Ms. MOSELEY-BRAUN. In relation to what is supposed to be a service for Internal Revenue, that justice that is due those taxpayers may well be denied by virtue of the delay in calling up this legislation.

Mr. KERREY. I could not agree with you more. There are actually 800,000 notices every single year of audits—excuse me, every month that goes out to—

Ms. MOSELEY-BRAUN. That is 800,000?

Mr. KERREY. Yes, 800,000 a month of contacts to the IRS or audits or matters that are almost as serious as an audit that goes out to some taxpayers. There is no question, if we take this bill up that is lying right down there now that passed 421-4—probably pass here 100-0—there is no question that all of those taxpayers would have more power.

They may still not like the outcome. They may have to pay more taxes, and not like it, but they would have a lot more power, a much more efficient agency, and a much more happy ending as a consequence.

There are things that the IRS does that they ought not be required under the law to do, that nobody says they ought to be doing. Though I say again, the chairman of the Finance Committee, Senator ROTH of Delaware, has quite accurately said, there are additional things we could do. But, for gosh sakes, given the burden the taxpayers have, given the difficulty they have, and given the broad support, after 12 public hearings, and after thousands of meetings with IRS employees and provider groups in the private sector, private sector companies that are offering competitive services, other nations' governments that have had similar problems that have gone through the similar process of trying to improve the operation of their tax collection agency—this is not something that was put together in a couple weeks' time in response to a problem identified.

This has been something that has been debated well over a year and has broad bipartisan support and would unquestionably, for every taxpayer out there that might receive an audit or might receive a collection notice or might have to call the IRS and get a question answered—every single one of them would benefit if we could just pass this law.

Ms. MOSELEY-BRAUN. I serve, along with the Senator from Nebraska and the Senator from Florida, on the Finance Committee. I was just delighted that the chairman convened the hearings on the IRS abuses. We heard any number of horror stories in those hearings. It is my understanding that under this legislation a taxpayer who had gone through an audit or set of investigations or prosecutions, that came out on the other end of the process absolved of any error of even wrongdoing, that that taxpayer would be able to, at least, recoup not all but

some of the expenses associated with defending the integrity of their voluntary compliance with the Tax Code.

Mr. KERREY. That is correct. They would get their attorney fees paid up; and if there was negligence, up to \$100,000. And we establish assistance centers out there for the first time for taxpayers who are struggling to get questions answered.

Ms. MOSELEY-BRAUN. For those taxpayers where it might be just a mistake—their Social Security number got mixed up or the name was not right, whatever—those assistance centers would then provide them with an opportunity again to have a better relationship with the service that the IRS is supposed to provide.

Mr. KERREY. That is correct. One of the things that this law does in title II is deal with a new trend that all of us understand, which is electronic commerce. We see a lot of electronic commerce developing out there in the private sector. The IRS has been struggling to get electronic filing up and online.

The significance of it is that when you file electronically, the error rate is less than 1 percent. Error is real money. You make a mistake on the Government side with a tax claim, and it could end up in court for years and years and years and cost the taxpayer and the Government tremendous amounts of money. So errors are real money. In the paper world, the rate of error is 25 percent.

So we provide both incentives and resources to get to a much higher number of electronic filings which I think for taxpayers who pay to run the IRS, as well as taxpayers who are sending their money, is a tremendously important change in the law.

Ms. MOSELEY-BRAUN. Is it the Senator's impression that, along with putting some real teeth into taxpayer rights, that this legislation provides—and, again, we could do more in other legislation—but this legislation puts real teeth in taxpayer rights, and that it might also have a beneficial effect in terms of the culture or the climate of the IRS?

For example, we heard in the hearings that they had quotas. They were not official quotas but unofficial quotas. That this might affect the culture in the way that the IRS viewed its mission and viewed its responsibility to taxpayers. Is it the Senator's impression that this legislation will help move that culture in the direction of a service that is more understanding of its obligations and responsibilities to the American people?

Mr. KERREY. No question.

The PRESIDING OFFICER. The 10 minutes have expired. The Senator from Illinois had 10 minutes, and it has expired. We are in morning business.

Ms. MOSELEY-BRAUN. I did not ask for time.

The PRESIDING OFFICER. There was a request.

Ms. MOSELEY-BRAUN. For me?

The PRESIDING OFFICER. In morning business.

Ms. MOSELEY-BRAUN. No, sir. I am in the process of questioning the Senator who has—I asked the Senator to yield for questions. I asked my last question. If he would answer it. I was not speaking in morning business under the 10-minute rule.

Mr. KERREY. The Senator is right. You are absolutely right. The culture, though, is not going to change at the IRS until we give the IRS Commissioner the management authority the manager needs to be able to run the agency with performance that is based upon something other than these quotas that have been set up. Although it has been a relatively small number of instances where we identified them, it still—relatively small—it is one too many.

