move to the next chapter of simplification of the Internal Revenue Code.

Mr. President, this is a happy day. I will, with enthusiasm, join what I am confident will be a large majority of my colleagues in voting for this conference report which will move us substantially towards the goal of an IRS Code that all Americans, that all those affected by its administration, will feel prouder about as citizens and will make their task of compliance with their tax responsibilities somewhat easier. Thank you, Mr. President.

Mr. LOTT addressed the Chair.

The PRESIDING OFFICER. The majority leader, Senator LOTT, is recognized.

Mr. LOTT. Mr. President, will the Senator from Montana allow me to make a brief statement before he proceeds?

Mr. BAUCUS. The Senator from Montana is absolutely delighted to allow the majority leader to proceed.

UNANIMOUS CONSENT REQUEST—EXTENDING TIME TO FILE FIRST DEGREE AMENDMENTS TO S. 648

Mr. LOTT. Mr. President, as all Members are aware, when a cloture motion is filed in the Senate, the provisions of rule XXII, the cloture rule, require all first-degree amendments must be filed at the desk by 1 p.m. the day before the cloture vote occurs.

Last evening, I filed cloture on the substitute amendment to the product liability bill. Realizing and observing how upset the Democratic leader was when cloture was filed last night, I checked with the desk as to exactly how many amendments had been filed to the product liability bill by our Democratic colleagues. To my dismay, earlier only two had been filed, but still a very small number, and only 21 Democratic amendments have been filed, and it is almost 1 p.m., the deadline time.

The Democratic leader stated last evening that many Members on his side of the aisle had amendments they wish to offer on this bill. And he also stated, ''It is the right of all Senators to fulfill the functions of their responsibilities to offer amendments.'' Well, where are the amendments? And why have Members on the Democratic side of the aisle chosen not to file amendments within the timeframe that is outlined under rule XXII?

Could it be that our colleagues had never been prepared to exercise their right to offer amendments when it comes to the legislation? Instead, have our colleagues on the other side of the aisle just decided they would vote against cloture with the intention of never attempting to offer amendments that would have been intended, I am sure, to ''improve the bill,'' as Senator DASCHLE suggested?

Since there have only been 21 amendments filed, it seems to me that maybe our Democratic colleagues are not serious about addressing this important issue which is, by the way, a bill that has been laboriously worked out. It is a compromise bill. Senator GORTON of Washington, Senator ROCKEFELLER of West Virginia, have spent hours, days, months working on this. And this legislation has been approved by the administration, by the White House. They have indicated they would sign it. So why in the world would there not be a serious attempt here to pass this legislation?

But having said all that, I am prepared to offer a consent agreement that would extend the filing time for first-degree amendments until 5 p.m. this afternoon, if that would help accommodate our colleagues on the Democratic side or, for that matter, on the Republican side.

Therefore, I do now ask unanimous consent that, notwithstanding rule XXII, that the filing deadline for the first-degree amendments with respect to the product liability bill be extended to 5 p.m. this afternoon.

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

Mr. BAUCUS. Reserving the right to object, I consulted with my Democrat colleagues, knowing this request would come up, and it is our belief that the consent should not be granted. Accordingly, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LOTT. I yield the floor, Mr. President.

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

INTERNAL REVENUE SERVICE RESTRUCTURING AND REFORM ACT OF 1998—CONFERENCE REPORT

The Senate continued with the consideration of the conference report.

Mr. BAUCUS. Mr. President, I would like to speak a little bit about the conference report that is before us, the IRS restructuring bill.

Today, the Senate reaches the end of a journey that has been 2 long years in the making. It is actually a journey that began a couple years ago when the National Commission on Restructuring the IRS was charged with investigating the IRS' repeated failure to modernize its computer systems. There are many stories of the IRS computer systems falling down, crashing, systems not meshing; and essentially the commission felt that it was their charge to try to find the answer to all these problems.

It became very clear, Mr. President, as the commission began trying to find a solution to the computer problems, that it was just touching the tip of the iceberg, that there are a lot more problems in the IRS that had to be addressed; namely, the abuse of too many agents, too many rogue agents, the insensitivity, too often, of its IRS employees toward taxpayers. Frankly, it led the commission to dig much more deeply into problems facing the IRS. Accordingly, the commission proceeded to look at other areas in addition to computers. The commission probed various problems that the taxpayers face in our country.

Under the leadership of Senators KERREY and GRASSLEY and Representatives PORTMAN and COYNE of the House, the commission, I think, produced a series of very good recommendations that have become the foundation of the bill before us.

Again, it was a restructuring commission. They spent a lot of time looking at the problems of the IRS. They presented their recommendations to the Congress, and essentially, the bill before the Congress today is the manifestation, the outgrowth of those recommendations by the commission.

In addition, Mr. President, under the leadership of our chairman of the Finance Committee, BILL ROTH, with his very extensive hearings, we were able to draw out many more abuses, many more problems that our American people were facing with the IRS. As a consequence, I think we have a better bill. We were able to fine-tune some of those Restructuring Commission recommendations. In fact, we were able to add a few more. So altogether, I do think it is a combination of very good effort on the part of both the commission and the conference. And I think, Mr. President, that the result is going to turn out to be quite good for the American people—not perfect, but certainly an improvement.

Justice John Marshall once said, ''The power to tax involves the power to destroy.'' We all know that the corollary to that is that the power of the tax collector must be very carefully balanced, because the tax collector, him or herself, has inordinate power when he or she tries to collect taxes. Any tax collection agency must be strong enough to make sure that everyone is paying his or her fair share of taxes, but not so powerful as to trample on the rights of ordinary citizens.

It is quite clear, through the testimony of our witnesses before our committee and comments from our constituents at home, that the IRS has lost that balance over the years.

Let me give you one example.

This is a plea for help from a constituent of mine in Montana. ''The problem with the IRS started in 1997. John''—that is not this person's real name—''and I''—in this case it is John's wife—''had just bought a house. I was a semester away from graduating from college, and we thought the [failed] business [that we had] was behind us. The last week in July 1997, I returned home after a day of working at my part-time job to find a nasty note on my front door from [an agent] stating that he had 'tracked' us down and expected a phone call or [else] action would be taken. I promptly called him to find out [what was going on]. He was very rude and reluctant to give me any information, [saying he could not talk to me, did not want to talk to me

because he was not talking to my husband].''

The long and the short of it is—and I am paraphrasing the letter here—''. . . he began talking to me in a [very] degrading manner. He said, '. . . I expect to [get taxes] in full,' [and said it in a very rude way]. When I asked him to explain, he . . . [treated me like] a criminal who was running [away] from the IRS.''

Continuing further, Mr. President, basically, the agent in this case put a lien on everything this person owned, also made many personal comments. He obviously investigated the personal lives of these taxpayers and basically was so rude and so arrogant as to performing almost Gestapo tactics against my constituents. My constituent ends up, Mr. President, in her letter by saying that very clearly the Government was not working for the people, but rather was working against the people.

I think this letter sums up the issue in a nutshell; that is, to make the Government work much more for people, not against them, that is, put service back into the Internal Revenue Service instead of being arrogant and degrading people as much as the Service has in the past.

Now, we certainly do not want to tie the IRS' hands so much that tax cheats are encouraged. The rest of us, as we all know, end up picking up the tab when someone else cheats. At the same time, we also can't have the IRS harassing innocent citizens and assuming everyone is guilty the minute they walk into the door. We have to find that balance. It is not an easy matter. I believe this legislation will help the IRS find its way back to that balance.

What does it do? It creates a board made up chiefly of private citizens, subject to the confirmation powers of the Senate, giving the Senate an opportunity to ask lots of questions of these new board members to see whether or not they fill the bill.

The board will also keep an eye on the IRS budget, report independently to the Congress its recommendations on IRS budget matters, and not have to go through the regular Government channels. The board will focus on long-term goals. It will also make sure the Service stays on track to meet these goals. It will also ferret out problems to help the IRS itself find solutions.

The bill creates much more personnel flexibility, making it easier for the new Commissioner, with his enthusiasm, who wants to get things shaped up, giving him flexibility to reward employees doing well. I think this flexibility will help the IRS attract competent people, people who are technically competent and management experts. You get what you pay for. If you want to get good people, you have to be able to pay them well and you have to give them the wherewithal to do the job right. There has not been sufficient flexibility to this point in the IRS.

This bill also reorganizes the IRS, somewhat in the same vein as a major American company, IBM, was reorganized when IBM years ago realized it was falling behind, that it was not serving customers, customers were not No. 1. It made dramatic changes. Mr. Rossotti was part of those changes at IBM, and we are hopeful some of the changes will work here.

What are some examples? One major example: Currently, when a taxpayer has a problem with the IRS and it involves several kinds of problems—say, income tax or payroll tax or a corporate tax is involved—the agent who handles the case transfers all the files over to the person responsible, say, for payroll taxes; if it is a corporate tax file, it is transferred to a corporate tax person; and if it is another problem, it is transferred to that person, essentially passing the buck. So when an individual taxpayer tries to find out what in the world is going on with his file, sometimes the file is lost, the person he or she calls doesn't know the answer to the question; it is just a mess.

How do we attempt to solve it? Essentially, the IRS now will be divided into four separate divisions: One for small business, one for large corporations, a third for tax-exempt institutions, and a fourth for individual taxpayers. Now, when you, a taxpayer, have a question for the IRS, one person is in charge of your file—one person, more accountability. If you are a small business person, it is the small business section; an individual taxpayer, the individual taxpayer section—even though you may have questions involving different parts of the code. That should help reduce ''buck passing.''

The bill also adds important new taxpayer protections to help protect citizens against arbitrary actions. There are penalty and interest provisions suspended or reduced. Too often, the IRS has taken advantage of the penalty and the interest provisions in the law to browbeat taxpayers. A number of due process requirements are created. For example, legislation would require the IRS to give a delinquent taxpayer 30 days' notice to request a hearing before property is seized. In addition, the IRS is required here to seize business property only as a last resort. That has not always been the case. It further prohibits the seizure of a personal residence without court approval. That is a major change.

The bill further makes it easier for an innocent spouse to get relief from tax debts that the guilty spouse may have accumulated. It shifts the burden of proof from the taxpayer to the IRS in court proceedings so long as the taxpayer keeps appropriate records and cooperates with the agency.

I am not positive this is exactly tailored the way it should be. Currently, in our judicial system, the burden of proof is on the Government when they bring an action against a citizen. That is the way it should be. Up to this point, that has not been the case with respect to our tax laws, the theory being that the taxpayer is the one who keeps the books and records so the taxpayer should have the obligation to show that he or she should not have to pay the taxes the IRS is seeking. The burden of proof still is on, probably, the wrong place. We have tried to find the right balance here. I hope this provision in the statute works. Only time will tell. If there are problems, we will have to address them.

The bill further extends the attorney-client privilege in most cases to accountants and to others authorized to practice before the IRS. Again, I am not sure how good an idea this is. It will make it more difficult for major accounting firms to sign off as to the financial statements of a company they are auditing. They may feel compromised because of this new provision. I hope this works. It may not. If not, we will have to come back and revisit it as well.

Finally, the bill before the Senate takes a first step toward addressing what may be the biggest contributor to taxpayer problems with our Tax Code; namely, all of us, Congress itself.

Witness after witness at our hearings complained about the complexity of the code. This bill requires that every tax bill in the future be accompanied by an analysis of whether it will further complicate the code, how hard it will be for taxpayers to comply with new laws. As we strive to achieve fairness in our code, we sacrifice simplicity. With this bill, we will theoretically be able to more clearly understand the extent of that sacrifice. I hope this works.

We need to address the complexity of the code. I am not certain this will work as well as it is cracked up to. This will only work if the Congress focuses with utmost intensity on this part of the change and focuses on how proposed change adds to the complexity. I worry that this will otherwise be window dressing, that the Service and the administration, Treasury, IRS, Congress, might gloss over this provision. It sounds good right now, but we will not follow up, do the hard work and heavy lifting, when the new provision is before us. It really depends upon us. It is like the Pogo cartoon, ''I have met the enemy, and he is us.'' This will work, the anticomplexity provision, only if we make it work. Time will tell.

This bill certainly clips the wings of IRS agents, but we all know that clipping the Government's wings too closely presents its own dangers. The Service estimates that the so-called tax gap, which is the measure of how much legitimately owed tax is not being collected, is now almost $200 billion a year. This amounts to more than $1,600 per year for every tax return filed by the rest of us—$1,600 per return, filed by the rest of us, is not being collected. Addressing this problem, unfortunately, is not in this bill. That has been left to another day.

I truly hope we have not done anything in this bill which will exacerbate

the problem further, because this bill may be sending a message to some American, ''Hey, the IRS' wings are getting clipped; I can get away with more; I don't have to report everything so much.'' That is not the message of this bill. The message of this bill is, the Service will treat individual taxpayers more like people and provide a service that it should be providing; that is, remembering that people are actually the employers in this outfit and the IRS is the employee.

We have a second problem not addressed in this bill, and that is the tax gap. I hope that is addressed in the not too distant future because it is a problem that is mounting with each passing day. Partly it is caused by the complexity in the code.

I am also concerned about how we pay for the lost revenues in this bill. I don't think it is the best result we could come up with. And I have further concern that the bill's provision may result in extended litigation, further slowing down our court system, because these are new provisions; they have to be interpreted. Lawyers are going to try to put one spin on it; another lawyer, another spin. A lot of the problems may end up in the courts.

I firmly believe we must not let another tax session go by without at least the taxpayer protections in this bill. I am pleased to support the conference report. I am pleased I can go back to my constituents, including the young lady who wrote that letter, to say: We have tried to fix your problem, we have gone a long way toward fixing your problem; it is not perfect, but it goes a long, long way.

In the end, Mr. President, the effectiveness of these provisions depends very much on the degree to which the White House, the administration, the Treasury, and the Congress continue to oversee the IRS, continue to have hearings into the IRS' operations, praising them when they are doing a good job, criticizing them when they are doing a bad job.

We are here today, passing this legislation, in many respects because both the administration and the Congress for way too many years have let the IRS drift.

There has been virtually no oversight. Treasury hasn't paid much attention to the IRS. Congress hasn't paid much attention to the IRS. As a consequence, they have kind of gone off in a direction that has not been as praiseworthy as we would like. So it is up to us, the people's representatives, to continue vigorous, aggressive oversight, if these provisions enacted today turn out to be as good as we all say they are and hope them to be.

I yield the floor.

Mr. GRASSLEY addressed the Chair.

The PRESIDING OFFICER. The Senator from Iowa is recognized.

Mr. GRASSLEY. Mr. President, there are two people I would like to mention before I make my remarks. I commend the chairman of the Finance Committee, Senator ROTH, for improving this bill as it has made its way through the legislative process. Too often, I see bills deteriorate as they are worked on by various subcommittees, committees, and on floors of the Houses of Congress. They sometimes deteriorate in the process to a lesser bill than we originally sought. This piece of legislation started out as a product of the National Commission on the Restructuring of the IRS and, for the most part, the recommendations of the commission were not changed as it went through the legislative process. But there were considerable additions made to this legislation. Senator ROTH needs to be complimented for making this a better bill as it is now in this conference report. Each step of the way it was improved, which is the result of the hearings that he had last fall and in the spring of this year.

The second person that I compliment is not part of the legislative process, but is the new Commissioner of the Internal Revenue Service, Mr. Charles O. Rossotti. He was appointed by the President last fall and confirmed and has been on the job now 8 or 9 months. I compliment him because he has not waited for Congress to act before making much-needed changes in the administration of the Internal Revenue Service.

What I sought when I wrote to President Clinton in December of 1996 was to urge that the President appoint a nonlawyer to be IRS Commissioner—the first time that that has been done in four decades. I recommended that it be somebody from the private sector, a nonlawyer, who would know how to run an organization. This person would know how to make the IRS should be: oriented toward serving the taxpayers. I didn't know that the President would take my suggestion so seriously. But he did. He appointed Mr. Rossotti.

Mr. Rossotti comes from a very successful career in the private sector, having formed a corporation of his own, from a few employees to thousands of employees. He left that environment—a very successful business—to serve the people of this country as IRS Commissioner. Being successful, as he was, would not have happened if he had not tried to serve his customer. So having that attitude come into the IRS will result in a breath of fresh air. It should make the IRS oriented toward consumer satisfaction. I have hope that he his insight will help the IRS respect the taxpayer, and as a result, it will make the collection of taxes much more efficient as well.

Mr. Rossotti has not waited for Congress to act until he started to institute a lot of reforms. I say that he, from day one, started to carry out the spirit of the commission's recommendations before they were ever enacted into law. He needs to be complimented for doing that.

On the first day that the Restructuring Commission met in the fall of 1996, various commission members were asked to tell what they thought we ought to try to accomplish through the coming year's work. When they got to me as one of the four congressional members of the commission, I said that I wanted to make sure that the IRS becomes more consumer friendly. If it became more consumer friendly, the taxpayer would honestly enjoy working with the Internal Revenue Service. I hope that is what this legislation does. Obviously, we won't know for several years if that sort of reform has been brought about, but that was my goal in the fall of 1996, and I think the commission's recommendations tended to go in that direction.

As I have complimented Chairman ROTH, I think the bill has even gone beyond our committee recommendations in that direction—ultimately, to eliminate the culture of intimidation within the IRS and to make sure that the IRS sets a standard for the taxpayers of this country. This bill will make the IRS deliver accurate information in a timely fashion and in a courteous way. In other words, this bill should make the IRS treat the taxpayer exactly as the IRS expects the taxpayer to treat it. The IRS expect prompt and accurate filing on April 15.

So today is a very proud day for me. It is a proud day for the U.S. Senate. Maybe it brings a little common sense to Washington nonsense as well. Today, we declare a victory—a victory for the American taxpayer and for Congress. We have done something very good in this legislation. This is Government serving the people at its finest. It is for causes such as this that I am in public service.

Let me explain why we did what this conference report does. I want to give you an example to explain why we found it necessary to pass a bill that comprehensively restructures and reforms the Internal Revenue Service. One Christmas Day, maybe 5 or 6 years ago, as I sat around the Christmas tree opening presents with my family, the telephone rang. On such a glorious day of good cheer and hope, I answered my telephone in high spirits. The woman at the other end of the line, a constituent of mine, was in tears. Her husband was critically ill and the IRS was coming after them for everything that they owned. I don't mean that they were coming after them on Christmas Day, but it was Christmas Day that this taxpayer of mine was bothered by this thought of dealing with the IRS.

The taxpayer of mine owned very little, but the IRS was after it. She had no idea what to do. She had nowhere else to turn. So on Christmas Day, that day of hope to us, she picked up the telephone and called me. I have my name listed in the telephone book, so I am easy to get ahold of. She called someone she had never met, someone she only knew by reputation. This woman was at the end of her rope and she had nowhere else to turn. She didn't understand what was happening to her. She only knew that the IRS was

harassing her to pay the debt that she didn't know they had, and it was not willing to work with her on that debt.

Let's think back to the hearings the Senate Finance Committee held in the last year. We heard from victims of the IRS, about harassment and about abuse. We heard from IRS employees about the culture of intimidation at the IRS, which results in taxpayer abuse and keeps good employees from climbing the career ladder. These hearings touched a nerve with the American public, and they did so for a very good reason. We all saw ourselves in those stories—either in the victim, or we knew that it could have been us.

There are critics of this legislation. To the critics I say this: We have different friends; we talk to different people. I am convinced that the critics have never spoken to a taxpayer facing the loss of his home, wondering where his family will sleep that night. They have never spoken with a woman who had IRS agents screaming and threatening her in front of her family. They have never spoken with the average taxpayer who works hard to make ends meet, pays his taxes on time and doesn't want to spend his kids' college fund on attorneys to fight the IRS. These are the people to whom I talk. These happen to be my constituents. These are the people who send me to represent them. This bill is for those constituents of mine.

It is for the average American taxpayer, who is neither an accountant nor a lawyer. It is for the average American taxpayer who is not sure how to navigate the system, but who wants to stand up for himself in true American fashion. It is for the IRS employee who wants integrity in his workplace and reward for a job well done.

This legislation is not a rash effort. It was not hatched overnight. Rather, it is the product of years of study and work. Senator KERREY and I were honored to serve on the National Commission on Restructuring the Internal Revenue Service. In June, 1997 this commission released an 80-page report of recommendations to radically restructure the IRS. These recommendations were turned into legislation, which Senator KERREY and I introduced in the Senate, and Congressman PORTMAN introduced in the House.

