

surgery to be performed in St. Louis. When the hospital requested recertification for the surgery, the utilization review coordinator—that is quite a title, utilization review coordinator—at Mr. Kuhl's HMO refused because the St. Louis hospital was outside the HMO's service area. So the surgery was canceled. The HMO, instead, sent Mr. Kuhl to another doctor to determine whether the surgery could be performed locally. The second doctor agreed with the first one that the surgery had to be performed in St. Louis.

So 2 weeks later, finally the HMO and the accountant who makes these judgments decided they would pay for the surgery in St. Louis, but by that time, the surgery could not be scheduled for another 60 days. By the time the doctors in St. Louis examined Mr. Kuhl, his heart had deteriorated so much that surgery was no longer a possibility. Instead, they concluded he needed a heart transplant. Although the HMO refused to pay for the evaluation for a heart transplant, Mr. Kuhl managed to be placed on the transplant waiting list in St. Louis. Tragically, he died waiting for that heart transplant. Mr. Kuhl was only 45 years old, and he left behind a wife and two children. And the Kuhl family attorney said this: "He did what his HMO told him. Unfortunately, he's dead because he did."

Mr. President, Mr. Kuhl's case is not an isolated one. There is case after case all across this country. Do you think this family has any recourse against their managed care organization? No, because that organization cannot be sued. They can make a decision that will lead to a patient's death but a law called ERISA, an acronym unfamiliar to the widow of Mr. Kuhl, prevents certain types of health plans from being sued.

Some of us in this Chamber believe that health care ought to be a function of doctors providing the health care, rather than some insurance company executive prescribing what is necessary for the medical care of a patient 500 miles away. Yet that is the way health care has evolved. Ask any doctor and you will discover the truth of that statement.

Some of us believe there ought to be a patients' bill of rights that would provide some very basic protections to consumers in their dealings with their health plan. For instance, every patient in this country should have the right to know all of their medical options, not just the cheapest, all of the medical options to treat their disease or their problem, not just the least expensive. And patients and their families ought to have the right to address the wrongs that are done them when a managed care organization's bad decision leads to long-term disability or death.

When you hear the stories of the abuses in managed care, and, yes, they are abuses, it is perfectly understand-

able, I suppose, why many organizations resist every step of the way any effort to bring to the floor of this Senate a patients' bill of rights. But if we are talking about abuses in this Congress and it is perfectly appropriate to talk about the abuses in the IRS, let us also talk about abuses we can stop in the area of managed care. Just as we ought to stop the shameful abuses that are occurring at the IRS, let us also make sure that Americans who walk through a doctor's office door or through a hospital entrance understand that their care is not going to be a function of a profit and loss statement but rather a function of a health care provider responding in a caring way to their health care problem.

Regrettably, that is not happening in this country today. We can remedy this if we understand exactly what is happening. We will come every day to the floor of the Senate to talk about the abuses in managed care until those who schedule the business of the Senate decide that this is an important enough issue for the American people that it ought to be high on the agenda of the issues to be considered here in the Congress.

Let me finish by telling a story I read about not too long ago about a woman who had just been the victim of an accident and had suffered a brain injury. As her brain was swelling and she was laying in the back of the ambulance, she informed the driver of the ambulance that she wanted to go to a hospital that was farther away. After she recovered, she was asked why she told the ambulance driver she wanted to go to the hospital that was farther away even though it was the closer hospital that was affiliated with her health care plan. And she explained that she knew by having read and heard about what had happened with her neighbors and others, that the hospital would evaluate her care in the context of profit and loss, and she wanted everything that was humanly possible to be done by doctors and nurses to save her life. That is the concern of people about managed care. I am not suggesting that all managed care in this country has disserved the needs of the patients in this country. That is not the case. In some cases it has reduced the cost of health care and still provides decent service.

