

Training and Literacy Act, and the Senate proceed to its consideration. I further ask unanimous consent that all after the enacting clause be stricken and the text of S. 1186, as amended, be inserted in lieu thereof, the bill be read a third time, and a vote occur on passage of H.R. 1385 on Tuesday, May 5, at 5:30 p.m.

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

The bill (H.R. 1186) as amended, was ordered to a third reading and was read the third time.

Mr. JEFFORDS. I ask unanimous consent that, at 4:30 on Tuesday, there be 60 minutes of debate equally divided in the usual form for closing remarks prior to the vote on the passage of the bill. I further ask unanimous consent that, following passage of the bill, the Senate insist on its amendment and request a conference with the House and the Chair be authorized to appoint conferees on the part of the Senate. I finally ask unanimous consent that S. 1186 be placed back on the calendar.

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

Mr. JEFFORDS. I yield back the remainder of my time, and I also have authority to yield back the remaining time of the minority.

The PRESIDING OFFICER. All time is yielded back.

MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, the Senate will now begin a period of morning business.

The Chair recognizes the Senator from Georgia for 1 hour.

INTERNAL REVENUE SERVICE

Mr. COVERDELL. Mr. President, the hearings that the Senate Finance Committee has been conducting on the Internal Revenue Service—the adjectives that have been used to describe it are “startling,” “stunning,” “unbelievable.” I do believe most of the American public who have seen this unfold before their eyes are aghast at some of the assertions and allegations that have been made.

Recently, I became very concerned that the IRS was still conducting random audits. They indicated to me that they were not. So I asked the General Accounting Office to verify to me that random audits were not a tool of the Internal Revenue Service. A report was issued dated February 1998: “Report to the Honorable Paul Coverdell, U.S. Senate, Tax Administration, IRS Use of Random Selection in Choosing Tax Returns for Audits.”

On page 2, at the very top, it says, “IRS officials did identify 6 projects involving subpopulations of taxpayers with indications of noncompliance from which taxpayers were randomly selected for audit.” Let me repeat that—“from which taxpayers were randomly selected for audit.”

I made a public statement of deep concern about the fact I had been ad-

vised they were not and the General Accounting Office said they were. On the same occasion, on or about early March, the Internal Revenue Service issued an interim memorandum to its employees, and they quote me saying the disclosures “are a result of General Accounting Office review requested by myself to examine random audits.”

Then they told their employees that during fiscal years 1994 through 1996, “the IRS did not randomly select returns for audit from either the population of all taxpayers or all returns. IRS has about 40 audit sources which are programs and techniques used to select potentially noncompliant returns for audit. IRS audit sources do not rely on random selection from the population of all returns but IRS selects returns having characteristics indicative of potential noncompliance.”

Here is the key point, right here in the publication from the IRS. There are three little dots, and then it says, “No taxpayers outside of these six subpopulations were selected at random for audit.” Dot dot dot.

Mr. President, the “dot dot dot” is this sentence: “IRS officials did identify six projects involving subpopulations of taxpayers with indications of noncompliance from which taxpayers were randomly audited.” Dot dot dot.

Now, the tax system is complicated beyond belief. Everybody knows the story where they gave a similar family to 50 accountants. It was an exercise that some major publication went through. They all turned them in. Not one of the 50 turned it in the same way, and not one of them was correct.

So it is easy to make administrative errors. I have to tell you, Mr. President, “dot dot dot” is not an administrative oversight. “Dot dot dot” left out this sentence intentionally. It quoted everything else in the paragraph but left that sentence out.

If the American taxpayers did that, they would be in deep trouble. This is why there is no credibility anymore. They just don't have any credibility. There are a lot of good folks over there. I have met them; I know of them. A lot of them have been very cooperative with our office trying to solve problems. But there is just no credibility. It is this kind of behavior—in fact, this is sort of tame.

It is this kind of occasion that has caused an outraged population to call on a Congress to do something bold, to bring this kind of behavior under control.

Mr. President, that is exactly what is going to happen in this Congress. The IRS is not going to be the same institution by the end of this Congress.

Mr. President, I think the Senator from Ohio will be here momentarily and we will hear from him regarding his hearings on the Internal Revenue Service.

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

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

Mr. COVERDELL. Mr. President, we have now been joined by my distinguished colleague from Ohio, who was talking to me moments ago about hearings he held in his own home State. I yield up to 15 minutes to the Senator from Ohio for his remarks.

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

Mr. DEWINE. Mr. President, I thank my colleague from Georgia for holding this session where we have a chance to talk about the problems connected with the IRS. He has been a true leader in this issue.

This is a matter of great importance and interest to the taxpayers across this country. Mr. President, it is becoming clearer every day that we simply have to reform the IRS. The facts of IRS abuse are, by now, well known. As the hearings continue, we get more information every single day. The essential facts are very disturbing.

In 1996, the IRS answered only 20 percent of its phone calls.

An IRS report released in January of this year showed that one out of every four IRS revenue officers and supervisors felt pressured to achieve enforcement goals. Tax collection statistics were used to evaluate the performance of employees—and the district offices were ranked on how much taxes they collected—collected from us.

In 1993, the IRS gave incorrect information to taxpayers a stunning 8.5 million times. In 1987, the GAO said that 47% of the calls to the IRS resulted in incorrect information.

A recent survey actually found that one out of two Americans would rather be mugged than audited.