There are many people who worked on the effort you see before you today. I have already complimented Senator ROTH, the Chairman of the Finance Committee, for holding two series of important oversight hearings. These gave us further insight into the IRS and gave this legislation the momentum it needed. He also has shown great leadership in strengthening the House-passed bill, and navigating it through the conference committee.

Senator D'AMATO and Senator GRAHAM should be thanked for their leadership to provide relief for innocent spouses. Senator MACK should be thanked for his leadership in creating confidentiality between an accountant and his client. And, of course, my friends Senator KERREY and Congressman PORTMAN must be recognized for their untiring work, for endless hours on endless days, on the Restructuring Commission and this legislation.

Let's talk about what this bill does. First, it provides oversight and it mandates accountability. It was Justice Louis Brandeis who said, ''sunlight is said to be the best of disinfectants; electric light the most efficient policeman.'' This legislation provides sunlight and electric light throughout the IRS.

First, this bill creates a new Inspector General for Tax Administration within the Treasury Department. This new IG will be dedicated solely to oversight of the IRS. He or she will have all of the powers and responsibilities given by the Inspector General statute. This office will also assume most of the responsibilities now performed by the IRS' Inspection Service. This change moves the oversight function out of the IRS and into the Treasury Department where it can be more impartial and effective.

This bill also requires that this Inspector General for Tax Administration randomly audit IRS denials of public information requests. I have found, and have heard from others, that the IRS sometimes hides improprieties by claiming the information is protected for taxpayer confidentiality or law enforcement reasons. However, upon further investigation, it has been discovered that the redacted information has nothing to do with either taxpayer confidentiality or law enforcement. It simply admits IRS error and admits IRS error, and it gives them an opportunity to hide from public scrutiny. Claiming taxpayer confidentiality or law enforcement as a reason to redact or fail to release information lets the IRS avoid oversight by Congress, the press and the public.

To help guide this agency and keep it on track, this legislation also creates an Oversight Board. This Board should be comprised mainly of management experts, who will guide the IRS and keep it honest and well administered.

In addition, this bill makes it easier to hold IRS agents accountable for their actions—both good and bad. The bill makes it easier to fire bad IRS employees, and easier to reward outstanding IRS employees. It also makes it easier to sue the IRS for the actions of its agents. It expands the cause of action in civil court to permit up to $100,000 in civil damages or harm caused by an officer or employee of the IRS who negligently disregards the rules of that agency.

Another major achievement of this bill is that it increases taxpayer rights. As an author of the first two Taxpayer Bills of Rights, I am particularly qualified to testify to the importance of this section of the bill—the Taxpayer Bill of Rights 3, as we refer to it. This bill will help even the playing field even more between the taxpayer—particularly the average taxpayer who can't afford to spend a lot of money for counsel—and the IRS. It will help taxpayers to understand the process. It will help put customer service back into the Internal Revenue Service.

Specifically, this legislation shifts the burden of proof from the taxpayer to the IRS is many tax disputes. This bill also gives relief to innocent spouses. Innocent spouses are people who didn't take part in the tax shelter or tax planning that results in a tax assessment. Their marriage has broken down and they are left with little except the IRS pounding on their door—the door of the innocent spouse. It is important that we collect tax when it is due, but also that we don't collect money from people who are not at fault and who don't owe it.

Another important step—this bill increases the independence of the Taxpayer Advocate. The taxpayer advocate is renamed the National Taxpayer Advocate and the local problem resolution officers will become local taxpayer advocates. The local taxpayer advocates will report to the National Taxpayer Advocate rather than to the district director to avoid the intimidation that comes from such relationship with district directors.

This bill also gives the taxpayer relief from interest and penalties in some situations. For example, this bill suspends penalties while an installment agreement is in effect. It suspends the statute of limitations to file for a refund during times of disability. It gives taxpayers more due process rights before the IRS can levy or seize property, and makes it easier to contest the placement of a lien. And the IRS can't seize a principle place of residence or a small business until it has exhausted all other payment options.

In addition, this legislation makes important strides towards empowering taxpayers. I sincerely believe that educating the taxpayer is half of the battle. Americans are generally strong, self-reliant people. Letting them know their rights and responsibilities gives them the ammunition to stand up for themselves. For example, this bill requires the IRS to make extra effort to alert taxpayers to the joint and several liability incurred just by signing an income tax form. It requires the IRS to rewrite Publication 1, which is called ''Your Rights as a Taxpayer'' to more clearly inform taxpayers of their rights to be represented at interviews with the IRS, and if the taxpayer is represented, that the interview cannot proceed without the presence of the taxpayer's representative unless the taxpayer consents. The IRS also must include with the first letter of deficiency a description of the entire process from examination through collection, including the assistance available to taxpayers from the taxpayer advocate at various points in the process. And now any taxpayer in an installment agreement will receive an annual statement of the initial balance owed,

the payments made during the year, and the remaining balance.

This bill also provides greater taxpayer protection during the audit process. It extends the attorney-client confidentiality privilege to some communications between an accountant and a client. This bill makes it impossible for the IRS and the taxpayer to agree to extend the statute of limitations on collection actions beyond 10 years unless there is an installment agreement in place. Then the statute of limitations can only be extended until the end of the installment agreement, plus 90 days.

Further, the IRS must always inform the taxpayer of his or her right to refuse to extend the statute of limitation and to limit an extension to specific issues.

These are just some important aspects of this legislation. I think it is landmark legislation, at least landmark for the last 45 years. I am proud to be a part of this effort. This legislation reflects hard work by so many of us. This effort will be rewarded by the sunlight that will shine into the IRS, giving it the oversight that it needs and the accountability that the taxpayer deserves.

This is a great day. It will be a greater day if down the road a few years I come to the conclusion that this legislation has effectively eliminated the culture of intimidation within the IRS. Today this bill sets a standard for the IRS to treat the taxpayer the way they expect the taxpayer to treat the IRS. In other words, this bill helps the taxpayer get timely information, accurate information, and courteous service—because that is what the IRS expects of the taxpayer on April 15 each year.

I yield the floor.

Ms. MOSELEY-BRAUN addressed the Chair.

The PRESIDING OFFICER (Mr. SANTORUM). The Senator from Illinois.

Ms. MOSELEY-BRAUN. I thank the Chair.

I am pleased that we are finally completing action on one of the most important pieces of legislation this body will act upon, and that is the IRS Reform and Restructuring Act of 1998. This bill represents that first step toward restoring the confidence the American people have to have in our voluntary system of tax compliance.

Since its creation in 1862, the Internal Revenue Service has grown to become one of the largest Federal agencies, employing some 100,000 workers. In addition, it is an agency with massive responsibilities. In just 1997 alone, the IRS collected approximately $1.5 trillion and processed some 200 million tax returns. The revenues collected by the IRS are sufficient to fund the necessary activities of our Government. In concept, it is one of the most civilized tax systems in the world.

But it is no secret that taxpayers have lost confidence in our tax system. The public has lost patience with abuses that for years have been all too common within the IRS. In the interest of fixing this system, Congress created the National Commission on Restructuring the IRS almost 2 years ago. This important commission, which was made up of some 17 members and professional staff, examined the IRS for a year and developed a comprehensive report on changes that were needed to overhaul it. The work of this commission required hundreds of hours of private sessions with both the public and private sector experts, academics, and citizen groups to review IRS operations and services. The commission met privately with over 500 individuals, including senior level and frontline IRS employees across the country.

The work of this commission, which provided many of the recommendations included in this legislation, was invaluable in getting us to where we are today. I applaud my colleagues on the Finance Committee, and in particular Senator KERREY of Nebraska, for the leadership they provided as members of the national commission. I also thank our chairman, Senator ROTH, and ranking member MOYNIHAN for taking the next step and holding extensive hearings on this most important topic. Certainly without the hard work of these gentlemen we would not be here today.

The lack of confidence felt by the American people was made all too obvious during the many hearings that were held by the Finance Committee over the last 9 months. We heard from taxpayers, attorneys, accountants, and IRS employees who discussed their personal experiences with the complexities and frustrations of the IRS. I was outraged—I think we all were outraged—by the stories of armed raids on innocent taxpayers' property, unauthorized and unnecessary audits of working-class families, and excessive fees and penalties charged to taxpayers who were trying to pay their tax bills in a timely and responsible manner, and all sorts of other outrages.

The tales that were told at these hearings were appalling, but they were nothing new to thousands of taxpayers who themselves have had to experience it or know someone who has.

At one time in my legal career, back when I was an assistant U.S. attorney, I represented the Internal Revenue Service in its dealings with taxpayers. It was back then, frankly, I learned in dealing with the Internal Revenue Service the devil is in the details. I learned firsthand you have to focus on details when it comes to any issue when dealing with a bureaucracy as large as the IRS. And that is why I am so proud of playing a role in this legislative response.

I believe the details of this legislation will make a difference, a real difference. This bill attacks a big problem in sensible ways, and it brings much-needed change to the operation of the internal revenue system. It does it in ways that are fair, reasonable, and equitable for all taxpayers. It increases the protections and rights of American citizens in regard to the Service and the system.

I am pleased that one particular amendment I promoted was included in the bill. This provision will expand the ability of the taxpayer to recover their costs when involved in defending themselves before the IRS and the taxpayer wins. I think this provision is essential to ensuring that taxpayers are not forced to pay for IRS' mistakes.

There are other changes that I especially like. As the only woman on the Senate Finance Committee, I was particularly pleased that this legislation includes some relief for innocent spouses. All too often women are stuck holding the bills of their ex-husbands, only then finding out that their ex-spouse had not legally filed a tax return.

I was contacted by one of my constituents from Illinois who had been told by the IRS that she could lose her new home, be prosecuted for income tax evasion, and have her wages garnished if she refused to pay a tax bill that was owed by her ex-husband due to a fraudulent tax return he had filed during their tumultuous marriage, even though she had, in fact, signed it.

When she explained to the IRS that she had never been employed during the course of the marriage and could put them in touch with her ex-husband regarding that, the agent told her, ''What do we need him for? We've got you.''

Well, this legislation will make certain that those kinds of abuses against innocent spouses will no longer occur. This bill ensures that cases such as this never happen again, hopefully, and that the IRS will be encouraged to pursue both spouses and do the work that is needed to find out who owes what.

It provides greater protection for women by giving them notice of their rights and their obligations up front before signing on to a joint tax return.

The other list of positive changes that this bill makes to the current operation of the IRS, as well as the list of additional taxpayer rights, is quite extensive. This bill will allow taxpayers to enjoy a greater ability to sue the Internal Revenue Service when the IRS blatantly and intentionally disregards the law. It has a provision that will give the Secretary of the Treasury authority to provide up to $3 million annually in matching grants to assist low-income taxpayer clinics. There is a provision that will eliminate the penalty for failure to pay taxes when a taxpayer is paying those taxes under an installment agreement, which has been a huge problem. People find themselves with more penalties than they had to pay in underlying taxes.

For those taxpayers who undergo an audit, the bill includes procedures to ensure that due process is afforded to them. Also, with regard to seizures, before property is seized, there must be a process so that any lien, levy, or seizure will be approved by a supervisor.

Taxpayers will also be given greater access to installment payment agreements with the IRS, greater access to information about the appeals and collections process, and greater access to statements regarding payments and balance owed in installment agreements.

There is one other provision, Mr. President, that I am especially happy to see in the bill, and that is the provision that extends the confidentiality privilege to accountants in civil matters before the Internal Revenue Service. This provision, which some 78 percent of the American taxpayers support, will give all taxpayers equal confidentiality protections for their discussion, not just with their lawyers but also the federally authorized tax advisers. Low-income taxpayers who often cannot afford attorneys will, therefore, be provided the same privileges and benefits that other taxpayers have.

All of these changes are needed to amend the current operation of the IRS. The bill provides us with the historic opportunity to overhaul the Internal Revenue Service 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 it collects 95 percent of the revenue needed to fund our Government. The bill we have before us is a thorough bill and makes vital changes to every aspect of the Internal Revenue Service's structure.

Mr. President, it is a sad reflection of the reality of our lack of confidence that, much like this cartoon, many Americans do not believe that this bill will cure what ails the system. I am sure the Presiding Officer can see it. The IRS is here as Dracula in the coffin with a stake through his heart, asking his gnome, ''You took names?'' ''Of course''—while the Senate celebrates. A lot of people think while we take the action we will take here, it is not going to really cure what ails the IRS —that after the Congress has had its say, they fear the IRS will go back to the bad old ways that undermined its reputation in the first place.

To that issue, I want to suggest to anyone listening that the answer lies, I think, in both cooperation and vigilance. We all need to work together to do our part to make sure that the accountability of the IRS remains assured. The Service has started to reform itself, and we have high hopes that the new Commissioner, Mr. Rossotti, will actually be able to implement the management changes directed toward putting the ''service'' back into the Internal Revenue Service, back into the IRS.

IRS employees, some of whom bravely stepped forward during the hearings to lament the state of affairs in the agency, can and must help with the healing and reconciliation of the Service with the American people. The Congress today is beginning to do its part. Much more needs to be done, to be sure. But because Congress, after all, is not blameless in creating the confusion and the complications that provided cover for excess and abuse, we need to take up tax simplification with the same purpose as we have taken up tax administration.

I am hopeful that the Finance Committee as a whole—or, if necessary, as a commission modeled on the Kerrey-Grassley commission—will take up tax simplification so the average citizen or small business will be able voluntarily to comply with our tax laws without incurring the huge transaction costs just to pay people to interpret the law for them. Tax simplification will also go a long way toward restoring confidence in our system of voluntary tax compliance.

In the final analysis, however, it will be the American people who do the most to keep the IRS on the right track. Abraham Lincoln once said, ''In this country, public opinion is all.'' He is right. The people got fed up with the abuse, and the Congress was moved to action. In this Republic, in this democracy, the Government is, after all, all of us. And so the passage of this bill will really be a reflection of public opinion operating in classic fashion in this country. It is, therefore, a victory that every citizen can and should celebrate. But keeping this victory will require our eternal vigilance.

Again, I commend the chairman of the committee for the brilliant hearings that gave rise to this legislation and for the purposefulness with which he has moved this bill to the floor.

I yield the floor.

Mr. ENZI addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I, too, rise in support of the conference report to the IRS Restructuring and Reform Act of 1998. Passage of this legislation marks a monumental step in making the Internal Revenue Service more responsible to ''We, the people,'' the American taxpayers.

As the hearings before the Senate Finance Committee demonstrated, the IRS has all too often in recent years taken an adversarial posture against taxpayers. We in the Senate heard reports about IRS employees who were promoted based on the number of liens and collection actions against taxpayers. We heard stories about the IRS targeting low-income individuals and small businesses for audits, since they often did not have the resources to fight the IRS and are therefore forced to settle. We were told about audits and investigations based purely on political motives. We were informed of times the IRS had destroyed businesses, where they had wreaked havoc on private citizens' personal lives and seized assets based on accounting mistakes and clerical errors by the IRS itself. It is time these activities came to an end. This IRS reform bill will make the institution more service oriented and accountable to ''We, the people.''

Through the newly created oversight board, the Service will receive the direction and effective strategic planning it desperately needs. By shifting the burden of proof in factual tax disputes from the taxpayer to the IRS, this bill gives American taxpayers important procedural protections that even criminal defendants have enjoyed in this country for over 200 years. ''We, the people,'' will have due process before confiscation of personal property. The taxpayer will know the charges and have the right of appeal.

By expanding the confidential communications to cover accountants and enrolled agents as well as attorneys, this reform bill gives taxpayers greater freedom to seek tax advice from the tax adviser of their own choosing.

In requiring the IRS to collect allegations and document cases of employee misconduct and report this misconduct to Congress every year, the IRS reform bill requires the IRS to investigate itself and answer to Congress for any misconduct of IRS employees.

This reform bill even simplifies the Tax Code by reducing the holding period for optimal capital gains treatment from 18 months to the standard 12 months.

While the IRS reform bill does not provide all the solutions to our country's tax problems, it marks a significant chapter in bringing greater accountability to our Federal tax collection agency and greater respect for hard-working American taxpayers. The IRS reform bill moves us in the right direction, toward a system that is simpler and more fair for all Americans.

Yes, ''We, the people,'' have won a big one here. I congratulate Chairman ROTH and the Finance Committee. I also congratulate all the folks who shared—even though they were living in fear of their own Government. I am glad we were able to take these steps and look forward to the results.

I yield the floor.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from North Carolina.

Mr. FAIRCLOTH. Mr. President, I rise to add my support to the IRS conference report. But before I do, one issue has just come to my attention that I want to mention. I have been told the IRS is challenging the charitable contribution status of funds used to purchase a special stamp, a stamp that I sponsored along with my colleagues, Senator FEINSTEIN and Senator D'AMATO, to fund breast cancer research. The IRS has now come along and challenged whether that contribution is going to be deductible or not.

I can tell them it will be. I hope the IRS does not fight the Congress and the American people in their effort to fight breast cancer. It is a worthwhile charitable cause, and it should not even be questioned. But I want to say to the IRS, if they continue to fight the breast cancer initiative, I will offer a legislative rider to the Treasury appropriations bill that will clarify and override their objections.

Turning to the bill before us, if ever there was an agency of the Federal Government that needed overhaul, it is the Internal Revenue Service. For years the American people have been telling the Congress that IRS was out of control, punishing taxpayers with crushing penalties and interest, and a nightmare of rules and regulations that no one understood, and that included the IRS. I held a hearing on IRS abuse in Raleigh, NC, last December. The stories I heard were absolutely heartrending. If we had not known they were true, we could not have believed them.

I introduced legislation to create a private citizens oversight board that would rein in the IRS. I propose giving the oversight board authority to cut through that impenetrable cloak of secrecy this agency has been showing the public for years. I want the board to have access to Internal Revenue working documents. I am pleased to see that much of what had been proposed has been put into this conference report. Chairman ROTH deserves tremendous credit for putting this bill together.

The IRS reform bill will create a new oversight board of private citizens.

The board will have authority to review the policies and practices of the IRS. It will have access to documents which were previously shielded from the public and the Congress.

This new board will help root out the abuses that were highlighted in the hearings that I held and the equally shocking hearings that the Finance Committee held. I don't think any of us were aware of what really was going on within the IRS and its relationship with the American taxpayers.

The bill will provide protection from excessive penalties and interest and protect the spouse from tax cheats.

This is not the end but the beginning of fundamental reform of the IRS—reform and a change of attitude.

Make no mistake, many in the Internal Revenue Service will not be happy with this bill, and they will either want to foot drag the changes or alter them. But let me say that one great thing has happened to the IRS, and that is the new Commissioner, Mr. Charles Rossotti. He is going to bring a breath of fresh air to a very stale-air organization. He has experience in the private sector, and he is taking this job at great personal sacrifice. He has spent a major part of his career in data processing and in the type of electronic data processing and handling that the IRS needs, but in which they are so woefully inadequate. In fact, they spent $3 billion for new equipment and found that it did not work after they had spent the money.

As a member of the Appropriations Committee which overseas the IRS budget, I intend to watch the IRS, and I will be there closely watching to see if they follow the reforms that this bill mandates. In particular, I am going to watch the IRS union representative who was made a member of the oversight board, despite my objections, as well as the objections of Senator ROTH and others. My message to the unions and to the union representative and the rest of the IRS personnel and bureaucracy is this: Do not oppose IRS reform, but accept and take it and get going with making it the law of the land. The Congress and the American people have spoken, and this agency is going to be cleaned up with or without your acquiescence. If you try to undermine these reforms, there will be more legislation and stricter legislation in future sessions of the Congress.

In summary, let me say to the IRS personnel and its representatives and the entire IRS bureaucracy that Congress is very closely observing the actions and will be observing the actions of the IRS in how it deals with the American people. Do not oppose us, support us, and we will have a great revenue collection service. Do not go back to the old ways, but move into the new law and do it with enthusiasm.

Mr. President, I thank you, and I yield back the remainder of my time.

Mr. WELLSTONE addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Thank you, Mr. President.

Mr. President, I bring to the attention of my colleagues a couple of issues that relate to this IRS conference report that is before us.

First of all, my colleague from North Carolina was conveying a message to labor. He was talking about the fact that he was going to be very vigilant and he was going to be watching closely what happens with the oversight board. I think we should be vigilant and pay attention to what happened in this conference committee.

I bring a couple of matters to the attention of my colleagues. I, first of all, will start out talking about veterans. I know that my colleague from West Virginia, who has been such a powerful advocate for veterans, will also speak about this, and I understand my colleague from Washington will be on the floor later taking action, and I will be pleased to join her.