But you know and I know that all across this country there are examples of managed care organizations that are forcing doctors to sign contracts that say to a doctor, "Don't let one of your patients show up at an emergency room. If you do, if one of your patients comes into an emergency room, guess what, we are taking it out of your pocket." You talk about a disincentive. That represents a conflict of interest, yet that is what is going on in these managed care organizations, because it is becoming for them not so much a delivery of health care, it is a function of profit and loss.

We ought to begin to separate that discussion just a bit by passing a pa-

tients' bill of rights. To those who say they don't want to bring that to the floor, I say you are going to be annoyed then, because every day we will come to the floor to talk about this, and one day, one way, sooner or later, we are going to debate this on the floor with a piece of legislation we call the Patients' Bill of Rights. You may not think that now, but before the end of the year it will be here and you will vote on it.

#### THE INTERNAL REVENUE SERVICE

Mr. DORGAN. Mr. President, let me go to a couple of other issues.

About the Internal Revenue Service hearings that are being held in the Senate Finance Committee this week, let me say first that I think those hearings are appropriate. I think anywhere you find abuses of a taxing agency, they are repulsive and disgusting. Those who commit those abuses ought to be summarily fired and penalized in any other way the agency can do so.

It is clear to me from the hearings that have been held that there has been mismanagement at the Internal Revenue Service and that some of the circumstances of abuses they should have known about, they didn't. On some of misconduct that they did know about, they didn't take appropriate action. And if these hearings accomplish anything, I hope it is that this agency simply cannot ever treat lightly the abuse of the American taxpayer. It is ugly and disgusting and must never happen. All tax agencies have a special responsibility to make sure it doesn't happen.

I ran a State tax agency for some long while in a State capital, and I understand about it. We were the repository of hundreds of thousands of income tax returns having sensitive financial information of all the folks of our State. I understand the responsibility of taxing authorities to make certain that the agency behaves appropriately with taxpayers. And I am appalled by some of the stories that have come from these hearings.

We ought to stop in its tracks any abuse that exists anywhere, anytime in the IRS, and we ought to do it now. And I will support the legislation that comes to the floor of the Senate dealing with changing some of the procedures down at the Internal Revenue Service.

But I want to tell you something else we should stop, and we should do it now. We should stop the fundraising that goes on surrounding these issues. I hold in my hand a fundraising letter by a Member of the Senate. It was sent to people across this country, coordinated, I assume, to be timed with the IRS hearings in the Senate Finance Committee. It is, I understand, the second such fundraising letter that has gone out, possibly the third. The letters have been timed, I think—at least I am told—to coordinate somehow with the hearings on the IRS.

This fundraising letter for a political party, signed by a Member of the Senate, talks about ending the IRS reign of terror. It goes on and on and so on. It says: We are on the right side. If you will just send us \$25, \$50, \$100, \$250, \$500—if you will just send us some money, we will be your pen pal for life. We will keep sending you these letters. We will work hard in Congress on all the right things. I think it is the right thing to do to hold hearings in the Finance Committee about IRS abuse. It is not the right thing for the party that schedules those hearings to use the opportunity to send fundraising letters all across this country. In some cases, they have even boasted about the money they have raised in the first round of fundraising letters with respect to the hearings they held. What that suggests is, this is a lot more than public policy. It is a very heavy dose of money politics.

There is no question that this country's Tax Code is in desperate need of change and repair, and we have more ideas to change it than there are Members of Congress. We have people who say, let's have a VAT tax, let's have a flat tax, let's have a national sales tax. There are dozens of variations on each. It is interesting that those who complain the loudest in this Chamber about the complexity of the Tax Code are those who have hauled the heaviest loads of legislation on the floor of the Senate to complicate the Tax Code.

I believe the first tax form and return and instructions were a total of something like seven pages, with everything. Now it is like a huge mail order catalog, with all of the forms and all the instructions. I understand that people can't deal with that complexity and should not have to. This Tax Code is Byzantine. It is way out of whack. We ought to change it. We ought to simplify it. It is interesting that those who have made it complex have done so because they've wanted special deals for themselves, carving out special tax breaks for a few while others are asked to pay more.