MAUREEN SCHAEFFER

I recently held a hearing in Toledo on the issue of IRS reform and tax reform. One of the witnesses was Maureen Schaeffer, from Lakewood, Ohio.

Maureen told us she was married for twenty years to an abusive, alcoholic husband. He was the sole wage earner and handled all of their tax matters, and she signed all of their joint tax returns. She worked in the home, raising their seven children and caring for his invalid mother. After twenty years of marriage, Maureen realized the negative impact that he was having on their children—so she filed for divorce. At the time of the divorce, Maureen knew that her ex-husband was being audited by the IRS, and in the settlement agreement reached between them the ex-husband assumed responsibility for all back taxes.

In the summer of 1996, the ex-husband filed for bankruptcy. His only creditors were his ex-wife—Maureen—and the IRS. Shortly after the filing of the bankruptcy, Maureen was notified by the IRS that she owed \$150,000 to the IRS. One week later, the IRS gave her

another notice—this time to inform her that she owed an additional \$100,000. She contacted the IRS's taxpayer advocate's office in the Northern District of Ohio. She was told that they would contact her after they looked into her case. When she did not hear back from them, she called back, only to be told that they were not allowed to work on her case.

In February 1997, the IRS seized the funds in Maureen's Individual Retirement Account. Seizing this money would settle the back taxes and penalties owed—but it would also create an additional tax liability for Maureen—because she will now owe taxes on the early, although forced, withdrawal of her IRA funds.

Last year, Maureen attended the Problem Resolution day in Cleveland, sponsored by the IRS.

Problem Resolution Day was an effort on the part of the IRS to be more taxpayer-friendly—an opportunity for taxpayers to discuss their problems with IRS employees who had the power to take care of the problems.

But when she asked the IRS, "Why did you let my ex-husband get away with this for all of these years?" the IRS representative responded that "you are easier to get money from."

Mr. President, that response by the IRS reflects an attitude we need to change. We need an IRS that shares the values held by hard-working tax-paying Americans. And that's what the bill developed by the Chairman of the Finance Committee, Senator BILL ROTH, would accomplish.

If Congress passes Chairman ROTH's bill, future spouses would not have to face the kind of nightmare experience Maureen Schaeffer had to deal with. The bill provides for proportionate liability for spouses. Innocent spouses could choose to avoid joint and several liability—and be liable only for tax attributable to their own income. The bill also includes a provision to waive the 10% addition to tax for early withdrawal from an IRA or other qualified plan when it is used to address tax liability.

JAMES SULEWSKI

At our hearing in Toledo, we also heard the testimony of James Sulewski. Mr. Sulewski is a former IRS criminal investigator who is now a tax attorney in private practice—and he is a man with tremendous insight into the workings of the IRS.

He was particularly concerned with some of the criteria on which IRS employees are evaluated. One of the criteria is how long a particular case is in their hands. In his opinion, this causes many employees to develop what he called a "hot potato response." In this case, the employee gathers the minimal amount of information necessary to move the case off of his or her desk. As a result, cases are often passed on three to five times before they are resolved, when—in many cases—they could have been resolved by the first employee to see the file. This is a

major problem, because when these cases are not resolved at an early stage, they end up going to Tax Court.

In Mr. Sulewski's practice, he has had approximately 100 cases that have gone to Tax Court, yet only one case has gone to trial. Clearly, these are—very often—matters that do not need to go to Tax Court.

Fifty percent of the cases going to Tax Court could have been settled beforehand—if employees did not have this pressure to move the file off of their desk.

JOSEPH WELTON

Now let me describe the testimony of Joseph Welton. He and his wife filed their taxes on time for tax year 1995. Two months after filing, the Weltons received a refund check in the amount of \$1,943.00 and a letter from the IRS stating that they had overpaid their taxes. Mr. Welton was surprised to receive the refund so he called the IRS to check on it. The IRS employee told him that they were in fact, due a refund, so the Weltons cashed the check and spent the money. Several months later they received a letter from the IRS stating that the refund was erroneous and that they needed to repay the money within 30 days. The Weltons entered an installment agreement with the IRS and they are now repaying the IRS at a rate of \$55

As of July 1997 they have paid the IRS \$330.00. Of that amount, \$79.33 was applied for penalty, \$124.17 was applied to interest and \$126.50 was applied to principal. Mr. Welton, understandably, objects to the penalty that he is charged every month.

Let me note, Mr. President, that his complaint has been addressed in Chairman ROTH's legislation. Specifically, there is a provision in the bill that would eliminate the failure to pay penalty while the taxpayer is in an installment agreement.

TAX REFORM

Mr. President, my hearing in Toledo focused not just on reforming the way the IRS does business, but on fundamental reform of the tax code itself.

Let me say that as I travel my home State of Ohio—I am sure my colleague from Georgia has the same experience in Georgia—there is a tremendous amount of interest in meaningful and true and legitimate, fundamental Tax Code reform.

I was pleased to hear from a number of Ohioans who offered their views on how to make the tax code simpler, and less burdensome on families.

We heard from Terry McClure, a thirty-five year old farmer from Paulding County, Ohio. With his father, he operates a 2,500 acre farm raising soybeans, corn and wheat. The farm has been in his family for five generations. Terry and his family are understandably concerned with the difficulty of passing the farm on to future generations without losing large parts of it to the estate tax. They, like so many family farmers, would like to pass the farmland on to their children and their

grandchildren. However, because the farm acreage is their largest asset, the effect of the estate tax will be devastating.