Let me go through this very briefly. As the highway bill—called the ISTEA or TEA–21 bill—moved to the House, and Members of the House wanted to add on more projects, the question was how to fund it. The way it was funded was to take an estimate from the Office of Management and Budget having to do with whether or not there would be compensation to veterans for illnesses caused by their addiction to tobacco. Cigarettes were handed out like candy to veterans when they were in the service.

The decision was made that veterans should not receive this compensation. OMB said this would lead to a savings of about $17 billion. I think CBO said more like $10 billion, but conferees used the $17 billion. That money, I say to my colleagues, if not going to direct compensation for veterans, at the very least should go to veterans' health care.

I cannot even tell you how many calls we get in our Minnesota office from veterans. It is really shocking the number of veterans who fall between the cracks. We have an aging veterans population. We don't know what to do as more veterans reach the age of 85 or how they will be taken care of in the veterans' health care system. We have Vietnam vets suffering with PTSD who drop in our office who still need a lot of help. A third of the homeless people in this country are veterans, many struggling with substance abuse, who need help. We have a VA health care system that has been put on a flat-line budget that won't work. We are talking about whether or not we are going to live up to our commitment to veterans.

There was a technical corrections bill to this highway bill. Senator ROCKEFELLER and I intended to have an amendment knocking out this $17 billion transfer of funds that should be going to veterans and instead was put into the highway bill. That is correct, I say to my colleagues, that is exactly what happened. I didn't vote for the bill for that reason.

The majority leader did not want to afford us the opportunity to have an up-or-down vote on our amendment on the technical corrections bill. So he took the technical corrections bill and had the conferees put this into the IRS conference report. Therefore, we can't amend it.

I bring to the attention of my colleagues that this was outside the scope of conference, as I see it. I think Senator MURRAY and others will have more to say about this.

Certainly, in this IRS reform bill that passed the Senate and the House, we didn't do this, but in the conference report, things were loaded on, and one of them was essentially this technical corrections bill that did not give us the opportunity to knock out this transfer—OMB says $17 billion; I think that is too high. That $17 billion either should have gone directly into compensation for veterans, vis-a-vis their tobacco addiction, or at the very least should have gone into veterans' health care.

Therefore, questions should be raised about this conference report that is before us. I say to my colleagues, Democrats and Republicans alike, the VA-HUD appropriations bill, of course, has been pulled. But the first opportunity I get, I will be back with an amendment to knock out this provision that took $17 billion, or thereabouts, that should have gone to veterans and instead put it into highway projects. We will come back to this, and we will have an up-or-down vote. First point.

Second point. Boy, I will tell you, conference committees! I say to my colleague from Wyoming, I used to teach political science classes. I have to tell you. You know, I feel guilty. I need to refund tuition to students for

those 2 weeks I taught classes on the Congress. I was so off in terms of a lot of the decisionmaking.

I should have focused on the conference committees as the third House of the Congress, because these folks can do any number of different things. And the thing that drives me crazy is you can have a situation where the Senate did not have a provision in the bill, the House did not have a provision in the bill, and the conference committee just puts it in the bill. Then it comes back for an up-or-down vote. No opportunity to amend.

Or you can have a situation where the Senate and the House pass bills with a provision in them and the conference takes it out. It is, I think, the least accountable part of decisionmaking in the Congress.

Now, we have a couple of provisions of this bill that I think are worth talking about. One of them is a provision that was a drafting error. I would like to include in the RECORD a piece by David Rosenbaum of the New York Times of June 24: ''A Mistake Prevails, as Certainly as Death and Taxes.'' I ask unanimous consent that this be printed in the RECORD.

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

A MISTAKE PREVAILS, AS CERTAINLY AS DEATH AND TAXES

(By David E. Rosenbaum)

WASHINGTON, June 23—The tax code is chock full of benefits for the wealthy. Most of them were put in on purpose. But last year, one got in accidentally.

Now a powerful Congressman has used his influence to keep on the books this tax break for rich people that no one intended to be in the law in the first place.

The only beneficiaries of the mistake are the heirs of a few hundred people who die each year and leave estates worth more than $17 million. Each of those estates will be saved more than $200,000 in taxes. The Government will lose an estimated $880 million in revenue over the next decade.

After the mistake was caught, the Treasury Department and the Senate took steps to correct it before it could be taken advantage of.

But Representative Bill Archer, the chairman of the House Ways and Means Committee, blocked them. At his insistence, a House-Senate conference committee decided last week to keep the tax break in the law. Mr. Archer says he prevented the correction to express his fervent opposition to inheritance taxes, which he calls ''death taxes.'' Mr. Archer, a Republican, represents a district in Houston that is one of the wealthiest in the country and presumably one of the likeliest to have someone die and leave an estate worth more than $17 million.

This all started when someone on Congress' technical staff made a mistake in the drafting of the mammoth balanced budget and tax cut law that Congress approved and President Clinton signed last summer.

Such mistakes are common in big, complicated tax bills. Several years ago, for instance, a measure dealing with tax write-offs for race horses referred to ''houses'' instead of ''horses.'' Normally the errors are repaired in what is known as the technical-corrections section of the next tax bill to go through Congress.

The 1997 tax law increased the amount in estates that is exempt from Federal taxation. Under the old law, the first $600,000 of an estate's value went untaxed. The new law raised the excluded amount to $625,000 in 1998, to $650,000 in 1999 and, in continued increments, to $1 million in 2006.

The exclusion is particularly important to heirs because the estate tax rate is high, beginning at 18 percent and rising to 55 percent on the taxable amount over $3 million.

The old law required the value of the exclusion to be gradually eliminated, a process called a phase-out, on estates worth more than $17,184,000.

According to the Internal Revenue Service, about 300 tax returns were filed on estates worth more than $20 million in 1995, the last year for which statistics are available. Because stock prices on average have doubled since then, it is safe to assume that more such estates will be taxed this year. But the total number should not be more than several hundred.

Everyone agrees that the lawmakers who voted to increase the exclusion intended to retain the phase-out. But somehow in the drafting, that did not happen.

The error was quickly caught. A private tax lawyer apparently spotted it and called it to the attention of the Congressional tax staff. The tax staff recommended that it be corrected, and tax specialists at the Treasury Department agreed.

It looked like one of the dozens of mistakes that would be routinely repaired in this year's technical corrections bill before anyone's taxes could be affected. Indeed, the Senate included a correction in its version of the bill. But in the House, Mr. Archer balked. And when the measure—a small part of the legislation to overhaul the IRS—got to conference, he refused to budge.

Since no one in the Senate felt as strongly about correcting the mistake as Mr. Archer felt about about letting it go uncorrected, the conferees agreed last week to leave the tax break in the law.

Mr. Archer explained his position in a letter he wrote this month to the National Federation of Independent Businesses, an organization representing small businesses that opposes estate taxes but did not specifically lobby on the provision in question.

''While some might argue that the proposed change is a mere correction of a drafting error made last year, I view it as an increase in Federal death tax rates,'' Mr. Archer wrote.

The letter added: ''I believe we should reduce or eliminate the unfair death tax. Accordingly, I cannot support any change in law that would go in the opposite direction by increasing death tax rates.''

Mr. Archer's spokesman, L. Ari Fleischer, said the chairman's position well illustrated the importance in which party controls Congress.

''When the Democrats controlled Congress and drafting errors worked against the taxpayers, the Democrats let them stay in the law,'' Mr. Fleischer said. ''Now, when one works against the Government and for the taxpayers, we're in no rush to correct it.''

Mr. WELLSTONE. Chairman ARCHER wanted to make sure that for those Americans with estates worth more than $17 million, that we give them a special break. That is correct. Those Americans who are struggling with estates worth more than $17 million, they got, roughly speaking, an additional $200,000 break by mistake in last year's budget bill. The Senate corrected that mistake, but the correction got taken out in this conference committee.

I hear my colleagues talk about IRS reform. How does that add up to reform? We have these Orwellian titles. We call everything ''reform.'' To most people in the country, when they find out about it, they do not think it is reform. We have paycheck protection that does not protect the paycheck; we have the Family Friendly Workplace Act which isn't friendly to the family; we have the TEAM Act which has nothing to do with teamwork, so on and so forth. Now this is called reform, and we give this break to folks with estates worth more than $17 million.

The second issue in the conference committee had to do with capital gains. I ask unanimous consent that a piece by Richard Stevenson of the New York Times on June 24 called ''Break in Capital Gains Tax Is Added to I.R.S. Overhaul'' be printed in the RECORD.

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

BREAK IN CAPITAL GAINS TAX IS ADDED TO I.R.S. OVERHAUL

(By Richard W. Stevenson)

WASHINGTON, June 23—Congressional leaders agreed today on a plan to give investors a break on capital gains taxes, attaching the measure to an overhaul of the Internal Revenue Service that appears headed toward speedy final passage.

The change, agreed to over several days of negotiations among members of both parties, would reduce to 12 months from 18 months the period that investors must hold stocks, bonds and other assets to qualify for the most favorable capital gains tax rate. The change would be retroactive, effective for all sales as of Jan. 1, 1998.

Although the 18-month holding period was created by last year's tax law at the Clinton Administration's insistence in an effort to reward long-term investment and discourage speculation, Administration officials said tonight that they expected the President to sign the new legislation after final passage by both houses.

Republican leaders are trying to keep their tax-cutting efforts in the limelight as they begin gearing up for the Congressional elections this fall. So, now that they have won agreement to reduce the holding period necessary for the most favorable tax rate on capital gains, they plan to turn to efforts to reduce the rate itself. Speaker Newt Gingrich will propose on Wednesday that the top rate on capital gains be reduced to 15 percent from 20 percent, adding the proposal to an already lengthy tax-cutting wish list that Republicans have yet to find the money to pay for.

The change to the capital gains holding period was one of a number of issues settled today as House and Senate negotiators reconciled the slightly differing versions of the I.R.S. overhaul bill passed with overwhelming bipartisan support by both chambers. Republican leaders said they expected the final version of the bill to win passage in the House this week and in the Senate next month.

The bill would set in motion the most sweeping overhaul of the tax collection agency in four decades. It would create an independent oversight board, provide taxpayers a range of new legal protections in disputes with the I.R.S. and spur a broad internal reorganization of the agency.

It was precisely the bill's broad bipartisan support, and the likelihood that President Clinton would not dare veto it, that emboldened Republicans to add the provision shortening the capital gains holding period.

The provision was proposed by Representative Bill Archer of Texas, the chairman of the House Ways and Means Committee, who early this year made the change a top legislative priority. Mr. Archer said today that the measure would make calculating capital gains taxes simpler for millions of people who, as a result of the 1997 law, had to grapple this year with a three-tier rate system that many taxpayers complained was excessively complex.

But the change would also amount to a tax cut for people who sold stocks or other assets after holding them between a year and 18 months. Here is why:

Under last year's tax law, gains on investments held for 12 months or less were taxed as ordinary income. Gains on investments held from 12 to 18 months were also taxed as ordinary income, although only to a maximum rate of 28 percent. Gains on investments held more than 18 months were taxed at a maximum rate of 20 percent, except for people in the 15 percent income tax bracket, who faced a maximum capital gains rate of 10 percent.

But if the agreement struck today becomes law, only gains on investments held a year or less will be taxed as ordinary income, while gains on investments held more than a year will be subject to the 10 percent capital gains rate for people in the 15 percent bracket and the 20 percent maximum capital gains rate for everyone else.

The I.R.S. has not yet determined how many people paid the intermediate rate—the rate on assets held between 12 and 18 months—in calculating their taxes for 1997. For 1996, the most recent year for which figures are available, 16.6 million tax returns reported a capital gain.

Congressional aides said Mr. Archer's provision would cost the Government about $2 billion over 10 years, by effectively reducing the tax bill for people who sell investments after holding them between 12 and 18 months.

Capital gains taxes have been debated by economists and politicians for decades, and have been the source of bitter political disputes between Democrats, who say cutting the rates amounts to a giveaway to the rich, and Republicans, who say that lower rates spur investment and help improve the economy's long-term growth capacity.

In proposing a rate cut, Mr. Gingrich seems determined to reopen that debate. Aides say he will argue that Congress has more room to cut capital gains taxes than official revenue estimates would suggest because Congress has consistently underestimated how much revenue will flow into Government coffers after a rate cut.

Many Republicans believe that capital gains are no longer an issue only for the wealthy, given the wide-spread stock holdings among the middle class. But Republicans have already promised to push this year for a reduction in the so-called marriage penalty, the anomaly in the tax code that yields a higher tax bill for many two-income married couples than for two single people with the same incomes. They are also pressing for reductions in estate taxes.

But Mr. Clinton has signaled his opposition to any large-scale tax cut this year. And Republicans are feuding among themselves over how deeply they are willing to cut.

In all, the I.R.S. legislation will cost $13 billion over 10 years, mostly from revenue that the Government will not collect because of the new rules protecting taxpayers from aggressive collection action by the agency.

To help pay for the bill, House and Senate negotiators agreed to a provision offered by Senator William V. Roth Jr. of Delaware, the chairman of the Senate Finance Committee, that will encourage some relatively wealthy elderly people to shift savings from one form of individual retirement account to another.

While the shift has long-term benefits to the individual, it creates an immediate tax liability that will generate an estimated $8 billion over 10 years. Democrats had strongly opposed the provision, saying that by the second decade it would start costing the Government billions of dollars a year in lost revenue.

Mr. WELLSTONE. So now we have an addition, in the dark of night, where the conference committee sneaks in another indefensible tax cut to wealthy people. That was not the bill that passed out of the Senate. I do not think it was in the House version. But in the conference committee it was put in.

So, colleagues, I think there will be another effort on the floor, and I am pleased to join with my colleagues in doing this—with Senator DORGAN and others—which will essentially say this is outside the scope of conference. It was not passed by either body and should not be in there. We will have a ruling by the Chair, and maybe we will have an up-or-down vote.

But I just point out that while there are some very good things in this piece of legislation—my colleague from Nebraska was one of the leaders in this effort with very, very good things that people around the country appreciate. But then we go to the conference committee, and we have a couple things that happen which are not democratic, with a small ''d,'' not accountable, not decisionmaking that I think makes a whole lot of sense.

To the veterans, I say on the floor of the Senate: count on my support, working with Senator ROCKEFELLER, working with Senator MURRAY, and working with others to, one way or another, try to knock out this transfer of funding, however it is estimated, $17 billion or less, that should be going to veterans in direct compensation or should be going to veterans' health care, as opposed to being put into the highway bill for different projects.

And the second thing I want to bring to everyone's attention is cuts in capital gains for the wealthy, in the dark of night, added in the conference committee. And then finally the estate tax break—and I see my colleague from Nebraska here—which was actually corrected in the Senate bill and then dropped in conference. So we had a correction which would not have given the break to these poor folks with estates worth $17 million and more. And it could have easily been put in the conference committee. That is what we did on the Senate side. But, no, it was dropped.

So, colleagues, we are going to, I think, have some debate and some action on the floor this afternoon on this. I will be pleased to join other colleagues on both of these questions. And before you start calling this a reform bill, take a very close look at what was added to this bill, or what was dropped from this bill, in the conference.

I yield the floor.

Mr. DURBIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Thank you, Mr. President.

I thank my colleague from Minnesota for the remarks which he has made.

The Internal Revenue Service, the agency we love to hate every April 15. We write out those checks. It is our responsibility as citizens of this country. But it hurts—all the money we send them. Then these hearings were held, and we found out that this agency, collecting taxes, has been using heavy-handed tactics, sometimes with not the most basic courtesy. We have a right to be upset, and because of that, Congress—the House and the Senate; Democrats and Republicans—and the President said, let us do something about it. And we set out to make some rather significant changes in the way the Internal Revenue Service does business.

I am glad to see that happen. But I have to be a little bit wary of what the result might be. You see, in my home office in Springfield, IL, I received a phone call in the midst of this debate. And a gentleman said to one of my staffers, ''Thank goodness this Senate has finally awakened to these thugs at the Internal Revenue Service. Their abusive conduct is just horrible. And now finally you're going to change this system.'' And my staffer said, ''Have you had a personal experience?'' ''Well, yes, I did,'' he said. ''And these people from the Internal Revenue Service just hounded me and my family to no end.'' And he said, ''Thank goodness you're finally doing something about it.''

My staffer said, ''Was it a serious problem?'' ''Well,'' he said, ''they made it out to be a serious problem.'' He said, ''I had a little problem with reporting on my income tax.''

My staffer said, ''What was the problem?'' He said, ''Well, I failed to file my income tax return.'' My staffer said, ''You didn't file your tax return?'' He said, ''Well, that's right.'' And my staffer said, ''Well, that can be serious.'' He said, ''Well, it was an oversight.'' My staffer said, ''How many times have you failed to file a return?'' He said, ''3 or 4 years,'' and added, ''You would think that was a crime by the way these people act.'' Well, it is a crime.

I hope that those who are critical of the Internal Revenue Service understand that we still rely on them and give them an important responsibility. The 99-plus percent of Americans who dutifully, willfully, voluntarily file their income tax returns each year are counting on the Internal Revenue Service making sure everybody else does, too. We are all part of the same American family. We all bear this responsibility.

So as we talk about reforming this agency, let us not lose sight of the bottom line. They have an important job to do to collect the money to provide for our national defense, education, highways, and so many other things on which we rely.

This bill went through a lot of different incarnations. I think the final bill, as it applies to the Internal Revenue Service, is a good one because it makes some rather significant changes.

I commend Senator GRASSLEY and Senator BOB KERREY of Nebraska, who was just with me on the floor. They headed the IRS Restructuring Commission. And under their leadership, the IRS commission produced a collection of very thoughtful recommendations, many of which are included in this conference report. Senators ROTH and MOYNIHAN have led a real truly bipartisan effort to make the commission's recommendations a reality.

I also commend the gentleman whose name was mentioned a moment ago, and that is the new IRS Commissioner, Charles Rossotti. His is not an easy job. He came from the private sector at great personal and financial sacrifice in the true spirit of public service to lead this important agency.

One of the first things that hit him between the eyes is the so-called Y2K problem, the computer problem that when we switch over in the next century, will the computers get it right? Will they know we are going to the year 2000 and not the year 1900? It sounds so simple. When you look at all the computers in America and all the programs and look at the Internal Revenue Service, you can understand that Mr. Rossotti and most of the people at the IRS are consumed with the responsibility of getting it right and making these computers understand we are headed to the 21st century and not to restart the 20th century.

There are parts of this bill that, I think, are very positive. The restructuring of the management and governance of the IRS so it operates more like the private sector—that certainly is a step in the right direction. The Commissioner asked for, and received, greater flexibility in managing his IRS workforce. We now make it easier for taxpayers to file their returns electronically by extending the due date for these returns from February 28 to March 31. The bill also requires the Secretary to develop a procedure that will allow taxpayers to confirm their return without having to send in their signature.

We establish taxpayers' rights. As a practicing attorney before I was elected to the House of Representatives, I represented clients before the Internal Revenue Service. That was no mean feat. It is one of the few experiences in the law in America where you are guilty until proven innocent, and we assembled the data necessary to prove our innocence and did our very best. I didn't understand the gravity of that challenge until my own small business was audited in Springfield, IL, and then I went through it personally. I am glad to say we didn't have tax liability added to it as a result of the audit, but I learned first hand how daunting it is to challenge the Internal Revenue Service.

Our bill says the burden of proof will be on the IRS in disputes that come up before the IRS Tax Court dealing with income, estate, and gift taxes, provided the taxpayer is cooperating by providing access to information and documents related to the return. So that gives the individual taxpayer, the business person, a little better chance of being treated fairly.

There was also a provision in the law which was brought out during the course of the committee hearings which was very troubling. A lot of innocent spouses who may have put their name on the tax return at the request of their husband or wife, not knowing the contents, found out in later years, even after a divorce, that if something was wrong in that return, they, too, could have been held liable—in fact, criminally liable in some instances. We have tried in this law to define ''innocent spouse'' in a way so that those who are truly innocent do not bear that responsibility.

We ease interest and penalties. Currently, for example, if a taxpayer makes an honest mistake—underline ''honest mistake''—it might be several years before the IRS discovers it. Even if it is an honest mistake, it makes sense for the IRS to impose a penalty just as any other business would if you were underpaying bills. What doesn't make sense is for the IRS to charge interest and penalties during the time in which the taxpayer is unaware of the mistake. That is corrected in this bill.

There is more congressional accountability, and that has been referred to on the floor. Yes, it is true, Congress will be watching the Internal Revenue Service more closely.