It wasn't too long ago that we would read stories about a corporation in this country that made \$4 billion of income in a year. Do you know how much they paid in income tax? Zero, nothing, no tax. They were tax exempt. So we made some changes in the Tax Code to see if we couldn't get them to pay taxes like other Americans. All of those changes in the Tax Code changed the circumstances of the code to add lines to the code and make it more complicated. I understand all that.

I am going through a list of things I think we can do to dramatically simplify the Tax Code. I have proposed some legislation that I think would allow up to 70 million Americans to never have to file a federal income tax return again. I will go through that and explain how I think that can occur.

But I must say, I find it interesting that in this climate, what we have is fundraising letters coordinated with

hearings designed, I think, to pave the way for a tax system to say to the American people, "What we would like to do is change your tax system so there is one rate for everybody." Steve Forbes says that. I spoke at a banquet once when he was sitting in the audience. I said, "You know, only in Washington, DC, would a billionaire proposing a significant tax cut for himself be considered having a bold public policy statement." Only in Washington, DC, could that happen. A single rate, so the richest American pays the same tax rate as the lowest person on the income scale when they file their tax returns? I don't think so. It doesn't make sense to me.

It seems to me the person who is making \$20 million a year can afford to pay a couple of percent more than somebody who is making \$22,000 a year and trying to raise a couple of kids. So, should we have a one-size-fits-all, one-rate-fits-all tax system? I don't think so.

How about a national sales tax? We have people over there on the other side who are offering national sales taxes. In fact, I was down at the Brookings Institution a while back and spoke. I saw a study they have just done that says if you have a national sales tax in this country, you are going to have to tax almost everything with this sales tax and you are going to have a rate that is in excess of 30 percent—30 percent, to raise the same money the current system uses. Wouldn't it be interesting to see how people would react if they said, "Oh, you are going to buy a home? Yes, that's the price, but there is one more little thing: You have to pay a 30 percent sales tax on the home." How long do you think the American people would stand for that? It might sound kind of simple. The fact is, a 30 percent sales tax, or 35 percent sales tax, added on top of the local sales tax of 4, 5, 6, 8, 9 percent in some parts of the country—I wonder if people are going to think that is a pretty healthy tax program. I don't think so.

There is, it seems to me, an opportunity to do a couple of things.

(Mr. HAGEL assumed the Chair.)

Mr. DORGAN. Mr. President, we can pass some legislation that will be brought to the floor of this Congress that deals directly with some of the abuse that has been disclosed at these hearings.

I agree with one of the other Senators this morning who said there are a lot of folks at the Internal Revenue Service who do good work and good public service. I received a letter the other day from a fellow in North Dakota, a conservative Republican businessman who is very successful and has done very well for many years. He said, "I don't want you to tell anybody that I told you this, but I am watching all this IRS stuff, and I have been in business for 35 years and have had a lot of dealings with the Internal Revenue Service. And I have never dealt with

any one of them who weren't good, honest people and easy to deal with." He had nothing but good to say. I jotted a note back and said, "Good for you."

That is probably the case for a lot of people. I think most people find their experience with the Internal Revenue Service is fair, but when they find it is not, when they find abuse, we have a responsibility to stop it, even if it is just the exception.

We intend to pass a piece of legislation—and I intend to vote for it—that responds to that. Last November, the House of Representatives, incidentally, passed similar legislation by a vote of 426 to 4. We could have passed this legislation last November, or at the very latest in January when the Congress returned, but we did not. Delay, delay, delay and more delay, until now. We are probably ready to have the legislation brought to the floor next week. As I said, I will be supportive of it, but we could have passed this legislation long, long ago. I worry—and I hope I am not right—that it had a lot to do with these fund-raising letters that have gone out in some concert with these hearings.