We also heard the testimony of Robert Koerner, the former president and general manager of Koerner Farms—a 300-cow dairy farm in Williams County. Robert Koerner and his brother owned the farming operations jointly, until his brother's family wanted to sell their half of the business. Most of the land had been held for a long time, so there were appreciable capital gains on the property. As a result of the tax consequences of the sale, Mr. Koerner was unable to purchase the half of the business being sold by his brother.

Mr. Koerner testified that his family would still be in the farming business if not for the tax code. This is nothing less than a tragic situation—one that will only be repeated unless we in Congress take further steps to reform inheritance taxes.

Edd Auld is the Vice President and General Manager of ROCO Courier & Delivery, Inc. in Toledo. He testified that the tax code is so complicated and time-consuming that he finds he is unable to comply with it on his own. As a result, he is required to hire an outside accountant each year so that the business can be in compliance. The amount that he has spent on accounting firms over the years would have paid for an additional two delivery trucks that would generate an additional \$75,000 to \$100,000 in income each year—which would have created new jobs and additional tax revenue for the government, new jobs for Ohio and for our country would have been created.

THE REFORM BILL

Mr. President, I found our Toledo hearing both valuable and informative. The witnesses told us what it's like for hard-working, tax-paying families to live with the IRS and under today's tax code. They want change, and we owe it to them to get the process of change under way. The first installment of this process of change is represented by the important legislation sponsored by Chairman ROTH.

But let me stress that it's just the beginning. There are a number of very interesting ideas on how to reform the tax code. We should continue to explore these ideas, and discuss them with the American people. The taxpayers of this country know that the tax code is too complex and too costly—and they want to replace it with a tax code that is fair, simple, and honest.

Perhaps the simplest way to overhaul the IRS would be to overhaul the tax code itself. Taxpayers spend nearly \$157 billion a year to comply with the tax code. The tax code also costs the taxpayer a great deal of time not to mention a great deal of anguish, and a great deal of worry—it costs Americans an estimated 5.4 billion hours just to comply with the code.

The 1040 EZ form—the least complicated of all tax forms—requires 31

pages of instructions! The Internal Revenue Code has over 5.5 million words of law and regulations—and the IRS sends out 8 billion pages of forms and instructions each year. And the tax code keeps getting more complicated.

The bottom line is we have a tax code that Americans rightly believe is complex, unfair, confusing and perhaps even dishonest. These are some of the reasons I am a cosponsor of the Tax Code Termination Act—which would sunset the tax code at the end of 2001, permitting the Congress to write a tax code that is simple—fair—and honest.

I look forward to working on this issue throughout this session, and in the years ahead, in the hope that the result will be a tax system that truly represents the values of the American people.

Let me again thank my colleague from Georgia for putting this block of time together so that we can come to the floor today in the U.S. Senate to talk about an issue that genuinely concerns all Americans, concerns the people of the State of Ohio, and the people of Georgia. It is something, Mr. President, that I think Congress should heed the words of the American people on —“It is time for change.”

Thank you very much. I yield the floor.

Mr. COVERDELL. Mr. President, I appreciate the remarks by the Senator from Ohio. He has had a busy morning. I want to take just a second to compliment him on his work in terms of the workplace that he described here this morning. This is a piece of legislation about very complicated Federal programs which passed out of the committee unanimously by every Republican and every Democrat. It is a real credit to the tenacity of the Senator from Ohio.

Mr. President, I yield up to 15 minutes, again, on this question of the overhaul of the IRS to my good colleague, the Senator from Wyoming.

The PRESIDING OFFICER. The senior Senator from Wyoming is recognized.

Mr. THOMAS. Thank you, Mr. President.

Mr. President, I thank the Senator from Georgia for arranging for time to talk about something that, of course, is probably as important to Americans as any issue, and it is probably good to talk about it shortly after the 15th of April. It is on our minds, and should be.

So I am delighted that we are aimed towards doing something next week, doing something that almost everyone agrees needs to be done; that is, to make some adjustment in the system of collection of taxes; some adjustments with the IRS. Everyone knows that it is needed. But it has been needed for a good long time, yet we have not done anything. We have not done anything about it. We now have had, of course, hearings that have gone on for some time both in the House and in the Senate, which have brought to the at-

tention of every one of the American people and to Members of Congress the need to make change. And, hopefully, that will happen. Up until now it seems to me, this agency, as is the case with many agencies, has sort of insulated themselves from public opinion and has sort of set themselves aside from the mainstream of America. Frankly, that is relatively easy to do in a bureaucracy. It seems to me that is one of the reasons that we need somehow to get more nonbureaucratic input into this system.

Do we need to collect taxes? Of course, we do. Are our tax collectors ever popular? Of course not. But nevertheless there is a way to do this job that is more accountable to taxpayers. That is what we seek.

I have been working very hard at a number of agencies. One of the things that strikes me in terms of what goes on in government as opposed to the private sector is there is really no built-in discipline. In the private sector you are competing with somebody. If you do not do the job, somebody else does it. So you are required to be relatively efficient, or else someone takes the work. You are required to please the people you serve, or they go somewhere else. Of course, that is not the case in government, and particularly in the case of the IRS.

I think it is important that we do this. I have been involved in trying to take activities that could better be done by contract and by individuals in the private sector in all parts of government. But I have to tell you that this is one that has insulated itself a great deal. We need to do something about it.