There is another provision which I think is important so that taxpayers across America don't get the wrong impression. We ask the Internal Revenue Service and the Treasury to report to us annually in terms of compliance; that is, what percentage of American taxpayers are meeting their legal obligations and filing their taxes and what percent are not. If we see an increase in those who are not meeting their legal obligation after we pass this, we are going to have to address it again, because, as I said, the vast majority of Americans do pay their taxes and pay them on time.

Those are the good parts of the bill, and they are extremely good parts of the bill. I think the bill, when viewed in this context, is a plus. Unfortunately, in the dead of night, in the depths of the conference, some people couldn't leave well enough alone. They thought this bill was so popular and so destined for success, they couldn't wait to put their own amendments on the bill, none of which has anything to do with reforming the Internal Revenue Service, but all of which have something to do with our Tax Code and our Treasury and whether or not we are creating breaks in this bill that we shouldn't.

One tax break has to do with a change in individual retirement accounts. I like IRAs. I think they have been good for America. A lot of people were able to save money, they are glad they did, and now it has grown over time and it will help them retire. I think we should expand IRAs, particularly for working families so they have a way to put a little money aside for their future needs. The Senator from the State of Delaware, Senator ROTH, created the so-called Roth IRA. I kid him so much about the publicity he is receiving. No one will ever be able to defeat him. He is the author of the Roth IRA, and he will be remembered for that and many other things for years to come. It expanded the idea of an individual retirement account and gave Americans more options.

Unfortunately, in this bill we have taken a new twist on this IRA, and created even more tax opportunities for those at higher incomes, under the name of an individual retirement account. Do you know what it will cost us when it is all said and done? It will cost the taxpayers some $13 billion—that is ''billion dollars''—$13 billion.

A year ago, this Senate was consumed with the debate over amending the Constitution to balance the budget. We had given up on the idea of balancing the books here and said, ''That is it, put it in the Constitution, and let the courts enforce it.'' That debate went on and on and on. The amendment failed by one vote. So here we are, a year later. Are we talking about the deficit and balancing the budget? No. Instead, in this bill and others, we are talking about a surplus and spending $13 billion we don't have to create tax breaks for wealthy individuals. I don't think that makes sense. I think that is very shortsighted. In the long haul, I think we will regret it.

There is a reference, as well, to a provision in this bill which has nothing to do with the underlying legislation about the Internal Revenue Service, a provision that will deny veterans medical benefits. Why? Why, in God's name, would that be included in the Internal Revenue Service reform bill? It shouldn't be.

So I find myself in a dilemma as a member of the conference. When I saw all of the baggage being loaded on to this bill, I refused to sign the conference report. I said I would not put my name to this, not because the underlying bill is bad—I think it is good—but because of all of the people who just couldn't suppress the urge to add another ornament to the tree, something they personally wanted.

Now this bill comes to the floor, and those of us who like the underlying bill and despise the amendments added to it are in a real dilemma. I will probably end up voting for it, but it will be reluctantly. I can guarantee you this: If this passes—and I guess it will—I hope that others will join me, Democrats and Republicans, to make sure that we strip out these little baubles that have been added to the bill that, frankly, are not in the best interest of

this Nation. They benefit a handful of wealthy people instead of Americans who deserve the real help and the real break in this legislation.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent for such time as I need to complete my statement concerning the Internal Revenue Service

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

Mr. MURKOWSKI. Mr. President, as a member of the conference committee, I rise in support of the conference report on this historic piece of legislation which will overhaul the agency that is most feared by the American people, the Internal Revenue Service.

However, I want to make sure that the RECORD reflects my compliments to those many dedicated IRS employees who were not, and are not, a part of the abuses or the horror stories that we heard during the Internal Revenue Service hearings held before the Finance Committee. These are the many dedicated individuals doing their job in a satisfactory manner.

With the Finance Committee hearings that began last September and ended in April, the American public heard some chilling testimony, testimony of an agency that is simply out of control and an agency with no or little accountability.

For fishermen in Alaska, the conference report retains an important change that was proposed by Senator STEVENS and myself. Under our amendment, it will be far more difficult for the IRS to seize limited entry fishing permits. IRS will have to factor in the amount of money a fisherman will earn if he kept his fishing permit before embarking on a seizure. And even if IRS determines that future earnings will not be sufficient to pay a tax debt, the fisherman will, for the first time, be able to appeal that decision—the point being, once the fisherman loses his or her fishing permit, they do not have a source of revenue for payment of taxes; as a consequence, the IRS is very unlikely to make a recovery.

Another important change we've made prevents IRS from harassing the divorced woman for her ex-husband's tax cheating. Under the Conference agreement, divorced or separated innocent spouses will only he held accountable for taxes on their own income, not on the taxes owed by their spouse.

We heard some horror stories in testimony, Mr. President, from women who were subjected to harassment by the IRS when, clearly, their husbands were cheating on their own taxes in an effort to evade taxes through tax shelters, and so on, without any knowledge of the spouse.

In addition, we've added a rule suspending interest and penalties when the IRS does not provide appropriate notice to taxpayers within 18 months of filing. Although I preferred the Senate provision suspending interest and penalties if IRS fails to notify the taxpayer within 12 months, I was persuaded to delay the 12-month rule for 5 years to enable IRS to update all of its computers to meet this standard.

The important thing for taxpayers to know is that long notification delays by IRS will no longer benefit the Service because it will not be able to stack penalties and interest on taxpayers who may have unwittingly made a mistake on their returns.

We've also changed the burden of proof in cases coming before the Tax Court. This is a long overdue change. When American citizens go into a court, they should be presumed innocent, not guilty until they can prove their innocence. That principle is enshrined in our Constitution and must apply in tax cases as well as any other cases. Now it will.

Mr. President, as I said earlier, the culture at the IRS must change. This bill makes very important changes that should give the American public more confidence that if they make a mistake on their tax returns, they will be treated fairly by their government and not subjected to threats and harassment.

But this bill is just a first step. It is incumbent on the Finance Committee to hold the agency accountable for implementing this bill. More oversight is needed because it is only through oversight that we can hold this agency accountable to the American people.

Finally, I note that problems between the IRS and taxpayers could be greatly minimized if we overhauled the far-too-complex tax code that is so intimidating that less than half of all taxpayers have the confidence to fill out their returns by themselves.

I ask each of my colleagues to address his or her own tax situation relative to how many Members of this body do their own tax returns. I must admit that I, for one, do not, simply because of the complexity.

I believe fundamental tax reform is the most important thing we can do to restore public confidence in the tax system. This conference report takes a small, but much needed step toward simplification. It changes the holding period for capital gains from 18 months to 12 months. I strongly support this change on both economic grounds and because this will significantly simplify tax filing for any individual who owns a mutual fund or shares of stock.

Mr. President, this bill is an historic milestone and I expect it will pass with overwhelming bi-partisan support. I hope that next year we can produce fundamental tax reform that will have similar bi-partisan support.

Mr. President, the conferees included a provision which is unrelated to IRS reform but will have an important effect in our on-going debates about international trade. We have included a provision that changes the name of ''most favored nation'' trade status to ''normal trade relations.''

This is a long overdue change that I strongly support. For many years, we have debated extending normal trade status to some of our former adversaries such as China. In determining whether to treat imports from these countries in the same way as we treat imports from our allies, such as Japan and Great Britain, the term ''most favored nation'' has historically been used.

That term ''MFN'' has caused confusion among many members of the public, for it implies that we are granting a special favored status that is better than what we grant our other trading partners.

As my colleagues in the Senate know, MFN—most favored nation—merely grants equal status, not greater status, for those countries. Changing MFN to normal trading relations should do a lot to clear up public confusion and allow us to debate the issues with a clearer focus.

Mr. President, my hope is that my colleagues will support the conference committee's report with regard to the IRS, and, as a consequence, I thank the President and I yield the floor.

Mr. COATS addressed the Chair.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. COATS. Mr. President, I don't intend to speak for more than about 5 minutes. I thank the chairman of the Finance Committee for granting me this time. I also want to thank my colleague and friend, Senator ROCKEFELLER from West Virginia, for deferring so I can maintain a schedule. I will be brief.

I am enthusiastically supporting the product brought out of the Finance Committee that we will be voting on shortly to rein in what has been in many instances an out-of-control agency that has, I think, trampled upon some liberties of the American people. I commend the Finance Committee for doing this. It is much needed reform. I am glad that we are finally here on the floor debating and, hopefully, ready to pass this.

Former Chief Justice John Marshall, in a landmark case many of us learned in law school, McCulloch v. Maryland, said that ''the power to tax involves the power to destroy.'' We understand that the power to tax is a power that is granted to Congress. So we have no one to point a finger at in that regard other than ourselves. But the power to destroy, I am sure, Marshall was referring to was the fact that taxation, if improperly applied, can destroy.

But there is a second point to that which I think is important; and that is, if the administration of the power to tax is abused, it can also have the power to destroy.

We have heard about the documented, systemic abuse of taxpayers in the oversight hearings that have been held. This bill will, hopefully—and I believe will—effectively end the agency's disregard of taxpayers rights. We have heard the horror stories of taxpayer

mistreatment by armed IRS agents raiding taxpayers' homes and Americans being subjected to years of harassment, unsubstantiated audits, audits that are targeted at low-income and favor high-income, audits that are targeted at those of modest education, quota goals, disregard for rules and regulations, and even laws, in order to achieve a certain product goal. Those are abuses that have been documented, have been discussed, and really form the basis for the legislation that we are addressing today.

I would like to relate just one story that was relayed to me by one of my constituents in Indiana. He gave me permission to tell this story but requested that I only tell it if I did not disclose his name. ''Why?'' I asked. He said, ''Because I fear retribution.'' I said, ''You have nothing to fear.'' He said, ''No. I fear retribution. I have been through so much, I don't want to give that agency or anybody associated with that agency any cause to come after me again. I cannot go through that again. So use my story but don't use my name.''

The history is that as he was preparing for Christmas and shopping to purchase both gifts and food for his Christmas dinner for his family, he was shocked to learn that his credit was denied because he was told he had no money in his bank account. His entire savings had been wiped clean by the IRS for back taxes and penalties. He immediately called the IRS, and he was told that the reason for this was that 10 years ago, in 1987, the IRS discovered that his 1987 tax return was not on file and that he had not answered any of the registered letters that were sent to him. Of course, he never received those registered letters because he had not lived at that address since 1987.

Subsequently, he had filed returns for each year, which the IRS had processed, and he had received responses back from the IRS at his new address. So all of the subsequent years, the IRS knew where he was. But in 1987, with a previous address, because they had lost his return and because the registered letters notifying him of that were sent to his old address, the two computers didn't match, or the two agents didn't check with each other. And, therefore, my constituent found that his entire savings had been wiped out just before Christmas, and he learned about it when his credit was denied as he was shopping for his family.

That is just one tale. But it doesn't end there. That is horrific enough.

A few months later, after some paper shuffling at the IRS, this gentleman was told—based on the information that he had to provide again to the IRS—they actually owed him a refund of $1,500 for his 1987 return. He had supplied duplicate information again to the IRS. However, they said since the statute of limitations had run, he was no longer entitled to his refund.

That is the kind of thing that causes your mouth to drop open and I guess you pull your hair out. I don't think that is why I lost my hair. But had I been that taxpayer, the outrage that would have ensued I think is something that all of us can identify with.

After a lot of intervention and a lot more paper shuffling, he did finally get his $1,500. Only the IRS could pull off something like this.

These stories of abuse and mismanagement go on and on. I will not detail those in the interest of time.

It is unfortunate and sometimes, I think, disgraceful that an agency of the greatest democracy in the world could have attributes that could best be described or identified as a paramilitary wing of a despotic regime.

So it is past time, I believe, that this legislation pass the Congress, and be signed by the President, and that we urge the new Commissioner of the IRS, Mr. Rossotti, to conduct a thorough housecleaning based on what we have put in this legislation.

The IRS exists to serve the American people, not the other way around. There has to be accountability for this agency. There has to be more protection for the taxpayer. Efficiency and integrity need to be the twin goals of the IRS. Therefore, passing this legislation is a very important step to achieving this end.

I want to close, Mr. President, with a quote that is etched into the stone of the IRS building headquarters here in Washington. It is a quote from Supreme Court Justice Oliver Wendell Holmes, who said, ''Taxes are what we pay for a civilized society.'' If that in fact is the case, if taxes are what we pay for a civilized society, then we have every right to demand that the tax collector act in a civilized manner. The IRS has not done that. The tax collector has not acted in a civilized manner. We pay our taxes. We expect a civilized processing of those taxes. Hopefully, this bill will take us toward that end or achieve that end.

Mr. President, with that, I yield the floor.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, I am very happy to be making comments while the Senator from the State of Wyoming is presiding.

Mr. President, I wish to say that there may hopefully be some encouraging news with respect to the negotiations going on about product liability. As you know, the majority leader came to the floor and said that a cloture vote would continue as planned for tomorrow morning, and that amendments would be allowed up until 5 o'clock, which collectively allowed for about 4 hours of amendments.

I think it is very important, in the relationship between the majority and the minority, for the minority to be able to make amendments. And I think there has been some—no, not some, but a great deal of concern from our side about the pattern of using cloture motions, rather than as a chance to shut off debate, as simply a chance to shut off amendments. But now I understand that there is some consideration being given to perhaps postponing the cloture vote for a period of days so that there can be some discussion on the subject of amendments on the product liability bill.

It is actually very interesting. In all the years—I was reflecting on it this morning with Senator GORTON—that this Senator from West Virginia has been working on product liability, there has really been no debate about product liability, only speeches. There have been speeches on the topic or a filibuster would commence and continue, and a series of speeches, but really never debate, never questions and answers back and forth, people probing each other.

So I hope, anyway, that this possibility will come to pass. I think we do need debate. I think we do need a chance to offer amendments.

Having said that, however, the Senator from West Virginia wishes to reiterate his position that I reached an agreement with the White House. It was an arduous, long process, but one in which honor and faith was kept on both sides, and I feel bound by the position of the White House as it stands now, or however it develops—and it probably won't develop—but that has to be my position. I am a defender of the faith, so to speak, in terms of the negotiation that I carried out with the White House to produce a rather minimal bill with respect to product liability but, on the other hand, a bill which moves the subject forward.

Mr. President, my real purpose today is to speak about veterans' rights. I should start out by saying that I very much respect the chairman of the Finance Committee, whom I specifically and directly remove from any criticism which I might be about to make, because it should not be directed at him at all. That goes also for the ranking member, Mr. MOYNIHAN, for his part in bringing the IRS debate and bill to a conclusion. But I am not happy and I think my colleagues know that.

Veterans' rights have been bartered away, in deals without the full scrutiny of the Senate or even the authorizing committee. There are many here who believe very strongly in the authorizing process; not everything is appropriating. Authorizing has to come first. That is the way of the Senate. That has been quietly and very definitely thrown aside in this whole process.

I am referring to the denial of veterans' disability rights which were enacted as part of TEA 21, and in the process now going on with regard to the technical corrections bill needed to amend drafting errors which were admittedly made in that bill.

America's veterans, indeed, all Americans, are being subjected to what amounts to an unprecedented power

play, conducted behind closed doors, as part of the highway reauthorization process. This is a kind of process which one can talk about on the Senate floor and very few choose to listen to it, because it sounds like what everybody doesn't like about Washington and, in fact, it is what everybody should not like about Washington.

This is an example of a process run amok, where any provision, no matter how heinous or unrelated, can be added in conference under cover of darkness.

Now, of course, if you add something in conference, all of us understand that the conference report is unamendable. So you vote yea, or you vote nay on the report, but you cannot amend it; thus the power to use this process is a formidable power, and thus we need to do things correctly in this body.

I think the process that has gone on here is a process all Members are going to come to lament. This process is backroom, back-door politics. It is not democracy, and, Mr. President, veterans have earned better than this.

Veterans have earned more from their government than a process that denies their rights without any accountability. Veterans have earned more than a process where the denial of veterans' rights can be inserted into unamendable conference reports, under the cover of darkness. They have earned more than a process where, in the name of expediency, extraneous provisions are placed in conference reports to avoid accountability, and where the majority has, in effect, destroyed the normal protections.

Why is it, I ask myself time and time again, why is it that this Senate is willing to look the other way on this? Why is it that we are allowing such an abuse of power to go on?

It is clearly unfair. I do not think that it was the original purpose of the conferees or the original people doing ISTEA to deny benefits that are in the current law for tobacco-addicted veterans who have disabilities, veterans who have gone through an unbelievably difficult process at the Department of Veterans Affairs to qualify for service connection for their disabilities. But, in fact, under the highway bill, current law has been rescinded, wiped from the books, and nobody has done anything about it, and nobody can do anything about it. And we sit here, stand here, talk here, silently, knowingly doing nothing about it at all.

Now, IRS reform, highway spending, these are two things that I very much favor. I voted for the underlying bills. In terms of the IRS reform conference report, had that come up clean, I would have voted for it now. I voted for it in committee. I am on the Finance Committee. However, I cannot support its passage at the expense of America's veterans.

You say, well, but that is just one group of people and this is a very large issue. Well, veterans are more than just one group of people, Mr. President. They are symbolic of the tenor of a nation, the moral attitude of a country towards its citizens who have maintained its freedom. Veterans are at all times to be taken very seriously because of the sacrifices that many of them have made, and in this case in particular, where their disability has been fostered by the Government's actions in a number of ways.

My colleagues know I have been fighting for many months to correct the injustice that we did to veterans. It is my duty, it is my honor to do so, and I am going to continue to do so here. But I must stop and ask, why, why is it that the majority continues to use their power to deny full Senate consideration of H.R. 3978, the highway corrections bill?

If we brought it up, we could have a time agreement of a half hour, divide it in two, 15 minutes each side, and we could have an up-or-down vote. But, of course, all of that is just talk at this point, because we are on a conference report and it cannot happen, and I understand that. But that will not keep me from standing here and voicing my outrage at a process which so undoes veterans who have suffered, and does it so unfairly.

Why has the leadership endorsed, in fact induced, conferees to take such action? Why have they decided to totally ignore the needs of America's veterans on the way to what amounts to a 44-percent increase in highway spending over the last budget cycle.

I am all for highway spending. I remind my colleagues I come from the State of West Virginia, where only 4 percent of the land is flat, so if you don't have a highway somewhere around you, you are in pretty big trouble pretty quickly. So highways are important to me.

But instead of bringing this bill to the floor for debate and a single amendment, the majority simply said they would find another way to pass this bill, quietly, covertly, out of the light of day. And it turned out that the other way of doing this was the IRS conference report, which we are debating today.

We are evading the usual process that would have allowed this to be fully aired and debated in the Veterans' Affairs Committee, which has jurisdiction over veterans compensation matters. People say, well, jurisdiction, who cares? Well, jurisdiction matters, and there are a lot of people in this body who place great weight on jurisdiction. Authorizing committees have jurisdiction for some things; the Appropriations Committee has jurisdiction for other things, but jurisdiction is important.

Jurisdiction has been bypassed, abrogated, tossed aside in this whole process, and now we are taking away a benefit which was granted to disabled veterans under existing law. Some are going to argue we are giving veterans a new benefit. That is absurd. We have removed a benefit which was there under the current law for veterans who are tobacco addicted to the point of disability, after going through a series of VA tests which are so rigorous that at this point, only a relatively few hundred have been able to qualify for those benefits. So it is extremely unfair.

Once again, we sidestep the regular process. The IRS conferees failed to restore the benefits. Once again, I exempt the ranking member of the Finance Committee and the chairman of the full committee. I exempt them from blame for this. We failed to restore the cuts. And this is at the direction of the majority. This has been a complete mockery of our budget process and of regular order in the Senate.

So, this is what I have called a ''midnight raid'' on veterans' benefits. To put it bluntly, America's veterans have been wronged, deeply wronged, by backdoor trickery. Funding for veterans' benefits has been cut; imaginary savings have been diverted to pay for highways; and veterans' disability rights have been placed in jeopardy, to say the least.

I had hoped to offer an amendment to the corrections bill that would have struck the veterans' disability compensation offset from the underlying conference report. But that was all pushed aside. I no longer have that option.

I will say that the IRS restructuring conference report has slightly improved the language pertaining to veterans. I will give them credit for that, since credit must be given where credit is due. The conference report strikes references to smoking being ''willful misconduct.'' You understand I am talking about a veterans population, for the most part older, which was encouraged to smoke by the Government, told to take a smoking break, where they were sold cigarettes at a reduced price, and where the warnings about the dangers of tobacco were not even produced or shown on cigarettes used in the military until 5 years after that was happening as a routine matter for the civilian population in the United States.