Let me describe just for a moment what we could do to the tax system. We could do something positive for tens of millions of Americans. I want to describe it. It is called the Fair and Simple Shortcut Tax plan or "FASST." I have worked with some of my colleagues on it in both the Senate and House.

The proposition is this: Many Americans have as their only income the wages they earn at their workplace. They ought not have to file an annual federal tax return. Some 30 countries in the world have some kind of income tax in which you don't have to file an annual return.

For someone who gets most of their money from their wage or salary at work, we can say to those folks, "Your tax withholding at work can be modified slightly so that it becomes your actual tax liability when it is sent to the IRS by your employer. You don't have to worry about filing any tax return." No April 15 deadline. No waiting in line at the post office. No getting your records together. You don't have to file an annual tax return. Up to seventy million people, I estimate, could be taken off the tax rolls in this country with the returns that are now filed if we used a plan like this. Let me describe the plan to you.

The plan would say that if you are a family earning up to \$100,000 a year in wages, or a single taxpayer earning up to \$50,000 in wages annually, and if your other income, that is non-wage income such as capital gains, interest and dividends is less than \$5,000 for a couple, and \$2,500 or less for a single person—then you simply fill out a W-4 form, as you now do at your place of employment. On your W-4 form, we will make a couple of other check marks. You change it very little. There

will be a couple of additional check marks—one for child credit and the second for home ownership.

When you complete that W-4 form at work, if you choose the option of using the Fair and Simple Shortcut Tax plan, then you don't have to file a federal income tax return. Your employer, working from a table prepared by the IRS, will determine what your withholding is. When your employer sends in that withholding to the IRS that is your exact tax liability, no tax return is needed.

Up to 70 million Americans would be able to do that easily, quickly, with no tax return filed and no records to be gathered. In addition, up to \$5,000 in other income would be exempt from taxation because you are not trying to trace every nickel and track down every dime of some other income stream in order to have withholding from it.

It is a wonderful incentive at that point because there is an incentive for interest and capital gains at the bottom that is nontaxable. The incentive for the rest of your wage income is to say that you are going to pay taxes at a 15% after claiming several important deductions. And you are not going to have to file a tax return. The W-4 is modified slightly so that you are still able to get credit for home ownership and a deduction for interest payments on a home mortgage.

All of that can be done today. It can be done in Congress now. It is not complicated. Some 30 countries have some modified approach to this no-return filing system.

Is it as aggressive as some saying, "Let's just get rid of the entire Code?" No, it is not. In fact, my plan would say every taxpayer has the choice. The choice is do you want to use the Fair and Simple Shortcut Tax plan and not file a return or they can say, "I really don't want to do this. I fit the income requirements, but I don't want to do it. I prefer to file a return every year. I prefer to go searching for my records. I prefer to wait at the post office because I enjoy that. I just prefer to do it the hard way. I prefer the current system."

I don't think many would do that, but my point is this would be a choice for most taxpayers. However, those who do not fit in this system would file, as they do now, under the current system. I would make some changes to help simplify things for them too.

I would eliminate, for a fairly sizable part of the population, the alternative minimum tax calculations which have become very complicated and were never intended to harness a bunch of taxpayers who are making \$80,000 or \$150,000. The alternative minimum tax calculations were designed to try to get the largest enterprises in the country that were making tens of millions of dollars and paying nothing, to start becoming taxpayers once again.

I also propose for those who want to use the old system that they get a tax credit to help offset the cost of tax

preparation. Businesses would get a tax credit to offset the cost of preparing the W-4 forms. There would be almost no added cost here for businesses, but I would provide some incentive for them.

Again, this is an approach that can be done, and it can be done quickly and easily. This Congress could embrace it. It is the only plan that I am aware of that really relates to honest simplification of the Tax Code. Taking 70 million people out of the loop of having to file an annual income tax return is a huge step forward toward simplification.