We find the same kind of threatening, the same kind of criminal intimidation going on in HCFA, in health care at the moment; trying to do something about fraud and abuse, which everyone supports. But the idea of challenging people, to threaten people, to intimidate people into doing it is not the best resolution. But that is not the best answer. So we need to find a way to do that.

In my opinion, the underlying issue, of course, is the Tax Code. One of the problems that IRS has is to enforce a very complicated, convoluted, excessively voluminous and detailed Tax Code, and we need to change that. I think almost everyone, again, is for that change, but interestingly enough, as you talk about how specifically do you change it, then you find less unanimity. But changing the Tax Code is one thing that we must do which will help in the tax collection but it isn't the only thing. We also need to make changes in IRS, and that is what this is about.

So there will be lots of ideas. The committee has a bill ready to go. The House has passed a bill. I think we will find there will be different views as to how best to do it. But I hope that we are driven, and I think we will be, by a vision of what we want the results to

be, and then implement what it takes to cause those results to be different. Again, in the case of government, as opposed to often in the private sector, we are not result driven. We do not measure it by what it is we want to accomplish. We simply measure the process. And that ends up not doing what we would like to do.

I think it is fair to say the IRS is out of control. The hearings we have had certainly would substantiate that. I do not think many people would argue with it. We have to do something that will cause the IRS to be more accountable to taxpayers. And this goal is too important to be partisan. Hopefully, it will not be. I hope we do not find ourselves smothered with extraneous amendments with other kinds of ideas. I think we ought to focus on how we make this IRS collection business work better and not be diverted by using this bill for lots of other things.

I think we also need to recognize that IRS reform is a part of a changing tax culture that is maturing, I believe, in this country, certainly is maturing here. And this is one of the components of changing this whole tax scene in which we live, making it simpler, frankly, reducing taxes and making the collection a system that is consumer friendly and at the same time enforces the law. I think we have to recognize that that is what is done.

So our agenda is simple and should, indeed, be simple. We have to ensure that the IRS serves the American people and not the other way around. That is our task. We need to consider this legislation of restructuring. Again, it is sort of interesting that as you seek to make some changes to produce different results in government, it is very difficult; the reaction you get almost generally is: Oh, things are OK. We don't need to change anything.

There is no incentive to change in the bureaucracy. And that is what makes it difficult. I am hopeful that we can move to do some of these things. We need to give people outside the bureaucracy some oversight of the enforcement so that when you bring in the view of citizens, you bring in the view of people with expertise, so that, in fact, it can be made a part of the bureaucracy which doesn't automatically exist.

We need to require the termination of employees who have been involved in offenses, just like you do in every other business, like you do in every other activity. We need to hold managers responsible and accountable. We should do that. It doesn't seem like a strange thing, but it is difficult. The people who are supervisors, who are in fact responsible to see that the job is done and done in the proper fashion, need to be held accountable to do that and, of course, have the authority to do it as well.

We need to change the burden of proof in Tax Courts, putting it on the IRS, not on the taxpayer. We need to protect innocent spouses who are

caught up in some kind of marital dilemma in which the spouse is entirely outside of that income but becomes involved. We need to extend, I suspect, the executive privilege beyond the same type that applies to lawyers to accountants and to other tax practitioners so that we have a way for people to be able to communicate among those who are helping them without causing that to be part of the problem.

I hope this next week is productive, as we think it will be; that we can come up with some real management principles that will convert this task, this necessary task of tax collection into one that is more customer friendly, that is more accountable, indeed, is more effective and has the impact of getting this job done without the kind of offensive activities we have seen happen.

I appreciate the time. I appreciate Senator COVERDELL setting it up, and I would like to yield to my good friend and associate from Wyoming, Senator ENZI.

The PRESIDING OFFICER (Mr. THOMAS). The Chair recognizes the Senator from Wyoming.

Mr. ENZI. I thank the Chair. I thank my senior Senator. It is kind of Wyoming day, talking about the need for IRS reform.

I do rise this morning in support of H.R. 2676, which is the Internal Revenue Service Restructuring and Reform Act of 1998 that was passed by the House.

That document, of course, has been taken by the Senate and improved based on the hearings that were held last year and are currently going on here.

By passing legislation to reform the IRS, Congress will take an important step in reforming what many Americans believe to be the most feared agency in the United States. This bill will overhaul the IRS organizational structure. It will provide necessary protections for American taxpayers, and it will require greater accountability for our employees, the IRS employees. There has been tremendous support in this body for making a change. We talked about it at the end of last year when we were appalled at the hearings that were going on at that time. I hope people are tuning into the hearings that are going on now to see the real-life examples of what can happen with a bureaucracy out of control.

For any who are interested in the details of the hearings, I have a web site, as do many of the Senators. That web site the day after the hearings posts the testimony from those hearings. We are keeping careful track of it. There are a number of documents that people would be interested in reading that have some summaries of it. I have one in my hand called "The Lowlights of Today's IRS Testimony," that even talks about a manager being pulled at gunpoint from a shower by the IRS. I know that the American public is keeping up on this. I know my colleagues

are keeping up on this. I am convinced that there will be something significant done to get the IRS under control.

The IRS Reform Act will overhaul the organizational structure of the IRS. In order for any organization to perform its function well, it is necessary for it to know its mission. When I was in the Wyoming State Legislature, we passed an act that forced strategic planning by all of the agencies, one of the most valuable things we have done. We forced them to say what it was they were trying to do. And then we asked them how can we tell if you get it done?