So, this is another nail in the veterans' benefits' coffin. I am very, very angry about it. America's veterans will not be fooled by backroom, backdoor legislating, no matter how anybody chooses to try to clean up the record on this. They will see through this charade. They will remember it on Veterans' Day, on Memorial Day, on the Fourth of July, when we all give our speeches about veterans. And then we come in, in the darkness of night, and take away benefits from disabled veterans, who under current law have disability compensation rights, and we take them away. We take them away and will not restore them. I cannot be a part of that, and I urge my colleagues to join me in voting to oppose the IRS reform conference report.

I yield the floor.

The PRESIDING OFFICER. (Ms. COLLINS). The Senator from Rhode Island is recognized.

Mr. CHAFEE. Madam President, the conference report before the Senate includes the TEA 21, that is the Transportation Efficiency Act of the 21st century, which some call the ISTEA II Restoration Act. It includes a technical corrections measure to that bill. The technical correction measure, which is part of the legislation before us, remedies errors made in H.R. 2400, which was the surface transportation bill we passed just before the Memorial Day recess.

As everyone knows, just before we went out on that break for Memorial Day, there was a great desire to complete the legislation before us. We completed negotiations on Thursday evening and delivered a very complex bill that had over 900 pages the first thing on Friday morning. In other words, we completed the negotiations on Thursday night, and by the next morning we had a bill of over 900 pages before us. Inevitably, some errors were made.

We have before us legislation to correct those errors. I emphasize this is just a technical corrections bill. Many Members have come to us in the ensuing days suggesting new items or changes that they wanted to be made because they felt in the original legislation they did not obtain them. But we resisted all such requests. This bill merely carries out the agreements of that conference on H.R. 2400. I will refer to it sometimes by the number. That is the original transportation legislation that we passed.

The technical corrections in the legislation before us have been developed jointly by the House and the Senate conferees, with valuable input from the U.S. Department of Transportation. I think it is important to note this legislation before us does not change the formula allocations agreed to in the conference. The technical changes in this legislation relate to apportionments. Those that exist are made to ensure that the legislative instructions to the Department of Transportation on the formula will produce an apportionment to the States just as we agreed upon. In other words, the only changes we made in this legislation, so-called technical corrections, are to take care of things that were left out inadvertently or to clarify an intent that was there and clearly recognized in order to carry out that intent.

This bill also corrects drafting errors relating to veterans' smoking-related disability benefits. This is to what the Senator from West Virginia was referring. The provisions of H.R. 2400 were intended merely to reverse a recent decision by the general counsel of the Veterans' Administration, which decision had not yet been implemented. It is very important to remember that. We have been advised that the bill may be interpreted to deny benefits to some veterans who were eligible for benefits prior to the general counsel's decision. In other words, it has come to our attention there may be situations that have arisen that, as a result of the language as we drew it, denied benefits to some veterans who were receiving them. What we meant to do was to reverse the general counsel's decision as it might apply to future applicants in an entirely new category of benefits opened by the general counsel. And with this technical corrections bill, we reach that objective.

There was an article in the Washington Post several weeks ago that has caused serious concern. That article suggested that Congress had declared smoking ''willful misconduct'' by America's veterans. That was just plain wrong. That statement in the Washington Post, that we included smoking as ''willful misconduct'' by American veterans, gave great offense to some. I want everyone to know that was an incorrect reading of the legislation.

Section 1110 of title 38, which is the existing law and has nothing to do with the transportation legislation, entitled veterans to compensation if they are disabled by service-related illness or injury. There are two exceptions to this entitlement in current law. The first exception is ''willful misconduct.'' A veteran cannot get disability compensation if the illness or injury results from willful misconduct. That is the law. It has been the law a long time. The second exception denies benefits if the illness or injury resulted from alcohol or drugs. These two exceptions are in the current law. That is where they are.

Now, H.R. 2400, the transportation legislation, added a third exception. It would have denied benefits where the illness results from smoking. This did not make smoking willful misconduct. This was a third exception to the provision that entitles a veteran to disability benefits. The first was willful misconduct, the second was alcohol or drugs, and the third was smoking related.

From where did we get that language? That was suggested by the Senate legislative counsel as the most straightforward means to reverse the great opening of benefits under the general counsel's decision.

This language had the unintended consequence of denying benefits to some veterans who would have qualified prior to the decision. This bill drops the language suggested by the Senate legislative counsel. We just got away from all that language that we had in there and returned to the language which was suggested by the administration, which reverses the general counsel's decision as it might apply to future applicants.

No veteran now entitled to benefits as a result of adjudication, or who has applied for such benefits, will be affected.

This bill makes the following changes to the veterans subtitle:

One, it clarifies that veterans who file claims for smoking-related benefits are grandfathered. That filing isn't going to be eliminated.

Second, it makes clear that those active-duty service personnel who contracted a smoking-related illness while in the service continue to qualify for disability compensation. We don't change that.

Third, we ensure that survivors and their dependents will receive a 20-percent increase in education assistance benefits.

Madam President, we prepared a summary of this technical corrections bill, and I ask unanimous consent that this summary be printed in the RECORD after my remarks.

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

(See exhibit 1.)

Mr. CHAFEE. I also point out, Madam President, that we voted on the underlying veterans issue three times in this Senate. Each time it has approved the action that we took here.

HOME HEATING OIL PILOT PROGRAM

The Department of Transportation Secretary has been given new authority under section 4007, of the newly passed Transportation Efficiency Act for the 21st Century (TEA 21), for waivers, exemptions and pilot programs. Therefore, section 1221(j), the home heating oil pilot program is redundant and no longer necessary. Striking this pilot program is not intended to suggest that a home heating oil pilot program should not be conducted. On the contrary, because of the unique seasonal nature of the heating oil industry, it is essential that a pilot program be implemented on or before December 1, to be valuable the following winter. The home heating oil pilot program was first authorized in section 346 of the National Highway System Designation of 1995. However, this pilot program was never fully implemented by the Department of Transportation.

EXHIBIT 1

HOUSE/SENATE JOINT SUMMARY OF TECHNICAL CORRECTIONS TO TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

This legislation: (1) restories provisions agreed to by the conferees; (2) makes technical corrections to provisions included in H.R. 2400; and (3) eliminates duplicative program authorizations.

This legislation does not change the formula allocations contained in the Conference Report to the Transportation Equity Act for the 21st Century.

The following is a section by section description of provisions included in the TEA–21 Restoration Act:

Section 9001 Short Title

Section 9002 Authorization and Program Subtitle

Adjusts funding levels for high priority projects to conform with list in the conference report and to correct other errors.

Adjusts funding levels for Highway Use Tax Evasion projects to allow for implementation of the Excise Fuel Tracking System.

Corrects the obligation limitation levels for mathematical consistency and conforms obligation limitation treatment to current practice for research programs.

Makes other conforming and technical changes such as renumbering sections and correcting cross reference.

Section 9003 Restorations to General Provisions Subtitle

Restores the National Historic Covered Bridge Preservation program.

Restores the Substitute Project for the Barney Circle Freeway, Washington, D.C.

Restores Fiscal, Administrative and Other Amendments included in both House and Senate bills.

Removes section 1211(j) regarding winter home heating oil delivery.

Makes technical corrections to section 1211, Amendments to Prior Surface Transportation laws and section 1212, Miscellaneous Provisions.

Clarifies program funding categories for Puerto Rico and continues current law penalties for Puerto Rico for non-compliance with the federal minimum drinking age requirements.

Clarifies that contract authority is authorized for provisions contained in section 1215, Designated Transportation Enhancement Activities.

Modifies Sec. 1217(j) to allow for effective implementation of this subsection. Modifies Magnetic Levitation Deployment Program to clarify eligibility of low-speed magnetic levitation technologies.

Corrects reference to Special Olympics.

Section 9004 Restorations to Program Streamlining and Flexibility Subtitle

Restores Discretionary Grant Selection Criteria provisions.

Conforms Environmental Streamlining provisions to include mass transit projects.

Section 9005 Restorations to Safety Subtitle

Restores the Open Container Law safety program.

Restores the Minimum Penalties for Repeat Offenders for Driving while Intoxicated program.

Section 9006 Elimination of Duplicate Provisions

Eliminates duplicate provisions for San Mateo County, California, the Value Pricing Pilot Program, and National Defense Highways Outside the United States Restores the Minnesota Transportation History Network provision.

Section 9007 Highway Finance

Updates the Transportation Infrastructure Finance and Innovation Act program to begin in 1999 rather than in 1998.

Conforms the credit levels in the Transportation Infrastructure Finance and Innovation program to agreed upon distribution levels of budget authority.

Section 9008 High Priority Projects Technical Corrections

Makes technical corrections, description changes and previously agreed upon additions to high priority projects.

Section 9009 Federal Transit Administration programs

Makes corrections to transit planning provisions to conform to provisions in title 23.

Clarifies eligibility of clean diesel under clean fuels program.

Makes technical corrections to section 5309 and clarifies the Secretary's full funding grant agreement authority.

Funds University Transportation Centers authorized under title 5.

Restores requirement that transit grantees accept non-disputed audits of other government agencies when awarding contracts.

Makes corrections to the authorizations for planning, University Transportation Centers, the National Transit Institute and the additional amounts for new starts.

Makes technical corrections, description changes, and previously agreed upon additions to new starts projects.

Makes technical corrections to the access to jobs and reverse commute programs.

Corrects funding level for the Rural Transportation Accessibility Incentive Program and makes other technical corrections.

Makes technical corrections to study on transit in national parks.

Makes corrections to obligation limitation levels.

Section 9010 Motor Carrier Safety Technical Correction

Conforms section references for the Motor Carrier Safety program.

Section 9011 Restorations to Research Title

Adjusts authorization levels for university transportation centers to conform with modifications made in the Transit title in section 9.

Restores eligibility of Intelligent Transportation System activities for innovative financing.

Corrects drafting errors to 5116 (e) and (f).

Makes technical and conforming changes to university research provisions.

Corrects references to the Director of the Bureau of Transportation Statistics.

Corrects drafting errors to Fundamental Properties of Asphalts and Modified Asphalts research program.

Section 9012 Automobile Safety and Information

Corrects reference to the National Highway Traffic Safety Administration.

Makes conforming changes to provisions in Subtitle D of Title VII.

Section 903 Technical Corrections Regarding Subtitle A of Title VIII.

Makes corrections to offsetting adjustments for discretionary spending limits.

Makes other technical and conforming changes to Title VIII.

Section 9014 Corrections to Veterans Subtitle

The TEA–21 Restoration Act corrects drafting errors to Sec. 8201.

The provision included in the Conference Report on TEA–21 to use the Veterans smoking-related disability benefits for transportation was drafted incorrectly and had the unintended consequence of identifying smoking as an act of ''willful misconduct'' by veterans. The provision in the TEA–21 Restoration Act corrects any reference to smoking as an act of ''willful misconduct'' by veterans.

This provision also clarifies that veterans who have filed claims for smoking-related benefits are grandfathered.

The provision also makes clear that those active-duty service personnel who contract a smoking-related illness while *in* service continue to qualify for disability compensation.

Another correction in this bill relates to ensuring that survivors and their dependents will receive a 20% increase in education assistance benefits.

Section 9015 Technical Corrections Regarding Title IX

Makes technical corrections to the Revenue title.

Section 9016 Effective Date

Provides for the effective date of this act to conform with the effective date of TEA–21.

MAGLEV DEPLOYMENT PROGRAM

Mr. MOYNIHAN. Madam President, the Maglev Deployment Program in the ISTEA reauthorization legislation contains contract authority of $60 million for pre-construction activities including investment analyses, environmental impact statements and other corridor development activities. The program then provides authorization of $950 million for construction of a project.

I wish to ask the chairman to confirm my understanding that these pre-construction activities are to be funded in the same fashion as other transportation programs, that is to say, with an 80 percent Federal match. The Federal role in the actual construction program, however, is limited to not more than a two-thirds match. Is that also the chairman's understanding?

Mr. CHAFEE. Yes, that is my understanding and that is indeed what the committee intended in passing this program.

Mr. MOYNIHAN. Madam President, I thank the chairman.

SECTION 105(e)

Mr. GRAHAM. Madam President, I commend the distinguished chairman of the Environment and Public Works Committee for his hard work and dedication to the Transportation Equity Act for the 21st century that passed the Congress on May 22. I am honored to have been a participant on the conference committee. Mr. President, I would like to enter into a colloquy with the distinguished chairman to clarify a provision in the TEA 21 legislation.

Mr. CHAFEE. Madam President, I will enter into a colloquy with the senior Senator from Florida to clarify a provision in the TEA 21 legislation.

Mr. GRAHAM. I would like to clarify section 105(e), special rule, that states if in any of fiscal years 1999 through 2003, the amount authorized under subsection (d) is more than 30 percent higher than the amount authorized under subsection (d) in fiscal year 1998, the Secretary shall use the apportionment factors under sections 104 and 144 as in effect on the date of enactment of this section. Does this provision jeopardize the 90.5 guarantee rate of return even if a State's gas tax revenues to the highway trust fund are to grow significantly over the life of the bill?

Mr. CHAFEE. No, my understanding is that the intent of this section is to prevent the dollar amount of the minimum guarantee from growing out of proportion far beyond that which the conferees anticipate. The intent of the Congress is that no State will receive less than a 90.5 percent rate of return on their gas tax contributions to the highway trust fund, of the funds distributed to the States which are covered by the minimum guarantee provision.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. MCCAIN. Madam President, I rise in support of the IRS Restructuring and Reform Act of 1998. I want to thank the Chairman, and other members of the Finance Committee for their work in crafting this much-needed measure.

This legislation is about more than merely reforming one Government agency. This bill is about fundamental fairness and the role of the Federal Government in our lives. The out-of-control IRS is a prime example of intrusive and unnecessary big government.

Madam President, I have spent 15 years in Congress fighting to lower taxes, cut spending, and shrink the size of our bloated and intrusive Federal Government.

Earlier this year, Senator COVERDELL and I introduced the Middle Class Tax Relief Act of 1998, which is a step toward a simpler, flatter, fairer Tax Code. The Middle Class Tax Relief Act would deliver sweeping tax relief to 29 million lower- and middle-income taxpayers by increasing the number of individuals and married couples who pay the lowest tax rate, which is 15 percent.

The bill raises the limit for the 15 percent bracket to $35,000 for an individual taxpayer. In addition, this bill significantly lessens the effect of one of the Tax Code's most onerous and inequitable provisions—the marriage penalty—by allowing married couples to earn as much as $70,000 and still pay only 15 percent in taxes.

It is essential that we provide American families with relief from the excessive rate of taxation that saps job growth and robs them of the opportunity to provide for their needs and save for the future. The Middle-Class Tax Relief Act permits individuals to keep more of the money they earn. With this extra income, Americans will be able to save and invest more. Increased savings and investment are key to sustaining our Nation's current economic growth.

Last year, Congress passed a major tax-relief bill, the Taxpayer Relief Act of 1997, which provided an estimated $96 billion in tax relief to Americans at all income levels. And I and others have sponsored numerous legislative proposals to eventually repeal the current Tax Code, and to lower or eliminate taxes on families, estates, charitable giving, farmers, Social Security benefits, tip income, Internet access and services, gasoline, and conservation efforts.

Cutting taxes is only a part of the solution to the problems of big government. We must also cut spending.

For 10 years, I fought to enact the line item veto legislation, which would have helped eliminate unnecessary and wasteful spending of taxpayer dollars from annual appropriations bills. When the Supreme Court struck down the 1996 law, Senator COATS and I introduced a revised line item veto authority, called separate enrollment. Our bill would avoid the Constitutional questions surrounding the original line-item veto, and we intend to push for its early enactment.

Clearly, the line-item veto is a necessary tool to curb the Federal Government's appetite for pork-barrel spending. Last year alone, Congress added more than $8 billion in wasteful, unnecesssary, and low-priority spending to the appropriations bills. This year, with only about half the bills done, nearly $7.5 billion has been set aside for congressional earmarks. I intend to continue to oppose such wasteful spending when these bills come before the Senate, because these earmarks take money right out of the pockets of the taxpayers.

In 1997, I supported the Balanced Budget Act which cut spending by $270 billion and led to the first balanced Federal budget in 30 years. In addition to refraining from adding unnecessary programs to the various agency budgets, we should be looking for savings and efficiencies in all areas of the Federal budget, including Congress' own funding. With the likelihood of significant budget surpluses on the horizon, we must now work to ensure that any extra money is returned to the people in the form of tax relief—not spent on pork-barrel projects or big-government programs.

Some are probably wondering what this discussion of tax relief and spending cuts has to do with IRS reform. On the surface, the IRS reform bill is simply about reforming a Government agency. But this bill is about more, it is about fundamental fairness and the role of the Government in our lives.

As the people's elected representatives, we cannot merely point the finger at this runaway agency. We have a responsibility to protect the American public's individual freedom and dignity from the IRS and any other agency that oversteps its boundaries and unduly infringes upon the American public's day-to-day existence.

The reforms in this bill are carefully crafted structural reforms. They are reforms that will not only change the practices and procedures of the IRS, but its fundamental culture as well. These reforms will ensure that the IRS treats taxpayers fairly and with the respect they deserve.

The IRS Restructuring Act of 1998 implants additional oversight and outside expertise into the management of the IRS. An entire title of this bill is devoted to taxpayer protection and taxpayer rights. Most important, this bill shifts the burden of proof from the taxpayer to the IRS. This measure has relief for innocent spouses from tax liabilities incurred by former spouses from whom they have been divorced or legally separated for at least 12 months. The fear of an audit looms over the heads of even honest taxpayers. After passage of this legislation, honest taxpayers will now have greater protections throughout the audit process.

These management and administrative provisions are key to restoring fairness and efficiency to the management and administration of our tax laws.

In addition, this conference agreement builds on last year's Taxpayer Relief Act. It provides $12.9 billion over the next 10 years in much-needed taxpayer relief for millions of hard-working Americans by eliminating the complex 18-month holding period that was required to realize the lowest applicable tax rate for capital gains. This provision is vital to America's middle class. Capital gains are no longer exclusively for the rich and powerful. The world of mutual funds, discount brokers, and the Internet has empowered the middle class with newfound prosperity. Simplifying and lowering the capital gains tax helps ensure the financial stability of our Nation's hard-working middle class.

Let me close by saying that the IRS Restructuring Act of 1998 illustrates our continuing effort to change the way we collect our taxes, and on a larger note, the role of Government in our everyday lives. This bill is a step toward smaller and more efficient Government—less taxes and less spending, means less big government.

Swift passage of this measure will send a loud and clear message to America. The message is that Congress hears your call for smaller, less intrusive Federal Government and for lowering the excessive tax burden, which saps job growth and robs Americans of the opportunity to provide for their needs and save for their future.

Mr. KYL. Madam President, I rise in strong support of the Internal Revenue Service reform bill that is before us today.

Mr. President, last fall, the Finance Committee held a series of hearings to expose problems in the Internal Revenue Service's dealings with taxpayers. Although we all knew that there were serious problems with the way the IRS does business, it is safe to say that all of us were truly shocked at what we learned from the hearings.

As Senator ROTH put it at the time, we found that the IRS far too often targets vulnerable taxpayers, treats them with hostility and arrogance, uses unethical and even illegal tactics to collect money that sometimes is not even owed, and uses quotas to evaluate employees. It is behavior that is not only unacceptable, but reprehensible.

Madam President, the IRS reform bill begins to address the kind of problems that were uncovered by the Finance Committee's hearings. For example, it shifts the burden of proof in tax disputes from the taxpayer to the IRS, and increases penalties for IRS violations of taxpayer rights. It provides relief for innocent spouses from tax liabilities incurred by individuals from whom they have been divorced, legally separated, or living apart for at least 12 months. It provides relief in certain interest and penalty situations. And it extends greater taxpayer protection in the audit process.

These are important changes, and they deserve our support today. There is no excuse for not reforming an agency that has too often abused innocent taxpayers. The House passed the IRS

reform bill on June 25 by the overwhelming vote of 402 to 8, and my hope is that it will pass by a similarly resounding margin here. I predict that it will.

But I also predict that even a good IRS reform bill will not solve the myriad problems that exist. Our nation's Tax Code, as currently written, amounts to thousands of pages of confusing, seemingly contradictory tax-law provisions. We need to reform the IRS, but unless that reform is followed up with a more fundamental overhaul of the Internal Revenue Code itself, problems with collections and enforcement are likely to persist. If the Tax Code cannot be deciphered, it does not matter what kind of personnel or procedural changes we make at the agency. Complexity invites different interpretations of the tax laws from different people, and that is where most of the problems at the IRS arise.