I hope, Mr. President, as we begin talking about what we do about this frightful complexity in the Tax Code, that we will decide as a Senate and a Congress that this is a plan that we can embrace.

William Gale, a senior fellow at the Brookings Institute says:

Roughly half of the U.S. taxpayers could be placed on a no-return system with relatively minor changes in the tax laws."

A no-income-tax-return system.

The GAO says:

No-return systems are proven. More than 30 countries, including Germany, Japan, and the United Kingdom use some form of the no-return system.

I hope that some of my colleagues will join me as I begin to discuss some of these issues in the context of tax reform in this Congress.

Mr. President, I have a couple of other items that I wish to discuss today briefly. There was a substantial amount of discussion this morning about a range of issues, most of them dealing with taxation. I just wanted to cover a couple of other items—one, that I have spent a lot of time talking about on the floor of the Senate, but then I want to talk about the larger agenda issues those of us on this side of the political aisle in the Senate want to see brought to the Senate for debate.

#### OUR TRADE POLICY WITH CHINA

Mr. DORGAN. I noticed that China decided recently that it is going to ban direct marketing in China. That means that Amway, Avon, Mary Kay Corporation and similar companies are told they cannot any longer direct market. Apparently, some scams were going on in China—not by these companies, mind you—that was causing some problems, so China just said no more direct marketing in this country.

Our trade ambassador, Charlene Barshefsky, immediately went into action and met with China's Minister, Wu Yi, on Friday to discuss the issue. And that is fine. I do not know much about Mary Kay, Avon or Amway, but they are aggrieved. They are legitimate businesses, but China has banned them. They ought to be able to do business in China. I think it is fine for the trade ambassador to jump in and say, "Why don't you own up to our trade agreements here and let these people market?"

But I just ask this: Could we be as aggressive on behalf of wheat and meat as we are on behalf of cosmetics? Could we be as aggressive on behalf of farmers who cannot get enough wheat into China?

We have been dealing with China for a decade on this thing called TCK smut. China, for example, has displaced America as the major wheat supplier to China, even as they send us all their shirts and shoes and trousers and trinkets. And they have ratcheted up this huge trade surplus with us, but we cannot get enough wheat into China. We cannot get enough meat into China. We can't get hardly any pork into China. We can't get enough beef or chicken into China.

I say to our trade representatives, that is fine. You be aggressive about cosmetics and you be aggressive about direct selling, but why don't you also start being as aggressive for wheat and meat? Why don't you be aggressive on behalf of individual American farmers who all across this country discover they cannot get their products into a country, China, that is ratcheting up a huge trade surplus with us?

We have become an unbelievable cash cow for China's hard currency needs. Shame on us for a trade policy that allows that. I just ask the trade ambassador, get busy. Get aggressive. It is fine that you care about Amway, Mary Kay, Avon, and other direct sellers. But get busy on behalf of those who get up at sunrise and do chores, who plow fields, who produce wheat and meat and want to get that into China as well.

Mr. President, that was therapeutic to say on a Friday anyway.

#### THE DEMOCRATIC AGENDA IN THE SENATE

Mr. DORGAN. Let me talk about one last point, and that is the agenda of the Senate. The fact is, I come from a side of the political aisle in the Senate that does not control the agenda. The reason why is because we lost the election. The other side has more people, they elect the majority leader, and the majority leader decides the agenda of the Senate. I am not complaining about that. That is the way the Senate works and that is what the rules are.

But we being a minority still have an agenda, and we still have certain rules in this Senate to work with to try to make certain our agenda is also considered. I want to mention just for a moment a couple of points in that agenda. I started out by discussing the Patients' Bill of Rights and the issue of health care quality in this country. We intend to see that there is a vote on managed care reform, the Patients' Bill of Rights, in this Congress.

We also fully intend to see that a tobacco bill is brought up, and I think the majority leader now is going to a tobacco bill for consideration. We must as a country decide that this country will no longer countenance tobacco