Ms. MOSELEY-BRAUN. Mr. President, I stand before you today in support of Senator BOB KERREY's request to pass IRS reform legislation before Congress begins recess.

I along with all of the Senate Democrats have signed onto a letter urging Senator LOTT to bring up legislation to reform the IRS this year. I support IRS reform and believe that there should be no further delay in beginning the process of change. I am a cosponsor of S. 1096, the IRS Restructuring and Reform Act of 1997, and believe that the Senate should act on the House-passed version H.R. 2676. There are 35 Members of the Senate that are cosponsors of this bill and of those, 14 Members are on the Senate Finance Committee.

The House of Representatives has already acted on November 5, 1997, by a vote of 425 to 4 to overwhelmingly pass H.R. 2676, the legislation that would overhaul the way the IRS operates. We should too.

It has been 40 years since Congress and the President have considered significant reforms to the Internal Revenue Service. With this bill, there is a historic opportunity to overhaul the IRS and transform it into an efficient, modern, and responsive agency. The IRS interacts with more citizens than any other Government agency or private sector business in America and collects 95 percent of the revenue needed to fund the Federal Government. Congress and the President owe it to the American public to seize this opportunity and pass this legislation as soon as possible.

S. 1096 was introduced in the Senate on July 31, 1997, by Senator KERREY and Senator GRASSLEY. The Senate Finance Committee has had 4 months to take up this legislation and did not. Why?

Congress created the National Commission on Restructuring the Internal Revenue Service on September 30, 1996, which studied the IRS for a year. Seventeen Commission members and professional staff: Five appointed by the President, four appointed by the majority leader of the Senate, two appointed by the minority leader of the Senate,

four members appointed by the Speaker of the House of Representatives, and two members appointed by the minority leader of the House of Representatives, examined and thoroughly developed a comprehensive report on changes needed to overhaul the IRS.

The Commission received extensive input from American taxpayers and experts on the IRS and tax system, holding 12 days of public hearings and spending hundreds of hours in private sessions with public and private sector experts, academics, and citizen's groups to review the IRS operations and services. In addition to holding three field hearings in Cincinnati, Omaha, and Des Moines, the Commission met privately with over 500 individuals, including senior-level and frontline IRS employees across the country.

All of the members of the Commission examined and analyzed the problems with the IRS and drafted a report called "A Vision for a New IRS." This report provides recommendations that will help restore the public's faith in the American Tax system.

H.R. 2676 and S. 1096 implements the recommendations of the year-long bipartisan National Commission on Restructuring the IRS. It provides better management and new protections and rights to taxpayers along with the following list of significant changes:

This legislation establishes an Internal Revenue Service Oversight Board that has 11 members including 8 people from the private sector, the Secretary, the Commissioner, and a Treasury union member.

In this bill, the IRS Commissioner will be appointed by the President with recommendations from the Board. Only the President will be able to remove the IRS Commissioner however, the Board can make a recommendation to the President for the Commissioner's removal.

This bill shifts the burden of proof from the taxpayer to the IRS.

It creates a taxpayer complaint and information audit system.

And, it brings outside expertise into the agency, so that mismanagement will end and taxpayers will not have to deal with bureaucratic redtape.

It provides significant expansion of innocent spouse relief—Eliminates requirements to limit an innocent spouse from liability for a tax delinquency of their responsible spouse. Allows a court to give proportional relief to an innocent spouse based upon a spouse's limited knowledge and responsibility.

Extends the attorney client privilege to accountants.

Expands the court's authority to award costs and fees. This legislation will change the date a taxpayer can begin to be compensated for administrative costs to the date they received their first letter of proposed deficiency from the IRS. This allows the taxpayer to receive reimbursements for the costs of defending the audit as well as the court proceedings.



No single recommendation in the bill will totally fix the IRS, but taken as a whole, this package sets the stage for an IRS that is fair, efficient, and friendly.

Despite the extraordinary agreement in the House of Representatives on H.R. 2676 and agreement from President Clinton that he would sign the bill, Senator ROTH, the Chairman of the Finance Committee believes he must spend more time and build on the House bill and act on legislation next year. This is not prudent. Americans want action now. The new Commissioner of the IRS Charles Rossotti will be sworn in next week and we should start him on the right track with a new vision for the IRS. Why put off until tomorrow, what we can do today. Senator BOB KERREY of Nebraska has requested unanimous consent that the House IRS restructuring bill, H.R. 2676, be approved by the full Senate. I agree and believe we should act now to stop the IRS abuses today.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa.