Replacing the Tax Code with a simpler, fairer, flatter tax would facilitate compliance by taxpayers, offer fewer occasions for intrusive IRS investigations, and eliminate the need for special interests to lobby for complicated tax loopholes.

There are a variety of approaches to fundamental reform that are pending before Congress: a flat-rate income tax, a national sales tax, and the Kemp Commission's simpler single-rate tax, to name a few. Each has its passionate advocates in Congress and around the country, and any one of these options would be preferable to the existing income-tax system.

But the fact is, there has not yet emerged sufficient public consensus in favor of a sales tax over a flat tax or some alternative. And it is likely to take a public consensus, the likes of which we have not seen in recent years, to drive a tax-overhaul plan through Congress and past the President. Realistically, it is probably going to take several more years to develop the kind of support that will be necessary to pass tax reform into law.

Until then, we can continue to lay a solid foundation for reform. We can continue to cut taxes every year. Last year, we cut taxes for families with children, for young people trying to get a college education, and for seniors who were looking for relief from heavy death taxes and taxes on capital gains. Another modest increment of tax relief is provided in the IRS reform bill today. It will give senior citizens more opportunities to participate in Roth IRA plans. It will simplify the capital-gains tax by eliminating the 18-month holding period that was added to last year's bill at the last minute without any debate.

Madam President, this legislation is not an end in itself. It is a step—a step in the direction of fundamental tax reform. Let us pass it and move on to the next stage in addressing the American people's desire for tax relief and a simpler, fairer Tax Code. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. DORGAN. Mr. President, let me begin by complimenting Senator ROTH from Delaware. He is a serious, thoughtful legislator who does some awfully good work. There are times when I disagree very strongly with him; there are other times when I agree with his proposals. I think he does some excellent work in the Senate. I appreciate it.

The conference report that is before the Senate contains some important legislative accomplishments. Some of the provisions in this conference report are useful, necessary, long overdue, and accomplishments that I very much support. I voted for this bill when we sent it to conference, and now it comes back from conference to the Senate as a conference report for our consideration.

While this legislation has much to commend it and addresses some very important issues, it also, as is the case with a number of conference reports, attracted some lint, some dust, and some other material as it was massaged and manipulated in conference.

One little provision that is, in fact, not so little, is Section 5001 of the bill. Page 332 of the statement of the managers explains this provision, and I want to read it for the RECORD. On page 332 of the report, it says:

TITLE V. ADDITIONAL PROVISIONS

A. Elimination of 18–Month Holding Period for Capital Gains.

And then it says:

House Bill
No provision.
Senate Amendment
No provision.

And it goes on to describe the ''conference agreement.''

That means, with respect to this issue, there was nothing in the House, nothing in the Senate, no debate, no discussion, no amendment, no vote. And all of a sudden, from the legislative darkness, a proposal emerged from the conference. It is like pulling a rabbit out of a hat, I guess. It is not surprising to those of us who watch conference committees. Senator BYRD was telling me today that he calls the conference committees ''the Third House.'' There is the House, the Senate, and then there is a separate body called ''Conference Committees.''

This is an example of what can happen in conference committees, of what can happen in that third body.

Let me describe what this proposal is. This proposal expands favorable tax treatment for capital gains—that is, the lower tax rate for capital gains. It does that by reducing the holding period for eligibility for the lower capital gains tax rate from 18 months to 12 months. To get the lower tax rate, you only need to hold onto an investment for 12 months under this provision, rather than 18 months, as the law stands now. This proposal costs about $2 billion—$2 billion.

Who will it benefit? Here is a chart that shows who it will benefit. Citizens for Tax Justice put these figures together. In shortening the holding period for capital gains from 18 months to 12 months, 90 percent of the benefit will go to taxpayers with incomes over $100,000 a year; over three-fourths of the benefit will go to taxpayers with incomes over $200,000 a year.

I suppose those who talk about capital gains a lot will say, gee, this benefits everybody. Yes, it is kind of the cake and crumbs theory, with the cake at this end of the chart and a few crumbs down here. But the chart is clear enough. The benefit, by far, will inure to those whose incomes are very large. And the reduction, therefore, of the holding period from 18 months to 12 months is, in effect, a reduction in revenue of $2 billion, the benefit of which will go to the folks largely making $100,000 a year or more.

As I indicated, that proposal was offered to the conference committee at the last minute, had never been considered by the House, had never been considered by the Senate, and was never debated or voted upon by either body.

One would probably ask the question: Well, if there is $2 billion that is available to be used for one thing or another, how might it be used? Perhaps reducing the Federal debt. That might be one approach. The Presiding Officer shakes his head vigorously at that. I assume that a number of people would think maybe using that to reduce the Federal debt would be useful.

Others still might say, well, this was done on about the same day, I believe, or within a day or two of the decision by the other body in this Congress—the House of Representatives —that they can't afford any longer to provide low-income energy assistance for home heating for poor people who live in cold climates. In the view of some members of the House majority, there is not enough money for that, so we will get rid of that.

Or there is not enough money really to fully fund summer jobs for disadvantaged youth. So, what we will do is, we will just cut back on that.

However, there are $2 billion available here, there is plenty of money for this—without debate, and without a separate vote in either the House or the Senate. But there is not enough money for some of those other priorities—priorities, for example, which I have come to the floor to talk about, of the needed investment in Indian schools.

Indian schools—those are schools that are our responsibility, under the federal trust responsibility. I have talked about the condition of those schools and the repairs and investment that those schools need. I have talked

about going into schools where the stench of sewer gas comes up into the classroom and requires children to be escorted out of the classrooms. I talked about schools I visited with 160 people sharing 1 water fountain and 2 bathrooms. It appears we don't have enough money to be helpful there. But someone found $2 billion all on its lonesome in the legislative darkness to be stuck into a piece of legislation, without debate in the House or the Senate, in a manner that will benefit a very few—benefit, in fact, those who probably need it least.

So, what do we do about that? The conference report comes to the Senate and we are told: There is nothing you can do about that; that is the way it is. It is true you didn't have a chance to debate or discuss or vote on it. That is life. That is the way the system works.

The problem is, there is a rule in the Senate called rule XXVIII, paragraph 2. I want to read the rule. This part of the Standing Rules of the Senate states that ''conferees shall not insert in their report matter not committed to them by either House.''

Let me read that again: ''Conferees''—talking about the conference committee and the conferees on the committee—''shall not insert in their report matter not committed to them by either House.'' That means if something isn't either in the House bill or the Senate bill, it is not an item that can be considered by the conference. That is the standing rule of the Senate, rule XXVIII, paragraph 2.

So how does this provision get here? How do we, in the legislative crevices of conference committees, as they finish their work and as the world isn't watching quite so closely, discover that $2 billion can be spent just like that when a Senate rule says ''conferees shall not insert in their report matter not committed to them by either House''?

Mr. President, I think the Senate will be advantaged, and I believe the other body will be advantaged, by a process that does not bring to us a piece of legislation dealing with the restructuring of the Internal Revenue Service that contains revenue provisions of this type.

I don't have a problem with someone coming to the floor of the Senate and saying let's debate changing the capital gains provisions of the current Tax Code, let's debate changing the holding period, let's debate changing the rate; that is not a problem. I think it is perfectly appropriate that we have that debate. But I think it is inappropriate that the debate be prevented, as is now the case, when they stick in, during a conference, a provision that was neither in the House bill nor in the Senate bill—literally in the last few minutes of the conference—and there it sits as a $2 billion revenue item that a good number of other Members of the Senate might have used much differently—as I indicated, perhaps to reduce the Federal debt, or perhaps to restore money for low-income energy assistance for the poor, or for a number of other things.

But this practice now exists that provides a way to avoid all the unpleasantness of debating these things on their own. So we now are in a situation where the conference report, which is a piece of legislation that has a great deal of merit and much to be commended, contains a provision to reduce the holding period for capital gains from 18 months to 12 months, which will provide $2 billion of tax reductions, 90 percent of which will accrue to those with over $100,000 in income, with no debate and no vote. In my judgment, that is not the best of what the Senate ought to be offering the American people.

POINT OF ORDER

So, Mr. President, with that in mind, I will make a point of order, and let me state the point of order. Section 5001 of the conference report contains matter that was not in either the House bill nor the Senate bill. Rule XXVIII, paragraph 2 of the Standing Rules of the Senate states that ''conferees shall not insert in their report matter not committed to them by either House.'' Pursuant to rule XXVIII, I make a point of order against section 5001 of the conference report.

Mr. President, before I formally make that point of order, let me say that those who will respond to the point of order saying, ''Oh, gosh, this will kill the bill,'' are wrong. This will not kill the bill. We have waited on this bill month after month after month after month. It is a good bill, and it has a lot to commend it. All stripping out the $2 billion item that was added in the legislative darkness at the end of this conference would do would be to require the conference to reconvene, take that portion out, and ship it back to the House and Senate. You might say the House is not in today, and that is correct. So it might take a couple of days. But this would not kill the bill. Those who will argue that it will kill the bill will argue something that is specious.

Let us decide as a Senate that this is not the way to do serious tax policy. This bill is too good for this provision. This is a set of circumstances where the chairman of the committee brings a bill to the floor, which causes me to commend him for the work he has done. I did that at the start of my discussion. But it is a bill that contains a provision that should never have been part of this bill.

I recognize that the chairman of the committee and the ranking member were not the authors. At least from press reports I believe they were not the authors of this legislation added in conference. I fully understand that some things are not necessarily within their control, as conferences work.

But I still feel strongly that this provision should not remain in the bill and, for that reason, Mr. President, I make the point of order under rule XXVIII of the Standing Rules.

The PRESIDING OFFICER. The Chair is constrained by the precedent of October 3, 1996, not to sustain the point of order.

Mr. DORGAN. In that event, I appeal the ruling of the Chair and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ROTH. Mr. President, I do not wish to unnecessarily prolong the debate, but I would like to remind the Senate of the process by which the 18-month holding period became law. The 18-month holding period arose from the final negotiations between the congressional leadership and the administration on the conference agreement to the Taxpayer Relief Act of 1997. The 18-month holding period was not in either the House or the Senate bill. No House or Senate Member proposed this additional holding period. No hearing was held on its tax policy or compliance implications.

Therefore, from the standpoint of process, today, we are reversing what was done about 1 year ago. In this conference agreement, we are eliminating a provision that was added in conference, a provision that was itself not contained in any House or Senate bill before its enactment.

Mr. President, the most important factor to consider is this. If the point of order succeeds, the IRS conference report falls. All of the meritorious provisions that Members have addressed will also fall. One of the best chances to reform the IRS in over 40 years could well be lost if the appeal of the Chair's ruling succeeds. No one can guarantee what would happen if the distinguished Senator from North Dakota would prevail. Therefore, Mr. President, I move to table the motion made by the Senator from North Dakota, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the——

Mr. DORGAN addressed the Chair.

Mr. ROTH. Regular order.

The PRESIDING OFFICER. The motion to table is not debatable.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

UNANIMOUS CONSENT AGREEMENT

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the Senator from North Dakota be allowed to speak for 3 minutes in response to the remarks by our chairman, the Senator from Delaware, and that the chairman,

in turn, have 3 minutes, and that these two 3-minute speeches be the only comments made before we proceed to a vote on the motion to sustain the ruling.

Mr. WELLSTONE. Mr. President, reserving the right to object.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. WELLSTONE. Mr. President, I had come down to join the Senator from North Dakota. I will not take more than a few minutes, but I wanted to speak on this. I don't mean to complicate matters, but I came down to speak on this question.

Mr. ROTH. I must object, Mr. President.

Mr. MOYNIHAN. Mr. President, I have to say to my friend from Minnesota that we entered into a very special arrangement to have the two comments and no more. And the chairman feels that if there were to be one more allowed that it would extend indefinitely. And the agreement having been reached, I feel that we will not be able to.

Mr. WELLSTONE. Mr. President, I regret objecting then, because I don't quite understand why it would be that we wouldn't want to have a discussion, I think, on the issue that my colleague raised, and as a Senator I certainly want to speak on it.

Mr. DORGAN. Mr. President, if I might respond.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. I didn't know of any intention of delaying this. I don't think it would be a problem giving a couple of minutes to the Senator from Minnesota. I know he spoke earlier on the floor on the subject. As far as I am concerned, we are almost ready for a vote, except that the tabling motion came almost immediately. My appeal of the ruling of the Chair is a debatable motion, and the Senator from Delaware moved almost immediately to table, which prevented this from being a significant debate. That is the Senator s right, and I made my comments. But I wanted to respond briefly to the comments the Senator from Delaware made. I mean it seems to me that it wouldn't be a problem if I am allowed to speak for 3 minutes and the Senator from Delaware and the Senator from Minnesota for a couple of minutes, and we can have a vote. It seems to me to be quicker to get it done that way.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. I amend my unanimous consent request to have 2 minutes for the Senator from North Dakota, two 2 minutes for the Senator from Minnesota, and no other speakers other than the chairman.

Mr. WELLSTONE. Mr. President, if the Senator will yield for just a minute, the Senator from North Dakota can have the 4 minutes, and we will go forward. I did speak earlier. People will be accountable on the vote. The discussion is taking place. We can come back to it if we need to come back to it. My colleague has been taking the leadership on this. Just go ahead.

Mr. DORGAN. Mr. President, let me go ahead, and if that consent is agreed to——

The PRESIDING OFFICER. Is there objection?

Mr. ROTH. Point of order.

Mr. MOYNIHAN. The Senator from North Dakota has 4 minutes, the Senator from Delaware has 4 minutes, and no other.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. DORGAN. Mr. President, we are never going to be accused of legislative speeding around here. It is fascinating to me that this bill has been kicking around for what, 10 months or so? And all of a sudden in the last couple of minutes we are dealing with $1 billion a minute, if I get 2 minutes. If I get $1 billion a minute, and he gets $1 billion a minute, it is a $2 billion tax break provided in the closing minutes of a conference report. Gosh. Month after month after month has gone by. Then all of sudden we have to get to the intersection in a nanosecond.

That is fine. Some days I might have objected, but I am in such an awfully good mood today that I am persuaded to speak for 2 or 3 minutes and then sit down.

First point: It is not going to kill the bill if we dump a $2 billion provision stuck in the middle of this piece of legislation by folks that didn't want a debate on it, didn't want votes in the House or the Senate on it. Getting rid of that provision won't kill the bill. Do not be fooled by that. Nobody is talking about killing this bill. We are just talking about taking a sow's ear out of this bill. You know the old saying in my area, which is farm country, ''You can't make a silk purse out of a sow's ear.'' There is nothing in this provision that you can make a silk purse out of, I guarantee you.

This was not done in the regular way. The chairman indicated the 18-month holding period came not from the House or Senate. It came as part of a deal made by the White House and legislative leaders. That is true. That was a deal. It was a deal with respect to changing tax policy, and there was a lot of negotiation going on back and forth.

That was a tax bill. That was a big tax bill. This is an IRS restructuring bill. All of a sudden, you have substantive changes in tax policy with no debate. That is the point I am making.

Finally, it makes sense, in my judgment, to move in the direction of incentives for long-term holdings, not short-term holdings. That is precisely what the 18-month-rule did. It says there is a benefit to holding investments for the long term. Those who think in the longer term invest in the longer term. That is precisely what builds this country.

But today we hear people say let's go back to the shorter term, let's think short-term, and let's provide big tax breaks to upper-income people who think that way. Those that have a couple hundred thousand dollars a year or more, if they will just think in the shorter term they get a big tax break.

You talk about marching in the wrong direction. Get some drums and bugles here and just quicken the cadence. This doesn't make any sense at all.

The reason I appeal the ruling of the Chair is we never had a chance to debate this.

And I might add that the point of order that I raised would have been sustained prior to October 3, 1996, because for decades, going back to the 1930s, the rule that I cited had force. ''Conferees shall not insert in their report matter not committed to them by another House.'' That rule of the Senate would have persuaded the Presiding Officer to rule in my favor.

But on October 3, 1996, the Senate did something, in my judgment, that was very ill-advised. It overturned a ruling by the Chair, and we forever changed this rule until the Senate votes to change it back. This would be a good opportunity to do that, because this is precisely the kind of mischief—$2 billion worth of mischief—that occurs in a conference committee with an item that was never in the House bill, never in the Senate bill, never debated, and never voted on. But here we find it folded neatly between the covers of this bill, which was supposed to have dealt with IRS restructuring.

You got $2 billion you want to use for something. I say to Members of the Senate, you got $2 billion you want to use for something. What is your priority? What is your priority? To search out those with $200,000 or more in income and say, ''You know what you need. You need a tax cut, and that is the priority of the U.S. Senate. It is the priority of the U.S. House.'' Boy. I don't think that would match the priority most people would want to expose in the middle of the day here in the Senate in a debate.

So that is the reason I have asked for this vote.

Once again, I appreciate the Senator from Delaware and the work he has done. Much of what is in this piece of legislation I commend. It has great merit, but this provision should never have been stuck in that bill. I think everybody in the Senate knows it.

If we will vote to overturn the ruling of the Chair, we will solve this problem without killing the bill.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Parliamentary inquiry: How much time does the Senator from North Dakota have left?

The PRESIDING OFFICER. He consumed all of his time.

Mr. ROTH. Mr. President, let me emphasize what I said earlier, that if his appeal should be sustained, there is no

question but what it kills the conference report. That is a matter of great seriousness. For no one can guarantee, if we go back to the conference table, what will come out of that negotiation. I can assure my friends on both sides of the aisle that I objected and fought many other provisions, some of which I think they would feel just as strongly about, if not more strongly.

Mr. MOYNIHAN. Will the Senator yield for a question?

Mr. ROTH. Yes.

Mr. MOYNIHAN. Is it not the case that once a House passes a conference report the conference committee is dissolved?

Mr. ROTH. That is correct.

Mr. MOYNIHAN. So it no longer exists. So we would have to create a new one.

Mr. ROTH. We would have to create a new one. The distinguished Senator is absolutely correct.

The other point I want to make, Mr. President, is that the 18-month holding period resulted from exactly the same process to which the distinguished Senator from North Dakota is objecting. But I recall no one from that side of the aisle objecting to the 18 months on the same grounds that it is objecting to the reduction of 12 months.

So, again, what I am saying is that we are correcting something that was done a year ago. And for that reason, I must urge that——

Mr. DORGAN. Will the Senator yield for a question?

Mr. ROTH. I will not yield for any more time. I think we have had the 4 minutes.

I yield the remainder of my time and call for the regular order.

The PRESIDING OFFICER. The question is on the motion of the Senator from Delaware to lay on the table the appeal of the ruling of the Chair by the Senator from North Dakota.

On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. NICKLES. I announce that the Senator from Texas (Mrs. HUTCHISON) and the Senator from Arizona (Mr. KYL) are necessarily absent.

The result was announced—yeas 76, nays 22, as follows:

[Rollcall Vote No. 186 Leg.]

YEAS—76

Abraham	Coverdell	Helms
Akaka	Craig	Hutchinson
Allard	D'Amato	Inhofe
Ashcroft	DeWine	Inouye
Baucus	Dodd	Jeffords
Bennett	Domenici	Kempthorne
Biden	Enzi	Kerrey
Bond	Faircloth	Kerry
Boxer	Feinstein	Kohl
Breaux	Ford	Landrieu
Brownback	Frist	Lautenberg
Bryan	Gorton	Leahy
Burns	Gramm	Lieberman
Campbell	Grams	Lott
Chafee	Grassley	Lugar
Coats	Gregg	Mack
Cochran	Hagel	McCain
Collins	Hatch	McConnell
Moseley-Braun	Santorum	Thomas
Moynihan	Sessions	Thompson
Murkowski	Shelby	Thurmond
Nickles	Smith (NH)	Torricelli
Reid	Smith (OR)	Warner
Robb	Snowe	Wyden
Roberts	Specter	
Roth	Stevens	

NAYS—22

Bingaman	Feingold	Mikulski
Bumpers	Glenn	Murray
Byrd	Graham	Reed
Cleland	Harkin	Rockefeller
Conrad	Hollings	Sarbanes
Daschle	Johnson	Wellstone
Dorgan	Kennedy	
Durbin	Levin	

NOT VOTING—2

Hutchison	Kyl

The motion was agreed to.

The PRESIDING OFFICER. The decision of the Chair stands.

Mr. ROTH. Mr. President, I move to reconsider the vote by which the motion was agreed to.