That process was so valuable that in a 3-week period we changed our budgeting process to a balanced budget, a new record for the State of Wyoming. I was so excited about what happened there that I talked about having that happen in Washington. I have to tell you that I was delighted when I got here when I found out that Congress had already passed a Government Performance and Results Act. That is an act which says to all of the agencies tell us what you do and tell us how we can tell if you got it done—measurable goals, prioritized goals, goals that are reflected in a budget for the agency so that what they say they are doing is really what they are spending their money on. I didn't feel there was a lot of emphasis on this new program, and a lot of dissension by the agencies, so I did some field trips just after the first of the year. I went to a number of the agencies that had these Government performance and results plans, and asked some more questions just to emphasize a little bit whether they really understood what it was we were trying to get at, the question of how do we know if you got it done?

One of the agencies that I went to was the Internal Revenue Service. I don't think there is even the beginning of the numbers to be able to tell what they have done so they can tell if they are getting better. Quite frankly, from the testimony that we have heard, we don't want them getting better.

We talked a little bit about the telephone conversations that they have. This is not as drastic stuff as was covered in the hearings. This is some normal stuff that people run into when they are trying to get answers from the IRS. You call them up. A guy answers the phone on the other end and he tells you the answer to your question. You use that information and you have no backup for it, so if somebody later says that it is wrong, you are hung out to dry. It is your problem.

I suggested maybe there ought to be written confirmations sent when they give us an opinion, something that we can attach to our tax document and save until that horrible day of an audit. And then we can say, "No, no, the IRS agent told me this. This is the data I relied on to file my taxes."

We talked about error notices. I don't know how many people have gotten error notices, but if you do, you get

this computer-generated form that says: You have the following problem. And then a series of codes. And you can take another document that is multiple pages and look at it and figure out, perhaps, from that code, what you may or may not have done wrong.

What a way to run a business. We have computers. This thing is computer generated. The computer could look up the actual reason if it was keyed in there and list explicitly what they thought you had done wrong so you would have ample notice of what the potential problem was, instead of that fear of being a criminal, for the days that you wait until you meet the IRS person, who then asks you a series of irrelevant questions that you could have had exact answers for, could have maybe even submitted them by mail.

Then there is the problem of dollar thresholds. I had one client who had a 58-cent difference on \$2 million worth of reporting and it took 3 months and 10 letters to clear up that discrepancy. I don't know how much the IRS expected to make off of a 58-cent error, but I can tell you that their postage on the first letter almost cost them more than what they were trying to correct. Not very good management.

We talked about random audits that the Senator from Georgia addressed earlier. They also assured me they were not doing random audits but had this terrible conflict because they cannot tell without random audits how much money they are not collecting. They want to be able to go into people's documents, who they have absolutely no reason to suspect of any errors at all, and review absolutely every detail of their documents and force them to get detailed documents to back up things that we never require detailed documents for when you are filing your tax return. They wanted to look through absolutely everything of your personal life to see if maybe you didn't file something so they can see what the estimated error is of taxes not collected. That is an abomination. Why do we want to know exactly how much, within a few pennies, people did not pay? Their job is to collect the money that was not paid, finding the biggest offenders first. That is a very specific task that auditors do regularly. Auditors figure out who the potential worst people are, and that is from a very prescribed set of criteria that give them indications that somebody may have made errors on their taxes. Most of the time those would prove to not be true, because sometimes people really do have unusual expenditures. They really do have unusual business expenses. But when they do, they have to answer to the IRS. That is a legitimate audit. But not a random one, going through documents and details that nobody ever anticipated needing to dredge up or being required to get in advance.

I have to say I think the new Commissioner brings a management perspective instead of a tax perspective,

instead of an "audit the people" aspect, and I look forward to changes that will be made on that basis.

I also asked the IRS if they were doing anything to suggest simplification of the Tax Code. This was a huge revelation to me. We have a Paperwork Reduction Act in the United States. It says that every Government agency is supposed to be figuring out how to reduce the paperwork that you have to do—reduce the paperwork. I even checked to see who generates the most paperwork. It was no surprise. Seventy-five percent of all paperwork for Government agencies is taxes. You know that if you fill out your forms. There are huge numbers of taxes.

We had a couple of suggestions for ways that we thought there might be just an additional little explanation right on the tax form, so people would understand what they were filling out. Better there, instead of going through pages of documents. The EZ-1040 form has a 33-page instruction manual, and you still have to be an accountant to understand that instruction manual.

I thought maybe just a couple of little additions right there on the page would help people to get the answer and to get it right and to get it easier. That is where the big revelation comes in. The Paperwork Reduction Act is based solely on numbers of lines that are removed from documents. That is what you get your credit for and that is all you get credit for. So there is no incentive whatsoever to make a form more understandable if it increases the number of lines by even one, not a bit of incentive. In fact, there is a disincentive to do that. That is why you find the huge documents explaining the taxes that accompany what are considered to be relatively simple forms. There is a lot of room for improvement there yet.

I am not putting all the blame on the IRS on this. There is a difficulty with the tax structure and it is up to Congress to get that tax structure changed. It needs to be easier. It needs to be fairer.