#### HOLDS ON LEGISLATION

Mr. GRASSLEY. Mr. President, I rise to express my disappointment at the fact that during conference negotiations on the District of Columbia appropriations bill, there have been efforts to drop a provision offered by Senator WYDEN and myself, and which was accepted by the Senate. This provision was the antisecret holds provision which would have put an end to the practice of putting holds on legislation or nomination in secret.

My colleagues are all aware of the practice of placing holds on a variety of measures. Any Member of the Senate who objects to a measure can place a hold to prevent further action from taking place until that Senator's objections can be resolved.

I want to be clear about one thing. This provision would not have prevented Senators from placing holds. But it would have required them to be open and acknowledge when they have placed holds. Our provision would have simply required Senators to either announce on the floor or place notice in the CONGRESSIONAL RECORD within 2 working days that they have placed a hold. It is very disappointing that the D.C. approps conferees sought not to allow this provision to remain in the conference report. More, not less, openness is needed in this institution. It is regrettable that conferees seek to maintain the status quo.

However, I want my colleagues to know that, should this provision not be included in the final conference report, Senator WYDEN and I will not consider this matter closed.

We have had to work long and persistently before to achieve legislative goals and we are prepared to do so again. We will continue to pursue this matter until we achieve the openness

that is necessary to regain the public trust in Congress that it once had. I know that is a goal that we all want to reach.

Senators should remember that simply because the provision is not in the conference report, does not mean that Senators cannot take the initiative on their own and declare their desire, to place a hold on legislative activity. I call on all Senators to declare their action when they place a hold on legislation. Senator WYDEN and I have already pledged to be open about any such actions we take.

I firmly believe that shedding more light on the work that we do here can only help make Congress more effective and accountable. It will inspire greater confidence by our constituents, without which we cannot effectively do our jobs. There has to be a fundamental trust among our constituents that we will strive to represent their interests and views. I know I've never had a constituent tell me that Congress needs to be less open, less straightforward or less honest about what we do. That's why I want my colleagues to know this is not the last they have heard of this issue. They can be in step with the American people's wishes by making their actions public and by making the holds process more open. I appeal to my colleagues to not allow this provision to be killed in the secrecy that we need to eliminate.

I also want to thank my friend, Senator WYDEN, for his hard work on this matter. It has been a pleasure to work with him on this matter and I look forward to our continued efforts together.

The PRESIDING OFFICER (Mr. COATS). The Senator from New Mexico.

Mr. DOMENICI. I don't know whether the Senator wants to extend morning business. I think we are out of morning business. I just wanted to ask a 2-minute extension of morning business.

Mr. GRAHAM. If the Senator is going to ask unanimous consent for that extension, I ask for a further extension of 10 minutes immediately following his extension for the purpose of introducing legislation.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. I shall not object, but might I inquire of the Presiding Officer, would the regular order be to go back to the fast track legislation?

The PRESIDING OFFICER. The Senator is correct.

Mr. DORGAN. It is my expectation when this morning business is completed that that will be the business before the Senate?

The PRESIDING OFFICER. That request would have to be made from the floor.

Mr. DORGAN. I ask unanimous consent to be recognized following the morning business.

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. I object for the moment. I would like to discuss the matter with the leader before we proceed.

The PRESIDING OFFICER. The objection is heard.

Mr. DORGAN. Let me withdraw my objection. I certainly don't want to be discourteous to my two colleagues. The 12 minutes they have asked for is not something I object to. I will not object to these two requests.

The PRESIDING OFFICER. The Senator from New Mexico is recognized to speak for 2 minutes in morning business.

Mr. DOMENICI. Mr. President, I thank the Chair.

(The remarks of Mr. DOMENICI pertaining to the introduction of Senate Resolution 148 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Florida is recognized to speak for 10 minutes in morning business.

Mr. GRAHAM. Mr. President, I thank the Chair.

(The remarks of Mr. GRAHAM pertaining to the introduction of S. 1471 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. ROTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

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. 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.

#### IRAQ SITUATION

Mr. KERREY. Mr. President, I rise to discuss the situation in Iraq regarding the U.N. inspection regime and the refusal of the Iraqi Government to accept American inspectors and thus delay the inspections. The Iraqi purpose is clear: to attack the unity and will of the world community, and especially the members of the Security Council, concerning sanctions to Iraq; to weaken the authority of the United Nations by dictating terms of compliance to U.N. Security Council resolutions; and most important, to conceal and retain and build up the chemical and biological weapons programs of the Iraqi military.

Once again we are in a crisis with Iraq; not of our making but of theirs. The question being debated here and in the United Nations is: What should we do?

The crisis began a week ago on October 29, 1997 when Saddam Hussein sought to evict from Iraq Americans who are assigned to international inspection teams sent by the United Nations to enforce a cease fire agreement signed by Iraq on April 6, 1991, following the January 17 to February 28 war to liberate Kuwait known as Desert