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

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Is there further debate on the conference report?

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise to commend the chairman and ranking member for the excellent job that has been done on the Internal Revenue Service Restructuring and Reform Act. The conferees have taken very good ideas and have made the strongest possible bill.

Mr. MOYNIHAN. Mr. President, the Senator deserves to be heard. May we have order?

The PRESIDING OFFICER. If anybody wishes to speak, they may after the Senator from Missouri, but at the present time, he is speaking.

Mr. BOND. I thank the Chair. Mr. President, I have a loud voice, but not that loud, and I appreciate the chance to share my thoughts with my colleagues.

As I was saying, this measure is very important for the citizens of this country, all across the Nation. We have not only seen and heard of the abuses that were brought out before the Finance Committee, but I think each one of us in our home States has heard the concerns expressed. This is the time now for us to move forward, for the Senate to add its voice and pass this bill for America's taxpayers.

This is a historic opportunity to make some far-reaching changes in the operation of the Internal Revenue Service to strengthen taxpayers' rights. I believe the conferees have delivered, and it is now up to us to deliver. For too long, taxpayers have had to put up with poor service from the IRS, often to the tune of larger tax bills because of interest and penalties that accrue during the lengthy delays caused by the IRS in settling the disputes.

For my part, I have asked people across Missouri for their suggestions on how to fix the IRS and protect taxpayers' rights. And as chairman of the Committee on Small Business, I have also asked small businesses to give me their ideas. We have had hundreds of people who have taken the time and made the effort to share their views with us.

I introduced a measure, called Putting Taxpayers First, in February. In that measure, we proposed things that are included in this conference report:

No. 1, a requirement that the IRS restructure its operations to serve specific groups of taxpayers with similar needs, like individuals, small businesses, the self-employed, and corporations;

No. 2, greater due process protections for taxpayers to guard against unreasonable seizures by the IRS;

No. 3, expansion of the current attorney-client privilege of confidentiality to cover accountants and other tax practitioners who provide tax advice;

No. 4, reform of the penalty and interest rules so they do not stand in the way of taxpayers who try to settle their accounts and get on with their lives;

No. 5, clarification that a taxpayer may recover attorney's fees and costs when the IRS discloses information about the taxpayer without permission and when an IRS employee improperly browses a taxpayer's records.

In addition, I am delighted to see: A requirement that the IRS establish an independent appeals process for taxpayers; a prohibition against the IRS contacting third parties, such as a business's customers or suppliers, without notifying the taxpayer first; improvements to the offer-in-compromise program; and prohibition on communications between an appeals officer and the IRS auditor or collection agent handling the case without permitting the taxpayer to be present.

These are some of the abuses that we can and we will deal with in this bill.

During the floor consideration in the Senate, I worked with Senator MOSELEY-BRAUN on an amendment which would provide clear direction that the IRS expansion of electronic filing of tax and information returns will be voluntary and not another Government mandate on the taxpayers of America. I am sorry that the conference agreement omitted this important provision, but rest assured that we will be keeping a careful eye on the IRS to ensure that Americans use electronic filing because it is simple, convenient, and easy to do so, not because they are forced to do so.

While our ultimate goal must be simpler and less burdensome tax law, taxpayers need help today when dealing with the IRS. Like the bill introduced earlier this year, the IRS Restructuring and Reform Act provides that help by putting America's taxpayers first.

Mr. President, I appreciate the good work and the effort that has gone into this, the many people who have taken a lead in sponsorship of this, and the

work that has been done in the committees. I know that the big challenge will lie ahead of us in the next couple years to embark upon a full-fledged reform of the IRS Code. That is the next step. But today we are taking the very first step.

When I first argued for this bill, and pointed out that common criminals had more rights than taxpayers, my colleague from Texas asked if we really wanted to treat taxpayers like common criminals. And the answer is, we certainly do not want to treat them worse. This at least gives the American taxpayers the rights that all citizens should have in the United States. And we believe that it will end abuses in the IRS without curtailing the IRS' ability—an important responsibility—to collect the taxes that are owed.

I commend the measure, and I thank the leaders on both sides. I hope that we can adopt the measure and send it to the President without further delay or distraction.

I yield the floor and thank the Chair.

Mr. CRAIG addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Idaho.

Mr. CRAIG. Mr. President, I will be brief, but I did want to recognize the chairman of the Finance Committee and the ranking member for the tremendous work they have done on this bill to reform the IRS. Many of my colleagues have come to the floor today to speak about the reforms embodied in H.R. 2676.

While the House moved very rapidly, the Senate engaged in a more deliberative process, appropriately, and reviewed in greater depth, in great detail, the changes we believed would be necessary. We did not want to make symbolic changes in the IRS, but wanted to change the very culture, the very thinking of the IRS, the way it functions, the way it treats the taxpayers of this country.

I have been in the Congress of the United States now a few years. And not by my vote, but by the collective vote of past Congresses, we have seen the Internal Revenue Code expand and expand and become more complicated. And every time the government decided it needed more money, it hired more IRS agents. Control spending? No. Demand a leaner, more efficient bureaucracy? No. Review policies and repeal or reform uneconomic ones? No. Raise taxes and encourage the tax collector to squeeze the taxpayer harder—that was the way 40 years of liberal Congresses claimed they were addressing the fiscal problems of our country.

So the IRS was an agency that Congress created and allowed to grow. And as the Tax Code became more complicated, the agency became larger, and by its very character it became a much more complicated and demanding agency.

Times have changed. I believe we are able to bring about reform of the IRS today for a variety of reasons, not just because we discovered abuses, but also because this Congress is committed to downsizing, to right-sizing, Government. For the first time, we are talking, not about budget deficits, but about surpluses. For the first time, we are succeeding in our efforts to create a less intrusive IRS. In fact, we are talking about tax reform, not in some symbolic way, but fundamentally changing the way we tax the American people are asked to pay for the Government services and programs for which they ask. That is why we are able to be here today in a bipartisan mode, to talk about the changes that are embodied in this very, very significant document.

So, I honor my chairman and ranking member here today, and my colleagues, who have stood forthright on this issue. When a citizen of our country, a taxpayer, receives a letter from the IRS, and it goes on the dinner table, with the family fearful to open it because they do not know what is inside, they are fearful there may be an audit announced, or that somehow they failed to comply with the code that is so complicated that they and their tax accountant, or even a tax attorney, cannot understand it. It is wrong for Americans to live in fear of their government like that. That bleak day is ending. The Congress well ought to have responded long ago to sense of dread on the part of American families. Some of us tried to. Because no American citizen, no taxpayer ought to fear their Government.

Without question, taxpayers have feared the IRS. Some of that will now change as the reforms embodied in this conference report are implemented and become functional, and as they are carried out in the regulation and enforcement process.

Two hundred twenty-two years ago, the American Revolution began, in large part, over an oppressive tax system. Today, for the first time in two hundred years, the Congress is taking significant power away from the tax collector and giving it back to the taxpayer. Today we reverse direction on a two hundred-year trend. Today we keep faith with the spirit that has been at the core American values and traditions from the start. Today, the Congress is taking long-overdue action to restore some of the liberty that an insatiable government has spent years eroding.

But the day of change is not over, nor should it be. I, like others, believe we should move now to significantly change our country's Internal Revenue Code. The tax laws of our country should not be used for social engineering, nor should they be designed in such a way to tempt and enable legislators and bureaucrats to manipulate social policy in this country, to decide for the taxpayers what is good for them, and to use the tax code and the IRS to force them to behave accordingly. That impulse for social engineering, directed from a Washington, DC, that thought it was all-knowing, is what grew the tax code and gave the IRS its power. Decades of tax-and-spend Congress empowered and encouraged the tax collector to step outside the due process Americans expect in every other encounter with their government, and went about structuring social policy through tax law; and they gained power and they gained control.

Today, we make a first step. This reform bill is an important symbol, but it is more than symbolic. It is the first installment on our commitment to do more. I believe if we restructure the tax code by reforming it in a significant way, by simplifying it and restoring a sense of freedom and fairness, we can come back to the very agency we are changing today and restructure it once again, because: As goes the code, so goes the character of the tax collector.

So once again, I stand, like many of my colleagues do today, ready to vote for this conference report as a major first step in doing what the American taxpayer has said needs to be done for a long while and maybe lessening the fear that the taxpayer has of their Government and of the IRS just a little bit.

I hope that we will return next year—in the very next year—not only to review the work we have done here but to reform the tax code in a more significant way and once again improve the tax collecting agency of our country, the Internal Revenue Service.

I yield the floor.

Mrs. MURRAY. Mr. President, I am so pleased we are finally acting to send this bill to the President. This important legislation has been delayed long enough. It has been over a year since the Kerrey/Portman IRS Reform Commission reported their findings to Congress and the American people. The Commission's report was extremely clear. The IRS had become a monster agency feared by law abiding citizens. It acted with total disregard for the rights of American taxpayers and ruled not through law or practice, but fear and fear alone.

I urge swift Senate action on the conference report to accompany H.R. 2676, the IRS Restructuring and Reform Act. The American people cannot afford any further delay or political grandstanding. The House passed their bill on November 5, 1997 and we passed a reform bill on May 7, 1998. We should have been acting on a final conference report months ago. Unfortunately, despite the extensive analysis contained in the Kerrey/Portman Commission's report, some in Congress chose to engage in partisan politics using IRS abuses as a mechanism for talking about the evils of ''big government.'' The American taxpayer deserved better.

The problems at the IRS are not about ''big government'' but rather an agency with a conflicting mission and little guidance from Congress. In each Congress, new and in some cases sweeping changes in the tax code are enacted

into law. The IRS must then swiftly implement these complex and difficult changes in the tax code. Excessive contracting restrictions and little managerial oversight results in an actions that border on the extreme.

I am pleased to have supported historic taxpayer Bill of Rights provisions in the 1993 deficit reduction plan. But, it became obvious from the Kerrey/Portman Commission report that additional taxpayer protection reforms were necessary. We could no longer allow the agency to rule by fear. American taxpayers should not fear challenging any decision made by the IRS. This should be the right of every American to challenge any decision by any federal agency. If an individual feels that the Social Security Administration erred in denying benefits, this individual can challenge this decision without fear of retaliation. No one should ever fear challenging the decision of any federal agency. But, sadly this had become the case with the IRS.

Many taxpayers simply were convinced that they had no choice but to submit and pay the often times excessive penalties and interest demanded by the agency. There simply was no assumption of innocence.

Taxpayers need this bill. This is not about those who do not honor their financial responsibilities. It is about protecting those that voluntarily pay their fair share. It is also about providing guidance to the agency responsible for implementing the laws that we pass. It is about leveling the playing field to ensure that taxpayers have the same rights and protections when dealing with the IRS.

The conference report adopts many of the provisions included in S. 1096, the original Kerrey/Grassley IRS reform bill which I cosponsored shortly after it was introduced. These provisions are essential if we truly hope to reform the IRS. The legislation will shift the burden of proof in many of the cases in U.S. Tax Court from the taxpayer to the IRS. Under current law, it is the responsibility of the taxpayer to disprove any charges brought by the IRS. This is counter to criminal law and makes it difficult for a taxpayer to disprove charges brought by an agency without almost unlimited resources. The legislation also mitigates interest charges and penalties for some tax cases. No longer with the interest charges and penalties significantly amount to more than that total taxes owned the IRS.

The conference report also includes new restrictions on the ability of the IRS to seize property. Too many times overzealous actions by the IRS resulted in the seizure of a business or the home devastating working families and leaving no means to repay taxes owed. What is even more outrageous is I have heard of cases where decisions to seize property were later overturned. The seizure of one's economic security cannot be part of a normal enforcement strategy for the IRS. It must be an extreme and final solution, not simply a compliance mechanism.

I am also pleased that the final agreement maintains an independent board to oversee actions within the agency. I have heard from many IRS employees about internal problems that create major obstacles to reform. An independent board drawing from the private and public sectors will provide some real strategic planning assistance for the Commissioner. It also ensures effective citizen oversight.

The IRS needs to put the idea of service back into the Internal Revenue Service. Its mission must be to serve the public and provide a cooperative environment for those voluntarily complying with their financial obligation.

The legislation will make a difference. No longer will a convicted criminal have more rights and protections than an honest taxpayer challenging the IRS. We should have acted many months ago. Every day the Republicans delayed this bill in the Senate resulted in more taxpayer abuses. More fear and more abuse. Today's actions will make sure this all stops.

Currently, honest taxpayers and business pay an average of $1,600 per person for those who do not meet their financial obligations. An estimated $120 billion a year goes uncollected by the IRS. We should be doing more to encourage more Americans to come forward and meet their obligations. But, so many taxpayers have simply given up. There is wide-spread belief that you cannot find fairness or respect at the IRS.

We need to give the IRS the tools and the guidance to bring respect back to the IRS. If we want American taxpayers to respect their government we must ensure that they are treated with respect and dignity. The legislation we are not considering meets this test.

I urge my colleagues to join with me in supporting effective and comprehensive IRS reform and restructuring.

Mr. LEAHY. Mr. President, I am gratified that the Senate finally has before it today the final language of The Internal Revenue Service (IRS) Restructuring and Reform Act. I continue to support this bill, which has been making its way through the Congress for many months and which is long overdue. I commend Chairman ROTH and Senator MOYNIHAN for their conscientious work on this legislation. I also commend Senator GRASSLEY and Senator KERREY for introducing the original IRS reform bill, of which I am a cosponsor.

I have heard from many Vermonters who support the reining in of the IRS. They want the IRS to be more responsive to their questions and more respectful of their rights, and that is exactly what they deserve from their government. I will be pleased to return home and tell Vermonters that the Senate has acted in their interests and passed legislation that will make the IRS more responsive to the average taxpayer and that gives the average taxpayer more rights when dealing with the IRS.

This bipartisan legislation will bring many significant reforms into reality, including:

Burden of Proof. The burden of proof is on the IRS in all court cases for tax years beginning after the date of enactment of this bill.

Innocent Spouse Relief. Innocent spouses and former spouses will no longer be held responsible for tax liabilities incurred by the other spouse.

Interest and Penalties. If the IRS fails to notify the taxpayer of a delinquency within 18 months, the taxpayer will not be held responsible for penalties and interest accrued during that time.

IRS Accountability. IRS employees will be held more accountable for their actions and advancement will be based on a system of merit.

Low-Income Taxpayer Clinics. $6 million will be provided in matching grants to establish taxpayer clinics to provide tax assistance to low-income taxpayers.

Oversight Board. A nine-member IRS Oversight Board will be established. This board will consist of the Secretary of the Treasury, the Commissioner of the IRS, a representative of IRS employees or a full-time Federal employee, and six members from the private sector.

Collections. This bill establishes formal procedures to ensure due process for any liens or levies placed on a taxpayer.

Confidential Communications. Privileged communications will be expanded to include tax advice between an accountant or tax advisor and a taxpayer.

I am also pleased that two amendments offered by Senator ASHCROFT and myself have been retained in the final conference report. One amendment, based on our bill, the Taxpayer Internet Assistance Act of 1998, requires the IRS to provide taxpayers with speedy access to tax forms, publications and other published guidance via the Internet. This legislation provides for online posting of documents created during the most recent five years.

The second amendment requires the IRS to treat an electronically authenticated document the same as a paper document. This is required as more and more people file their returns online and use electronic signatures. This bill will ensure that people who use an electronic signature will have no less or no greater status in the tax context than those using a physical signature. By retaining these two amendments, the Senate is recognizing the importance of the Internet and its potential to give taxpayers greater access to information and service.

In addition, Senator RUSS FEINGOLD and I introduced the Equal Access to Justice for Taxpayers Act of 1998, S. 1612. Under current law, many taxpayers are unable to recover their legal

fees and other costs when the IRS takes unjust actions against them. Our bill would modify the Equal Access to Justice Act to give taxpayers the same rights as other citizens to fight unjust governmental action. Provisions similar to the Equal Access to Justice for Taxpayers Act were included in the IRS Restructuring and Reform Act.

The bipartisan bill before us will institute a wide range of constructive and sensible steps to reshape the IRS and to improve the way it deals with the American taxpayers they are intended to serve.

Ms. SNOWE. Mr. President, I rise today in support of the conference report to H.R. 2676, the IRS Restructuring and Reform Act.

Mr. President, the people of this nation have watched as Congress has finally taken serious strides toward the reform of our federal tax collection arm—the Internal Revenue Service. They have watched and they have waited because they know that meaningful changes in the way in which we collect income taxes in this country is sorely needed and long overdue.

Well, today we have an opportunity to send to the President a reform package that is not only meaningful, but one that will strike at the heart of some of the most serious abuses exemplified by some of the real-life horror stories we've all heard over the past few months.

Indeed, the Senate Finance Committee in their hearings during the past year uncovered an agency that, in many instances, simply ran roughshod over taxpayers rights and the IRS' very own rules.

Agents misused files, violated privacy, made arbitrary decisions concerning the payment of delinquent taxes, demoted those who sought to report improper tactics. They were evaluated on statistics based on seizures of personal property and finances; they lied and misled the public. In short, the high level of trust that must exist when people's privacy, dignity, and very livelihood are at stake had disintegrated into a quagmire of duplicity and dishonesty.

Now, that's not to say that everyone at the IRS engages in such dubious practices. I have no doubt that the majority of Americans who work for the IRS are attempting to do an often unpleasant and thankless job with integrity and the best interests of the taxpayers at heart.

Unfortunately, as is always the case, it is the transgressions of the few that foster the decay of the whole. In fact, I'm sure that the majority of the honest, hardworking people of the IRS would welcome a cleanup of the system just as much as any American taxpayer.

This conference report provides such relief from the practices of the past and is a giant step forward in rebuilding the trust that has slowly but steadily been eroded over the years. It provides $12.9 billion over the next 10 years for reforms, which will include an oversight board to keep careful watch over the management and administration of the IRS. It shifts the burden of proof from the taxpayer to the IRS, where it belongs. It provides relief for divorced or separated spouses who unwittingly become embroiled in the tax liabilities of their estranged husbands or wives. It requires the IRS to report annually to Congress regarding employee misconduct. In short, it helps put government back in the hands of those it is supposed to serve.

We still have a long way to go in terms of simplifying our tax system—something we must do if we are to follow through on our promise to not only reduce the burdens of our archaic tax structure but to reduce instances of abuse. So, even with the passage of this legislation, our work will be far from done. But this bill will create a more level playing field between the IRS and taxpayers, and it will make the IRS more accountable to the American taxpayer. As I said when I spoke on this issue in May, the issue comes down to trust. The people of this nation must be able to trust that their government will be fair, will be discreet, will be responsive. Taxpayers should not fear the very institutions that are supposed to be serving them.

The House put their overwhelming stamp of approval on their version of the legislation with a 426 to 4 vote, and passed the conference report 402–8. In the Senate, there was not one vote against the measure when we last considered it. It's now time that we send this bill to the President with the message that it has strong, bipartisan backing in Congress and the overwhelming support of the American people. I hope my colleagues will join me in voting for this Reform Act and putting ''service'' back into the IRS.

TECHNICAL CORRECTIONS TO TEA–21

Mr. DOMENICI. Mr. President, Subtitle A of title IX of the conference report on H.R. 2676, the IRS Restructuring and Reform Act, contains a number of technical corrections to the Transportation Equity Act for the Twenty-first Century (TEA–21). This subtitle is essentially identical to H.R. 3978, which passed the House by voice vote but has been held up in the Senate due to objections chiefly over provisions concerning Veterans smoking benefits.

Mr. President, I want to focus my remarks on the technical corrections to title VIII of TEA–21. This title of the transportation bill did two things. First, it provided roughly $17.5 billion in offsets to pay for the cost of the additional highway and transit spending in TEA–21. With respect to the offsets in TEA–21, the technical corrections in this conference report make a number of changes in the Veterans provisions which will provide a net $959 million increase in Veterans spending as a result of correcting a drafting errors in TEA–21.

This technical corrections bill modifies provisions in TEA–21 that inadvertently labeled smoking an act of willful misconduct on the part of the veteran. Further, this bill reverses provisions included in TEA–21 that extended the change in compensation law to include those people who are currently serving in the military or have recently left the service but are still within certain statutory presumptive periods where any illness is presumed to be service connected. The technical correction also clarifies that the grandfather clause will include those veterans who have filed a claim before the enactment date, not only those with adjudicated claims upon enactment. Finally, the corrections bill adds a new section which extends the GI bill reimbursement increase to a veteran's survivor and dependents. This rate increase was intended to be included in the original bill but was inadvertently left out.