Our taxes right now are based on kind of a policy. It is a policy that gets put together as another person explains a policy to us. We have to decide whether we are going to go with policy or just collecting money. Just collecting money is a lot easier. I suggest, if we are going to have a tax policy, we ought to really have a tax policy and sit down and have that debate and talk about whether we are trying to promote the American dream and have strong families and have home ownership and encourage investment and savings and encourage small business. And we can do that through a Tax Code. And I really think we can do that through a Tax Code and make the Tax Code simple. And we have to do that.

Right now we talk about stronger families and then we penalize marriages; we discourage parents from raising their own children; and we only give big business a health care tax

break. We put the American people in a tax trap. You have to work longer and harder to pay your taxes, and if you work longer and harder, you have more taxes you have to pay. We do have to find a way to make filing easier, and that means fewer forms, that means fewer instructions, that means less chance for making a mistake, and that has to mean less chance for an audit. If you are audited, we have to have the IRS under control so that the taxpayer is the person who is in control, not the one who feels like they are going to jail.

The IRS reform bill makes some important structural changes, which, I believe, will help to focus the agency's mission. This legislation creates a separate board to oversee the management and operations of the IRS.

This board will include six "private life" experts who will bring their collective private-sector experience to such tasks as reviewing and approving the agency's strategic plans and budget requests to make sure everything matches up. The board will also have "big picture" authority over IRS enforcement and collection activities. Board members would not, however, be permitted to intervene in particular tax disputes. Moreover, in order to ensure the agency's autonomy from improper influence, these board members would be governed by conflict of interest restrictions. I believe this new board, which will be comprised largely of people with experience in the private sector, will help the agency meet better the needs and the concerns of the agency's customers—America's taxpayers.

The IRS reform legislation provides important safeguards for American taxpayers. For too long, the IRS has filled the roles of judge, jury and executioner in collection actions against taxpayers. This Reform Act would shift the burden of proof from the taxpayer to the IRS in most court proceedings as long as the taxpayer introduces credible evidence relevant to determining his or her income tax liability.

It would also place the burden of proof on the IRS in determining whether penalties should be imposed. The bill expands the taxpayer's ability to collect attorney's fees when the IRS brings unwarranted actions against them and allows taxpayers to recover civil damages from an IRS employee if he is negligent in the collection actions.

Taxpayers may also recover attorney's fees in civil actions against the IRS when the IRS engages in unauthorized browsing or disclosure of taxpayer information. It would also provide substantial relief for innocent spouses in collection actions based on past joint returns by allowing the spouses to be liable only for tax attributable to their income. No one should be liable for taxes they couldn't possibly know about.

Many of the taxpayer protection provisions in the Reform Act are a direct

result of the abuses uncovered last year by the Senate Finance Committee hearings. Many people were shocked to learn that a number of the due-process protections Americans take for granted in other legal proceedings do not apply to actions involving the IRS. This bill corrects many of those injustices.

Once this bill becomes law, the IRS will be required to provide notice to taxpayers 30 days before the Service files a notice of Federal tax lien. A taxpayer would then have 30 days to request a hearing from the IRS appeals. No collection activity would be allowed until after the hearing. The taxpayer would likewise be able to petition the Tax Court to contest the appeals decision.

Finally, the communications privilege now granted only to attorneys would be extended to accountants. That means you could ask your accountant a question about your taxes, and when he gave that answer, you could rely on it not being passed directly on to the IRS. He would be in your corner for sure. It needs to be that way. We have to change some other agencies, too. People are afraid to ask the EPA about potential pollution problems because they don't want to be fined. They just want to stop the problem and correct it if there really is one. But we have this Government fear of asking a question for fear that it will come down on us with penalties and unusual actions by a Government agency. The same thing happens with OSHA. If there is a safety problem, you don't want to ask OSHA for sure, because it might just result in penalties, not even an answer. That is the problem we have with Government.

This would make the questions that you ask your accountant your questions and your information, and you could feel secure that it would not be the subject of the penalties by the IRS. This change would provide taxpayers with the necessary confidentiality and communications with their tax preparers whether or not they are licensed attorneys. I believe these changes will help rein in many of the intimidation tactics used to target unsuspecting taxpayers.

Lastly, the IRS reform bill will demand greater accountability from the 100,000 employees who work for IRS. It requires all IRS notices and correspondence to include the name, the phone number, and address of the IRS employee whom the taxpayer should contact regarding the notice. Moreover, this bill requires the IRS to maintain complaints of any employee misconduct on an individual employee basis. Individuals will be responsible for their own actions. It won't just be passed off as an IRS problem. It will prohibit the IRS from labeling individual taxpayers as "illegal tax protesters" and maintaining lists of these individuals.

The IRS will also have to disclose to taxpayers in simple terms the criteria

and procedures for selecting the taxpayer for audit. I believe this will decrease the ability of the IRS to target innocent taxpayers and small businesses for audits.

Mr. President, the IRS Reform Act will go a long way in reforming our Government's tax collection practices. By returning customer service and accountability to the IRS, this legislation helps ensure that the American taxpayers will be treated with the decency and respect they deserve. I urge my colleagues to join me in supporting the IRS Restructuring Reform Act. I yield the floor.

Mr. COVERDELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. COVERDELL. Mr. President, I thank my colleague from Wyoming, whose professional experience on these matters is evident in his presentation. He makes an eloquent case for the reforms that are encompassed in the legislation to be offered by Chairman BILL ROTH, chairman of the Finance Committee.

Both the Senator from Wyoming and I have talked about random audits and our dismay about them being conducted by the IRS. A random audit is like Russian roulette. A random audit means the IRS, even though your return reflects no discrepancy, can reach in, pick it out with no cause and suddenly be banging on your door. This ought not to happen in America. The IRS should not be conducting random audits.

I introduced legislation last week that will prohibit the use of random audits. We are told they are not being conducted, but they are. So we are going to legislate so they do not. I am very hopeful that at the end of the day, the work of the Senator from Wyoming, myself, and others will address the issue of random audits in the final legislation.

This report that I received from the General Accounting Office shows that 47 percent of these random audits were occurring in 11 Southern States—47 percent in 11 Southern States. That only represents 29 percent of our population, and that 85 percent of the random audits were directed at people who make \$25,000 or less—\$25,000 or less.

The first suspicion one has is, "Well, there's a person who can't defend himself."

I have come to know over the years a gentleman at Georgia State University who is a pioneer in tax clinics. There are very few of them in the country, but he got a Federal grant several years ago and got one started. They use university students to help low-income people who have had trouble with the IRS. They have 300 clients. He is a wonderful gentleman. We just rewarded and honored him recently. His name is Ron Blasi.

He appeared at a hearing we had, Mr. President. This is what he said:

Among those low-income taxpayers represented before the IRS by tax clinic volunteers—

Those are his volunteers; they do this for nothing—

80 percent at the end paid less than the IRS claim called for.

Eighty percent.

That is not a very good record. And 8 out of 10—wham—who get hit with this audit hammer do not owe the taxes. So you have taken that taxpayer who has the least ability to complete the form—no accountants, no lawyers, trying to do it themselves—and you make them the target of random audits.

He goes on to say—this was a story in the *Marietta Daily Journal*—

Auditing "pits one of the most powerful agencies in the federal government against people who don't have the resources to defend themselves," said Blasi, who added that each year nearly 20,000 low-income taxpayers in metro Atlanta receive audit notices.

I asked him in the hearing—I said, "What is the effect of that audit notice on these people?" He said, "Chilling and frightening, because they really don't know where to go. And often because they have no resources, they only get in deeper and deeper trouble because they really don't know how to deal with this agency." He said, "Most of these people end up paying more taxes than they really owe if they don't have legal representation."

This is very discomfoting. First of all, we said, "Do you conduct random audits?" And they said, "No, we don't." And the General Accounting Office said, "Yes, you do." Then in a memorandum to their own employees, they misquote the General Accounting Office and leave out the statement that says they do random audits. And then the General Accounting Office says, "And the target is low-income people. They're the principal target of the random audits."

And you have three chances more of being audited in the State of Georgia than many of the other States. Well, we have very rural and poor areas in our part of the country.

At the end of the day, by the end of the 105th Congress, Mr. President, you will not recognize the IRS. This Congress is going to change this behavior. We want fair taxes. We want taxpayers to be held accountable. But this kind of targeting, this kind of misrepresentation, the kinds of stories we have heard—everybody in this Congress has heard this from constituents—bully tactics, arrogance, confusion, information that is incorrect, the chilling effect.

We just heard the Senator from Ohio talk about a person who was sent a check from IRS. The fellow said, "Well, I don't think I am due that." He calls them. They say, "Oh, yes, you are." Then IRS finds out they made a mistake, and they charge the man a penalty. That is incredible.

I met a fellow sitting on a plane—Mr. President, I think I have run over my time. I do not know if the other side is here, so I might talk for a minute or 2 until they get here.

I will close with this. This is one of these fellows who is going to have a

conversation with you whether you want to or not. And he got to talking about an incident with IRS. He paid his taxes. They contacted him 3 months later and said, "You didn't pay your taxes." So he went down to the office, and he said, "Well, here is my check." They said, "We didn't get it." He said, "Well, here is the cancellation notice with the Government certifying it got the check." "Hmm." Well, they came to find out that they applied the check to his previous year's taxes. So that would have triggered a refund, which they never sent him. And then they said—and this is the key one—"Well, we're going to charge you a penalty anyway." So they said he would have to pay penalty and interest rates because they applied the tax to the wrong year. He said, "That's it. We're going to court." And they finally backed off.

But that kind of activity has to stop. Mr. President, I yield the floor and suggest the absence of a quorum. My hour has expired.

The PRESIDING OFFICER. Will the Senator withhold?

Mr. COVERDELL. OK.

Mr. DEWINE addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I ask unanimous consent to proceed for the next 15 minutes in morning business.

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

Mr. DEWINE. Mr. President, let me first again just congratulate my colleague from Georgia on a great statement and echo what he has been saying this morning. He is the true leader in drawing the Senate's attention and public attention to the need for true reform in the IRS.

The stories that he referenced, that I was talking about earlier today, that we have heard about in Toledo, superficially, may sound funny, but as he pointed out when he and I were talking about it, they are not funny, they are tragedies. They are real human tragedies.

It is just hard to believe that the IRS has gone on for so long in this country unchecked. And I say to Senator COVERDELL, if these are any demonstration of the need for congressional oversight, if there ever was an example of what hearings will really accomplish, it is the hearings that Chairman ROTH held several months ago starting off with, when we saw the acting head of the IRS come in to that hearing and in 5 minutes, the first 5 minutes of testimony, he changed more IRS policy than has been changed in the last decade. That was a result of oversight hearings.