Second, TEA–21 established a rather elaborate regimen under our budget laws to ensure a minimum amount of discretionary funding would be set aside for highway and transit programs. The conference report on TEA–21 did not include an explanation of the budget process changes in title VIII and I did not have a chance to discuss these changes in detail when we considered the conference report on TEA–21.

TEA–21'S HIGHWAY AND TRANSIT ''FIREWALLS''

The Balanced Budget Act of 1997 extended through 2002 the spending limits, or caps, on spending provided in the annual appropriations process, what we call ''discretionary'' spending. The Balanced Budget Act also provided separate limits on defense, nondefense, and violent crime discretionary spending, which are frequently referred to as ''firewalls''. These separate spending limits, or firewalls, effectively segregate a specified amount of spending for defense and violent crime reduction.

Highways and transit spending are considered nondefense discretionary spending and must compete with other programs under the nondefense discretionary cap. While the Balanced Budget Act made transportation spending a priority, there was a strong desire to provide a means to allow the taxes collected by the Highway Trust Fund to be made available for highway spending. The House-passed transportation bill took highways off-budget. The Senate developed a mechanism in the budget resolution to direct savings from reductions in direct spending programs to the Appropriations Committees to pay for increased transportation spending.

Trying to find a mechanism to provide a guarantee for discretionary spending for highways without breaking the budget proved to be one of the more difficult tasks for the conferees on the transportation bill. We ended up with a complicated mechanism that kept highways and transit funding subject to the appropriations process, the budget process, and the discretionary caps.

Subtitle A of Title VIII of TEA–21 amended the Balanced Budget and Emergency Deficit Control Act to establish new categories on highway and transit spending at outlay levels for certain programs in TEA–21. The Act also made reductions to the nondefense discretionary limits by an amount equal to OMB's estimate of base level of funding for these programs.

These highway and transit categories are very similar to the current defense and violent crime categories in the Balanced Budget and Emergency Deficit Control Act with two notable exceptions. Unlike the defense or crime caps, TEA–21 amended section 250(c) of the Balanced Budget and Emergency Deficit Control Act to add a special rule that provides that any spending in excess of the highway and transit limits be charged to the nondefense discretionary or discretionary spending limits.

Next, TEA–21 amended section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act to provide for two adjustment to the highway outlay limits and one adjustment for the transit outlay limit.

One of our objectives in TEA–21 was to ensure that highway revenues would be spent. To meet this objective, the first adjustment ensures the highway outlay limit fluctuates with changes in gasoline tax levels. The highway spending levels and the outlay limits established by TEA–21 are based on the Congressional Budget Office's (CBO) February 1998 estimates of tax revenues to the highway trust fund. To the extent actual revenue levels are different than these 1998 estimated levels or the Office of Management and Budget's (OMB) updated estimates for the budget year is different than these levels, OMB is required to adjust highway obligation levels in TEA–21. Next, OMB is required to calculate the outlay changes that would result from the change in the obligation levels and adjust the highway outlay limits by that amount.

A second concern was raised that purely technical changes in outlay estimates could cause the highway or transit outlay limits to be exceeded. The second adjustment TEA–21 added to section 251(b)(1) of the Balanced Budget and Emergency Deficit Control Act was to provide adjustments to the highway and transit outlay limits due to purely technical estimating changes. This was a challenge to draft because it is difficult to distinguish between changes in outlays for technical as compared to policy reasons. Under this second adjustment, OMB is required to estimate the outlays that would result from TEA–21 in its final sequester report this fall. Each year, as part of the President's budget submission, OMB is required to update its estimate of the outlays resulting from TEA–21 and adjust the outlay limits by any change in outlays due to technical re-estimates.

On this technical adjustment for outlays, our intent is that OMB only adjust the outlay limits because of purely technical estimating changes. To the extent Congress makes changes in the appropriations process or takes other actions in legislation that effect the level of outlays for highways or transit, the resulting change in outlays should be absorbed by the respective limits and OMB should make no adjustments to those limits.

Mr. President, section 251(b)(1)(D)(ii) is vague with respect to how OMB is to adjust the estimate it is required to make pursuant to clause (i) in this fall's final sequester report of the outlays resulting from TEA–21. Our intent is that OMB adjust this estimate of outlays by the adjustments it will make to the outlay limits pursuant to subparagraphs (B) (to align spending with revenues) and (C) (adjustments for technical outlay re-estimates).

Mr. President, the highway and transit firewalls we established in TEA–21 was a compromise with the House and the Administration. I would have preferred a much simpler and much less rigid approach. I am particularly concerned, and share the concerns of the distinguished Chairman of the Appropriations Committee, that these new firewalls unnecessarily impinge on the appropriations process. Finally, I am troubled by the complexity of this mechanism and the reliance we have placed on OMB estimates, particularly with respect to the adjustments allowed for the outlay limits.

In conclusion Mr. President, let me say this. Even with my reservations and concerns about our new discretionary firewalls and the outlay adjustments that will be made to them, I strongly support TEA–21. The conference report is the culmination of over 14 months of effort by many members of the House and Senate. Our compromise allows for highway funds to once again be released to states and avoid delay in this year's construction season. Most importantly, TEA–21 provides increased funding for our nation's infrastructure while maintaining fiscal discipline and our balanced budget. I support this bill and am proud to have played an integral role in its development.

Mr. MACK. Mr. President, first I commend Finance Committee Chairman ROTH, and my Finance Committee colleagues Senator KERREY of Nebraska and Senator GRASSLEY, for their invaluable contributions to this important step in cleaning up the IRS. The IRS reform bill that we are about to pass would never have seen the light of day were it not for the efforts of the IRS restructuring commission and the determined leadership of Chairman ROTH, who presided over the first meaningful IRS oversight hearings that this body has had in decades.

The IRS reform bill is a landmark achievement, a shot across the bow to the IRS letting them know that ''business as usual'' will no longer be tolerated. But this bill—although it contains the largest assortment of taxpayer rights ever enacted into law, and reforms the IRS with such important innovations as the new Treasury Inspector General for Tax Administration—is only the first step in a continuing process to curb the abuses of the IRS. More important than the new taxpayer rights, more important than the procedural and structural reforms, is the process that we used to fashion this bill. Simply stated, the oversight power of the Congress is the single most powerful tool that we have to root out the abuses and injustices that have become ingrained in the corrupted culture of the IRS. I strongly support the concept of regular oversight hearings of the full Finance Committee to make sure that past mistakes are corrected, that past misconduct is punished, and that the attitude and modus operandi at the IRS are changed permanently.

The corrupt culture of the IRS can change only if the old regime at the IRS is completely swept away. I am encouraged by the recent announcement of a high-level resignation at the Service, in an office which seemed to be a black hole for disciplinary investigations completed against IRS officials. But one change in office is not enough. Our oversight hearings exposed a rogue agency that was literally out of control. We heard testimony that armed agents use SWAT-team tactics to raid businesses, that IRS officials callously ignored the life-threatening health problems of a taxpayer, that a sexual harasser was promoted to be national director of Equal Employment Opportunity, and that statistics of property seizures were used to evaluate the performance of IRS employees.

Most incredible but all-too-believable was the story of one of my constituents, an IRS employee who blew the whistle on a renegade special agent with a drinking and substance abuse problem. This renegade agent had fabricated allegations of political corruption against several public officials, including the former Majority Leader of this body. This renegade was protected instead of punished by his supervisors, and the IRS employees with the courage and public spirit to report the misconduct ended up being the targets of retaliation. In this instance, as in most of the horror stories brought before the Finance Committee, the misconduct could not have occurred without the encouragement or acquiescence of IRS management. Yet, we were told that one of the IRS managers responsible for this cover-up and retaliation was still on the job.

Congress cannot let up on the IRS. We must follow through on the misconduct exposed by the bright spotlight of our oversight hearings. I am calling on Commissioner Rossotti to testify again before the Finance Committee, prior to the end of this legislative session, to bring us up to date on the disciplinary actions taken as a result of our hearings. Has the member of IRS management who covered up the

scheme to frame Senator Howard Baker been fired? Have the IRS employees responsible for the abuses of power recounted to the Finance Committee been identified and terminated? Have the members of IRS management who condoned such behavior, or who ignored it through complete incompetence, been found and disciplined? We cannot fall into the trap of thinking that things are fixed at the IRS just because this reform bill will soon become law. The Senate has an obligation to continue its vigilance over the actions of the IRS, to follow through on the abuses that have been exposed and root out those that perpetuate. Experience has shown conclusively that the IRS cannot be trusted to police itself.

This IRS reform bill is a step in the right direction. The comprehensive taxpayer bill of rights section is of the most value to taxpayers, although it is my belief that these provisions could have gone further to strengthen the rights of our taxpayers. Unfortunately, under our rules, overly aggressive and abusive IRS collections activity is apparently built into the budget baseline, and can only be redressed by raising new taxes as an offset. Any system that requires us to raise taxes to replace money that the IRS picks from the pockets of our taxpayers is a system that is broken and needs fixing.

I am particularly pleased that the provisions of my Taxpayer Confidentiality Act are included in the conference report. These provisions afford uniform confidentiality protection to taxpayers for the tax advice they receive from federally authorized tax practitioners in noncriminal matters before the IRS and during subsequent court proceedings. Under current law, communications between taxpayers and lawyers concerning tax advice can often be protected from disclosure to the IRS by the common law attorney-client privilege, but communications with other federally-authorized tax practitioners—certified public accountants, enrolled agents, enrolled actuaries, and attorneys providing advice in the role of a tax practitioner—are not protected. The new tax practitioner-client privilege eliminates this unfair penalty imposed on taxpayers based on their choice of tax advisor.

I am concerned, though, about an amendment to this provision that was inserted at the 11th hour while the bill was in conference. The amendment was meant to target written promotional and solicitation materials used by the peddlers of corporate tax shelters, but appears to me to be vague and unfortunately employs an ambiguous definition of tax shelter that some argue could be read to include all tax planning.

I discussed the problems inherent in this last-minute attempt to create an exception for the marketing of corporate tax shelters in meetings and discussions with the Majority Leader, Chairman ROTH, their counterparts in the House, and the Speaker. It was agreed that the language would be clarified to alleviate these concerns and ensure that the amendment does not cover routine tax advice and normal tax planning designed to minimize a corporation's federal tax liability. The language of the conference report, however, could be interpreted in a manner which does not fully reflect our understanding and thus undermines the intended benefit to taxpayers.

Our oversight hearings have given us ample reason not to trust the IRS to interpret this exception to the new privilege in a narrow manner. Nor can taxpayers rely on timely clarification through judicial interpretations, as these will be many years in the making. This is an item we will have to address at the soonest possible instance, in the next tax bill.

One excuse we often hear from apologists for the IRS is that our tax laws are too complicated, and that this is the source of the tensions between taxpayers and the Service. I cannot accept this as the reason why armed raids are conducted on the homes and businesses of peaceful citizens, or why laws and internal IRS rules are broken with gusto and impunity. But it is true that the complexity of the code is a drain on the resources of our taxpayers, and is one of the reasons I support tax reform. In this regard, it is a big relief to all taxpayers, big and small, young and old, that the provisions of my Capital Gains Simplification Act have been incorporated in the IRS reform bill. Restoring the 12-month holding period for long-term capital gains will dramatically reduce tax compliance costs, lessen the punitive lock-in effect on capital, and yield additional federal revenues in the first 2 years.

There is one final point I would like to make concerning the IRS reform bill, as one of the primary advocates of the Sense of the Senate Resolution and the moratorium on Notice 98–11 regulations. Notice 98–35, issued by Treasury to announce its intention to withdraw the proposed and temporary regulations issued under Notice 98–11, has raised some concern for high-tech industries. For instance, Notice 98–35 does not make clear the grandfather rules for licenses—it is important that this be clarified, as the income of many high tech businesses comes from royalties tied to licensing agreements. Also, the asset test described in Notice 98–35 may put high tech businesses at a disadvantage—as the assets of high tech business consists mainly of intangible assets, which the Notice does not adequately take into account. It is my hope that the Treasury Department will clarify these and other issues unique to high tech businesses.

Mr. President, final passage of the IRS reform bill is an important step in the on-going process of reining in the IRS. Let no defender of the status quo at the Service be mistaken on this point: This is the beginning, not the end, of our reform efforts.

Mr. KERRY. Mr. President, I join my colleagues in support of the Conference Report on the IRS Restructuring and Reform Act of 1998. This legislation is a victory for the American taxpayer, and I applaud the work of my colleagues, Senators ROTH, BOB KERREY, GRASSLEY, and others, who have demonstrated such determination, vision and leadership on this important issue.

I believe that the average American taxpayer is fundamentally honorable, willing to play by the rules and carry his or her fair share of public obligations. Most public servants at the Internal Revenue Service (IRS) perform their jobs responsibly. But, sadly, there are exceptions on both sides of this equation, and those exceptions lead to contentious circumstances which must receive careful IRS management attention. Regrettably, that has too often not been forthcoming.

It is clear that the Internal Revenue Service is subject to some difficult challenges. After downsizing in recent years, the remaining IRS agents are strained as they try to meet the demands of increased audit and collection work. The management structure within the IRS has made these problems even more difficult to solve. Regardless of the reason, the abusive and humiliating tactics which were brought to light during the Senate Finance Committee hearings are intolerable and must be stopped. This legislation is an important step in the process of reinstituting control at the IRS.

I have previously supported reform efforts that were intended to make tax collection fairer, and the IRS more accountable. In 1988, I cosponsored the Taxpayers Bill of Rights which expanded the procedural and disclosure rights of taxpayers when dealing with the IRS, prohibited the use of collection results in IRS employee evaluations, and banned revenue collection quotas. During the 104th Congress, I cosponsored the Senate version of the Taxpayers Bill of Rights II, which created the Office of Taxpayer Advocate, allowed installment payments of tax liabilities of less than $10,000, and imposed notification and disclosure requirements on the IRS. Last year, we enacted the Taxpayer Browsing Protection Act, which imposes civil and criminal penalties on Federal employees who gain unauthorized access to tax returns and other taxpayer information.

The Internal Revenue Service Restructuring and Reform Act of 1998 will restructure and reorganize the Internal Revenue Service. It will create a new IRS Oversight Board to review and approve strategic plans and operational functions that are crucial to the future of the agency and will ensure the proper treatment of taxpayers by the IRS.

It would allow taxpayers to sue the IRS for up to $100,000 in civil damages caused by negligent disregard of the law. It also expands the ability of taxpayers to recover the costs of such litigation, including the repeal of the ceiling on hourly attorneys' fees.

The Conference Report expands the protections provided to ''innocent spouses'' who find themselves liable for taxes, interest, or penalties because of actions by their spouse about which they had no knowledge and could not have reasonably expected to know.

I remain concerned about the provision included in the Conference Report that shifts the burden of proof from the taxpayer to the IRS in court if the taxpayer complies with the Internal Revenue Code and regulations, maintains required records and cooperates with IRS requests for information. This provision could give comfort to a small number of Americans who will do anything to avoid paying their taxes but may make the system of tax collection even more complicated.

I support the idea of expanding every American's ability to save for retirement and I was a cosponsor of the Roth IRA bill to promote savings for every American. However, I am concerned that the proposed changes to the IRS included in the Conference Report are being paid for not by reducing spending or by eliminating an unnecessary corporate tax break, but instead by giving a tax reduction to allow some elderly taxpayers to convert their existing Individual Retirement Accounts into Roth IRAs. The Joint Committee on Taxation estimates that this tax change will not provide enough revenue to cover the cost of IRS reform after the year 2007. I would have preferred that a more suitable offset were included to pay for the important changes in this Conference Report and I believe that this offset should have been included in a tax bill.

Americans merit an efficient and a respectful government. In the course of history, we have fought for freedom from despotic bureaucracies. At the essence of our democracy is our right to alter any public institution which fails significantly to deal respectfully and competently with American citizens. I believe the changes this legislation will make will regain the balance that has been lost in the relationship of the taxpayers to the IRS while permitting the IRS to do the difficult job it was created to do.

Mr. D'AMATO addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from New York.

Mr. D'AMATO. Mr. President, first, I would like to thank my colleague, who has been waiting so patiently, for giving me the opportunity of sharing some thoughts with respect to the IRS reform package. I assure you I will keep my remarks to a minimum.

But I would like to congratulate the manager of the bill, the chairman of the Finance Committee, Senator ROTH, and the ranking member, my friend, the distinguished senior Senator from New York, Senator MOYNIHAN. They have done an outstanding job. I would like to commend Senator BOB KERREY for his work. His work truly has helped bring together the Senate and the Finance Committee in a way in which we can pass this legislation that will be helping millions of taxpayers and change, I think, the culture—the culture—in which the IRS has been operating.

Indeed, the litany of witnesses and stories—anecdotal and otherwise—that demonstrated that there seemed to be a pattern that none of us could be proud of—the abuse of the little guy, not the big corporate giant, but the small business entrepreneur, the average-day citizen who lived in fear and, indeed, tyranny, and in some cases was rampant tyranny. And in no case was it worse than as it related to the innocent spouse. And every year approximately 50,000 cases were opened. And the revenuer was after a spouse who had little, if anything, to do with not paying their fair share of taxes—innocent of the fact—and in 90 percent of the cases they were women. They signed a joint return, and in some cases didn't even sign a return. We had some cases where their signature was forged, but we were so desperate for money, they were hunted down. Indeed, some had to give up their jobs and some had to live in fear, and some even left their spouses, their new spouses because they were afraid that the new spouse and his family would have the revenue agent after them. Horrendous. Incredible.

I take this opportunity to salute a courageous person who came and testified before our committee, a citizen of New York, Beth Cockrell, who epitomized this tragedy and whose case went all the way up to the Supreme Court. And because of the manner in which the law was written, why, the court ruled against her. But nonetheless—nonetheless—she is a person who was abused by the revenue code and the agents who pursued her.

Indeed, now they will be free, hundreds and hundreds of thousands—mostly women—who have lived for years with open cases against them, who had accumulations of interest and penalties, in some cases that go into the hundreds and hundreds of thousands, if not millions, of dollars, and they can hopefully now begin to resume a more normal life and clear away that pattern of abuse with which they have had to live. Hundreds of thousands will be free. And, yes, tens of thousands on a regular basis no longer will have to face this because they were married, and someone—their mate—did not pay his or her proper taxes, they were then held responsible. They would be totally innocent and unaware of this fact.

I have heard colleagues speak to many issues in terms of what this bill does. I think it is important so the culture, hopefully, will be changed.

I think one of the most significant provisions, one that I was proud to author along with Senator GRAHAM of Florida and Senator MOYNIHAN, the Innocent Spouse Relief Act of 1998, a bill that would give protection to innocent spouses, and is supported by all of our colleagues, will now be the law of the land, and those who are innocent will no longer have to live in fear for the actions of someone else.

I thank my colleague for giving me this opportunity, Senator MCCAIN of Arizona, to make these remarks.

I yield the floor.

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

Mr. MCCAIN. I ask unanimous consent to address the Senate as in morning business.

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

UNITED STATES RELATIONS WITH CHINA

Mr. MCCAIN. Mr. President, our relationship with the People's Republic of China is perhaps the most complex of any within the realm of foreign policy. Absent the scale of confrontation the United States experienced with the Soviet Union throughout the Cold War, U.S. diplomacy must, for the foreseeable future, walk a very fine line between cooperation and challenge with the world's most populous nation. The very nature of the Soviet threat provided a level of clarity absent in our attempts at formulating a long-term policy for dealing with China. There is no justification for a policy of containment when there is no reason to believe that Chinese foreign policy is inherently expansionist. Indeed, there is no reason to believe that China's external ambitions extend beyond those with which we are already familiar: island chains in the South China Sea and the most dangerous issue of all dividing our two countries, the status of Taiwan.

The complexity inherent in U.S.-China relations simply allows for neither the demonization of China, as many here would have it, nor the kind of alliance we enjoy with our closest allies. The issues are too varied, and the emotions surrounding them run too deep. The issues with which the United States takes exception relative to China, especially in the area of human rights and religious persecution, are too central to our values as a nation for us to ignore. With every dissident thrown into prison, for every item produced with forced prison labor, for the memory of those killed in Tiananmen Square, those charged with the conduct of American foreign policy must take the government in Beijing to task and demand, not ask, a measure of justice none of us really expects to materialize soon enough. And therein lies the dilemma we face in dealing with China: We demand of it something it has never had—freedom.

President Jiang Zemin made clear the high priority his government places on social stability at the expense of personal liberty. President Clinton, to his credit, offered an articulate defense of the emphasis the United