Frankly, this Congress needs to do more of that, not just in regard to the IRS but in regard to all Federal agencies. It is part of our charge. It is part of our responsibility. It is what we ought to do. So I just again commend my friend and colleague from Georgia for taking the time this morning to talk about an issue that really affects

the American people and that the American people are really interested in. We spend a lot of time on this floor talking about things that are important, but I am not sure the average American really thinks it affects their lives. Let me tell you, the IRS affects people's lives, virtually everybody in this country.

So I salute and congratulate my colleague from Georgia.

Mr. COVERDELL. I thank the Senator from Ohio.

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

Mr. DEWINE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. KYL. Mr. President, I want to conclude this discussion of the Senate Finance Committee's work in exposing problems with the IRS by commending the Chairman of the Senate Finance Committee, Senator ROTH, for holding the series of hearings to expose problems in the Internal Revenue Service's dealings with taxpayers. I also want to thank the taxpayers and IRS employees who had the courage to come forward and tell their stories publicly. 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, 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.

Its effort, obviously, is to try to bring in more money. But I think all of us would agree that it is not an acceptable behavior, and, therefore, clearly that kind of behavior will be dealt with in the legislation which we will be preparing.

I think it is also important to make the point that most IRS employees, like most other Government employees, are not only law abiding and very hard working but are very professional in what they do. They have, especially at the IRS, the very difficult and even thankless task of administering the code that, frankly, the Congress and the President made extremely complex and difficult to administer. It is filled with contradictory provisions. It is often open to differing interpretations. Frankly, we have given the IRS tremendous power in administering the code, but it is power that can bankrupt families, can put people out of their

homes, and, as we heard, even ruin some lives. Any abuse of that power is intolerable.

Let me recount some of the things that have been uncovered as a result of these hearings. We heard that a taxpayer was hounded by the IRS for overpaying his taxes. The IRS put one constituent through the wringer of audits annually for 20 years and never found anything wrong.

Another person received a tax refund in error from the IRS. Knowing that it was an error, the constituent never cashed the check, yet when the IRS discovered its own error later, it demanded the refund back with interest.

One family that had a lien placed on its house worked out a payment plan with one IRS agent, only to have another IRS agent institute foreclosure proceedings. What is most galling to taxpayers is not that they have to pay taxes, but that there is virtually no recourse when the IRS makes an error. The cost of setting things right—hiring attorneys and CPAs—can be so high that people agree to pay taxes and penalties that they do not really owe.

Another thing we found was the abuse that innocent spouses can suffer at the hands of the IRS and current law. By resisting calls from the other side to rush the IRS reform bill to vote, we have been able to craft far stronger provisions to protect innocent spouses. The legislation that will come before the Senate next week would ensure that innocent spouses are responsible only for their own tax liability.

It was two and a half months ago that I came before the Senate to discuss the plight of a constituent of mine, a woman who divorced in late 1995. She paid her taxes in full and on time during the last two years of her marriage, but her husband apparently did not. The IRS ultimately came after her for the taxes that her former spouse did not pay. It did not aggressively pursue the tax bill with him.

About two weeks after hearing from my constituent, I sent Chairman Roth a letter identifying ways of improving the IRS reform bill, and on that short list was a recommendation to make innocent-spouse relief easier to obtain, and to make it available retroactively, or at least to all cases pending on the date of enactment of the bill.

So obviously, I am delighted that the Finance Committee has focused on the issue of innocent-spouse protection and has included provisions that better protect my constituent and women across the country in similar situations.

The IRS reform bill is a good bill, and it deserves an "aye" vote. But let us be under no illusion that even a good reform bill will 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, problems with collec-

tions and enforcement are likely to persist. If the Tax Code cannot be deciphered, it does not matter what kind of personnel or process 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 existing 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.

The IRS reform bill, Finance Committee hearings about taxpayer abuse by the IRS, the Kemp Commission's recommendations in favor of fundamental tax reform, new proposals to sunset the IRS Code, and the debate that sponsors of the flat tax and sales tax have taken on the road in recent months, will all help to move the tax-reform discussion forward.

In conclusion, we can pass an IRS reform bill to try to rein in the IRS and make sure that it treats taxpayers fairly, reasonably, and respectfully. But let us not fool ourselves. The IRS cannot be faulted for a Tax Code that is too complex and filled with contradictory provisions.

Until the Tax Code is simplified, problems in one form or another are likely to persist. We must use this opportunity to begin the debate about fundamental tax reform.

EXPLANATION OF ABSENCE

Mr. KYL. Mr. President, I would like to take this personal privilege of explaining why I was not able to vote last night on an extraordinarily important issue before the Senate; namely, the expansion of the North Atlantic Treaty Organization, NATO.

The vote, fortunately, was 80 to 19, meaning that the United States has gone on record as supporting the inclusion of the Czech Republic, Hungary, and Poland as members of this important alliance.

When the debate started, I provided remarks which expressed my strong sentiments in support of that expansion. Throughout the debate, as amendments were offered, I spoke to several of them, attempting to defeat amendments that I thought would be detrimental to the expansion of NATO and to our mission in NATO.

Fortunately, one of the first amendments adopted was an amendment which I offered, which helped us to present a strategic vision in the discussions that would be ongoing with respect to the development of a new strategic vision for NATO that reflects the beliefs of the U.S. Senate and reflects our belief that the original purposes of NATO and the original strategic vision should play a large role in animating our assistance, with our fellow NATO members, in devising a new strategic mission.

I say all of that as a predicate to state in the most emphatic terms that